600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793

METRO

Agenda

MEETING:	METRO COUNCIL WORK SESSION
DATE:	August 12, 2008
DAY:	Tuesday
TIME:	2:00 PM
PLACE:	Metro Council Chamber

CALL TO ORDER AND ROLL CALL

2:00 PM	**1.**	**ADMINISTRATIVE/CHIEF OPERATING OFFICER COMMUNICATIONS**	
2:15 PM	**2.**	**2008 LEGISLATIVE SESSION**	Tucker
3:15 PM	**3.**	**BREAK**	
3:20 PM	**4.**	**UPCOMING REGULATORY ACTIONS AND WET WASTE ALLOCATION POLICY**	Robinson/ Anderson
4:20 PM	**5.**	**COUNCIL BRIEFINGS/COMMUNICATION**	

ADJOURN

Agenda Item Number 2.0

2008 LEGISLATIVE SESSION

Metro Council Work Session
Tuesday, August 12, 2008
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: __August 12, 2008___ Time: _____________ Length: __60 minutes___

Presentation Title: __2008 Legislative Session (work session #2)___________________

Department: __Public Affairs and Government Relations________________________

Presenters: __Randy Tucker____

ISSUE & BACKGROUND

This work session will include a progress report on development of legislative concepts for the 2007 Legislative Assembly and discussion of certain concepts that have been proposed (attached). More concepts will be presented at one or more additional work sessions that have not yet been scheduled, followed by council adoption of a legislative agenda.

OPTIONS AVAILABLE

Council may wish to discuss specific legislative concepts or direct staff to develop additional concepts.

IMPLICATIONS AND SUGGESTIONS

QUESTION(S) PRESENTED FOR CONSIDERATION

Staff requests that Councilors provide initial feedback on the legislative concepts presented. No specific Council actions are required at this time, but it is anticipated that the Council will formally adopt a legislative agenda later this year.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION __Yes _X_No
DRAFT IS ATTACHED ___Yes _X_No

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Planning (Transportation) Date: August 5, 2008

Person completing form: Pamela Peck Phone: (503) 797-1866

ISSUE: ODOT Transportation Demand Management funds

BACKGROUND:
Metro's Regional Travel Options Program 5-Year Strategic Plan identifies collaborative marketing of transportation alternatives as a top priority and provides a coordinated framework for marketing activities in the Portland region. ODOT's 2009-2011 Public Transit Division budget includes $2.3 million for marketing transportation alternatives through implementation of the Drive Less/Save More marketing campaign. The Drive Less/Save More campaign was developed under Metro's management with ODOT funds allocated for that purpose in the 2003, 2005 and 2007 legislative sessions. Metro is managing implementation of the campaign in the Portland region through a consultant contract.

ODOT, with the guidance of a steering committee chaired by Washington County Commission Chair Tom Brian, is proposing that the marketing funds appropriated for this biennium, $2.3 million, be spent to sustain the campaign in the Portland region and to expand the campaign to additional cities in Oregon. Overall management of the campaign and related consultant contracts will shift from Metro to ODOT in July 2009 to support expansion of the campaign. Metro Councilor Rex Burkholder also serves on the ODOT steering committee.

In addition to funding for Drive Less/Save More, there are a number of transportation demand management (TDM) legislative proposals under discussion by ODOT and other organizations seeking to address climate change and mobility issues. These include proposals to expand existing TDM programs, to address barriers to participation in current programs, and to create new programs, such as a statewide ridesharing program. See attached list.

Metro's RTO program currently administers carpool and vanpool programs for the region. Legislative proposals that would enhance this work include the development of a statewide ridesharing program that is supported by a single database and a statewide marketing program. A statewide ridematching system would create a common database for people seeking carpool partners or vanpool riders.

Metro currently supports CarpoolMatchNW.org, the ridematching system used by the Portland region. The web-based system is also used by many people seeking rides to and from locations outside the region. Of the 11,000 people currently registered with CarpoolMatchNW approximately 23 percent both live and work outside the region and use Metro's system because they lack other options. In addition, people in the Salem area must register with two ridematching systems, CarpoolMatchNW and Cherriots Rideshare, to increase the likelihood that they will find a match.

CarpoolMatchNW was developed by the city of Portland with grants from the Climate Trust and the Metro RTO program. Metro assumed financial responsibility for maintenance of the system as part of the Regional Travel Options program reorganization in 2005. CarpoolMatchNW has limited capabilities for tracking and reporting on actual carpool formation, and the system does not support vanpool formation. A new statewide system would provide these functions and overcome the barriers created by the current multiple systems. In addition, the development of a statewide system would reduce administrative and marketing costs for Metro and would allow the RTO program to spend more time providing direct service to employers and commuters in the Portland region.

RECOMMENDATION:
Support the continued inclusion of $2.3 million in ODOT's Public Transit Division budget to implement the Drive Less/Save More campaign in the Portland region and expand the campaign to other cities in Oregon.

Support the inclusion of funds in ODOT's Public Transit Division budget for development, maintenance and marketing of a statewide ridematching system to support increased levels of carpooling and vanpooling in Oregon. Support proposals that reduce barriers to employer participation in rideshare programs.

Support proposals that expand or enhance TDM programs in Oregon.

LEGISLATIVE HISTORY:
The funding for Drive Less/Save More was initially proposed in 2003 in a bill sponsored by Senator Bruce Starr at the request of Tom Brian, Chair of the Washington County Board of Commissioners. Although that bill died in committee, the funding resurfaced as part of the give and take involved in approval of HB 2041 (OTIA III) and $1.5 million was included in ODOT's Public Transit Division budget. The same amount was included in ODOT's budget in 2005 and 2007.

OTHER INTERESTED PARTIES:
Metro's Regional Travel Options program partners including: Washington County, the City of Portland, TriMet, ODOT, Wilsonville SMART, DEQ and local Transportation Management Associations (TMAs). Agencies and organizations in Oregon that provide or support travel options programs including: Lane Transit District, Mid Valley Council of Governments, Salem-Keizer Transit (Cherriots), Commute Options for Central Oregon and the Transportation Options Group of Oregon.

IMPACT IF PROPOSED ACTION OCCURS:
Ensures continuation of a funding source for travel options marketing activities in this region.

DRAFT Metro Regional Travel Options 2009 Legislative Priorities

1. **Establish a state Vehicle Mile Reduction (VMR) goal.** Vehicle Mile Reduction (VMR) strategies are among often the quickest, least expensive routes to achieve mobility goals and are critical to achieving greenhouse gas (GHG) reduction goals. ODOT, Metro and other MPO's, cities and counties could work together to recommend statewide per capita VMR goals for 2050, 2035 and 2020. (Also, consider a statewide goal for reduced gas consumption per capita, it's a better measure of GHG reduction due to 'hybrid skew' and idling in congested corridors and would reflect gains from smarter/slower driving habits.)

2. **Expand the Drive Less/Save More marketing campaign.** Results indicate the campaign is motivating people to reduce single person car trips and use travel options. Expand funding to $2.3 million per biennium to continue campaign in the Portland area and expand to metropolitan areas across the state.

3. **Eliminate barriers to employer support of transportation options.** Currently, there is no shield for employers against liability claims arising from their support of ridesharing. If an employee is injured while commuting in a carpool or vanpool, a company could be named in a legal suit if they are providing any kind of financial incentive. Eliminating this possibility would encourage employers to provide commute incentives to their workers.

4. **Create a statewide rideshare program.** A single program would streamline the current multiple program offerings across the state and provide better service to the public to support increased levels of carpooling and vanpooling. The program should include a statewide rideshare-matching database, marketing and customer assistance.

5. **Protect rideshare information from public records law.** ORS 192.502 (29) exempts special districts from the requirement to disclose information in rideshare databases. The law should be expanded to include cities, counties and state government.

6. **Fund and improve ECO.** Oregon's Employee Commute Options (ECO) rule is a good framework, but lacks sufficient staff and budget for outreach, incentives and reporting. An expanded ECO program should be linked to achieving state GHG reduction and VMR goals.

7. **Mainstream construction TDM.** Congestion often worsens during construction of new transportation infrastructure because traffic is disrupted by lane closures and lower speed limits. Providing approximately 1% from construction budgets for demand management programs could keep traffic moving in highly congested corridors during large construction projects.

8. **Expand and improve BETC**. Increase funding for the Business Energy Tax Credit and expand the transportation BETC to 50% for high performance expenditures.

9. **Spur innovation with an entrepreneurial transportation competitive grant program.** Some of the most creative surface transportation innovators work in Oregon. Their creativity could spur new, low-cost, high return demand management incentives to people and companies that use transportation options in key transportation corridors. The State could "buy VMR" from the lowest public, private and non-profit bidders through a competitive, performance-based solicitation (Washington State has a similar program).

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Solid Waste and Recycling

Date: August 4, 2008

Person completing form: Scott Klag

Phone: x1665

ISSUE: Product Stewardship Framework Legislation

BACKGROUND: Since the passage of HB 2626 establishing a producer responsibility program for e-waste and SB 707 expanding the Bottle Bill to include water, interest in producer responsibility legislation for other products has grown. Rather than taking a patchwork approach with individual legislation for individual products, “framework” legislation would cover multiple product categories in a consistent fashion. Legislation would establish: (a) criteria for selecting product categories to be covered by the legislation; (b) responsibilities of producers for creating and financing stewardship programs for their products; (c) and performance standards for stewardship programs, including requirements to ensure collected products are managed in an environmentally sound manner.

The Northwest Product Stewardship Council[1] developed a set of principles for a framework approach. (See attached.) Metro staff has worked with NWPSC and DEQ on developing the principles into a legislative concept. DEQ has received favorable comment on the concept from the Environmental Quality Commission and has submitted it to the Governor’s Office. The concept legislation is expected to go to Oregon’s Legislative Counsel for formal drafting in the next several weeks.

RECOMMENDATION: Metro should support product stewardship framework legislation as a priority for the 2009 legislative session and should lobby actively on its behalf.

LEGISLATIVE HISTORY: In 1999, the DEQ-convened Waste Policy Leadership Group recommended adoption of legislation to establish a state product stewardship policy for three priority products: electronics, mercury-containing products and carpet. Over the next three legislative sessions, understanding and support for the concept of product stewardship and for an electronics product stewardship law grew, culminating in unanimous passage in 2007 of HB 2626, an e-waste product stewardship bill.

This will be the first legislative session in Oregon in which product stewardship framework legislation has been introduced. Bills requiring manufacturers to offer stewardship programs for specific products, e.g. pharmaceuticals, may also be introduced this session. Framework legislation may be forthcoming in several other states (i.e., Washington, California and Minnesota).

[1] An informal association of state and local government entities, including Metro’s Solid Waste and Recycling Department and the Oregon Department of Environmental Quality (DEQ).

OTHER INTERESTED PARTIES: Local governments, the solid waste and recycling industry and environmental organizations that supported the electronics product stewardship bill are expected to support a framework bill. Support would be sought from: Oregon Refuse and Recycling Association; Association of Oregon Counties and League of Oregon Cities and individual cities and counties including the City of Portland; Recycling Advocates; Oregon Environmental Council; Association of Oregon Recyclers; and Environment Oregon.

Individual companies or associations representing retailers and manufacturers will take great interest in the legislation. Their response may depend on what products are perceived as a first focus of the legislation. For example, producers of rechargeable batteries or paint may favor the legislation if it is viewed as supporting their own stewardship initiatives. Support from business groups including the Oregon Business Association will be sought.

IMPACT IF PROPOSED ACTION OCCURS: Adoption of framework legislation for product stewardship would have substantial positive impact on solid waste management and recycling in the Metro region:

- Achieves a key policy of Regional Solid Waste Management Plan to shift responsibility "upstream" for managing product costs and impacts.

- Reduces the costs at Metro facilities of managing products that might be covered by the legislation: for example, paint and other household hazardous wastes.

- Assists Metro in preserving natural resources and achieving regional recycling goals.

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Solid Waste and Recycling Date: August 4, 2008

Person completing form: Scott Klag Phone: x1665

ISSUE: Product Stewardship for Paint

BACKGROUND: The national Paint Product Stewardship Initiative (PPSI) has developed plans for a nationally coordinated system to manage leftover paint. Under a Memorandum of Understanding between the national paint industry and state and local governments (including Metro), the plan is to carry out a demonstration project in Minnesota and then roll out the program in Oregon, Washington and California.

The paint industry wanted state legislation in Minnesota to ensure it was protected against anti-trust actions and was able to finance the system with its retailers. (The legislation did NOT require an advance recycling fee or other type of visible fee to consumers.) The legislation passed, but was vetoed by the governor – for reasons not entirely clear to PPSI participants.

The legislation is set to be reintroduced next year in Minnesota. Discussion of what legislation might be needed for Oregon is currently under way between DEQ, Metro staff and other PPSI participants. If legislation in Minnesota does not proceed, Oregon or Washington could become the state for the demonstration project. There is also talk of including paint program enabling legislation as part of proposed product stewardship framework legislation.

RECOMMENDATION: Only if Oregon is selected over Minnesota by industry as the demonstration state for a national paint program would a paint bill be expected. If sponsored by industry and supported by the DEQ, we anticipate recommending Metro's active support.

LEGISLATIVE HISTORY: No direct history.

OTHER INTERESTED PARTIES: Supporters are expected to include the Department of Environmental Quality; cities and counties in Oregon with HHW programs; national paint industry trade group (including the NW chapter) and local paint companies Metro has partnered with in the past. No opponents are known of at this time, but the views of local paint retailers not part of the national paint trade organization will need to be taken into account.

IMPACT IF PROPOSED ACTION OCCURS:

- Finances the cost of managing leftover paint at Metro facilities.
- Supports Metro's paint program by increasing markets for recycled paint.
- Supports Metro's Regional Solid Waste Management Plan to shift responsibility "upstream" for managing product costs and impacts.
- Assists Metro in preserving natural resources and achieving regional recycling goals.

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Solid Waste and Recycling Date: August 4, 2008

Person completing form: Scott Klag Phone: x1665

ISSUE: Bottle Bill modernization

BACKGROUND: In 2007, the Legislature expanded the coverage of the Bottle Bill to include beverage containers containing water. The bill also established a joint legislative Bottle Bill Task Force to study further changes to the system. The task force was charged to consider, among other things: establishment of redemption centers; extending coverage to additional beverage containers (e.g., juice, sports drinks, teas, wine and liquor); and increasing the deposit. During the last session, Metro supported the more comprehensive types of changes the task force is now examining.

The Task Force is developing recommendations to report to the 2009 legislature. The task force chair has offered a set of proposed recommendations for consideration by the task force members. These recommendations would continue to have the system run by industry (i.e., a distributors' cooperative), expand covered beverage containers, add redemption centers and link increases in deposits to the performance of the system. The task force recently voted to recommend adding additional beverage containers in 2013 and increasing the deposit in 2011. Industry has expressed willingness to entertain some of the Chair's proposals (e.g., adding some new beverage containers, and developing redemption centers if feasible). However, task force members from the industry voted against the recommendations. Their objections concern which containers to add and the timeframes and conditions for adding new containers and increasing the refund value. The task force is still working and will make additional recommendations before making its final report.

RECOMMENDATION: Metro should support additional improvements to Oregon's Bottle Bill with the goals of reducing litter and increasing the number of beverage containers that are recycled rather than landfilled. Specific legislative proposals to expand and revise the system are expected to come from the Bottle Bill Task Force.

LEGISLATIVE HISTORY: The Bottle Bill, passed in 1971, was the first such product stewardship legislation for beverage containers passed in the U.S. In 2007, SB 707 expanded coverage to include bottled waters.

OTHER INTERESTED PARTIES: Modernization of the Bottle Bill draws supporters from recycling, product stewardship, environmental and anti-litter groups as well as local governments. Distributors and grocers will continue to be very involved as the issue moves forward.

IMPACT IF PROPOSED ACTION OCCURS:

- Builds support for the product stewardship policy approach.
- Increases collection and recycling of containers, with accompanying environmental and resource conservation benefits including litter reduction.
- Improves quality of collected materials if more containers are collected in the deposit system.

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Solid Waste and Recycling | Date: August 4, 2008

Person completing form: Scott Klag | Phone: x1665

ISSUE: Product Stewardship for Pharmaceuticals

BACKGROUND: The Oregon Association of Clean Water Agencies convened a stakeholder group in October, 2006 to study the disposal of unwanted and unused drugs in Oregon. Stakeholders encompassed a breadth of expertise including law and drug enforcement; public water agencies; pharmaceutical groups; environmental organizations; medical, health care, recycling and poison center representatives; and city and county governments. The group focused on unwanted drug disposal from households and care facilities. The group investigated reasons why a program is needed in Oregon: (1) to reduce avoidable poisonings; (2) prevent intentional misuse of drugs, especially by teenagers; and (3) to protect water quality. The stakeholders researched and analyzed existing and proposed drug take back programs in other places including British Columbia, the states of Maine and Iowa, and other U.S. counties and areas.

The stakeholders' recommendation, endorsed by the majority of the group, incorporated a product stewardship approach based on the successful British Columbia Medications Return Program that has been in operation since 1996. There, an organization of pharmaceutical manufacturers known as the Post Consumer Stewardship Association organizes and finances the program.

Action by the 2007 Oregon Legislature directed that pharmaceutical take back programs be examined as a way to reduce toxics in Oregon's water. If the industry is unable to move forward with such a program, the stakeholders propose that legislation requiring it be introduced in the 2009 Oregon Legislature.

RECOMMENDATION: Metro should support adoption of take back legislation for unwanted medicines if industry does not voluntarily develop a program for Oregon.

LEGISLATIVE HISTORY: SB 737 requires pharmaceutical take back as an option to be looked at in reducing toxic discharges to Oregon waters. Product stewardship legislation for pharmaceuticals has not previously been introduced in Oregon. Similar legislation was introduced, but did not pass, in Washington.

OTHER INTERESTED PARTIES: Interested parties and supporters are expected to include the Dept. of Environmental Quality, Dept. of Human Services, state and local water entities (including waste water treatment facilities), cities and counties, Oregon Board of Pharmacy, and recycling and product stewardship associations. National pharmaceutical companies and their trade associations are currently opposed to legislating take back programs. Retailers, including pharmacies in groceries, are expected to oppose any mandatory participation requirement that would apply to them. They might support producer requirements if their participation was voluntary.

IMPACT IF PROPOSED ACTION OCCURS:

- Supports the Regional Solid Waste Management Plan’s policy to shift responsibility “upstream” for managing product costs and impacts.

- Provides Metro residents a responsible option to manage their unwanted medicines. Reduces the costs at Metro facilities of managing these products.

- Supports Metro policy to reduce toxics and protect natural resources including local stream water quality.

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Oregon Zoo, Conservation Division
Nature in Neighborhoods

Date: June 20, 2008

Person completing form: Rex Ettlin, Stacey Triplett

Phone: 503-220-5709
503-797-1882

ISSUE: Oregon's investment in environmental education:
The "No Oregon Child Left Inside" Act

BACKGROUND:
Well-designed environmental education programs have been shown to achieve excellent results in improving learning outcomes and increasing stewardship activities. Metro recently increased its investment in environmental education through support for the incorporation of waste reduction principles into Outdoor School for the region's sixth graders. The 2009 Oregon Legislature will also consider new investments in environmental education as an effective strategy to help solve both education and natural resource challenges.

The No Oregon Child Left Inside Act addresses these challenges. The Act would establish an infrastructure for environmental education in Oregon through, among other things, the development of a common statewide vision for environmental education and a statewide environmental literacy plan. This infrastructure, in turn, will enable Oregon to obtain federal funds under the pending federal No Child Left Inside Act (see below). The state legislation will establish a framework for environmental instruction and will help train teachers to teach these topics.

The potential new funding and incentives to expand environmental education will give school systems and environmental education program providers new tools to improve such offerings. The legislation will not add any new requirements for schools, school systems, teachers or students; environmental education can be incorporated into courses already being taught, including science or social studies classes.

The context for this proposal is the effort to pass a federal No Child Left Inside Act. This legislation, which has 78 House and Senate co-sponsors (including Sen. Wyden and Reps. Wu and Blumenauer), will go to the House floor in September but will not be taken up by the Senate this year; it is expected to be folded into education authorizing legislation in 2009. If passed, the federal bill would provide support for the development of state environmental education plans, teacher professional development, and other programs.

RECOMMENDATION:
Metro should support the "No Oregon Child Left Inside" Act in the 2009 session.

LEGISLATIVE HISTORY:
This has not been introduced before. It will be introduced in the House by Rep. Peter Buckley of Ashland, who has chaired the session and interim education committees since 2007. The connection to federal legislative activity will be coordinated by the executive director of the Environmental Education Association

of Oregon (EEAO), who serves as the chair of the national advocacy committee for No Child Left Inside (NCLI), and through ties to the National Recreation and Parks Association (NRPA).

OTHER INTERESTED PARTIES:
EEAO is facilitating the creation of a coalition of community leaders from the private and public sectors. The group includes major Metro partners like the Oregon Recreation and Parks Association (ORPA) as well as Nature in Neighborhood grant recipients and local share allies in the Natural Areas Acquisitions program.

IMPACT IF PROPOSED ACTION OCCURS:
Metro could benefit by securing a new source of matching funds and partnerships for Nature in Neighborhoods grant recipients who deliver the region's restoration and enhancement goals, as well as for Metro-led programming. Education is a key component of a non-regulatory, voluntary approach to habitat protection and of efforts to enhance ecosystem services in this rapidly urbanizing area of the state.

This legislation would recognize the highly effective, experiential learning-based model of environmental education Metro has been investing in through its programs provided through Regional Parks and Greenspaces, Solid Waste and Recycling and the Oregon Zoo. The facilities Metro operates provide unique access to locations for this outdoor education.

METRO
2009 LEGISLATIVE ISSUE IDENTIFICATION

Department: Metropolitan Exposition Recreation Commission (MERC) Date: August 1, 2008

Person completing form: Reed Wagner Phone: x1584

ISSUE: State Funding Support for Development of Convention Center Headquarters Hotel

BACKGROUND: Construction of a headquarters hotel has been a critical component of the Portland Development Commission's (PDC) Oregon Convention Center (OCC) Urban Renewal Area plan since the Lloyd District became an area of focus in 1989. A headquarters hotel is vital to enable Portland to successfully attract large-scale national business in the highly competitive convention industry, maximize the OCC's ability to generate economic benefits for the state and region, and catalyze significant development in the Lloyd District.

The leisure and hospitality sector represents almost 10 percent of overall employment for the greater Portland area, according to Global Insight and Greenlight Greater Portland. The OCC has been fundamental to this sector by attracting highly productive economic benefits from out-of-state visitors. From 1990 to 2006, the OCC attracted an average of 640,000 visitors to the region annually. This resulted in the creation of 97,400 jobs and generated more than $6.5 billion in economic activity, which in turn provided $197 million in business and personal income tax revenue, including over $71 million in state income taxes, according to a recent report by KPMG.

Despite this success, both surveys from convention planners and the financial analysis from MERC and its advisors indicate OCC cannot remain competitive without a headquarters hotel. Groups that currently host their events at the OCC are gradually relocating their events to cities with more competitive convention hotel packages. Additionally, the OCC is no longer in the running for conventions it used to be able to attract. The loss of this business equates to approximately $40.8 million in lost regional spending and $1.9 million in lost tax revenue every year.

In addition to the gradual deterioration of its ability to retain present business, the OCC is at a disadvantage in attracting new business. Recent reports from Travel Portland indicate the OCC loses over 50 convention bookings per year, with the lack of a headquarters hotel offered as the primary reason for the selection of another venue. International hospitality consultants HVS predicted that if a 600-room headquarters hotel was constructed Portland would gain 8 new large-scale national conventions a year, representing approximately $118.6 million of annual visitor spending into the region, and $3.14 million in taxes every year.

Construction of a hotel is also expected to anchor additional development in the Lloyd District, encouraging progress with at least three other significant projects (the 100 Multnomah building, the Oregon Tower and the Cosmopolitan tower). In conjunction with installation of light rail and the Burnside Bridgehead project, the Lloyd District is poised to benefit significantly from an infusion of economic development activity. Metro, with significant support from local stakeholders, is also sponsoring development of Governor Kulongoski's Oregon Solutions process to investigate creation of the nation's first "green district" in the Lloyd District through cross-district sustainable development practices like energy sharing and on-site rain and storm water treatment.

The hotel building's designs would meet Silver LEED certification; however, the project team has indicated the project could be the first convention center hotel in the nation to achieve Gold LEED with some additional investment.

Hotel construction would generate 2,100 jobs and $224.6 million in total spending. Operating the headquarters hotel would create 820 jobs with projected annual earnings of $25.3 million. In partnership with the development team's construction agent, Turner Construction, Metro has prioritized building capacity in the region's severally distressed areas by targeting these jobs and contracts to individuals and businesses located within these distressed regions.

In February 2007, the Metro Council voted unanimously to accept a leadership role in the project from the Portland Development Commission, instructing its staff to analyze the feasibility of a 600-room headquarters hotel with the development team Garfield Traub Ashforth (GTA). On July 1, 2008, GTA delivered their first construction cost estimate of $224 million dollars and Metro is undertaking a comprehensive analysis of the feasibility of financing the project with its primary project partners, the City of Portland and Multnomah County.

RECOMMENDATION: In order to maximize the Oregon Convention Center's benefits to the region and the state, Metro and MERC should request state support for the development of a HQ hotel. As currently proposed, a 600-room convention-quality hotel is expected to cost approximately $247 million, including the necessary contingencies and development fees.

The probable source of funding would be the Oregon Economic and Community Development Department (OECDD). Several community development and business funding programs at OECDD could potentially provide assistance. Examples include the competitive community assistance program, the regional investment fund, industrial development revenue bonds, and the Oregon trade promotion program.

LEGISLATIVE HISTORY: There have been no formal proposals submitted to the state of Oregon to fund a convention headquarters hotel. The original cost to construct the convention center itself was $90 million, of which the State of Oregon contributed $15 million in a lottery fund grant through OECDD. Since 1990, the State's initial investment in the OCC has helped generate $6.5 billion in economic benefits for the region and over $71 million for the State of Oregon through business and income tax revenues.

OTHER INTERESTED PARTIES: Many public and private sector individuals have been involved in the discussion about whether and how to develop a first-class convention facility with competitive hotel accommodations near the OCC. Specific interested parties include: State of Oregon, City of Portland, Multnomah, Clackamas and Washington counties, Travel Portland, Oregon Tourism Commission, Oregon Restaurant Association, Oregon Lodging Association, Tri-County Lodging Association, Car and Truck Rental Leasing Association, Portland Business Alliance, North/Northeast Economic Development Alliance, Lloyd District TMA, Washington and Clackamas County Tourism Associations, and the trade associations that would benefit from the development of a HQ hotel. Additional support has come from the construction trades and labor organizations that would be involved in building and operating the hotel.

IMPACT IF PROPOSED ACTION OCCURS: Economic support from the State of Oregon will allow Metro to proceed with the hotel project, maximizing the impact of the OCC as an economic development driver for the region and state. State funding would allow Metro and other governmental partners:

- The necessary additional security to finance the project, ultimately creating 2,100 construction and 820 hotel operations jobs, generating $119.5 million in additional annual regional spending and $2.7 million in annual business and income taxes, and catalyzing a wave of development in Portland's Lloyd District
- To raise the project to a Gold LEED project, highlighting Portland's reputation as the green convention destination

Agenda Item Number 4.0

UPCOMING REGULATORY ACTIONS AND WET WASTE ALLOCATION POLICY

Metro Council Work Session
Tuesday, August 12, 2008
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: August 12, 2008 Time: 3:20 PM Length: 1 hour

Presentation Title: Upcoming Regulatory Actions and Wet Waste Allocation Policy

Department: Solid Waste & Recycling

Presenters: Scott Robinson and Douglas Anderson

ISSUE & BACKGROUND

Thirty-four (34) solid waste regulatory actions are scheduled to be completed before the end of 2008. Twenty-four (24) of them require action by the Council. The balance are COO actions.

In the first part of this work session, staff will provide an overview and calendar for these actions. The intention is to provide Council with an understanding of the issues and their inter-relationships; and to provide Council with options for managing the legislative work load.

Four of the 24 Council actions are consideration of franchise renewals for private transfer stations that handle putrescible ("wet") waste. In the second part of this work session, staff will present its findings, options and recommendations on policy for the privately-owned wet waste disposal system. Staff is looking for Council direction on the specific policies that should be implemented in the new wet waste franchises.

Attached to this Worksheet is a report on the wet waste allocation project. A slightly larger version that contains illustrations and appendices will be provided to Council by separate transmittal.

OPTIONS AVAILABLE

Options for managing the Council work load will be presented at the work session. Wet waste policy options are contained in the attached document.

IMPLICATIONS AND SUGGESTIONS

Implications and outcomes of the wet waste policy options are outlined in the attached document.

QUESTION(S) PRESENTED FOR CONSIDERATION

(1) How does the Council want to manage the workload of regulatory actions coming forward beginning next month?

(2) Which of staff's wet waste allocation options and recommendations should be included in the franchises?

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION _X_Yes __No
DRAFT IS ATTACHED ___Yes _X_No (forthcoming in September)

Council Regulatory Decisions 2008

		8-Aug	15-Aug	22-Aug	29-Aug	5-Sep	11-Sep	18-Sep	25-Sep	2-Oct	9-Oct	16-Oct	23-Oct	30-Oct
Business Recycling Requirements (5.10/RSWMP)							1st Read	2nd Read						
Dry Waste Matters														
New DF Listing for MRFs	TVWR, West Vancouver & Central TS							1st Read	2nd Read					
New DF Variance for MRF	TVWR													
New DFA Listing for Yamhill County Landfill	Riverbend Landfill							1st Read	2nd Read					
Wet Waste Matters														
Wet Waste Allocation			WS 8/12											
Local Transfer Station Franchises	WRI, TTS, Pride							1st Read	2nd Read					
Regional Transfer Station Franchise	FGTS							1st Read	2nd Read					
NSLs (10% - Non-WM Landfills)	American, Arrow, WRI & Crown Point													Res.
NSLs (WM Landfills)	WRI, TTS, Pride, FGTS, West Linn, B&J Garbage, Newberg, Gray, Epson to Covanta													Res.
Dry Waste Matters														
DFA Delisting (Ord)	Lakeside LF													→
DFA Termination (Res)	Lakeside LF													Res.→

Wet Waste Allocation Project
DRAFT Final Report
August 4, 2008

Solid Waste & Recycling Department

This paper is an extract from a slightly larger version that contains illustrations and additional documentation. The larger report will soon be available under separate cover.

The practical purpose of this report is to make recommendations on the amount of putrescible ("wet") waste that should be authorized in four transfer station franchises that are due to expire at the end of this calendar year. The main deliverables are (1) a set of wet waste tonnage allocations for these four private facilities; and (2) any ancillary conditions needed to meet the broader goals of the project and protect the public interest.

The policy purpose behind these allocations is to continue realizing the environmental and energy savings that are obtained by reducing the vehicle miles traveled and time that waste collection trucks spend on the road. The time savings also translate directly into cost savings for ratepayers.

The reductions are accomplished by authorizing privately-owned transfer stations throughout the region to accept wet waste, thereby shortening the distance between a hauler's route and his disposal site. However, private transfer stations remain limited in the amount of waste they can accept. These limits are determined by balancing the benefits of the time reductions against the cost of stranding investment in the public transfer stations and the public interest in maintaining reasonable prices for disposal services.

Objectives of the Project

- Sustainability goals
  - Energy savings and reduction of environmental impacts from off-route travel by waste collection vehicles.
  - Other sustainability measures (*e.g.*, reduction in self-haul vehicle miles traveled).
- Realize economic savings that translate into cost savings for ratepayers.
- Protect the public's investment in solid waste infrastructure.
- Maintain Metro's market influence as established in Metro's 2006 Disposal System Planning project.

Executive Summary

The putrescible ("wet") waste disposal system currently consists of two classes of facilities under Metro code: (1) large-scale Regional Transfer Stations, of which only one is privately-owned (the other two are the Metro stations); and (2) limited-scale Local Transfer Stations, of which there are currently three, all privately-owned.. Metro has franchised one other Local Transfer Station, but it is not yet in operation and its franchise is not up for renewal this year.

A summary of findings, recommendations and options follow.

Local Transfer Stations

The Local Transfer Station system is largely working, and needs only minor adjustments to continue meeting the objectives set forth in this study. This judgment is based primarily on the finding that the miles that waste collection trucks travel to-and-from their collection routes has been reduced by 10.8 percent from the time when Metro and Forest Grove transfer stations were the sole providers of wet waste disposal services. The economic benefit from reduction of time that trucks spend on the road translates into at least a 9.9 percent reduction in off-route travel costs.

The current caps are set at 65,000 tons for the life of the franchise. Static caps do not accommodate growth—increasing VMT because the new waste must travel to a more-distant facility. Accordingly, if the caps were adjusted to allow for growth, the system could continue to sustain the reductions in VMT.

Recommendations

- Continue to allow local transfer stations.
- Set initial caps to about 70,000 tons/year to reflect growth.
- Allow an annual increase indexed by a local growth index.
- Continue assessing fees and taxes on “back door” waste; *i.e.*, on disposal.
- Continue with no cap on dry waste to maintain processing capacity and market.
- Additional economic regulation—*e.g.*, rate regulation—is not needed to protect the ratepayer.

Options

- If the Council does not wish to provide a growth allowance, the impact on VMT reduction would be relatively small—less than 1 percent.
- If the Council remains concerned about the need for economic regulation, please see the recommendation provided for Regional Transfer Stations, below.

Regional Transfer Stations

At present, there is only one privately-owned Regional Transfer Station—Forest Grove Transfer Station—but it makes a significant contribution to the reduction of VMT. If this facility were capped at the level of a Local Transfer Station, staff estimates that VMT would increase by 7.2 percent over the status quo, and economic cost would increase by at least 6.4 percent. This takes back almost all of the reduction from the 1998 OPP decisions.

However, the combination of low service obligations and no rate regulation has led several stakeholders to question whether the system allows tip fees at Regional Transfer Stations to rise above underlying costs. And absent caps on throughput, this situation could lead to above-normal profits overall.

Metro does not presently have the information to confirm or refute these concerns. Such information would have to come from the Regional Transfer Station's own financial records. On the basis of this information Metro could determine whether any further action is warranted and cost-effective. Such action might take the form of an further initiative to establish a regulatory mechanism over rates. Staff is led to recommend such a rate review to determine the level of risk that disposal prices could usurp some or all of the savings from transport cost reductions.

Recommendation

- On January 1, reauthorize Regional Transfer Stations with no cap or a high cap.
- Make Regional Transfer Stations subject to rate review.
  The meaning of this recommendation is expanded below.
- Re-examine policies toward service obligations and revise as necessary.
- Include "reopener" clauses in the January 1, 2009 franchises that allow Metro to revise franchise provisions in mid-term to allow implementation of new policies.

Expansion on the "Rate Review" recommendation. To determine if any form of economic regulation is warranted, Metro should:

1. Commission an independent analysis of Regional Transfer Station's financial records during 2009 to verify costs, compare overhead and rates of return against industry averages, determine if the tip fee is reasonably related to these costs, and judge the materiality of differences, if any.
2. Based on this information, Metro would be in a position to decide whether or not to proceed with some form of economic regulation. As implementation of economic regulation would require an ordinance and regulatory procedures, there would be an open public process in which the potentially regulated parties could participate.
3. If some form of rate regulation is warranted, simple and relatively low-cost approaches should be considered. One such approach, Rate Cap Regulation, involves setting a rate in some base period, then not revisiting the issue as long as subsequent rate changes are consistent with an independent index such as the consumer price index.

Methodology of the Study

Allocation Amounts

To complete the analysis for this study, staff modeled four main configurations of the wet-waste system:

1. Status quo
2. Status quo+ (in which a growth allowance for the caps is added)
3. A system in which all private stations are Local Transfer Stations, subject to tonnage caps.
4. A system in which all private stations are Regional Transfer Stations, not subject to caps.

By varying the tonnage authorizations of the facilities, staff was able to model the change in traffic and tonnage flow among all facilities, and measure the changes in the miles and time that collection trucks spend traveling off-route.[*] The scenario with the greatest reduction in VMT and hours on the road is "best" or optimal, based on the evaluation criteria (below). To perform this work, solid waste staff used a version of the department's Flow Simulation Model, a spatial interaction system based on Metro's traffic zone system, updated specifically for this study.

Allocation Methods

Once the optimal tonnage amounts for each facility were determined, staff evaluated various administrative methods by which the waste could be allocated among the facilities. The options were:

- Optimal Allocation
- Cap-and-trade
- Zero-Based Re-entry
- Auction/Bid for Tonnage Authority
- Exclusive Franchises

These methods are described in a later section of this report *[reader note: this section is in the larger version of this report]*, together with an analysis, discussion of findings, and conclusion for each. In preview: the Optimal Allocation method performs the best, when modified slightly to better meet the objectives of the project. The Optimal Allocation method simply entails Metro authorizing the allocations that minimize VMT and economic costs according to the modeling step described above.

Evaluation Criteria

Quantitative Criteria. The results of the various allocation scenario models were compared along two primary dimensions: the number of miles traveled, and the time spent in off-route travel by waste collection vehicles. These two measures were used to evaluate the performance of each scenario against the sustainability and economic objectives, respectively.

- Vehicle miles traveled (VMT) is a shorthand measure of several environmental and transportation-related benefits, including reduction of particulate matter, greenhouse gasses and other emissions, and highway congestion.

[*] That is, from the home yard to the route, from the route to the disposal facility, and back to the home yard

- Time spent in off-route travel is directly proportional to the economic cost of the system.

Qualitative Criteria. The outcome of all scenarios was compared against the Council's values for the Solid Waste System (page xi of *Metro Transfer System Ownership Study*, June 2006; aka "Disposal System Planning 1" project). In addition, outcomes were compared against the conditions and desiderata that were identified by the Council, solid waste industry, local government solid waste staff and independent haulers, and confirmed by the Council, during the scoping phase of this project.

The Wet Waste System: Policy and Analysis of Options

Prior to 1999, wet waste could be delivered only to Metro Central, South and Forest Grove transfer stations. By 1998, the time and cost to haul waste to these three stations was becoming one of the fastest-growing components of collection rates. The extra haul time that trucks spent on the road increased vehicle miles traveled, with the associated impacts on energy use and the environment.

In 1998, Metro adopted an Omnibus Policy Package for the disposal system ("OPP"), under which Metro began allowing other solid waste facilities to accept wet waste. By providing the system with more disposal options that were more geographically distributed, vehicle miles traveled and haul times fell. As a direct consequence, the system became more sustainable, and economic costs were reduced.

The system was designed with two classes of facilities for wet waste: Local Transfer Stations and Regional Transfer Stations.

Local Transfer Stations

Policy Background. By policy design,

- Local Transfer Stations are of low scale in order to:
    - Serve a local market;
    - Minimize the impact on the host community; and
    - Reduce barriers to siting.
    - Throughput is currently limited to 65,000 tons of wet waste per year.
- There should be at least two in each market to provide choice and introduce competition.
- They can specialize in commercial hauler traffic (self-haul is authorized, but not required).
- Local Transfer Stations subject to minimum requirements for recovery of materials.
- Local Transfer Stations not subject to rate regulation for the following reasons:
    - The ability to realize above-normal profits is constrained by the tonnage caps themselves. The 65,000 ton limit is *de facto* **quantity** regulation that limits the amount of revenue (and therefore, profit) that can be realized at the facility.
    - The minimum requirements that Metro places on dry waste recovery induces additional costs that further limit the profitability of the enterprise.

- o The policy of allowing at least two facilities in a wasteshed fosters price competition.
- o Ratepayers are protected from excess pricing by local rate-making processes that review the costs of collection including the amount of disposal charge that can be passed on to customers. If a hauler is not allowed to recover his full cost of disposal at a transfer station, he is motivated to seek out another facility where the rates are acceptable to the local government rate-makers. This generates a supply-demand market where facilities are motivated to compete on price (and/or services) to retain business.

Accordingly, under the 1998 policy thinking, rate regulation is not required to protect the public economic interest at Local Transfer Stations.

Currently, there are three Local Transfer Stations operating: Pride Recycling in Sherwood, Troutdale Transfer Station, and WRI in Wilsonville. Citistics (now closed) used to operate in Beaverton. Columbia Environmental (franchised, not yet open) is located in Northeast Portland.

Analysis. Based on staff's modeling work, the number of miles that waste collection trucks travel to-and-from their collection routes has been reduced by 10.8 percent from the time when Metro and Forest Grove transfer stations were the sole providers of wet waste disposal services. The economic benefit from reduction of time that trucks spend on the road translates into at least a 9.9 percent reduction in of off-route travel costs.

The current caps are set at 65,000 tons for the life of the franchise. Static caps do not accommodate growth—increasing VMT because the new waste must travel to a more-distant facility. Accordingly, if the caps were adjusted to allow for growth, the system could continue to sustain the reductions in VMT.

Recommendations. Based on these facts and finding, staff concludes that the Local Transfer Station system is working with respect to the evaluation criteria, and needs only minor adjustments to continue meeting the objectives set forth in this study. Those adjustments would take the form of an increase in the initial cap to account for growth since the caps were last set, and indexing the cap to a growth indicator during the life of the franchise.

In summary:

- Continue to allow local transfer stations.
- Set initial caps to about 70,000 tons per year to reflect growth.
- Allow an annual increase based on a local growth index.
- Continue assessing and taxes on “back door” waste; *i.e.*, on disposal.
- Continue with no cap on dry waste to maintain processing capacity and market.
- Additional economic regulation—*e.g.*, rate regulation—is not needed to protect the ratepayer. However, if Council wants to consider the alternative, please see the discussion in the recommendations for Regional Transfer Stations, below.

Regional Transfer Stations

Through most of he 1998 Omnibus Policy Package project, policy makers operated under the assumption that there would be two classes of facilities: public transfer stations owned by

Metro, and private transfer stations of low scale and with limited obligations—that is, the Local Transfer Stations as described above. However, in 1998 the Forest Grove Transfer Station was only one year into a new 10-year franchise, and that franchise did not reflect many of the policies that emerged from the 1998 OPP. The Metro Council decided to grandfather-in the Forest Grove franchise and redefine the first class of facilities as "Regional Transfer Stations."
This class included both Metro stations, and Forest Grove for the duration of its franchise.*

For these reasons, Regional Transfer Stations were not comprehensively specified in the 1998 OPP. The general policy was that Regional Transfer Stations would be modeled after the Metro operations: full-service, comprehensive facilities that would be required to admit all customer accept all transfer-station-type wastes. Rates at privately-owned Regional Transfer Stations would not be subject to regulation as long as the full range of services was provided and the tip fees "resembled" the tip fees at Metro facilities. However, the Council never adopted this approach and as a result, Metro code does not place any formal obligations on Regional Transfer Stations beyond the requirement that they accept all customers—commercial haulers and self-haul—and provide a venue for Metro hazardous waste collection events.

Accordingly—and in contrast to Local Transfer Stations—under Metro code, Regional Transfer Stations:

- Are not limited in the scale of operation;
- Are not subject to any conditions designed to foster competition directly
- Do not have to perform material recovery**
- Are not subject to tonnage caps or any other form of economic regulation.
- Must accept all customers
- Must provide space for hazardous waste collection events.

In adopting these provisions, the Metro Council expressed its expectation that a set of policies on Regional Transfer Stations would be adopted before the expiration of the 10-year franchise in 2007. However, this project was never undertaken.

This latter point is addressed in the Recommendations section, below.

Analysis. At present, there is only one privately-owned Regional Transfer Station. The modeling work shows that if this facility were capped, VMT would increase by 7.2 percent over the status quo (taking back almost all of the reduction from the 1998 OPP project) and economic cost would increase by at least 6.4 percent. Clearly, this one Regional Transfer Station is a significant contributor to the VMT-reduction objective, and capping this particular facility would score very low on the main evaluation criterion.

Staff also modeled the performance of the system if none of the private facilities were capped—that is, all private stations are Regional Transfer Stations. Under this scenario, an additional 2.4

* That franchise ran through 2007 and was renewed on the same terms for one year, through 2008.
** This is now addressed by EDWRP. Forest Grove's current proposal is to reload dry waste to a material recovery facility in lieu of doing it on site.

percent reduction in VMT and 3.1 percent reduction in economic costs is possible. On further analysis, it turns out that over 99 percent of this reduction comes from the transport of waste diverted from more-distant facilities and delivered to Troutdale Transfer Station—waste that is nearest to Troutdale but could not be delivered if the facility was capped. If Columbia Environmental were to come on line (this is the fourth franchised Local Transfer Station, not yet operational) then much of this VMT reduction would be captured. However, if Columbia Environmental does not come on line, the Metro Council may want to revisit its policy on Local vs. Regional Transfer Stations, especially as they apply in the eastern part of the region.

However, during the scoping phases of this project, various Councilors and stakeholders raised concerns about the economic consequences if private Regional Transfer Stations remain uncapped or new ones are permitted to enter the system. Specifically, because privately-owned Regional Transfer Stations are not obligated to perform a full range of services, their operating cost should be lower than at other transfer stations. Yet, consistent with economic expectations and the policy findings of the Disposal System Planning 1 project, Regional Transfer Stations may match Metro's tip fee without significant risk of losing business or having that rate disallowed in local government rate-setting situations. Stakeholders' specific concerns were that a Regional Transfer Station would be able to achieve higher-than-normal profits if there were no change to Metro's code or franchise provisions. That is, ratepayers' potential economic benefit in the reduction of transport costs could be partially or wholly usurped by higher disposal charges.

To address whether in fact there is validity to this issue, Metro would need more information. Specifically, Metro would need to know the costs of operating private Regional Transfer Stations in the present environment, and then would need to determine if the observed tip fees are reasonably related to these costs. In the next section, staff makes specific recommendations to address this issue, and the next steps.

Recommendation

- On January 1, reauthorize Regional Transfer Stations with no cap or a high cap.
- Make Regional Transfer Stations subject to rate review.
  The meaning of this recommendation is expanded below.
- Re-examine policies toward service obligations and revise as necessary.
- Include "reopener" clauses in the January 1, 2009 franchises that allow Metro to revise franchise provisions in mid-term to allow implementation of new policies.
- If the fourth Local Transfer Station, franchised but not yet open, does not materialize, then the Council should review the whole Local-Regional Transfer Station policy to determine if a different model for the system might perform better on sustainability and economic objectives—for example, an expansion of Regional Transfer Station authority.

Expansion on the "Rate Review" recommendation. To determine if any form of economic regulation is warranted, Metro should take the following steps:

4. During 2009, Metro should commission an independent analysis of Regional Transfer Station's financial records. The purpose of this analysis would be

- To verify costs, and to determine where the facility's expenses, capital costs, rates-of-return and similar allocated quantities fall, relative to industry averages and ranges;
- To determine if the tip fee is reasonably related to these costs; and
- To judge the materiality of any differences.

5. Based on this information, Metro would determine whether it should proceed with some form of economic regulation. In making this decision Council would consider that there is a wide range of approaches to (and costs of) economic regulation, from "regulation light" to full regulation. For example:
   - "Regulation light": Review and Publish On an annual or period basis, Metro could commission an independent review of the financial records of Regional Transfer Stations, and simply publish the key rate components. Then, any customer or local government rate-setter would have access to pricing information and could make their own decision whether to use the facility or not. This is the simplest form of "rate transparency."
   - Rate-Cap Regulation. Under this model, a reasonable rate is established in some base period. Then, so long as the tip fee remains consistent with an independent index such as the consumer price index, the regulator (Metro) would not be compelled to take any action until the next periodic review. This form of regulation is increasingly being used formally in lieu of rate-of-return or cost-plus regulation, as it is comparable in performance and considerably less expensive than more traditional methods.
   - Full regulation. Under traditional models, costs and capital are inventoried and audited. Rates are based on cost-plus allowances or rates of return on capital. Traditional models are very expensive and are generally used only for large-impact industries such as utilities.

6. Implementation of economic regulation would require an ordinance and regulatory procedures, so there would be an open public process in which the potentially regulated parties could participate.

7. A form of franchise "reopener" language for rate regulation might take the following form:
   The rates charged to customers of the franchisee for the acceptance of solid waste (including without limitation tip fees, acceptance fees, processing fees, transaction fees and environmental charges) are not subject to regulation unless and until a duly adopted ordinance of the Council extends Metro's rate regulation authority over the franchisee, at which time this franchise shall be amended to implement the code and process specified by said ordinance.