

A G E N D A



METRO

MEETING: **REGIONAL SOLID WASTE ADVISORY COMMITTEE (SWAC)**

DATE: Thursday, January 26, 2006

TIME: 10:00 a.m. – 12:00 p.m.

PLACE: Rooms 370A/B, Metro Regional Center, 600 NE Grand Avenue, Portland

- 5 mins. I. Call to Order and Announcements Rod Park**
Introductions and Announcements
*Approval of Minutes**
- 15 mins. II. Solid Waste & Recycling Director's Update* Mike Hoglund**
- 35 mins. III. Disposal System Planning Progress Report.....Paul Ehinger**
Disposal System Planning (DSP) is a key project element of the Regional Solid Waste Management Plan update. One of the main purposes of the DSP project is to determine whether the needs of the region's transfer station component of the disposal system are being met in the most efficient and effective manner; and to recommend adjustments for the future where the system can be improved. This agenda item will be a progress report on the DSP project, with particular emphasis on "Metro Disposal System Economics," and how these may influence Council decisions on the system in the future.
- 20 mins. IV. Draft Interim Waste Reduction Plan**
Upcoming Public InvolvementKaren Blauer
Another key component of RSWMP is the region's waste reduction plan, which must be approved by DEQ. An interim waste reduction plan (IWRP) will be finalized by the spring, and later merged into the updated RSWMP after disposal system planning is concluded. SWAC members reviewed the draft IWRP in September and October. In late November, DEQ provided Metro with comments on the early draft. A revised draft is now being prepared, and a 45-day public comment period will begin late next month. This agenda item will give SWAC members the opportunity to comment on a proposed web-based tool for obtaining public comment on the general direction of the IWRP.
- 35 mins. V. Evaluating Dry Waste Recovery**
Program Options Lee Barrett, Tom Chaimov
In July, SWAC members received a briefing on a decision support tool in development -- intended to help rank proposed waste reduction programs with a goal of increasing recovery of dry waste. In the ensuing months, program cost information has been added, and SWAC members were sent a survey to rank evaluation criteria. This agenda item will provide a full demonstration of the decision support tool, complete with SWAC responses on the evaluation criteria, and the results.
- 10 mins. VI. Other Business and Adjourn..... Rod Park**

**Material for this agenda item is attached.*

All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

Chair: Councilor Rod Park (797-1547)

Staff: Janet Matthews (797-1826)

Committee Clerk: Susan Moore (797-1643)



METRO

600 NE Grand Ave.
Portland, OR 97232-2736

MEETING SUMMARY
Solid Waste Advisory Committee
Metro Regional Center, Room 370A/B
October 27, 2005

Members / Alternates Present:

Councilor Rod Park, Chair
Mike Hoglund
David White
Matt Korot
Dave Garten
Wade Lange

Wendy Fisher
Mike Miller
John Lucini
Steve Schwab
Ray Phelps

Rick Winterhalter
Bruce Walker
Jeff Murray
Glenn Zimmerman
Ralph Gilbert

Guests and Metro staff:

Vicki Kolberg
Steve Apotheker
Kathryn Schutte
Roy Brower
Jim Watkins
Jim Quinn
Julie Cash
Steve Kraten

Stacey Triplett
Todd Hubbard
Leslie Kochan
Pat Vernon
Jan O'Dell
Jeff Gage
Baron Browning
Brad Botkin

Janelle Geddis
Lee Barrett
Meg Lynch
Easton Cross
Todd Irvine
Barb Disser
Gina Cubbon

I. Call to Order and Announcements.....Councilor Park

- Councilor Rod Park opened the meeting and welcomed everyone. After some general announcements, he asked for comments or changes to the minutes of the September 22 meeting. None were made, and Allied Waste's Ray Phelps moved to accept the minutes as written. Clackamas County's Rick Winterhalter seconded the motion, which was passed unanimously.

II. Solid Waste & Recycling Director's Update..... Mike Hoglund

- Mr. Hoglund reported that Columbia Environmental's application to become a regional transfer station has been approved. The facility will begin permitted operations approximately one year from now. The moratorium on applications for other new transfer stations has been extended until December 31, 2007. This date could be moved up, depending on when the Regional Solid Waste Management Plan (RSWMP) update is completed.

Councilor Park explained that the moratorium is in place in case of changes to application criteria that may be in the update. "We don't want anyone out there spending funds that they may not need to [when] they don't necessarily know how the process is going to work," he said.

- Looking at Metro's role in the transfer station business, Mr. Hoglund said, Dan Pitzler of CH2M Hill is heading a team of consultants hired to develop a full spectrum of models (all publicly-owned, all privately-owned, and the current public / private mixture) for the Disposal System Planning project. An economic sub-consultant will be working with the team, as well. This phase of the DSP should be completed sometime in the summer of 2006. The consultants will also work with staff and Council to create evaluation criteria for analyzing the models. He anticipates that a more detailed report will be given to SWAC, after stakeholder interviews have also been held.

"When we know whether we're in or out of the system," Mr. Hoglund added, "then we'll move forward to Phase II of disposal system planning." That next phase will address entry of new transfer stations into the system, as well as evaluating and examining current restrictions and regulations (such as tonnage caps), and many other issues.

- Greenway Recycling on St. Helens Road has been approved as a reload facility, with some conditions that waste and recyclables be covered and contained within 12 hours, moved from the site within 48 hours, and that a qualified operator be on-site whenever loads are delivered. "Some of the standard things that we usually put into our franchises and licenses," Mr. Hoglund explained. Greenway disputed those conditions to a hearings officer, whose final decision upheld Metro's legal authority "to set conditions with issuing licenses," and determined that Metro's enforcement and rule-making authority is not governed by the Oregon Administrative Procedures Act. The hearings officer found that "Metro presented enough substantial evidence to impose the conditions that were imposed, and Greenway failed to show that similarly situated facilities were being treated differently." Greenway is appealing to Metro Council on December 8.
- Three MRFs have recently submitted applications for solid waste licenses to become dry waste C&D facilities. Land use approval from the City of Portland has been received; Metro has 120 days to make a decision, once applications are deemed complete.

III. Nature in Neighborhoods & Solid WasteStacey Triplett and Janelle Geddis

Councilor Park briefly explained the connection between solid waste issues such as illegal dumping, with Metro's Nature in Neighborhoods program. The program could be very helpful in making the public more aware of the consequences of illegal dumping on the environment around them and "more connected to the actions that they take." The Councilor introduced Stacey Triplett of the NIN program, who in turn introduced Janelle Geddis, Restoration Grants Coordinator for the program.

Ms. Triplett briefly outlined the three program areas most closely linked to solid waste, noting that the entire program is an inter-departmental initiative. Conservation education ties well to SW&Rs recycling programs, she said. "Metro's goal is to increase the capacity around the region for conservation education programs." The Zoo, Regional Parks and Greenspaces, as well as the Recycling Education programs all do this kind of outreach. NIN plans to use a watershed by watershed approach to support and increase environmental education.

Acquisition: The Open Spaces acquisition bond passed in 1995 is complete, Ms. Triplett continued. A new program is being planned with the dollar per ton increase given to RP&G last year. "Cooper Mountain has had its master plan completed thanks to the funding that was available. The current public comment period will close November 9 and the Council is expected to adopt that December 1, so we're well along the way to bringing the public access that this [solid waste] industry has helped us fund to the Cooper Mountain area," she said. Additionally, Mt. Talbert access is in the preliminary site design stage.

Restoration: The tie being worked on, Ms. Triplett explained, is that many of the areas acquired by (or donated to) Metro have had incidents of illegal dumping. "The Science and Stewardship team sees a connection between proper restoration and good site interpretation or site use to stop some of that illegal dumping," she said. There will be competitive funding towards this through a three-tiered grant program.

The three other NIN areas, Ms. Triplett noted, are habitat (encouraging habitat-friendly practices), monitoring and reporting of the regional ecosystem, and working with local jurisdictions on issues such as stormwater, soil, stream crossings, etc.).

Introducing Ms. Geddis' portion of the presentation, Ms. Triplett outlined the three grant programs that will be available through a competitive process. Additionally, she mentioned a desire to convene a group to look at best practices to achieve the goals of the NIN program.

Ms. Geddis explained that the grants portion of the NIN program has been funded by "solid waste rate recovery" and will launch on Friday, November 4. Referring to the three tiers Ms. Triplett had mentioned, Ms. Geddis said "They're small, community-based grants, \$1,000 – \$5,000 packages, there's a mid-level package of \$5,000-\$25,000, and then the larger products that are \$25,000+." Each of the tiers has different criteria: The first tier are community neighborhood grants, perhaps with high school or neighborhood associations, etc. The middle tier, called "The Community Challenge for Watersheds Grant" is an effort to build public/private partnerships, Ms. Geddis detailed, and the highest tier grants are for larger-scale restoration projects.

Public agencies, private businesses, private landowners, neighborhood associations, schools, and non-profit organizations are all eligible to apply for the grants, Ms. Geddis continued. The plan is to offer a pre-application period followed by a final application period "to just see what comes in the door," she said. The agreements from the first round of funding should be in place by July 2006; the second round will immediately follow.

Ideas being talked about that have direct ties to the solid waste community include illegal dump site cleanups, revegetation / restoration, and efforts to discourage future dumping. This could entail signage, barriers, etc. The program hopes to create new kinds of partnerships, "There's an opportunity to get more people involved," Ms. Geddis said. She passed around a sign-up sheet for those interested in receiving more information.

Councilor Park is the program liaison, Ms. Triplett informed the group. Councilor Park encouraged businesses to get involved. Waste Management's Dean Kampfer noted that his company works closely with Stop Oregon Litter & Vandalism (SOLV) and asked if this program will interact with that organization. Ms. Geddis said SOLV or groups who work with SOLV will likely apply for some of the funding. Some of SOLV's programs could be made larger with these grants. "The larger grant packages are a two-to-one match, so there's a lot of leverage with this money," she explained.

Dave White asked about the \$1 million taken from the solid waste rate recovery fund. "I was under the impression that was part of a bigger amount of revenue that was going to be spent on this. Is that the entire amount you have for the grants?" Ms. Triplett explained that the grants are, indeed, the \$1 million, but an additional \$1.2 is budgeted for other portions of the NIN program.

"When this was originally brought to the industry," Mr. White continued, "my understanding was that there were two reasons to get the million dollars. One was to educate the public, which we were talking about using a franchised or licensed hauler; we talked about stickers on trucks... We

were going to educate the people when they hire a hauler [to ask if they're licensed, etc.]." He continued, saying that he'd looked at the NIN website extensively, and hasn't seen any mention of that. Additionally, regarding illegal dumpsite cleanup, Mr. White said they'd been having some issues with Multnomah County and getting the work done, so they'd discussed using another county or contractor. To his understanding, those were the two planned uses for the funds, and he was surprised to find it's going instead to "small neighborhood groups to do things at the local level – that sounds more like planting trees and some cleanup, but I don't see it being the two things we originally bought into."

Councilor Park responded that regarding illegal dumping, approximately \$450,000 is budgeted for this, including new Code language to clarify responsibility, and purchase of surveillance equipment for problem sites. The other piece is still being set up; stickers and other ideas are still being considered, and are part of existing education funding. Regarding the NIN program, the Councilor commented that when people take 'ownership' of certain sites – such as signs that say "Road clean-up sponsored by...." – there's less future dumping. Metro hopes to get the same kind of results through the NIN grant program. "It's a coordinated effort between current funds, these [NIN grant] funds, and other things that we're doing." Still, Mr. White maintained that the funds are not being used in the way they were originally presented, and discussion continued.

Dave Garten asked if illegal dumpsites that are mitigated tend to stay clean or if they're repeatedly dumped upon. SW&R's Regulatory Affairs Manager, Roy Brower, responded that it varies from site to site and circumstance. Ms. Geddis talked anecdotally about a project she'd been involved with some time before. The site was consistently a problem and used for transient campsites, but over time, as the site was cleaned up, the blackberry bushes cleared and the area was restored, more people started using the area and assuming stewardship as a neighborhood. It takes time and care, she said, but there are a lot of success stories.

Councilor Park said he felt it important to explain that "There are two streams of funds I call 'green money' and 'red money.' Green money, you can spend everywhere for all different purposes. Red money comes out of solid waste funds. You can only use it specifically tied towards solid waste purposes." Therefore, he continued, the "green money" is being used for enhancement projects wherein the "red money" has limited ways it can be employed. Insofar as illegal dumpsites, the Councilor said, "You do preventative maintenance rather than cleaning it up afterwards; that's the tie-in we're trying to make."

IV. Draft Interim Waste Reduction Plan Vicki Kolberg, Jim Quinn, Steve Apotheker

Councilor Park introduced this next item in the absence of Janet Matthews, noting that while portions of the Waste Reduction Plan will be dependent upon the outcome of the Disposal System Planning project, there are pieces that can be moved ahead. Mr. Hoglund said that Waste Reduction & Outreach staff would be presenting information about three components of the plan. He reminded the group that three components had been introduced at the last meeting, as well, "This is a piece we think has momentum and we can move forward with separate from being influenced by Disposal System Planning and some other components of the RSWMP which are going to take longer. We'd like to get this piece done and adopted by Resolution to become the new acting waste reduction component of the RSWMP," he said. He asked for general comments and questions following the presentations, adding that the next step would be to take the interim plan to a Council work session for authorization to put document out for public comment.

Mr. Hoglund introduced Vicki Kolberg, SW&R's Education Services Supervisor. Using a PowerPoint presentation, Ms. Kolberg noted that while Education Services is not a new area, it is new to the Waste Reduction Plan. "We feel it's such a critical piece to have an informed and engaged citizenry if we're going to achieve our goals."

Ms. Kolberg briefly described the various components of Education Services, including the venerable Recycling Information Center, which provides referrals to haulers and recyclers throughout the Metro region. Last fiscal year, more than 100,000 calls were taken by the RIC, 95% from residential customers. Additionally, a website entitled "Find A Recycler" was created last fiscal year and had 23,000 hits in its first year. An example of other services, she added, was an educational advertising campaign that targeted paper at businesses. Called the Recycle at Work program, it incorporated the help of local governments, who provided direct information to businesses that called. Almost 1,000 businesses ended up participating in a two-year period.

Adult education, Ms. Kolberg continued, focuses on the reduction of toxics in the region (she noted that Hazardous Waste Supervisor Jim Quinn would provide strategy details following this presentation). Program activities include the popular natural gardening tour, workshops, and seminars, as well as partnerships with retail nurseries, a lawn care pilot project, and education at hazardous waste roundups and Metro's transfer facilities.

Regarding waste reduction education in schools, Ms. Kolberg said, "Life-long learning about the value of resource conservation and the importance of protecting the environment begins with children." Metro works with elementary, middle, and high schools, providing educational presentations and providing support to teachers such as waste audits and on-site assistance. 57,000 local students and teachers were reached by this program in FY 2004-05, providing "a strong foundation for life-long sustainable behaviors," Ms. Kolberg concluded.

Comments from the audience came from Mr. White and Ray Phelps. Mr. White referred to page 22 of the plan: "I'd like to suggest that Metro should work with the local governments, rather than *'research and provide technical assistance.'* I think it would be good if we all worked together to develop and research and come up with the educational program, and then all work together to implement it...I'm just commenting that I'd like to see it written in there."

Mr. Phelps felt that haulers could be a valuable part of public education and are under-utilized in that capacity. "Unless I missed it, all of the education delivery is being provided by several different parties, but in no case has the hauler been identified as a deliverer of educational information. This is not a new comment to me, it's been around for quite awhile." Mr. Hoglund responded that while there are plans to use the haulers to help with the residential curbside campaign, trained educators understand the sociology, and issues related to educating and behavior change. "A driver's a driver, haulers are haulers; they'd have to be trained a bit in some instances to deliver certain messages." Mr. Phelps disagreed.

Next up, Mr. Quinn spoke about the plan's efforts in toxicity reduction. "What we're talking about here is the type of hazardous products commonly found around the home. The goal is protecting human health and the environment." He explained that some products are flammable, some poisonous, reactive, etc. Metro began doing collection of household hazardous waste products from the public in the 1980s, Mr. Quinn explained. Program focus is moving towards reducing the amount generated, as well, with education and product stewardship measures. Proper management of the hazardous waste that is generated is crucial, he said, as is changing behaviors so that less-toxic products grow a stronger market.

Metro receives hazardous waste from 50,000 citizens a year (number combines those at round-ups and coming to its Household Hazardous Waste facilities at the transfer stations). Additionally, 150,000 lbs. of hazardous waste is removed from trash annually. Collection, education, and product stewardship efforts all need to work in congress to accomplish significant reduction. Disposal bans may be needed as well, Mr. Quinn said.

Mr. Phelps took strong exception to the idea of disposal bans. He stated: "I know from experience at Metro that you cannot ban all items as a regulator of waste disposal in the region. For example, pool chlorine you cannot regulate because it's part of a federal regulatory scheme. For some reason or another, pool chlorine is part of fertilizer regulations under US law. As a result, it's regulated at that level. I'm not saying that what you're offering here is a bad idea; what I'm saying is there are a number of things you're not going to be able to ban no matter what."

Mr. Quinn countered that there's a state law that prohibits local governments from passing regulations on what's considered pest control products – including pool chlorine. However, it doesn't address disposal, just use, labeling, etc. Disposal, however, is within Metro's purview, he said. Councilor Park concurred that Metro is authorized to implement bans, but that it would need to be considered very carefully.

Continuing discussion, Mr. Phelps commented that within the plan, "there is the suggestion that the hazardous waste and/or solid waste activity will be coordinated with water and air quality efforts, stream habitat and water quality programs. Is that suggesting that solid waste revenues would be expended for those kinds of programs, which might tangentially deal with solid waste?" No, replied Councilor Park.

"I'm a little bit concerned about adopting a hazardous waste reduction/disposal program when we don't know the shape or size of the disposal system itself," Mr. Phelps concluded. Councilor Park assured him, however, that the goals will remain the same regardless of the collection mechanism used.

Discussion briefly rewound to disposal bans. Steve Schwab pointed out that there already are some disposal bans. Metro's Jim Watkins agreed, explaining that the items which are banned at the transfer stations are too big to compact. Mr. Schwab mentioned treated wood waste in particular, and suggested that Metro, as "the transfer stations of last resort" should charge extra for those items and deal with them. "You can charge extra," he said, "I don't care. But I need a place to dump that stuff. I drive in and get told I can't go there, then I spend three hours driving around. I ended up at a landfill that's not lined. Where do you want it?" Mr. Brower said that there are facilities in the region specializing in taking treated wood waste, and that the RIC could help him find them. The regulatory program has authorized some of those operations to grind it into hog fuel.

Steve Apotheker then presented the product stewardship component of the draft interim plan. Product stewardship ("PS"), he explained, "...means that whomever designs, produces, sells, or uses a product shares the responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle. The greatest responsibility lies with whomever has the most ability to affect the overall environmental impacts of the product." The plan is to go upstream towards better stewardship (making products are non-toxic and recyclable, for instance). This would integrate all the waste reduction goals, including toxicity and recycling. Earlier examples of successful product stewardship include Oregon's groundbreaking Bottle Bill, and rechargeable batteries. More recently, Office Depot agreed to a one-time used computer take-back, Mr. Apotheker said. This was so well-received that the company made it a national program.

Metro is a founding member of the NW Product Stewardship Council, Mr. Apotheker said, and has helped found a related national organization. Objectives are to identify priorities (cost to manage, recycling volume, toxicity are a few evaluation criteria), promote product stewardship, support the concept through education, and develop policies that encourage other product stewardship programs.

Following Mr. Apotheker's presentation, Mr. Garten asked how the priorities are determined. Councilor Park explained that the matrix presented to SWAC at a previous meeting is being used. Mr. Apotheker added that Metro Council would determine the final priorities, and then those would be taken to conversations with national organizations. Philosophically, Councilor Park added, it's a user-pay concept. In hazardous waste, for instance, "through the Regional System Fee, we all pay for [haz waste disposal], even though you may have a segment of society that chooses to not use hazardous products."

"It seems to me, as I read through this, that this is all about leverage," Mr. White spoke up. "The local government doesn't have as much leverage as the state, and hopefully the feds have more leverage [than either]. What I don't see in [in the plan] is anything kind of like the BRAG program for recycling, that says if you're going to buy a computer, there should be a sticker somewhere that says 'this computer company is involved in product stewardship.' What we should be doing is promoting - at all levels - buy responsibly from the companies that are responsible. I don't see that in here." Mr. Apotheker said that's a good point, and would be fairly easy to expand the Buy Recycled website, for instance, to include companies that have product take-back.

The City of Portland's Bruce Walker commended Metro's involvement in the various product stewardship organizations, but said it's crucial as well to show leadership locally. "We could end up waiting for a national solution," he said. "If we had done that with recycling, the 10,000 communities around the country that have curbside recycling probably wouldn't have done it. Let's try to look at some examples where we can bring some programs in locally and see if we can make something happen" that shows leadership, Mr. Walker suggested. Partnership developments would be a great way to start something that may become national.

Other general comments on the Draft Interim Waste Reduction Plan included Mr. Phelps wondering if the verbiage reads as though the work groups involved will carry on for ten years. Additionally, he is concerned that the Green Building program duplicates the efforts of the LEEDs program. Meg Lynch acknowledged his concerns and said she would be deeply involved in the editing so that it's clearer.

Mr. Phelps also stated that "In two places - page 20, 3.0, page 21, 3.0 again... I'm reading that if there is some sort of an economic problem with recovery markets, Metro is going to *'provide technical, monetary, and research assistance to strengthen and maintain...'* I'm not sure that's a path we want to travel. I don't support it: What are you doing spending money supporting money on something that might not be worth supporting?" Ms. Lynch responded that it's not strictly a Metro workplan. Other sources could provide technical assistance, tax credits, etc., but Mr. Phelps disagreed with that assertion. Clackamas County's Rick Winterhalter added there are those who disagree with the idea that "the market can solve all."

Wrapping up this agenda item, Councilor Park said the next step will be for Council to release the document for public comment. After re-working, it will again be presented to SWAC and the to Council for final adoption.

V. Oversight of Clean MRFs Bruce Walker and Mike Hoglund

This item was raised by Mr. Walker at the previous SWAC meeting. Councilor Park said that it's a matter of public confidence in the system. "The general rule of thumb in business," he said, "is that for every complaint you hear, there are ten you didn't hear." Concerns and complaints have been heard about co-mingling and other aspects. Mr. Hoglund gave further background, saying that it concerns "source-separated, curbside recyclables, and whether or not all the material that can be recycled is getting to processors and markets."

On October 13, Mr. Hoglund reported, local government representatives, Metro staff, and clean MRF operators met to discuss the issues involved. (A summary of the meeting was attached to the agenda packet.) Discussing the extent of the problem, he said, spread from the question of should MRFs be regulated, and became much more complicated. One of the problems from the MRFs perspective is that they're required to accept loads that often are contaminated, which impacts their costs considerably. Other issues are that competition gives them little leverage with customers to try to monitor what comes in, some markets are very soft, and a general lack of education about what can be put into the curbside bins. Despite all these problems, the MRFs manage to have an extremely low residual rate, Mr. Hoglund commented.

Solution areas, as outlined in the agenda attachment, are:

1. Public education and outreach
2. Hauler inspection program
3. Public/private partnerships, particularly in sharing information and data
4. Clean MRF reviews and inspections

He spoke briefly about the bulleted items, concentrating first on the need to assure the public that recyclables are being recycled, and read the remaining ideas (see agenda packet).

Mr. Hoglund said that he met with haulers just previous to today's meeting to discuss the issue. They were generally supportive of many of the recommendations, and agreed that the main point is that items left out for recycling must be recycled. They did ask that the ideas be instituted incrementally. Mr. Walker added that it's important to establish a system that works well and assures the public. The system is in place but needs to work better, he said. It became apparent in the meeting, Mr. Walker said, that everyone needs to work together to improve the system.

John Lucini commented that his biggest concern is that "all we've heard about is public confidence in recycling being undermined. I think the system in this state does a better job than anyplace else I've seen in the country." Residuals are extremely low, in spite of the contaminants and other items that shouldn't be showing up at MRFs in the first place. It's important to accent the positive, as well as getting out the word to residents how to correctly recycle at the curb, and why some materials aren't practical to recover, Mr. Lucini maintained. New commodities shouldn't be added without much research about the markets, he added. Mr. Murray said he believes the public wants to recycle at the curb correctly and that giving them a lot of information is always helpful.

Referring to the bullet point "Deliver a consistent message and information on curbside collection," Mr. White commented that the statement should read, "...an accurate and honest message." "It's one thing to say it," he said, "and another thing to be able to support it and validate it. Once we put

that in there, then our efforts should be focused on how can we be sure that the message we're giving to the public is accurate and honest? Then that gets into should there be inspections, should there be reporting, should there be regulation – and those will be conversations that we have in the future.”

Councilor Park broached the subject of DEQ versus Metro authority. Metro chose to step back and let DEQ take the lead on this issue, he said, “because they have better, clearly-defined authority for dealing with it.” One of the credibility issues, however, concerns whether Metro should duplicate DEQ, he continued. “With all the carrot pieces [incentives for recycling / recovery], do we need to have a stick [regulatory] piece also?” the Councilor asked.

Mr. Phelps commented that he doesn't feel there is a perception problem. “I've not noticed any less recycling tonnages, or any kind of significant decline where perception was truly adverse,” he said. “I've not seen it. Secondly, I think we're way ahead of the curve here, and with the exception of one event, I don't know that there is a problem with the clean MRFs.” The responsible thing to do, he suggested, would be to conduct more sort samples to help discover how far-reaching the problem is – or if it is far-reaching at all.

In further discussion, Councilor Park asked if there's a mechanism for MRFs to let their customers know if they're bringing particularly contaminated loads. Mr. Murray replied that there's not, but “overall, the cooperation of the haulers is what makes it work.” Mr. Lucini said that MRFs can, and do call haulers “if a load comes in that's full of garbage.” What happens routinely, though, he continued, “is material that's collected in good faith by the haulers... and contains material that's either impossible or difficult to process, or has no value that covers the cost of collection and processing. The issue is to get that out of the curbside.”

Mr. Phelps reiterated that inspection should be the first step so exactly what the problem is – if any – can better be determined. “I suspect,” he said, “that we're going to discover we have an issue but we don't have an event, and it'll take that surgical inspection to devise that resolution. But right now, I think we're grasping, and I do believe inspection will give us the right direction.” Mr. Kampfer responded, “I suggest we understand what we're inspecting for before we go out and inspect.” Is the point to discover if processors are throwing away recycling, or to see what customers are putting at the curb that shouldn't be there? Councilor Park said he suspects it's the latter.

Mr. Winterhalter said the issue has never been one of MRFs not being able to handle the content in the loads they get. “What we have here is that voluntary effort,” he said. “It's very nice that we can call up and say ‘hey, can we come in and watch some of the trucks come in?’ so that we can help target those [items] that are being collected in good faith.” He feels looking more closely can help improve the education efforts region-wide. Mr. Winterhalter also agreed with Mr. Lucini that more should be said about the good job that is being done.

Concluding, Mr. Hoglund said he would work with Mr. Walker and some private sector representatives to decide on next steps.

VI. Other Business and Adjourn.....Councilor Park

Councilor Park asked those who were staying for the Rate Policy Subcommittee to quickly reconvene for that meeting, and adjourned the rest of the group at 12:10 p.m.

Next meeting:
Thursday, December 15, 2005
Room 370 A/B

gbc
M:\rem\od\projects\SWAC\Agenda_Minutes\Agendas&Minutes\2005\SWAC102705min.doc
Queue

ATTACHMENT 1 -- DIRECTOR'S UPDATE

(Pages 1-9)

ORDINANCE NO. 06-1098

**AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 AND THE REGIONAL SOLID
WASTE MANAGEMENT PLAN TO IMPOSE A TEMPORARY MORATORIUM UNTIL
DECEMBER 31, 2007, ON CERTAIN NEW NON-PUTRESCIBLE, MIXED SOLID WASTE
MATERIAL RECOVERY OR RELOAD FACILITIES, AND CERTAIN NON-SYSTEM
LICENSES; AND DECLARING AN EMERGENCY**

**STAFF REPORT IN CONSIDERATION OF ORDINANCE NO. 06-1098 AMENDING
METRO CODE**

(Pages 10-13)

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTERS 5.01)
AND 5.05 AND THE REGIONAL SOLID WASTE)
MANAGEMENT PLAN TO IMPOSE A) ORDINANCE NO. 06-1098
TEMPORARY MORATORIUM UNTIL)
DECEMBER 31, 2007, ON CERTAIN NEW NON-) Introduced by Councilor Rod Park
PUTRESCIBLE, MIXED SOLID WASTE)
MATERIAL RECOVERY OR RELOAD)
FACILITIES, AND CERTAIN NON-SYSTEM)
LICENSES; AND DECLARING AN EMERGENCY)

WHEREAS, it is in the public interest to ensure that the regional solid waste system operates efficiently; and,

WHEREAS, Metro is updating the Regional Solid Waste Management Plan and such update will involve facility regulation issues including the appropriate tonnage allocation among existing transfer stations, whether new waste transfer and material recovery facilities in the region should be authorized and how out of region facilities are affected by the system, including facilities that receive certain waste via non-system license authorizations; and

WHEREAS, the Metro Council has imposed a moratorium until December 31, 2007 on applications for and authorizations of new solid waste transfer stations; and

WHEREAS, a temporary moratorium on new non-putrescible mixed solid waste material recovery or reload facilities that accept solid waste originating, generated, or collected within the Metro region, including a temporary moratorium on any changes of authorizations to allow existing facilities to begin new non-putrescible waste material recovery or reload operations involving solid waste originating, generated, or collected within the Metro region, and a temporary moratorium on certain non-system licenses, will provide the time necessary to resolve solid waste facility issues through the Disposal System Planning project; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.060 is amended to read as follows:

5.01.060 Applications for Licenses or Franchises

(a) Applications for a Franchise or License or for renewal of an existing Franchise or License shall be filed on forms or in the format provided by the Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the Chief Operating Officer, applications for a License or Franchise shall include the following information to the Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.

(e) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to operate a Transfer Station during the period commencing August 19, 2004 and continuing until December 31, 2007.

(f) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept for filing any application for authority to accept non-putrescible solid waste originating, generated or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007.

SECTION 2. Metro Code Section 5.01.067 is amended to read as follows:

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

(b) The Chief Operating Officer shall make such investigation concerning the application as the Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license. For the purpose of this subsection (e), a "substantial effect" shall include any occurrence that arises from the solid waste operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer.

(j) The term of a new or renewed License shall be not more than five years.

(k) Notwithstanding any other provision in this Section, no authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading shall be granted during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007.

SECTION 3. Metro Code Section 5.05.035 is amended to read as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or
 - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances, which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;

- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

(b) Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- (1) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- (2) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).
- (3) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).
- (4) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.150, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

(c) Determination Whether to Issue Non-System License. Within 60 days after receipt of a completed application for a non-system license for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith, the Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination. After receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith, the Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue the non-system license. If the Chief Operating Officer recommends that the non-system license be granted, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license. Within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required in connection therewith, the Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination. In making such determination, the Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to such determination:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the non-system facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and
- (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a non-system license as deemed necessary or appropriate under the circumstances.

(d) Issuance of Non-System License; Contents. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;

- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than 120 days from the date of issuance for limited-duration non-system licenses, and two years from the date of issuance for all other non-system licenses; and
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(e) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month; and
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.

(f) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing

requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and

- (2) Paid in full, or made arrangements satisfactory to the Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

(g) Notwithstanding any other provision in this Section, the Chief Operating Officer shall not accept any application for, and neither the Chief Operating Officer, nor the Metro Council shall issue a non-system license for mixed putrescible solid waste or mixed non-putrescible solid waste that has not first been delivered to a Metro licensed or franchised Processing facility for material recovery during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007; provided, however, that a licensee may request, and the Chief Operating Officer or Metro Council may issue, a replacement license with an effective date beginning the day after an existing license expires if the replacement license is to authorize the licensee to deliver the same type and quantity of solid waste to the same non-system facility as the existing license.

SECTION 4. The provisions of “Business Waste Reduction Practices: 4. Regional processing facilities for mixed dry waste,” located on pages 7-17 to 7-18 of the Regional Solid Waste Management Plan, are amended to include the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007.

SECTION 5. The provisions of “Building Industries (Construction and Demolition) Waste Reduction Practices” located on pages 7-19 to 7-22 of the Regional Solid Waste Management Plan, are amended to include the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007.

SECTION 6. The provisions of “Solid Waste Facilities and Services: Transfer and Disposal System” located on pages 7-25 to 7-27 of the Regional Solid Waste Management Plan, are amended to include the following paragraph:

Notwithstanding any other provision in this Plan, Metro shall not accept or grant any application seeking authority to accept mixed non-putrescible solid waste originating, generated, or collected within the Metro region for the purpose of conducting material recovery or reloading during the period commencing with the effective date of this Ordinance and continuing until December 31, 2007.

SECTION 7. This Ordinance is necessary for the health, safety, and welfare of the Metro area in order to ensure that the Regional Solid Waste Management Plan may be updated and implemented as efficiently as possible. An emergency therefore is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this ____ day of _____, 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

BM:bjl
M:\rem\od\projects\Legislation\2006\061098 moratorium ord.doc

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1098 AMENDING METRO CODE CHAPTERS 5.01 AND 5.05 AND THE REGIONAL SOLID WASTE MANAGEMENT PLAN TO IMPOSE A TEMPORARY MORATORIUM UNTIL DECEMBER 31, 2007, ON CERTAIN NEW NON-PUTRESCIBLE, MIXED SOLID WASTE MATERIAL RECOVERY OR RELOAD FACILITIES, AND CERTAIN NON-SYSTEM LICENSES; AND DECLARING AN EMERGENCY

Date: January 12, 2006

Prepared by: Bill Metzler

SUMMARY

This report recommends that Chapters 5.01 and 5.05 of the Metro Code and the Regional Solid Waste Management Plan (RSWMP) be amended to implement a temporary moratorium on new, non-putrescible, mixed solid waste material recovery or reload facilities and new non-system licenses until December 31, 2007, to coincide with the completion of the RSWMP Update. The proposed moratorium will not impact renewals of existing solid waste licenses or franchises.

Updating the Regional Solid Waste Management Plan involves facility planning and regulation issues including: the appropriate tonnage allocation among existing transfer stations; whether additional waste transfer and material recovery facilities in the region should be authorized; and how out-of-region facilities affect the system, including facilities that receive waste via non-system license authorizations.

In September 2005, Metro Council extended a moratorium on new transfer stations through December 31, 2007 (Ordinance No. 05-1093). The moratorium was based on current transfer overcapacity in the region, as well as the need to defer consideration of new facilities until the RSWMP planning process had concluded. It is now recognized that, during this planning period, consideration of new, non-putrescible, mixed solid waste material recovery facilities and reloads, as well as new non-system licenses, should be deferred as well.

The region has adequate processing capacity for non-putrescible mixed dry waste at present, with 9 facilities that processed a total of 303,921 tons in the past year, recovering a total of 94,470 tons of recyclable materials, with an average recovery rate of 27.5%.

The following graph provides a twelve-month summary of the performance of the region's existing material recovery facilities that accept and process mixed dry solid waste. The tonnage summaries and estimated recovery rates are based on tons reported from October 2004 through September 2005.

Tonnage Summaries – Facilities that Conduct Material Recovery

Facility Name	Mixed Dry Waste Accepted (tons) *	Amount Recovered (tons)*	% Recovery Rate* (12-month average)
Aloha Garbage	2,833	822	29%
East County Recycling (ECR)**	83,638	45,929	54.9%
KB Recycling***	--	--	--
Metro Central**	41,383	7,970	19.2%
Metro South**	52,075	7,349	14.1%
Pride Recycling	21,018	5,196	24.7%
Troutdale Transfer Station	18,329	4,611	25.2%
Wastech	20,712	5,478	26.4%
Willamette Resources Inc. (WRI)	63,933	17,115	26.8%
Total	303,921	94,470	

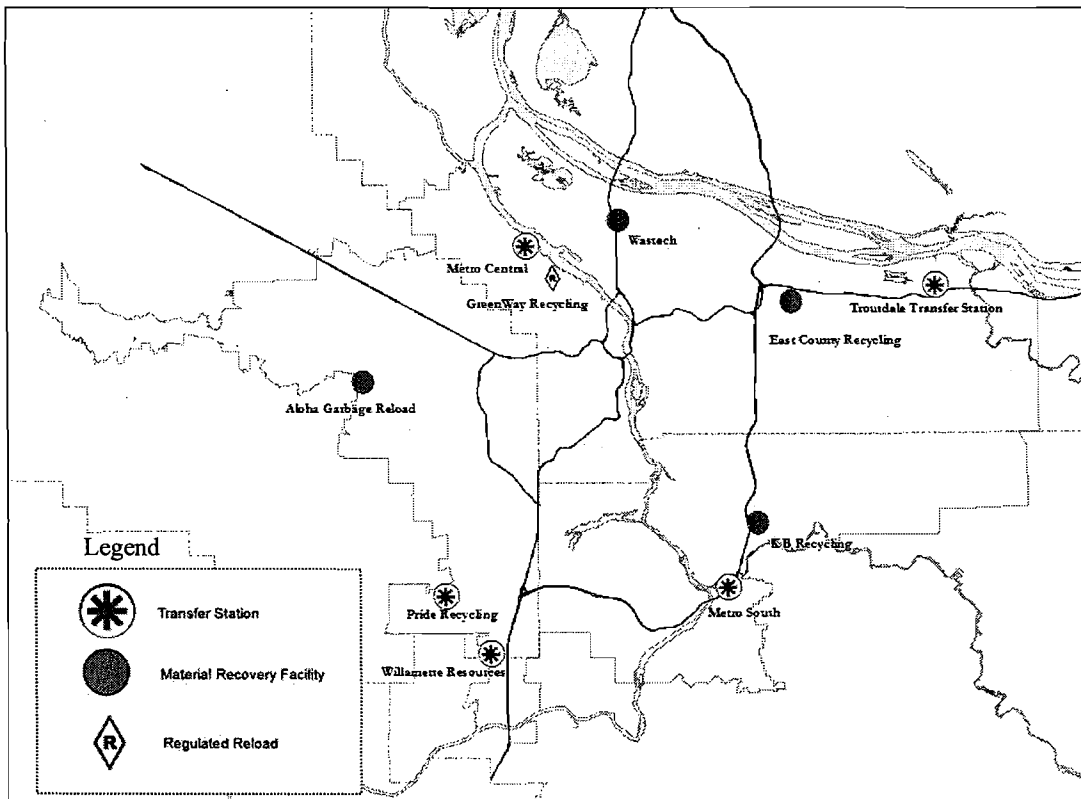
* Tonnages and recovery rates for 10/2004 through 09/2005.

** Facilities that accept dry waste from the general public.

*** KB Recycling is authorized by Metro to operate as a mixed dry waste material recovery facility, but currently accepts primarily source-separated recyclables.

The following map illustrates Metro-authorized solid waste facilities located in the region that currently accept non-putrescible, mixed solid waste for the purpose of conducting material recovery or reloading.

Facilities accepting mixed non-putrescible solid waste for recovery or reloading



Proposed New Material Recovery Facilities or Reloads

The proposed moratorium may impact at least three applicants that are in the process of applying for Metro authorization (a Metro Solid Waste Facility License) to conduct material recovery from non-putrescible mixed solid waste originating, generated, or collected within the Metro region. These are:

- Pacific Land Clearing III (PLC III), located at 4044 N. Suttle Road in Portland. PLC III is an existing Metro licensed roofing recycling and yard debris reload facility. Status: PLC III's license application was considered complete on November 22, 2005, and its application is currently under review.
- Dan Obrist Recycling, located at 4542 SE 174th Ave., in Portland. Dan Obrist Recycling is currently a non-regulated wood waste and inert materials processor. Status: License application not complete.
- Urban Vision Corporation, located at 5339 NE 115th Ave. in Portland. Status: License application not complete.

Staff have not received any new non-putrescible reload applications.

Non-System Licenses

The proposed moratorium will apply to new non-system license applications for putrescible waste and non-putrescible, unprocessed, mixed solid waste. There are no anticipated applications for these types of NSLs.

The proposed moratorium will not apply to NSLs for special waste, clean-up waste, and residual from a material recovery facility.

ANALYSIS/INFORMATION

1. **Known Opposition.** Entities that would seek Metro authority to accept non-putrescible mixed solid waste originating, generated, or collected within the Metro region to conduct material recovery or reloading or obtain a new non-system license may oppose this ordinance.
2. **Legal Antecedents.** The Regional Solid Waste Management Plan and Metro Code Chapter 5.01 and 5.05.
3. **Anticipated Effects.** Ordinance No. 06-1098 will amend Chapters 5.01 and 5.05 of the Metro Code and the Regional Solid Waste Management Plan to implement a temporary moratorium on applications for and authorizations for the purpose of accepting non-putrescible mixed solid waste originating, generated, or collected within the Metro region to conduct material recovery or reloading and certain non-system licenses until December 31, 2007, when the RSWMP update is complete.

Ordinance No. 06-1098 amending Chapters 5.01 and 5.05 of the Metro Code and the Regional Solid Waste Management Plan are necessary for the immediate preservation of public health, safety and welfare by providing for the effective and comprehensive management of the regional solid waste system. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

4. **Budget Impacts.** There are no budget impacts.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 06-1098.

BM:bjl
M:\rem\od\projects\Legislation\2006\061098 moratorium Stf rpt.doc

ATTACHMENT 2 -- DIRECTOR'S UPDATE
(Pages 1-2)

SUMMARY
HOUSEKEEPING AMENDMENTS TO IMPROVE THE
ADMINISTRATION OF THE SOLID WASTE PROVISIONS OF THE
METRO CODE
Metro Code Title V: Solid Waste
Chapters 5.01, 5.02, 5.05, and 5.09

SUMMARY
HOUSEKEEPING AMENDMENTS TO IMPROVE THE
ADMINISTRATION OF THE SOLID WASTE PROVISIONS OF THE
METRO CODE

Metro Code Title V: Solid Waste
Chapters 5.01, 5.02, 5.05, and 5.09

Background on Housekeeping Amendments

- Code clarification.
- Reflection of practice.
- Procedural clarifications.
- Aligns Metro Code with state laws.
- Little substantive change.

Chapter 5.01 – Solid Waste Facility Regulation (2 Ordinances)

- ❑ **Financial Assurance.** Ordinance No. 06-1101 clarifies the financial assurance provisions as follows:
 - ✓ adds a new definition for “Closure” to mean restoration of site to its condition prior to being used for solid waste activities;
 - ✓ requires financial assurance to be in place prior to commencement of activities; and
 - ✓ allows the COO to waive financial assurance requirements for certain low-risk facilities or when financial assurance is not required by the DEQ and closure costs are expected to be less than \$10,000.
- ❑ **Prohibits disposal of Source Separated Recyclable Materials.** Ordinance No. 06-1102 amends Chapter 5.01 to prohibit the disposal of source-separated recyclable materials accepted at Metro regulated solid waste facilities, regardless of whether the facilities are licensed, franchised or exempt, consistent with state law.

Chapter 5.02 – Disposal Charges and User Fees (1 Ordinance)

- ❑ **Regional System Fee.** Ordinance No. 06-1103 clarifies that
 - ✓ all persons transporting Metro generated waste to disposal sites/facilities are responsible for paying the Regional System Fee; and
 - ✓ loads containing waste generated from both inside and outside the Metro boundary will be considered to be generated from inside the Metro boundary, unless the licensee can document how much waste was from within Metro or Metro has agreed to another method of reporting.

Chapter 5.05 – Solid Waste Flow Control (3 Ordinances)

- ❑ **Prohibits False Statements regarding the origin of Solid Waste.** Ordinance No. 06-1104

- ✓ adds a prohibition against falsely stating that solid waste has been generated outside the Metro region. (Metro's hearings officer recommended this change.); and
 - ✓ clarifies loads containing waste generated from both inside and outside the Metro boundary will be considered to be generated from inside the Metro boundary, unless the licensee can document how much waste was from within Metro or Metro has agreed to another method of reporting.
- **Timeframes and Renewals of Non-System Licenses.** Ordinance No. 06-1105 clarifies the following Non-System License (NSL) provisions:
- ✓ allows Metro to grant up to a 3-year term for a new Non-System License (NSL) so that it can be placed on a fiscal or calendar year approval cycle in subsequent years;
 - ✓ clarifies what constitutes a renewal of an NSL; and
 - ✓ clarifies that neither the Council nor COO are obligated to approve an NSL renewal any earlier than the expiration date of the current NSL (if the application is filed early).
- **Non-System License Exemption for Waste Destruction.** Ordinance No. 06-1106 clarifies that only government agencies are eligible to send certain specific small quantities of solid wastes to the Covanta Waste-to-Energy Facility in Brooks, Oregon for destruction without having to obtain an NSL (and when it serves public safety or the public good, e.g. contraband, unused postage stamps, etc.).

Chapter 5.09 – Illegal Dumping (1 Ordinance)

- **Illegal Disposal.** Ordinance No. 06-1107 generally updates the Illegal Dumping requirements of the Metro Code to:
- ✓ change the title of chapter to “Illegal Disposal of Solid Waste”;
 - ✓ adds definitions of “Household Hazardous Waste,” “Solid Waste,” “Conditionally Exempt Generator (CEG),” “Waste” and “Person”;
 - ✓ prohibits any person from having an employee, contractor, or other person illegally dump solid waste on one's behalf (This clarification was recommended by the Metro hearings officer.);
 - ✓ assures that citizens who use a franchised/authorized hauler will not be in violation of Metro Code should the hauler illegally dispose of waste;
 - ✓ prohibits persons from delivering hazardous waste to a Metro transfer station, HHW Facility or collection event except when waste was generated by a household or CEG;
 - ✓ prohibits persons from making false statements about the source of hazardous waste;
 - ✓ updates the form and content provisions of citations;
 - ✓ clarifies when an attorney may be involved in a hearing;
 - ✓ clarifies certain procedures for hearings;
 - ✓ clarifies methods of delivery of citations and orders; and
 - ✓ reduces the maximum civil fine from \$1,000 to \$500 (the maximum allowed by state law).

Proposed process, timeline for public comment on Interim Waste Reduction Plan

Mid-Jan through
Feb.

Promotions – Public Comment Period on IWRP (2/28 – 4/14)
Outreach to SWAC members, gov't partners, neighborhood and business assns., interest groups, trade/professional groups; previous public involvement participants; send news releases to and run ads in local newspapers, Councilor newsletters; establish links on websites (see list above) and from heavily-trafficked pages on Metro website

Feb. 23

Activate virtual open house (5 days to work on kinks before official public comment period begins)

Feb. 28

Official kickoff of 45-day public comment period (2/28 – 4/14)

April 14

Close public comment period
(Comments due from public, SWAC)

April 17 -

Begin staff review and analysis of survey results and comments; edit Plan and develop Responsiveness Report

May 18

SWAC packet distributed, including response to substantive written comments collected

May 25

Staff presents response to substantive comments at SWAC meeting; SWAC provides input on responsiveness report, votes to forward a recommendation to Metro Council

June 1

Metro Council agenda item:
SWAC recommendation concerning IWRP
Staff presentation of Interim Waste Reduction Plan, responsiveness report

June 8

Metro Council Resolution
Public hearing: Interim Waste Reduction Plan

June 15

Metro Council Resolution
Adopt IWRP