



METRO

Agenda

MEETING: METRO COUNCIL
DATE: December 4, 2008
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the November 20, 2008 Metro Council Regular Meeting.

3.2 **Resolution No. 08-4010**, For the Purpose of Confirming the Appointment of Mr. Larry Magee and Mr. Arnold Rochlin to the Metro Central Station Community Enhancement Committee (MCSCEC).

3.3 **Resolution No. 08-4005**, Recognizing the Successful Completion of Council Project: Waste Transport Contract.

4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 08-1203**, Amending the FY 2008-09 Budget and Appropriations Schedule Recognizing a Grant from the Oregon Community Foundation for The Connecting Green Blue Ribbon Committee for Trails, and Declaring an Emergency.

4.2 **Ordinance No. 08-1205**, Amending the FY 2008-09 Budget and Appropriations Schedule Transferring Appropriation from Contingency to Debt Service, Authorizing Defeasance of Certain Solid Waste Revenue Bonds, and Declaring An Emergency.

5. RESOLUTIONS

5.1 **Resolution No. 08-3975**, Authorizing the Chief Operating Officer to Issue Hosticka A Renewed Non-System License to Willamette Resources, Inc. for Delivery of Putrescible Waste to the Riverbend Landfill.

5.2 **Resolution No. 08-3977**, Authorizing the Chief Operating Officer to Issue Hosticka

A Renewed Non-System License to Pride Recycling Company for Delivery of Putrescible Waste to the Riverbend Landfill.

- 5.3 **Resolution No. 08-3978**, Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Forest Grove Transfer Station for Delivery of Putrescible Waste to the Riverbend Landfill. Harrington
- 5.4 **Resolution No. 08-3979**, Authorizing the Chief Operating Officer to Issue Renewed Non-System License to West Linn Refuse and Recycling Inc. for Delivery of Putrescible Waste to Canby Transfer and Recycling Inc. for the Riverbend Landfill for Disposal. Collette
- 5.5 **Resolution No. 08-3980**, Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Hoodview Disposal and Recycling Inc. for Delivery of Putrescible Waste to Canby Transfer and Recycling Inc. For the Riverbend Landfill for Disposal. Collette
- 5.6 **Resolution No. 08-3981**, Authorizing the Chief Operating Officer to Issue A Renewed Non-System License to Newberg Garbage Services, Inc. Transfer for Delivery of Putrescible Waste to Newberg Transfer and Recycling Center for the Purpose of Transfer to the Riverbend Landfill for Disposal. Hosticka
- 5.7 **Resolution No. 08-3982**, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Gray and Company for Delivery of Putrescible Waste to the Riverbend Landfill. Harrington

6. CHIEF OPERATING OFFICER COMMUNICATION

7. COUNCILOR COMMUNICATION

ADJOURN

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, December 4 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmv.org – (503) 288-1515 8:30 p.m. Sunday, December 7 2 p.m. Monday, December 8</p>
<p>Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, December 8</p>	<p>Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, December 6 11 p.m. Sunday, December 7 6 a.m. Tuesday, December 9 4 p.m. Wednesday, December 10</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 3.1

Consideration of Minutes of the November 20, 2008 Metro Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

Thursday, November 20, 2008
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Kathryn Harrington, Robert Liberty, Rex Burkholder, Rod Park, Carl Hosticka, Carlotta Collette

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. MEN AND WOMEN OF FIRE

This presentation was postponed.

4. BLUE RIBBON COMMITTEE FINAL REPORT

Council President Bragdon said this was an effort to activate people across the region. This initiative was to create a regional trails system.

Councilor Burkholder said it was a pleasure to serve on the Blue Ribbon Committee. He talked about the committee composition. They were looking at trail connection within the region. The trails element had been going on for a long time, as early as 1904. The trail system had been being developed over a period of years. He estimated that at the current rate of investment the trails system would be done in 2198. He asked, was this acceptable? They had been spending about \$5 million a year on the trails system. He noted the purpose of the Committee, should they accelerate the process? He talked about what this system brought to the region and also talked about a strategy for completing the system sooner.

Dave Yaden, Blue Ribbon Committee Chair, provided a power point presentation on the Blue Ribbon Committee for Trails. He talked about the composition of the committee which represented a broad swath of the region. He noted the Council President's goal to create the best trails system in the world. He said this trail system could do more than they originally thought. They learned more than developing the trail system, they learned about connecting the dots. If the system was well integrated into the larger transportation system, it could do more than just create a trail system. He talked about their trip to Stockholm, Sweden, a third of the trips in the city were by bicycle. He talked about the elements that played into creating a transportation trails system. Transportation was more of a potential for the off road trails than when they had first started. He talked about the overall committee findings. He noted benefits from expanding the trail system. He provided an overview of the four key elements of an overall strategy including demonstrating the potential, reducing costs, develop a mobility strategy and organize the leadership. He talked about the cost of the demonstration projects and provided a cost benefit analysis. He also noted

return on investment. He said the real soul of the system was in connecting green. Councilor Burkholder talked about the leadership of the Committee. They were looking for answers and this was one of the good solutions. If they spent 5% of the transportation dollars on the trail system, they could have the system complete in 10 years. He acknowledged all of those who had participated and helped the Committee. He asked Council to endorse the work. He talked about a leadership caucus to support the movement.

Council President Bragdon said this had been an educational effort for all of them. Councilor Collette said she appreciated the efforts of the committee. Council President Bragdon thanked Mr. Yaden, the Committee and Councilor Burkholder. Councilor Burkholder said one recommendation was that Metro continued to provide support. He would be bringing forward an ordinance to fund this effort for the next six months.

Ric Catron, City of Gresham, 1333 NW Eastman Pkwy, Gresham Oregon 97030, said he was a park planner for the City of Gresham. He said their citizens used the facilities regularly. Metro region was a model for the rest of the country. He thanked Council for their support.

5. QUARTERLY MANAGEMENT PREPOT TO COUNCIL

Michael Jordan, Chief Operating Officer (COO), said Scott Robinson was presenting a management report to Council.

Scott Robinson, Deputy COO, highlighted the management reporting framework. This was not all new work but included past work in performance measures, Regional Leadership Initiative and the Sustainability Metro Initiative. He spoke to the four goals of the management report and plan. He then talked about how they were achieving those goals. He provided further details of the management reporting framework and system. In terms of this reporting period, they took out non-programmatic areas, and focused on the 20 programs. He spoke to next steps and the need to fine tune the process. Mr. Jordan added his comments about the framework. They were just starting to work on a similar process to track Auditor recommendations. They were working with the Auditor to put this tracking system in place. He provided some examples of business benchmarking. He mentioned another level of performance reporting, performance based growth management.

Councilor Harrington said she thought this framework will be useful to the Council and the staff. She asked when they can expect to get the summary report for the first quarter. Mr. Jordan said he provided that summary list to the Council (a copy of which is included in the meeting record). Council President Bragdon said he felt this reporting would be very helpful. He noted Council's oversight role. He talked about systems, how those systems work together, people as a system, and wondered how the human dimensions were integrated into this effort. Mr. Robinson provided details of their efforts in this area including continued skill base. Mr. Jordan said they had just completed the first employee survey. The results would be available on the intramet. Council President Bragdon asked about evaluation on the recycling efforts. He was interested in additional measures beyond the recycling percentage. Councilor Burkholder said he felt this would be helpful. He asked about resources to maintain this reporting and how do you age information so information stays current. Mr. Robinson said they were streamlining the format. He explained how they were envisioning the electronic system. Mr. Jordan added their reporting had been spotty in the past. This effort was an attempt to put in place appropriate reporting measures. Councilor Burkholder asked if there was a way to format this to provide a report card to the public. Mr. Jordan said there were a number of already created venues to provide this

information. Councilor Burkholder reminded that we had our Metro Committee for Citizen Involvement (MCCI). Councilor Park said as they were doing programmatic evaluations, the outcomes would be more precise. He felt this would make the outcomes better. Councilor Collette felt this was very helpful. She asked clarifying questions about the format and made some suggestions for usability. Mr. Robinson said this was primarily a management tool and mentioned the level of detail that could be provided. Councilor Liberty was interested in how he saw how employees could use the tool, a self evaluation opportunity. Mr. Jordan talked about the notion of transparency. Council President Bragdon talked about services that the agency provided and wondered if there would be a matrix pertaining to this area. Mr. Robinson responded to his question. He provided some options on the actions that might have to be taken.

6. CONSENT AGENDA

- 6.1 Consideration of minutes of the November 13, 2008 Regular Council Meeting.
- 6.2 **Resolution No. 08-3996**, For the Purpose of Confirming the Council President's Reappointments and Appointments to the Transportation Policy Alternatives Committee (TPAC) and appointments to the Regional Transportation Options (RTO) subcommittee of TPAC For 2009–2010.

Councilor Liberty acknowledged a TPAC member in the audience.

Motion:	Councilor Hosticka moved to adopt the meeting minutes of the November 13, 2008 Regular Metro Council and Resolution No. 08-3996.
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Vote:	Councilors Burkholder, Harrington, Liberty, Park, Collette, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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7. ORDINANCES – SECOND READING

- 7.1 **Ordinance No. 08-1202**, Amending the FY 2008-09 Budget and Appropriations Schedule By Transferring Appropriations From Contingency For the Sustainable Metro Initiative, Adding 1.0FTE Project Manager, Amending The FY 2008-09 through FY 2012-13 Capital Budget and Declaring an Emergency.

Motion:	Councilor Park moved to adopt Ordinance No. 08-1202.
Seconded:	Councilor Collette seconded the motion.

Councilor Park said Council has provided agency direction through the establishment of the four goal areas and five critical success factors. The critical success factors, explicitly recognized Council’s desire to use best practices to operate Metro sustainably, effectively and efficiently. In May of 2008 Metro’s Chief Operating Officer announced a significant change initiative entitled the Sustainable Metro Initiative to improve focus on the critical success factors.

The Sustainable Metro Initiative set out to accomplish the following goals:

- Position Metro to meet the increasingly complex challenges of the future
- Provide for a more strategic approach to solving regional problems

Promote collaboration and efficiency
Attract and empower talented staff
Improve financial transparency and accountability
Develop a management culture based upon common practices

The results of the initiative were announced in September along with a new organizational design. The organizational design changes were then implemented on time on October 1, 2008, resulting in personnel services efficiencies and improved effectiveness.

In addition to making organizational changes in October, the Sustainable Metro Initiative work teams made numerous recommendations that involved tightening or in some cases revising management and business practices.

Most of the recommendations involved development and training in agency wide standards to be applied to key management and business processes such as managing personnel performance and contract management.

This budget amendment is intended to focus investment in key areas of the agency which has been identified by both the SMI work teams and a recently completed agency wide employee survey as those high leverage practices which can best improve the agencies efficiency, effectiveness and sustainability.

Specific among the investments:

- revision of key human resource management policies, processes and support materials (specifically surrounding performance management).
- Provision of agency wide training targeting managers and supervisors to improve the consistency in application of policies, procedures and practices.
- Implementation of common standards surrounding existing business such as contracting, contract management and close out.
- Purchase and implementation of a learning management system (LMS) to provide both on-going registration, class scheduling and class completion tracking along with on-line delivery of class content and materials to staff through a web enabled delivery system.
- Allocation of a full time project manager to ensure focus and appropriate resource coordination to achieve the Council goal surrounding responsible operations.

Metro staff was available if there are any questions. He urged joining him in adoption of Resolution 08-1202.

Council President Bragdon opened a public hearing on Ordinance No. 08-1202. No one came forward. Council President Bragdon closed the public hearing.

Councilor Harrington said she would be supporting this ordinance. It was an important change for the agency. This was one of Council's ways to support the agency as a whole.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye,
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the motion passed.

7.2 **Ordinance No. 08-1197**, For the Purpose of Amending Metro Code Chapter 5.05 to Include Riverbend Landfill on the List of Designated Facilities

Motion:	Councilor Harrington moved to adopt Ordinance No. 08-1197.
Seconded:	Councilor Park seconded the motion.

Councilor Harrington introduced the ordinance. She said passage of Ordinance 08-1197 would add Riverbend Landfill to the list of designated facilities (DFA) in Chapter 5.05 of the Metro Code. Adoption of this ordinance would authorize the COO to establish a standard agreement (designated facility agreement) with Waste Management to allow Metro-area generated dry waste residual and cleanup waste to be disposed of at Riverbend. Riverbend would collect applicable Metro solid waste fees and taxes and remit them to Metro. Metro authorized disposal of Metro-generated solid waste at landfills outside the region by either: issuing NSLs (non-system licenses) to haulers/generators directly or entering into a DFA with a landfill to allow the landfill to dispose of Metro-generated waste in exchange for collecting Metro solid waste fees and taxes. NSLs were used, in practice, by Metro to allocate wet waste tonnage and DFAs authorize delivery of dry, special and cleanup waste from the region. She then provided Riverbend Landfill background: It was located in Yamhill County, near McMinnville about 40 miles south of Metro Center, owned and operated by Waste Management, Inc. Riverbend had satisfied the Code criteria for being listed as a designated facility of the Metro solid waste system although some issues have been raised by residents living near the landfill. The Landfill had a current projected life of about 6 years and was pursuing an expansion to increase the landfill's life to 25-30 years. Yamhill County was actively considering the expansion proposal through its land use approval process.

Councilor Harrington talked about Metro waste at Riverbend Landfill. Metro-generated waste accounts for about 46% of the total waste disposed of at Riverbend (FY2007-08). In FY2007-08, 287,000 tons of Metro-generated waste was delivered to Riverbend (228,000 was wet waste or about 86%) In FY2007-08, the remaining 59,000 tons of waste consisted of dry, special and cleanup waste (~14%). Approval of this ordinance would allow Metro-generated dry waste residual, special and cleanup waste to be delivered to Riverbend without haulers having to obtain an NSL.

Councilor Harrington said the COO recommended adoption of Ord. 08-1195. Solid waste staff and attorneys from Office of Metro Attorney (OMA) were present to answer any questions. Department of Environmental Quality (DEQ) staff was also here to answer any questions about the landfill. Waste Management was here to make a presentation regarding the landfill.

Council President Bragdon opened a public hearing on Ordinance No. 08-1197.

Mike Dewey, Waste Management, Salem, Oregon thanked Council and congratulated Metro for the passage of the Oregon Zoo bond measure. He commended the professionalism of the Metro staff for questions that had come up over time. With regard to Ordinance No. 08-1197, they thought it was clear that Waste Management complied with all of the requirements for a designated facility agreement. He pointed out that they were working with McMinnville Light

and Power to use methane gas. They also had a good wildlife habitat program at the landfill. He urged supporting the DFA. He felt the record spoke for itself.

Councilor Liberty asked about the timing on the permit. If the permit was approved would some of the material from Metro go into the expansion area? George Duyendack, Riverbend Landfill Waste Management, 13469 SW Hwy 18, McMinnville, OR 97128 responded to his question. Councilor Liberty then asked them to explain the role of benchmarks on emission standards. Mr. Duyendack said benchmarks were established in their permit and those benchmarks provided guidance to review and take some corrective action to bring numbers down. Councilor Liberty talked about the statement from the Willamette Riverkeepers about permit violations. Mr. Duyendack said due to the time that the permit took to be issued they were required to operate under the old permit until they received the acknowledgement from DEQ.

Councilor Harrington said she wanted to make sure she was in sync with information that they received from Metro staff. She talked about the current life of the landfill was about 6 years.

Council President Bragdon closed the public hearing.

Motion to amend:	Councilor Park moved to amend Ordinance No. 08-1197.
Seconded:	Councilor Liberty seconded the motion.

Councilor Park explained his amendment (a copy of the new whereas in the ordinance is included in the record). He noted he would be asking for something similar for the NSLs. Councilor Hosticka asked Dan Cooper, Metro Attorney, would this be considered a substantive amendment? Mr. Cooper said no. Mr. Cooper said the record before Council included two notices to Yamhill County.

Vote to amend:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.

Councilor Hosticka asked about the issue of local compliance. Mr. Robinson said with respect to the governing bodies at hand, the permitting facility was in compliance with Yamhill County. The consideration of expansion was still in process. Councilor Hosticka asked if they had determined compliance. Roy Brower, Finance and Administrative Services, said they always queried the local government if they had concerns. They had done this with Yamhill County and there were none.

Councilor Liberty said he looked beyond an assertion to determine compliance. Councilor Burkholder talked about being a responsible provider of services. The record before Council convinced him that the landfill was responsible. This was a place that they should be doing business with. He supported the ordinance. Councilor Park said this had been an emotional issue for some citizens that lived in the area. He was glad that the facility had been thoroughly vetted. He spoke to vehicle miles traveled. The first line of defense was to attempt to reduce waste.

Councilor Harrington said she believed that all parties involved showed that they were being good environmental stewards. She acknowledged the work on the supplemental staff report and again urged support of the amended ordinance.

Vote:

Councilors Park, Burkholder, Collette, Harrington, Liberty, Hosticka and
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Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
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8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, handed out a memo from Margo Norton about the solid waste bond defeasance. The memo laid out four options to decess the bonds early to avoid technical violation. He talked about going to the bond markets soon for the Zoo bond measure and the need to provide minimal risk. The money was already in reserves. Councilors asked clarifying questions.

9. COUNCILOR COMMUNICATION

Councilor Liberty asked about the federal stimulus package. He wanted to make sure that they expand their conversation to include restoration projects and Zoo projects.

Councilor Burkholder talked about the Portland State University umbrella tours. The theme was on the work that was happening at Portland State University (PSU) on sustainability. Council President Bragdon noted the new PSU president's background was in urban planning.

Councilor Harrington said at the City of Beaverton, City Council meeting last Monday there was a presentation on restoration work. They credited Metro for their support. At the most recent City of Hillsboro Council meeting Erika Willis presented on climate change and her trip to the Arctic. City of Tigard was working on their downtown improvement plan partnerships. She participated in an Economic Business Alliance forum. She felt that because they were invited to participate, collaboration was making an impact. She talked about the need for a bit more time to hear the presentations and hear the Councilors comments on the Greatest Place work sessions. She suggested looking at the work session schedule to see if they had some additional time to talk about this issue. Council President Bragdon said on December 2nd they would be taking time to discuss goals.

Councilor Park said he went to Vancouver BC with the Portland Business Alliance to focus on transportation. He provided some observations and possible lessons learned. Councilors asked clarifying questions.

Councilor Collette said she spoke in Boise on Transit Oriented Development. She talked about the encouragement of low and high density development. Councilors asked clarifying questions.

Councilor Park said he was requesting designation to be the Council representative for the Travel Oregon Familiarity Trip. Several other councilors expressed an interest in attending. Council agreed to allow councilors to represent Council at this event.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:17 p.m.

Prepared by

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
 NOVEMBER 20, 2008**

Item	Topic	Doc. Date	Document Description	Doc. Number
6.1	Minutes	11/13/08	Metro Council Meeting Minutes of November 13, 2008	112008c-01
4.0	Letter	11/19/08	To: Metro Council From: Mike Houck, Executive Director , Urban Greenspaces Institute Re: Blue Ribbon Committee's recommendations	112008c-02
4.0	Letter and final report	11/20/08	To: Metro Council From: Blue Ribbon Committee Members Re: Blue Ribbon Committee for Trails	112008c-03
7.2	Staff report and supplement	11/20/08	Ordinance No. 08-1197 , For the Purpose Amending Metro Code 5.05 to Include Riverbend Landfill on the List of Designated Facilities staff report and supplement	112008c-04
7.2	"A" version of Ord No. 08-1197	11/20/08	Ordinance No. 08-1197A , For the Purpose Amending Metro Code 5.05 to Include Riverbend Landfill on the List of Designated Facilities "A" version	112008c-05
8.0	Memo	11/13/08	To: Michael Jordan COO and Scott Robinson Deputy COO From: Margo Norton, FAS Director Re: Solid Waste Bond Defeasance	112008c-06
5.0	Metro Management 1 st quarter report	11/18/08	To: Metro Council From: Michael Jordan and Scott Robinson Re: Metro Management Report: 1 st quarter FY 2008-09	112008c-07
4.0	Power Point Presentation	11/20/08	To: Metro Council From: Mike Wetter, Council Office Re: Connecting Green Create a system of parks, trails And natural areas that is second to none	112008c-08

Agenda Item Number 3.2

Resolution No. 08-4010, For the purpose of Confirming the Appointment of Mr. Larry Magee and Mr. Arnold Rochlin to the Metro Central Station Community Enhancement Committee (MCSCEC).

Consent Agenda

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE)	RESOLUTION NO. 08-4010
APPOINTMENT OF LARRY MAGEE AND ARNOLD)	
ROCHLIN TO THE METRO CENTRAL STATION)	
COMMUNITY ENHANCEMENT COMMITTEE)	Introduced by Council President
(MCSCEC))	David Bragdon
)	

WHEREAS, Metro Code Chapter 2.19.030, "Membership of the Advisory Committees," states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President and shall be subject to confirmation by the Council; and

WHEREAS, Metro Code Chapter 2.19.120, "Metro Central Station Community Enhancement Committee (MCSCEC)," provides for the (MCSCEC); and

WHEREAS, Metro Code Chapter 2.19.120(b)(1) sets forth representation criteria for Committee membership; and

WHEREAS, a vacancy has occurred in representation of the Friends of Cathedral Park and Forest Park Neighborhood Associations on the MCSCEC; and

WHEREAS, the Friends of Cathedral Park and Forest Park Neighborhood Associations submitted nominations to the Metro Council President; and

WHEREAS, the Council President has appointed Larry Magee, a representative of the Friends of Cathedral Park Neighborhood Association and Arnold Rochlin, a representative of Forest Park Neighborhood Association subject to confirmation by the Metro Council; now therefore,

BE IT RESOLVED, that the Metro Council confirms the appointment of Larry Magee and Arnold Rochlin to Metro's MCSCEC.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

KB:ps

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-4010 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF LARRY MAGEE AND ARNOLD ROCHLIN TO THE METRO CENTRAL STATION COMMUNITY ENHANCEMENT COMMITTEE (MCSCEC)

Date: November 20, 2008

Prepared by: Karen Blauer

BACKGROUND

The seven-member Metro Central Station Community Enhancement Committee (MCSCEC) is charged with making recommendations to the Metro Council regarding policies and the administration of the rehabilitation and enhancement program for the Northwest and North Portland Area, including recommending projects for funding.

Metro Code Chapter 2.19.120, "Metro Central Station Community Enhancement Committee (MCSCEC)," provides for the MCSCEC and subsection 2.19.120(b)(1) sets forth Committee membership and representation criteria. Two vacancies have occurred in the Metro Central Station Community Enhancement Committee (hereinafter referred to as MCSCEC) membership. The vacancies in the MCSCEC membership currently exist due to the end of a term for members representing the Friends of Cathedral Park and Forest Park neighborhood associations.

The Friends of Cathedral Park Neighborhood Association (FCPNA) nominated Larry Magee as its representative (see attachment 1). Mr. Magee's commitment to the neighborhood is evident in his involvement in the community. He is the treasurer-elect for the Friends of Cathedral Park and, as such, is planning a venture involving the Friends in the new St. Johns Farmer's Market, slated to begin in the summer of 2009. As board member of the Friends of Baltimore Woods, Mr. Magee recently organized and conducted a wildlife count as part of an effort to protect a 30-acre strip of woodlands in North Portland. He has expressed a desire to bring his relevant professional work experience and civic interests to the MCSCEC (see attachment 2).

The Forest Park Neighborhood Association (FPNA) nominated Arnold Rochlin as its representative (see attachment 3). Mr. Rochlin has served for nearly two decades as a member of the board of directors and vice-president of the Forest Park Neighborhood Association. In addition, he served for 14 years on the board of directors of the Forest Park Conservancy; for 10 of those years, he was board treasurer. Mr. Rochlin has expressed a desire to bring his extensive neighborhood work experience and understanding to the MCSCEC (see attachment 4).

ANALYSIS/INFORMATION

1. Known Opposition. There is no known opposition to the appointments of Mr. Magee and Mr. Rochlin to the MCSCEC.
2. Legal Antecedents. Chapter 2.19 of the Metro Code Relating to Advisory Committees; Section 2.19.120 provides for a Metro Central Station Community Enhancement Committee (MCSCEC) and sets forth guidelines for representation.
3. Anticipated Effects. Adoption of this resolution would confirm the appointments of Mr. Magee and Mr. Rochlin to the MCSCEC.
4. Budget Impacts. There are no known costs associated with implementation of this legislation.

RECOMMENDED ACTION

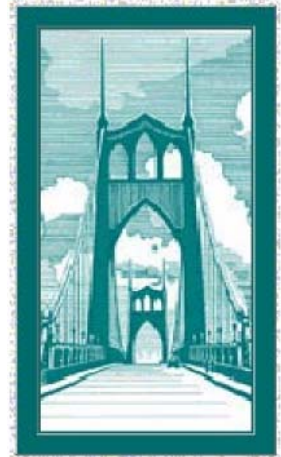
David Bragdon, Council President, and Councilor Rex Burkholder, chair of the enhancement committee, recommend adoption of this resolution to confirm the appointments of Mr. Magee and Mr. Rochlin to serve on the Metro Central Station Community Enhancement Committee.

KB:ps
M:\rpg\parks\projects\Legislation\2008\08-4040 MCSCEC Staff Report.doc

FRIENDS of CATHEDRAL PARK NEIGHBORHOOD ASSOCIATION

November 17, 2008

Metro
Metro Central Grant Committee
Attn: Karen Blauer
600 NE Grand Ave.
Portland, OR 97232-2736



Dear Karen,

The nominee for the Metro Central grant committee from Friends of Cathedral Park Neighborhood Association is Larry Magee.

Larry has shown great interest in neighborhood involvement and improvement by his commitment to the Friends of Baltimore Woods where he is a board member and has taken initiative in helping organize and helping to conduct a professional wildlife count.

He will soon be part of the FCPNA board since he has accepted a nomination for treasurer of Friends of Cathedral Park for the upcoming vote, and he has shown willingness to participate and help plan a neighborhood venture involving both FCPNA and St. Johns Neighborhood Association: the St. Johns Farmer's Market, to begin this summer.

Larry is a community minded neighbor who takes initiative, shows commitment and offers creative solutions to problems.

Sincerely,

Barbara Quinn, chair,
Friends of Cathedral Park Neighborhood Association
502 289-6112



METRO CENTRAL ENHANCEMENT COMMITTEE
APPOINTMENT INTEREST FORM

COMMENTS (THIS SECTION TO BE FILLED OUT BY NOMINATION COMMITTEE ONLY):

NAME LARRY MAGEE DATE 11/16/2008

HOME ADDRESS: 9325 N. DECATUR ST. PORTLAND OREGON 97203
STREET CITY STATE ZIP

BUSINESS ADDRESS: N/A
STREET CITY STATE ZIP

HOME PHONE: 503-206-6863 BUSINESS PHONE: N/A

FAX N/A E-MAIL: LOCATIONS3@GMAIL.COM

NEIGHBORHOOD: CATHEDRAL PARK

THE FOLLOWING INFORMATION IS VOLUNTARY:

SEX: MALE ETHNIC ORIGIN WHITE (NON HISPANIC)

(METRO STRIVES FOR ETHNIC AND MINORITY BALANCE, AS WELL AS GEOGRAPHIC REPRESENTATION, IN ITS MEMBERSHIP COMPOSITION.)

SCHOOL (INCLUDE HIGH SCHOOL) LOCATION MAJOR OR DEGREE
HIGH = ORLEANS AMERICAM HIGH ORLEANS FRANCE
UNIVERSITY = HAMMERSMITH SCHOOL OF ART AND ARCHITECTURE LONDON ENGLAND
ARCHITECTURE

ALSO ATTENDED LINCOLN HIGH IN PORTLAND

LIST MAJOR EMPLOYMENT AND/OR VOLUNTEER ACTIVITIES, BEGINNING WITH MOST RECENT (INCLUDING ALL EXPERIENCES YOU BELIEVE TO BE RELEVANT) :

I WAS A SENIOR DESIGN ENGINEER FOR LAWSON INDUSTRIES, AND DIRECTOR OF OPERATIONS FOR DM INDUSTRIES

I AM A BOARD MEMBER OF THE FRIENDS OF BALTIMORE WOODS

I HAVE ACCEPTED A NOMINATION TO BE THE TREASURER FOR FRIENDS OF CATHEDRAL PARK AND AM PART OF A GROUP TRYING TO BRING A FARMER' S MARKET TO ST. JOHNS

HAVE YOU VOLUNTEERED FOR ANY MINORITY ORGANIZATIONS?
HAVE NOT HAD AN OPPORTUNITY TO DO SO.

EXPERIENCE, SKILLS OR QUALIFICATIONS YOU FEEL WOULD CONTRIBUTE TO A PUBLIC SERVICE APPOINTMENT :

STRONG ART, ARCHITECTURE AND ENGINEERING SKILLS

I HAVE SERVED ON PROFESSIONAL ORGANIZATIONS SUCH AS: SOCIETY OF MANUFACTURING ENGINEERS, AMERICAN SOCIETY OF TESTING AND MATERIALS, AMERICAN INSTITUTE OF PLANT ENGINEERS - PAST CHAPTER PRESIDENT, AND SOCIETY OF PLASTICS ENGINEERS.

VOLUNTEER COACH FOR SOCCER TRAVELING LEAGUE IN PENNSYLVANIA. , AND BOARD PRESIDENT OF OUR CONDO ASSOCIATION

OUTLINE YOUR REASONS AND INTERESTS IN APPLYING FOR AN APPOINTMENT :

FEEL THAT SINCE I WAS BORN IN OREGON AND LIVE IN OREGON, THAT I NEED TO MAKE IT THE BEST. BOTH OF MY CHILDREN LIVE HERE AS DOES MY GRAND DAUGHTER AND NEW GRAND SON.

NOV 16, 2008

DATE

KB:CLKS:¥REM¥BLAUER¥GRANTS¥MCEC¥2009¥APOINTM. FRM. DOC



METRO CENTRAL ENHANCEMENT COMMITTEE
APPOINTMENT INTEREST FORM

COMMENTS (THIS SECTION TO BE FILLED OUT BY NOMINATION COMMITTEE ONLY) :

NAME LARRY MAGEE DATE 11/16/2008

HOME ADDRESS: 9325 N. DECATUR ST. PORTLAND OREGON 97203
STREET CITY STATE ZIP

BUSINESS ADDRESS: N/A
STREET CITY STATE ZIP

HOME PHONE: 503-206-6863 BUSINESS PHONE: N/A

FAX N/A E-MAIL: LOCATIONS3@GMAIL.COM

NEIGHBORHOOD: CATHEDRAL PARK

THE FOLLOWING INFORMATION IS VOLUNTARY:

SEX: MALE ETHNIC ORIGIN WHITE (NON HISPANIC)

(METRO STRIVES FOR ETHNIC AND MINORITY BALANCE, AS WELL AS GEOGRAPHIC REPRESENTATION, IN ITS MEMBERSHIP COMPOSITION.)

SCHOOL (INCLUDE HIGH SCHOOL)	LOCATION	MAJOR OR DEGREE
<u> HIGH = ORLEANS AMERICAM HIGH </u>	<u> ORLEANS FRANCE </u>	
<u> UNIVERSITY = HAMMERSMITH SCHOOL OF ART AND ARCHITECTURE </u>	<u> LONDON ENGLAND </u>	
<u> ARCHITECTURE </u>		

ALSO ATTENDED LINCOLN HIGH IN PORTLAND

LIST MAJOR EMPLOYMENT AND/OR VOLUNTEER ACTIVITIES, BEGINNING WITH MOST RECENT (INCLUDING ALL EXPERIENCES YOU BELIEVE TO BE RELEVANT) :

I WAS A SENIOR DESIGN ENGINEER FOR LAWSON INDUSTRIES, AND DIRECTOR OF OPERATIONS FOR DM INDUSTRIES

I AM A BOARD MEMBER OF THE FRIENDS OF BALTIMORE WOODS

I HAVE ACCEPTED A NOMINATION TO BE THE TREASURER FOR FRIENDS OF CATHEDRAL PARK AND AM PART OF A GROUP TRYING TO BRING A FARMER' S MARKET TO ST. JOHNS

HAVE YOU VOLUNTEERED FOR ANY MINORITY ORGANIZATIONS?
HAVE NOT HAD AN OPPORTUNITY TO DO SO.

EXPERIENCE, SKILLS OR QUALIFICATIONS YOU FEEL WOULD CONTRIBUTE TO A PUBLIC SERVICE APPOINTMENT :

STRONG ART, ARCHITECTURE AND ENGINEERING SKILLS

I HAVE SERVED ON PROFESSIONAL ORGANIZATIONS SUCH AS: SOCIETY OF MANUFACTURING ENGINEERS, AMERICAN SOCIETY OF TESTING AND MATERIALS, AMERICAN INSTITUTE OF PLANT ENGINEERS - PAST CHAPTER PRESIDENT, AND SOCIETY OF PLASTICS ENGINEERS.

VOLUNTEER COACH FOR SOCCER TRAVELING LEAGUE IN PENNSYLVANIA. , AND BOARD PRESIDENT OF OUR CONDO ASSOCIATION

OUTLINE YOUR REASONS AND INTERESTS IN APPLYING FOR AN APPOINTMENT :

FEEL THAT SINCE I WAS BORN IN OREGON AND LIVE IN OREGON, THAT I NEED TO MAKE IT THE BEST. BOTH OF MY CHILDREN LIVE HERE AS DOES MY GRAND DAUGHTER AND NEW GRAND SON.

NOV 16, 2008

DATE

KB:CLKS:¥REM¥BLAUER¥GRANTS¥MCEC¥2009¥APOINTM. FRM. DOC

November 18, 2008

Jim Emerson, President
Forest Park Neighborhood Assoc.
13900 NW Old Germantown Rd.
Portland, OR 97231

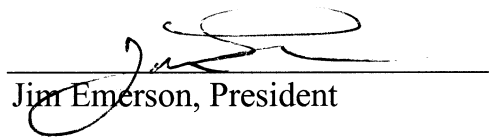
Councilor Rex Burkholder
Metro Regional Government
600 NE Grand Ave.
Portland, OR 97232-2736

Re. Nomination of Arnold Rochlin for Appointment to the
Metro Central Enhancement Committee.

Dear Councilor,

The Forest Park Neighborhood Association Board of Directors has voted to recommend that you appoint Arnold Rochlin to a term on the Metro Central Enhancement Committee as the association representative. Mr. Rochlin is a member of the board and our vice-president. His Appointment interest form enclosed provides additional information.

Thank you for your consideration,



Jim Emerson, President



MM COMMITTEE
METRO CENTRAL ENHANCEMENT COMMITTEE
APPOINTMENT INTEREST FORM

COMMENTS (THIS SECTION TO BE FILLED OUT BY NOMINATION COMMITTEE ONLY):

NAME Arnold Rochlin DATE November 15, 2008

HOME ADDRESS: 9715 NW Newton Rd. PORTLAND OR 97231
STREET CITY STATE ZIP

MAIL
~~BUSINESS~~ ADDRESS: P. O. Box 83645 PORTLAND OR 97283
STREET CITY STATE ZIP

HOME PHONE: (503) 289-2657 BUSINESS PHONE: None
E-MAIL: rochlin2@comcast.net
FAX NONE NEIGHBORHOOD Forest Park

THE FOLLOWING INFORMATION IS VOLUNTARY:

SEX: _____ ETHNIC ORIGIN _____

(METRO STRIVES FOR ETHNIC AND MINORITY BALANCE, AS WELL AS GEOGRAPHIC REPRESENTATION, IN ITS MEMBERSHIP COMPOSITION.)

SCHOOL (INCLUDE HIGH SCHOOL)	LOCATION	MAJOR OR DEGREE
Los Angeles HS & Palm Springs HS,	LA & Palm Springs, CA	HS Diploma
Reed College	Portland, OR	History
U. of Calif.	Berkeley, CA	BA

LIST MAJOR EMPLOYMENT AND/OR VOLUNTEER ACTIVITIES, BEGINNING WITH MOST RECENT (INCLUDING ALL EXPERIENCES YOU BELIEVE TO BE RELEVANT) :

Retired since Feb., 1989. Various civil service classifications for County of Los Angeles

1961-1989. Member of Board of Directors, and vice-president of Forest Park Neighborhood

Assoc. from 1990 to present. Member of Board of Directors of Friends of Forest Park (now

Forest Park Conservancy) 1989 to about 2003, and Treasurer for about 10 years of that time.

HAVE YOU VOLUNTEERED FOR ANY MINORITY ORGANIZATIONS?

EXPERIENCE, SKILLS OR QUALIFICATIONS YOU FEEL WOULD CONTRIBUTE TO A PUBLIC SERVICE APPOINTMENT :

I previously served on the Metro Central Enhancement Committee about 10 years ago.

OUTLINE YOUR REASONS AND INTERESTS IN APPLYING FOR AN APPOINTMENT :

The MCEC position reserved for representation of the Forest Park Neighborhood Association is vacant and the FPNA board has recommended my appointment to fill it. I am willing (and I hope able) to perform the duties for up to two years.

November 15, 2008

DATE

KB:CLKS:¥REMYBLAUER¥GRANTS¥MCEC¥2009¥APOINTM. FRM. DOC

Agenda Item Number 3.3

Resolution No. 08-4005, Recognizing the Successful Completion of Council
Project: Waste Transport Contract.

Consent Agenda

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

RECOGNIZING THE SUCCESSFUL) RESOLUTION NO. 08-4005
COMPLETION OF COUNCIL PROJECT:)
WASTE TRANSPORT CONTRACT) Introduced by
) Council President David L. Bragdon

WHEREAS, the development of certain identified new initiatives have policy implications that require policy decisions by the Metro Council; and

WHEREAS, some new initiatives are of a scope and complexity that, for purposes of efficiency, benefit from the focused attention of individual Councilors; and

WHEREAS, members of the Council have identified such a project and such project has been confirmed by the council and designated as a "Council Project" in resolution 07-3759 "Confirming the New Waste Transport Contract as a Council Project and Confirming Lead Councilor and Council Liaisons" adopted January 1, 2007; and

WHEREAS, Council Projects retain their designation until policy questions have been answered, at which point the projects move to an implementation phase and become an administrative matter for staff and an oversight matter for the Council as a whole; and

WHEREAS, Councilors have successfully completed the policy questions posed by several Council Projects, including the Waste Transport Contract resolution 08-3889 adopted by Council on October 16, 2008; now therefore

BE IT RESOLVED:

1. The Council recognizes that the policy implications of the following Council Project have been addressed and, recognizing that the project has moved to implementation, removes its Council Project status: Waste Transport Contract.
2. The Chief Operating Officer remains responsible to the Council as a whole for administrative oversight of any programs which were launched by this project.

ADOPTED by the Metro Council this 4th day of December 2008.

David L. Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO.08-4005, RECOGNIZING THE SUCCESSFUL COMPLETION OF COUNCIL PROJECT: WASTE TRANSPORT CONTRACT

Date: November 18, 2008

Prepared by: Cary Stacey

BACKGROUND

This resolution recognizes the successful completion of a council policy development project in 2008: Confirming the New Waste Transport Contract as a Council Project and Confirming Lead Councilor and Council Liaisons. These projects have all moved from a policy development phase to an on-going implementation phase. The Council will continue to exercise its oversight role as a whole.

The Chief Operating Officer is requested to keep the Council as a whole informed regarding the on-going administration of the activities, which were set in motion by these successful initiatives. Should additional policy development be required for new phases of these areas, the Council President reserves the ability to designate new follow-up projects and appoint liaison Councilors subject to Council confirmation.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Resolution 07-3759 adopted Council Project
3. **Anticipated Effects:** Policymaking work will be considered complete on the project named in the resolution. If additional policy questions arise in relation to the project, they will be taken to the full council, or a new Council Project will be defined.
4. **Budget Impacts:** None

Ordinance No. 08-1203, Amending the FY 2008-09 Budget and Appropriations Schedule Recognizing a Grant from the Oregon Community Foundation for the Connecting Green Blue Ribbon Committee for Trails, and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2008-09 BUDGET AND) ORDINANCE NO. 08-1203
APPROPRIATIONS SCHEDULE RECOGNIZING)
A GRANT FROM THE OREGON COMMUNITY) Introduced by Michael Jordan, Chief
FOUNDATION FOR THE CONNECTING GREEN) Operating Officer, with the concurrence of
BLUE RIBBON COMMITTEE FOR TRAILS,) Council President David Bragdon
AND DECLARING AN EMERGENCY)

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2008-09 Budget; and

WHEREAS, the Oregon Community Foundation awarded a grant to the Metro Council for work on “connecting green” and trails; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. That the FY 2008-09 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled “Revision” of Exhibits A and B to this Ordinance for the purpose of recognizing a grant from the Oregon Community Foundation for travel related to the Blue Ribbon Committee for Trails.
- 2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2008.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 08-1203**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Resources							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
3500	Beginning Fund Balance						
	* Undesignated		4,094,902		0		4,094,902
	* Prior period audit adjustment: TOD		5,865,983		0		5,865,983
	* Reserved for Underspending		334,000		0		334,000
	* Project Carryover		1,481,337		0		1,481,337
	* Tourism Opportunity & Comp. Account		96,655		0		96,655
	* Recovery Rate Stabilization Reserve		1,012,884		0		1,012,884
	* Reserved for Local Gov't Grants (CET)		602,046		0		602,046
	* Reserve for Future Debt Service		2,397,852		0		2,397,852
	* Tibbets Flower Account		352		0		352
	* Reserved for Future Planning Needs		1,604,140		0		1,604,140
	* Reserved for Future Election Costs		290,000		0		290,000
	* Reserved for Nature in Neighborhood Grants		1,050,000		0		1,050,000
	* Reserved for Reg. Afford. Housing Revolving F		1,000,000		0		1,000,000
	* Reserved for Metro Regional Center Remodel		413,000		0		413,000
	* Reserve for Future Natural Areas Operations		764,453		0		764,453
	* Prior year PERS Reserve		2,782,174		0		2,782,174
<i>EXCISE</i>	<i>Excise Tax</i>						
4050	Excise Taxes		15,106,909		0		15,106,909
4055	Construction Excise Tax		1,497,954		0		1,497,954
<i>RPTAX</i>	<i>Real Property Taxes</i>						
4010	Real Property Taxes-Current Yr		10,618,031		0		10,618,031
4015	Real Property Taxes-Prior Yrs		318,541		0		318,541
<i>GRANTS</i>	<i>Grants</i>						
4100	Federal Grants - Direct		3,999,452		0		3,999,452
4105	Federal Grants - Indirect		5,578,045		0		5,578,045
4110	State Grants - Direct		1,351,000		0		1,351,000
4120	Local Grants - Direct		5,475,093		28,000		5,503,093
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
4135	Marine Board Fuel Tax		114,000		0		114,000
4139	Other Local Govt Shared Rev.		447,967		0		447,967
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
4145	Government Contributions		250,314		0		250,314
<i>LICPER</i>	<i>Licenses and Permits</i>						
4150	Contractor's Business License		412,000		0		412,000
<i>CHGSVC</i>	<i>Charges for Service</i>						
4160	Boat Ramp Use Permits		508		0		508
4165	Boat Launch Fees		150,000		0		150,000
4180	Contract & Professional Service		563,178		0		563,178
4200	UGB Fees		50,000		0		50,000
4230	Product Sales		387,519		0		387,519
4280	Grave Openings		179,325		0		179,325
4285	Grave Sales		144,675		0		144,675
4500	Admission Fees		7,759,908		0		7,759,908
4501	Conservation Surcharge		150,000		0		150,000
4510	Rentals		807,341		0		807,341
4550	Food Service Revenue		5,155,669		0		5,155,669
4560	Retail Sales		2,216,110		0		2,216,110

**Exhibit A
Ordinance No. 08-1203**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Resources							
4580	Utility Services		2,000		0		2,000
4610	Contract Revenue		883,315		0		883,315
4620	Parking Fees		930,000		0		930,000
4630	Tuition and Lectures		1,239,645		0		1,239,645
4635	Exhibit Shows		1,049,986		0		1,049,986
4640	Railroad Rides		805,462		0		805,462
4645	Reimbursed Services		270,000		0		270,000
4650	Miscellaneous Charges for Service		13,831		0		13,831
4760	Sponsorships		57,000		0		57,000
<i>INTRST</i>	<i>Interest Earnings</i>						
4700	Interest on Investments		994,972		0		994,972
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
4750	Donations and Bequests		1,310,895		0		1,310,895
<i>INCGRV</i>	<i>Internal Charges for Service</i>						
4670	Charges for Service		48,124		0		48,124
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
4170	Fines and Forfeits		20,000		0		20,000
4890	Miscellaneous Revenue		151,000		0		151,000
4891	Reimbursements		1,411,973		0		1,411,973
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
4970	Transfer of Resources						
	* from MERC Pooled Capital Fund		97,174		0		97,174
<i>INDTRV</i>	<i>Interfund Reimbursements</i>						
4975	Transfer for Indirect Costs						
	* from MERC Operating Fund		1,842,802		0		1,842,802
	* from Natural Areas Fund		1,028,311		0		1,028,311
	* from Solid Waste Revenue Fund		3,681,110		0		3,681,110
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
4980	Transfer for Direct Costs						
	* from Natural Areas Fund		128,513		0		128,513
	* from Smith & Bybee Lakes Fund		119,980		0		119,980
	* from Solid Waste Revenue Fund		738,056		0		738,056
TOTAL RESOURCES			\$103,347,466		\$28,000		\$103,375,466

**Exhibit A
Ordinance No. 08-1203**

ACCT	DESCRIPTION	<u>Current Budget</u>		<u>Revision</u>		<u>Amended Budget</u>	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Council Office							
Total Personal Services		22.41	\$2,126,676	0.00	\$0	22.41	\$2,126,676
Materials & Services							
<i>GOODS</i>	<i>Goods</i>						
	5201 Office Supplies		57,793		0		57,793
	5205 Operating Supplies		2,207		0		2,207
	5210 Subscriptions and Dues		7,891		0		7,891
<i>SVCS</i>	<i>Services</i>						
	5240 Contracted Professional Svcs		185,243		0		185,243
	5246 Sponsorships		2,000		0		2,000
	5251 Utility Services		2,781		0		2,781
	5260 Maintenance & Repair Services		1,269		0		1,269
	5265 Rentals		823		0		823
	5280 Other Purchased Services		5,643		0		5,643
<i>OTHEXP</i>	<i>Other Expenditures</i>						
	5450 Travel		7,619		28,000		35,619
	5455 Staff Development		77,582		0		77,582
	5470 Council Costs		24,500		0		24,500
	5490 Miscellaneous Expenditures		6,202		0		6,202
Total Materials & Services			\$381,553		\$28,000		\$409,553
TOTAL REQUIREMENTS		22.41	\$2,508,229	0.00	\$28,000	22.41	\$2,536,229

Exhibit B
Ordinance 08-1203
Schedule of Appropriations

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
GENERAL FUND			
Council Office	2,508,229	28,000	2,536,229
Finance & Administrative Services	5,489,506	0	5,489,506
Human Resources	1,737,211	0	1,737,211
Information Technology	2,808,244	0	2,808,244
Metro Auditor	651,286	0	651,286
Office of Metro Attorney	1,981,157	0	1,981,157
Oregon Zoo	26,677,562	0	26,677,562
Planning	24,768,035	0	24,768,035
Public Affairs & Government Relations	1,988,582	0	1,988,582
Regional Parks & Greenspaces	8,521,362	0	8,521,362
Special Appropriations	3,538,480	0	3,538,480
Former ORS 197.352 Claims & Judgments	100	0	100
Non-Departmental			
Debt Service	1,450,486	0	1,450,486
Interfund Transfers	5,165,928	0	5,165,928
Contingency	7,324,001	0	7,324,001
Unappropriated Balance	8,737,297	0	8,737,297
Total Fund Requirements	\$103,347,466	\$28,000	\$103,375,466

All other appropriations remain as previously adopted

NOTE: Current appropriation column assumes adoption of ordinance 08-1202

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1203 AMENDING THE FY 2008-09 BUDGET AND APPROPRIATIONS SCHEDULE RECOGNIZING A GRANT FROM THE OREGON COMMUNITY FOUNDATION FOR THE CONNECTING GREEN BLUE RIBBON COMMITTEE FOR TRAILS, AND DECLARING AN EMERGENCY

Date: November 12, 2008

Prepared by: Kathy Rutkowski

BACKGROUND

In April 2008 the Metro Council convened a Blue Ribbon Committee of civic, elected, and business leaders in the Portland metropolitan region to:

- Evaluate the regional trails system and its benefits;
- Determine if the current pace of development is adequate;
- Identify important regional values in developing the system; and
- Help develop a strategy for implementation including agendas for federal, state, local and private investment.

For committee members to be effective leaders on the issues listed above, they must understand fully the complex array of infrastructure investments, education, incentives programs, and urban development that will be required to succeed. Currently, the only systems of this nature are in Europe.

The Blue Ribbon Committee for Trails sent a delegation of committee members on a study tour to Amsterdam and Copenhagen to study the world renowned bicycle and walking infrastructure of these two cities. The study tour took place from October 4 through October 15, 2008. The delegation was supported by the German Marshall Fund, a grant from the Oregon Community Foundation and contributions from committee members. While in Europe the delegation explored several questions and will report back to the full Committee on November 10, 2008.

This action recognizes the grant from the Oregon Community Foundation for Metro costs related to travel expenses.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.326(3) provides an exemption to Oregon Budget Law allowing for the expenditure in the year of receipt of grants, gifts and bequests received by a municipal corporation in trust for a specific purpose.
3. **Anticipated Effects:** This action recognizes the grant received from the Oregon Community Foundation and provides the resources and appropriation to pay for Metro travel expenses related to the Blue Ribbon Committee for Trails.
4. **Budget Impacts:** This action increases General Fund grant revenues by \$28,000 and increases the materials and services operating appropriations in the Council Office by a similar amount.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

Ordinance No. 08-1205, Amending the FY 2008-09 Budget and Appropriations Schedule Transferring Appropriation from Contingency to Debt Service, Authorizing Defeasance of Certain Solid Waste Revenue Bonds, and Declaring an Emergency.

First Reading

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2008-09 BUDGET AND)	ORDINANCE NO. 08-1205
APPROPRIATIONS SCHEDULE)	
TRANSFERRING APPROPRIATION FROM)	Introduced by Michael Jordan, Chief
CONTINGENCY TO DEBT SERVICE,)	Operating Officer, with the concurrence of
AUTHORIZING DEFEASANCE OF CERTAIN)	Council President David Bragdon
SOLID WASTE REVENUE BONDS, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2008-09 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326 allows for the expenditure in the year of receipt of grants, gifts, bequests, and other devices received by a municipal corporation in trust for a specific purpose; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2008-09 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring appropriation from contingency to the debt service account in the Solid Waste Revenue Fund.
2. That the Chief Operating Officer is authorized to use the amended appropriation to defease the outstanding balance due on the Metro Central Transfer Station Project, 2003 Series solid waste revenue bonds.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2008.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 08-1205**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Solid Waste Revenue Fund							
Operating Account							
TOTAL REQUIREMENTS		109.00	\$54,197,947	0.00	\$0	109.00	\$54,197,947

Debt Service Account

<i>Debt Service</i>							
<i>Metro Central Financing</i>							
<i>REVBND Revenue Bond Payments</i>							
5630	Revenue Bond Prmts-Principal		2,265,000		0		2,265,000
5635	Revenue Bond Payments-Interest		83,482		0		83,482
<i>OTHDBT Other Debt Payments</i>							
5650	Defeasance Payments to Escrow		0		2,349,000		2,349,000
Total Debt Service			\$2,348,482		\$2,349,000		\$4,697,482
TOTAL REQUIREMENTS			\$2,348,482		\$2,349,000		\$4,697,482

Landfill Closure Account

TOTAL REQUIREMENTS			\$862,800		\$0		\$862,800
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Renewal & Replacement Account

TOTAL REQUIREMENTS			\$1,398,000		\$0		\$1,398,000
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General Account

TOTAL REQUIREMENTS			\$570,000		\$0		\$570,000
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General Expenses

Total Interfund Transfers			\$5,061,936		\$0		\$5,061,936
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<i>Contingency and Ending Balance</i>							
<i>CONT Contingency</i>							
5999	Contingency						
	* Operating Account (Operating Contingency)		2,000,000		0		2,000,000
	* Landfill Closure Account		6,650,842		0		6,650,842
	* Renewal & Replacement Account		7,282,939		(2,349,000)		4,933,939
<i>UNAPP Unappropriated Fund Balance</i>							
5990	Unappropriated Fund Balance				0		
	* Debt Service Account (Metro Central)		2,349,000		(2,349,000)		0
	* Renewal & Replacement Account		0		2,349,000		2,349,000
	* General Account (Working Capital)		5,759,668		0		5,759,668
	* General Account (Rate Stabilization)		6,904,588		0		6,904,588
	* General Account (Debt Service Accumulation)		2,338,936		0		2,338,936
	* Prior year PERS Reserve		755,925		0		755,925
Total Contingency and Ending Balance			\$39,501,898		(\$2,349,000)		\$37,152,898
TOTAL REQUIREMENTS		109.00	\$103,941,063	0.00	\$0	109.00	\$103,941,063

Exhibit B
Ordinance 08-1205
Schedule of Appropriations

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
SOLID WASTE REVENUE FUND			
Operating Account			
Solid Waste & Recycling Department	54,197,947	0	54,197,947
Subtotal	54,197,947	0	54,197,947
Debt Service Account			
Debt Service	2,348,482	2,349,000	4,697,482
Subtotal	2,348,482	2,349,000	4,697,482
Landfill Closure Account			
Solid Waste & Recycling Department	862,800	0	862,800
Subtotal	862,800	0	862,800
Renewal and Replacement Account			
Solid Waste & Recycling Department	1,398,000	0	1,398,000
Subtotal	1,398,000	0	1,398,000
General Account			
Solid Waste & Recycling Department	570,000	0	570,000
Subtotal	570,000	0	570,000
General Expenses			
Interfund Transfers	5,061,936	0	5,061,936
Contingency	15,933,781	(2,349,000)	13,584,781
Subtotal	20,995,717	(2,349,000)	18,646,717
Unappropriated Balance	23,568,117	0	23,568,117
Total Fund Requirements	\$103,941,063	\$0	\$103,941,063

All other appropriations remain as previously adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1205 AMENDING THE FY 2008-09 BUDGET AND APPROPRIATIONS SCHEDULE TRANSFERRING APPROPRIATION FROM CONTINGENCY TO DEBT SERVICE, AUTHORIZING DEFEASANCE OF CERTAIN SOLID WASTE REVENUE BONDS, AND DECLARING AN EMERGENCY

Date: December 4, 2008

Prepared by: Kathy Rutkowski
Doug Anderson

BACKGROUND

The “Rate Covenant” of Metro’s solid waste bonds requires that Metro set solid waste rates high enough to realize a 110 percent “coverage ratio” over the debt service on the bonds each year. This simply means that Metro must raise enough revenue to pay all operating expenditures and have enough left over to pay 110 percent of the annual debt service. A coverage ratio greater than 100 percent is a standard requirement for revenue bonds, and is designed to protect bond holders by instilling a “pay as you go” discipline on the bond issuer. Historically, Metro has built a planning margin into its solid waste budgets; the FY 2008-09 adopted rates provide for a 146 percent coverage ratio.

The rapid and significant decline in tonnage since the beginning of the fiscal year due to the global economic slowdown has reduced solid waste operating revenue to the point where Metro will struggle to meet the coverage requirement this fiscal year. In normal circumstances, Metro would be faced with the need to enhance revenue or reduce expenditures—or a combination of the two—to meet the coverage requirement.

However, on January 1, 2009, Metro was already scheduled to escrow the final payment on the bonds, which is due July 1, 2009. In this circumstance, Metro has the option to make this deposit in a manner that satisfies the financial *and legal* obligations of the bonds earlier than July 1, 2009. This action, called an “early defeasance,” would be authorized by this Ordinance. With an early defeasance, Metro ensures that all bondholders are fully protected, while meeting the legal requirement of the bonds without raising rates or cutting programs.

ANALYSIS/INFORMATION

- 1. Known Opposition:** None known.
- 2. Legal Antecedents:** An action of the Council is required to (a) authorize defeasance of bonds and (b) approve a budget amendment. ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.
- 3. Anticipated Effects:** With this action, Metro will not need to report the coverage ratio on the bonds as would otherwise be required for the fiscal year. This means, in turn, that Metro will not need to “manage” the Rate Covenant through a mid-year rate increase and/or by cutting program expenditures.
- 4. Budget Impacts:** This ordinance authorizes the use of \$2,349,000 from contingency/reserves to defease the final payment due on the 2003 Series Metro Central Transfer Station Solid Waste revenue bonds. This amount was scheduled to be paid on July 1, 2009 and was planned in the FY 2008-09

rate setting to be deposited in escrow on January 1, 2009. The fiscal impact on the Solid Waste Revenue Fund is neutral.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

Resolution No. 08-3975, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Willamette Resources, Inc. for Delivery of Putrescible Waste to the Riverbend Landfill.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3975
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
WILLAMETTE RESOURCES, INC. FOR DELIVERY) Introduced by Michael Jordan,
OF PUTRESCIBLE WASTE TO THE RIVERBEND) Chief Operating Officer, with the
LANDFILL FOR DISPOSAL) concurrence of David Bragdon,
) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Willamette Resources, Inc. ("WRI") holds Metro Solid Waste Facility Non-System License No. N-005-06, which expires on December 31, 2008; and

WHEREAS, WRI has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of WRI is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to WRI a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-005-09

LICENSEE:	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	
CONTACT PERSON:	
Todd Irvine	Ray Phelps
Phone: (503) 570-0625	(503) 570-0625
Fax: (503) 570-0523	(503) 570-0523
E-Mail: todd.irvine@awin.com	ray.phelps@awin.com
MAILING ADDRESS:	
Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, OR 97070	

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Willamette Resources, Inc. in accordance with Metro Solid Waste Facility Franchise No. F-005-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 70,000 tons per calendar year of the waste described in Section 1 of this license. This license does not increase the total tonnage that the Licensee is authorized to accept under Metro Solid Waste Facility Franchise No. F-005-08.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that:<ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; oriii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facilities listed in Section 3.(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.

8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction</p>



	over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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9	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3975 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL FOR DISPOSAL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In October 2006, Willamette Resources, Inc., (WRI) was granted a non-system license (NSL) to annually deliver a maximum of 25,000 tons per calendar year of solid waste, including putrescible waste, to the RLF. The term of this NSL commenced on November 1, 2006 and will expire on December 31, 2008.

In December 2007, Metro amended the above referenced NSL and increased WRI's tonnage limit from 25,000 to 115,000 tons of solid waste per calendar year. WRI had requested the 95,000-ton increase in order to provide its facility with flexibility and an alternative disposal option when operating conditions made it impossible for it to deliver waste to the Coffin Butte Landfill (CBLF). The above referenced NSL amendment did not increase the total tonnage that WRI is authorized to accept under its existing Metro Solid Waste Facility Franchise (No. F-005-03). The applicant delivered 25,114 tons of solid waste to the RLF under authority of this existing NSL during calendar year 2007.

On September 3, 2008, WRI submitted to Metro an application requesting that Metro renew this NSL with the existing tonnage limit of 115,000 tons in order to potentially cover all of the waste that the facility generates on an annual basis. WRI reported that the facility annually receives approximately 65,000 tons of putrescible waste and generates approximately 50,000 tons of non-putrescible waste residual from its material recovery operations. If possible, WRI will likely deliver all of its non-putrescible waste, under authority of a designated facility agreement, and up to 45,000 tons of putrescible waste, under authority of its existing NSL No. N-005-005(3), to the CBLF. NSL No. N-005-005(3) is also set to expire on December 31, 2008 and the applicant has submitted an application to Metro to renew this NSL. The Metro Council will be considering the renewal of NSL No. N-005-005(3) on December 11, 2008 (Resolution No. 08-3987).

Notwithstanding the applicant's request for the renewal of a single NSL that covers all of the non-putrescible waste and putrescible waste that it generates, this proposed license is intended to cover putrescible waste only and is limited to a maximum of 70,000 tons per calendar year. The tonnage limit of this proposed NSL is intended to coincide with that of the applicant's newly-issued Solid Waste Facility Franchise (No. F-005-08) which becomes effective on January 1, 2009. A fuller discussion of this recommendation is provided in Section 2(7) of this document.

ANALYSIS/INFORMATION

1. Known Opposition

There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County’s flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

- (4) *The expected impact on the region’s recycling and waste reduction efforts;*

The proposed license covers only putrescible waste, which has little recovery or recycling potential. Thus, the waste authorized by the proposed license is not expected to impact the region’s recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro’s existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro’s existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro’s contract operator for purposes of Metro’s disposal contract. Approval of the proposed license will not conflict with Metro’s disposal contract or any other of its 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*

Within the last five years, WRI has received one Notice of Violation for exceeding its tonnage limitation in an NSL authorizing the delivery of waste to the CBLF. On August 31, 2007, Metro issued Notice of Violation No. NOV-182-07 to WRI for violating the calendar year tonnage limitation stipulated in NSL No. N-005-005(3). WRI had exceeded its 45,000-ton limitation by 342 tons. There was no penalty associated with this minor tonnage cap violation. Metro afforded WRI an opportunity to abate the violation by submitting a letter describing the additional procedures that it would implement to prevent a recurrence of the violation. WRI submitted the letter as requested and, subsequently, the violation was deemed abated.

WRI is currently in compliance with its Metro-issued NSLs and Solid Waste Facility Franchise. With the exception of the above referenced NSL violation, WRI has had no violations related to public health, safety or environmental regulations. Additionally, WRI has not had any significant compliance issues regarding other Metro requirements in the last five years.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

WRI applied for a renewed NSL requesting authority to deliver up to a combined total of 115,000 tons per calendar year of non-putrescible waste and putrescible waste. However, the proposed NSL covers

putrescible waste only and includes a maximum tonnage limit of 70,000 tons per calendar year. Non-putrescible waste was not included in the proposed NSL because that waste stream will be addressed separately from that of putrescible waste. The Metro Council will soon consider the adoption of Ordinance No. 08-1197 that would list RLF as a designated facility in the Metro Code. Metro staff expects that if the Council was to approve the RLF as a designated facility, and the RLF subsequently entered into a designated facility agreement with Metro, then NSLs authorizing the delivery of non-putrescible waste to the RLF would no longer necessary.

The proposed NSL includes a tonnage authorization of up to 70,000 tons per calendar to coincide with WRI's Metro-issued franchise. WRI currently operates under authority of Metro Solid Waste Facility Franchise No. F-005-03. On September 25, 2008, the Metro Council adopted Ordinance No. 08-1194 authorizing the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise (No. F-005-08) to WRI. The renewed franchise, which becomes effective on January 1, 2009, stipulates that WRI shall not accept more than 70,000 tons of putrescible waste originating from inside the Metro region within each calendar year. The issuance of the proposed NSL authorizing the delivery of up to 70,000 tons of putrescible waste to the RLF does not increase the total tonnage that WRI is authorized to accept under the terms of the renewed franchise.

In addition to the above, WRI currently holds NSL No. N-005-005(3) authorizing the delivery of up to 45,000 tons per calendar year of putrescible waste to the CBLF. This NSL is set to expire on December 31, 2008. The Metro Council will be considering the renewal of this NSL on December 11, 2008 (Resolution No. 08-3987).

The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply to the renewal of this existing license.

3. Anticipated Effects

The effect of Resolution No. 08-3975 will be to issue a two-year NSL to WRI to deliver up to 70,000 tons of putrescible waste per calendar year to the RLF.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-005-06). Therefore, the financial impact has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3975, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

WJ:bjl
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Agenda Item Number 5.2

Resolution No. 08-3977, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Pride Recycling Company for Delivery of Putrescible Waste to the Riverbend Landfill.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3977
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
PRIDE RECYCLING COMPANY FOR DELIVERY OF) Introduced by Michael Jordan,
PUTRESCIBLE WASTE TO THE RIVERBEND) Chief Operating Officer, with the
LANDFILL) concurrence of David Bragdon,
) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Pride Recycling Company (“Pride”) holds Metro Solid Waste Facility Non-System License No. N-002-05, which expires on December 31, 2008; and

WHEREAS, Pride has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, “Solid Waste Flow Control”; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of Pride is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Pride a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3977

WJ:bjl

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-002-09

LICENSEE:
Pride Recycling Company 13910 SW Tualatin-Sherwood Road Sherwood, OR 97140
CONTACT PERSON:
Mike Leichner Phone: (503) 625-0725 Fax: (503) 625-6179 E-mail: mikel@pridedisposal.com
MAILING ADDRESS:
Pride Recycling Company P.O. Box 11150 Sherwood, OR 97140

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Pride Recycling Company in accordance with Metro Solid Waste Facility Franchise No. F-002-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 70,000 tons per calendar year of the waste described in Section 1 of this license. This license does not increase the total tonnage that the Licensee is authorized to accept under Metro Solid Waste Facility Franchise No. F-002-08.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none"> (a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility. (b) This license shall be subject to amendment, modification, or termination by Metro’s Chief Operating Officer (the “COO”) in the event that the COO determines that: <ul style="list-style-type: none"> i. There has been sufficient change in any circumstances under which Metro issued this license; ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facilities listed in Section 3. (c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code. (d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro. (e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license. (f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.

8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction</p>



	over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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9	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3977 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO PRIDE RECYCLING COMPANY FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In December 2005, Pride Recycling Company (Pride) was granted a non-system license (NSL) to deliver a maximum of 45,000 tons per calendar year of solid waste, including putrescible waste, to the RLF. The term of this NSL commenced on January 1, 2006 and was set to expire on December 31, 2007. On November 1, 2007, the Metro Council adopted Resolution No. 07-3866 for the purpose of authorizing the Chief Operating Officer to execute license amendments to extend the term of certain NSLs, including Pride's NSL No. N-002-05, to expire on December 31, 2008.

In December 2007, Metro also amended the above referenced NSL and increased Pride's tonnage limit from 45,000 to 65,000 tons of solid waste per calendar year. Pride had requested the 20,000-ton increase due to growth in its franchised collection area and increased local customer need. The above referenced NSL amendment did not increase the total tonnage that Pride is authorized to accept under its existing Metro Solid Waste Facility Franchise (No. F-002-03). The applicant delivered 39,008 tons of solid waste to the RLF under authority of this existing NSL during calendar year 2007.

On August 22, 2008, Pride submitted to Metro an application to renew this NSL with a tonnage authorization of 70,000 tons per calendar year. The tonnage limit of this proposed NSL is intended to coincide with that of the applicant's newly-issued Solid Waste Facility Franchise (No. F-002-08) which becomes effective on January 1, 2009.

Approval of Resolution No. 08-3977 will authorize the Chief Operating Officer to issue a renewed NSL to Pride to deliver a maximum of 70,000 tons per calendar year of putrescible waste to the RLF for disposal. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro's obligations under its disposal contract.

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

ANALYSIS/INFORMATION

1. Known Opposition

There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County’s flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

- (4) *The expected impact on the region’s recycling and waste reduction efforts;*

The proposed license covers only putrescible waste, which has little recovery or recycling potential. Thus, the waste authorized by the proposed license is not expected to impact the region’s recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro’s existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro’s existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro’s contract operator for purposes of Metro’s disposal contract. Approval of the proposed license will not conflict with Metro’s disposal contract or any other of its 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*

Pride is currently in compliance with its Metro-issued NSLs and Solid Waste Facility Franchise. Pride has had no violations related to public health, safety or environmental regulations. Additionally, Pride has not had any significant compliance issues regarding other Metro requirements in the last five years.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The proposed NSL includes a tonnage authorization of up to 70,000 tons per calendar year to coincide with Pride’s Metro-issued franchise. Pride currently operates under authority of Metro Solid Waste Facility Franchise No. F-002-03. On September 25, 2008, the Metro Council adopted Ordinance No. 08-1193 authorizing the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise (No. F-002-08) to Pride. The renewed franchise, which becomes effective on January 1, 2009, stipulates that Pride shall not accept more than 70,000 tons of putrescible waste originating from inside the Metro region within each calendar year. The issuance of the proposed NSL authorizing the delivery of up to 70,000 tons of putrescible waste to the RLF does not increase the total tonnage that Pride is authorized to accept under the terms of the renewed franchise.

In addition, the NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply to the renewal of this existing license.

3. Anticipated Effects

The effect of Resolution No. 08-3977 will be to issue a two-year NSL to Pride to deliver up to 70,000 tons of putrescible waste per calendar year to the RLF.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-002-05). Therefore, the financial impact has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3977, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

WJ:bjl
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Agenda Item Number 5.3

Resolution No. 08-3978, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Forest Grove Transfer Station for Delivery of Putrescible Waste to the Riverbend Landfill.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3978
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
FOREST GROVE TRANSFER STATION FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE WASTE TO THE) Chief Operating Officer, with the
RIVERBEND LANDFILL) concurrence of David Bragdon,
) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Forest Grove Transfer Station ("FGTS") holds Metro Solid Waste Facility Non-System License No. N-010-05, which expires on December 31, 2008; and

WHEREAS, FGTS has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of FGTS is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to FGTS a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3978

WJ:bjl

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-010-09

LICENSEE:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116
CONTACT PERSON:
Steve Wolfe Phone: (503) 992-3015 Fax: (503) 357-4822 E-mail: swolfe2@wm.com
MAILING ADDRESS:
Forest Grove Transfer Station 1525 B Street Forest Grove, OR 97116

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated within the Metro boundary and received at Forest Grove Transfer Station in accordance with Metro Solid Waste Facility Franchise No. F-004-08.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 183,000 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.



5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.

6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>



7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.(b) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:<ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; oriii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facilities listed in Section 3.(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.

8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction</p>



	over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.
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9	INDEMNIFICATION
	Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3978 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO FOREST GROVE TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL FOR DISPOSAL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In December 2005, Forest Grove Transfer Station (FGTS) was granted a non-system license (NSL) to deliver a maximum of 160,000 tons per calendar year of solid waste, including putrescible waste, to the RLF. The term of this NSL commenced on January 1, 2006 and was set to expire on December 31, 2007. On November 1, 2007, the Metro Council adopted Resolution No. 07-3866 for the purpose of authorizing the Chief Operating Officer to execute license amendments to extend the term of certain NSLs, including FGTS' NSL No. N-010-05, to expire on December 31, 2008.

In December 2007, Metro also amended the above referenced NSL and increased FGTS' tonnage limit from 160,000 to 175,000 tons of solid waste per calendar year. FGTS had requested the 15,000-ton increase due to increased commercial and residential growth in Washington County. The above referenced NSL amendment had no impact on the facility's existing Metro Solid Waste Facility Franchise (No. F-004) authorization because, as a regional transfer station, the franchise does not limit the amount of waste that the facility may receive. The applicant delivered 153,977 tons of solid waste to the RLF under authority of this existing NSL during calendar year 2007.

On August 29, 2008, FGTS submitted to Metro an application to renew this NSL. The applicant requested that the proposed NSL renewal include sufficient authorization to cover the total amount of solid waste delivered to FGTS annually (approximately 183,000 tons). The applicant's newly-issued Solid Waste Facility Franchise (No. F-004-08) which becomes effective on January 1, 2009, does not limit the amount of waste that the FGTS may receive on an annual basis.

Approval of Resolution No. 08-3978 will authorize the Chief Operating Officer to issue a renewed NSL to FGTS to deliver up to 183,000 tons of putrescible waste to the RLF per calendar year. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro's obligations under its disposal contract.

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

ANALYSIS/INFORMATION

1. Known Opposition

There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County’s flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

- (4) *The expected impact on the region’s recycling and waste reduction efforts;*

The proposed license covers only putrescible waste, which has little recovery or recycling potential. Thus, the waste authorized by the proposed license is not expected to impact the region’s recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro’s existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro’s existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro’s contract operator for purposes of Metro’s disposal contract. Approval of the proposed license will not conflict with Metro’s disposal contract or any other of its 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*

FGTS is currently in compliance with its Metro-issued NSL and Solid Waste Facility Franchise. FGTS has had no violations related to public health, safety or environmental regulations. Additionally, FGTS has not had any significant compliance issues regarding other Metro requirements in the last five years.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The proposed NSL authorizes the FGTS to deliver up to 183,000 tons of putrescible waste to the RLF per calendar year. The NSL authorization is intended to cover all of the putrescible waste that the facility receives from within the Metro region. FGTS currently operates under authority of Metro Solid Waste Facility Franchise No. F-004. On September 25, 2008, the Metro Council adopted Ordinance No. 08-1191 authorizing the Chief Operating Officer to issue a renewed Solid Waste Facility Franchise (No. F-004-08) to FGTS. The renewed franchise, which becomes effective on January 1, 2009, does not limit the amount of waste that the facility may receive.

In addition, the NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply to the renewal of this existing license.

3. Anticipated Effects

The effect of Resolution No. 08-3978 will be to issue a two-year NSL to FGTS to deliver up to 183,000 tons of putrescible waste to the RLF per calendar year.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-010-05). Therefore, the financial impact has already been factored into the budget.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3978, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

WJ:bjl
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Resolution No. 08-3979, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to West Linn Refuse and Recycling Inc. for Delivery of Putrescible Waste to Canby Transfer and Recycling Inc. for the Riverbend Landfill for Disposal.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3979
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
WEST LINN REFUSE & RECYCLING, INC. FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE WASTE TO CANBY) Chief Operating Officer, with the
TRANSFER & RECYCLING INC. FOR THE PURPOSE OF) concurrence of David Bragdon,
TRANSFER TO THE RIVERBEND LANDFILL FOR) Council President
DISPOSAL

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, West Linn Refuse & Recycling, Inc. (“WLRR”) holds Metro Solid Waste Facility Non-System License No. N-119-05, which expires on December 31, 2008; and

WHEREAS, WLRR has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer & Recycling, Inc. for the purpose of transfer to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, “Solid Waste Flow Control”; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of WLRR is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to WLRR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3979

WJ:bjl

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-119-09

LICENSEE:
West Linn Refuse & Recycling, Inc. 1600 SE 4 th Avenue Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-mail: akahut@kahutwasteservices.com
MAILING ADDRESS:
West Linn Refuse & Recycling, Inc. P.O. Box 1285 Canby, OR 97013

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by West Linn Refuse & Recycling, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 9,000 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 SE 4th Avenue Canby, OR 97013</p> <p>This license is issued on condition that the non-system facility and disposal site named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that the non-system facility or disposal site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;



	<ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3979 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO WEST LINN REFUSE & RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER & RECYCLING INC. FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL FOR DISPOSAL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In December 2005, West Linn Refuse & Recycling, Inc. (WLRR) was granted a non-system license (NSL) to deliver a maximum of 9,000 tons per calendar year of solid waste, including putrescible waste, collected from routes located inside the Metro region to Canby Transfer & Recycling, Inc. (CTR), an affiliated facility co-located with WLRR. The term of this NSL commenced on January 1, 2006 and was set to expire on December 31, 2007. On November 1, 2007, the Metro Council adopted Resolution No. 07-3866 for the purpose of authorizing the Chief Operating Officer to execute license amendments to extend the term of certain NSLs, including WLRR's NSL No. N-119-05, to expire on December 31, 2008. The applicant delivered 7,092 tons of solid waste to CTR under authority of this existing NSL during calendar year 2007. On August 15, 2008, WLRR submitted to Metro an application to renew this NSL.

Approval of Resolution No. 08-3979 will authorize the Chief Operating Officer to issue a renewed NSL to WLRR to deliver a maximum of 9,000 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro's obligations under its disposal contract.

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

ANALYSIS/INFORMATION

1. Known Opposition

Although the waste subject to the proposed NSL will be delivered to CTR, ultimate disposal of such waste will be at the RLF. There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the "Stop the Dump

Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The proposed disposal site is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996 and services only affiliated hauling companies. Staff is not aware of any wastes accepted at CTR that could pose a risk of environmental contamination.

Ultimate disposal of the waste covered under the proposed NSL will be at the RLF. The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

CTR is permitted by the DEQ. On June 8, 2006, the DEQ issued CTR a Warning Letter (No. WL-NWR-SW-07-002) for violating the tonnage limit stipulated in its DEQ Solid Waste Disposal Site Permit (No. 443) for calendar year 2006. CTR’s permit had authorized the facility to accept up to 25,000 tons of solid waste per year. However, in 2006 CTR had accepted nearly 29,243 tons of solid waste (exceeding its DEQ-permitted tonnage cap by nearly 4,243 tons). The DEQ did not pursue further enforcement action with respect to this permit violation and it did not require CTR to perform any corrective actions to abate the violation. In September 2007, the DEQ renewed CTR’s permit and removed the facility’s previous tonnage limit restriction. The current DEQ permit no longer stipulates the amount of solid waste that CTR may accept. According to recent communication with the DEQ, CTR is currently in compliance with its permit and the facility has not received any additional notices of violation or enforcement actions.

CTR is also regulated by the City of Canby. The facility is reported to have a good compliance record with local (Clackamas County and the City of Canby) public health, safety and environmental rules and regulations. According to recent communication with both City and County staff, CTR is currently in compliance with all applicable local requirements and there are no pending enforcement actions.

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five

years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County's flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

(3) *The adequacy of operational practices and management controls at the non-system facility;*

Metro and DEQ staff considers the operational practices and management controls in place at CTR to be adequate and consistent with other similar facilities.

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be "green power."

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor's property but has offered to mitigate that situation.

(4) *The expected impact on the region's recycling and waste reduction efforts;*

The proposed license covers only putrescible waste, which has little recovery or recycling potential. Thus, the waste authorized by the proposed license is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro's existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. Approval of the proposed license will not conflict with Metro's disposal contract or any other of its 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*

The applicant operates KB Recycling, a Metro-licensed material recovery facility, as well as CTR. Both facilities are regarded by their authorizing agencies (Metro, DEQ, and the City of Canby) as well-run and have had a good compliance record with all public health, safety, and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

3. Anticipated Effects

The effect of Resolution No. 08-3979 will be to issue a two-year NSL to WLRR to deliver up to 9,000 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to CTR under authority of the proposed NSL. This is a renewal for the same amount of tonnage as presently authorized. Thus no budget impact is anticipated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3979, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

WJ:bjl
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Resolution No. 08-3980, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Hoodview Disposal and Recycling Inc. for Delivery of Putrescible Waste to Canby Transfer and Recycling Inc. for the Riverbend Landfill for Disposal.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3980
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
HOODVIEW DISPOSAL & RECYCLING, INC. FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE WASTE TO CANBY) Chief Operating Officer, with the
TRANSFER & RECYCLING INC. FOR THE PURPOSE OF) concurrence of David Bragdon,
TRANSFER TO THE RIVERBEND LANDFILL FOR) Council President
DISPOSAL)

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Hoodview Disposal & Recycling, Inc. ("HDR"), also known as "B&J Garbage Company," holds Metro Solid Waste Facility Non-System License No. N-118-05, which expires on December 31, 2008; and

WHEREAS, HDR has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to Canby Transfer & Recycling, Inc. for the purpose of transfer to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of HDR is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to HDR a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3980

WJ:bjl

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-118-09

LICENSEE:
Hoodview Disposal & Recycling, Inc., (also known as "B&J Garbage Company") 1600 SE 4 th Avenue Canby, OR 97013
CONTACT PERSON:
Andy Kahut Phone: (503) 663-4778 Fax: (503) 263-6477 E-mail: akahut@kahutwasteservices.com
MAILING ADDRESS:
Hoodview Disposal & Recycling, Inc. P.O. Box 1110 Canby, OR 97013

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Hoodview Disposal & Recycling, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 5,500 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Canby Transfer & Recycling, Inc. 1600 SE 4th Avenue Canby, OR 97013</p> <p>This license is issued on condition that the non-system facility and disposal site named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that the non-system facility or disposal site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which



	<p>Metro issued this license;</p> <ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3980 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO HOODVIEW DISPOSAL & RECYCLING, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO CANBY TRANSFER & RECYCLING INC. FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL FOR DISPOSAL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In December 2005, Hoodview Disposal & Recycling, Inc. (HDR), also known as “B&J Garbage Company,” was granted a non-system license (NSL) to deliver a maximum of 5,000 tons per calendar year of solid waste, including putrescible waste, collected from routes located inside the Metro region to Canby Transfer & Recycling, Inc. (CTR), an affiliated facility co-located with HDR. The term of this NSL commenced on January 1, 2006 and was set to expire on December 31, 2007. On November 1, 2007, the Metro Council adopted Resolution No. 07-3866 for the purpose of authorizing the Chief Operating Officer to execute license amendments to extend the term of certain NSLs, including HDR’s NSL No. N-118-05, to expire on December 31, 2008. The applicant delivered 4,629 tons of solid waste to CTR under authority of this existing NSL during calendar year 2007.

On August 15, 2008, HDR submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 5,500 tons per calendar year (500-ton increase above that currently authorized). HDR requested this slight tonnage limit increase due to population increases within its franchised collection areas (Happy Valley and Damascus).

Approval of Resolution No. 08-3980 will authorize the Chief Operating Officer to issue a renewed NSL to HDR to deliver a maximum of 5,500 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro’s obligations under its disposal contract.

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

ANALYSIS/INFORMATION

1. Known Opposition

Although the waste subject to the proposed NSL will be delivered to CTR, ultimate disposal of such waste will be at the RLF. There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend

the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The proposed disposal site is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. CTR began operations in 1996 and services only affiliated hauling companies. Staff is not aware of any wastes accepted at CTR that could pose a risk of environmental contamination.

Ultimate disposal of the waste covered under the proposed NSL will be at the RLF. The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

CTR is permitted by the DEQ. On June 8, 2006, the DEQ issued CTR a Warning Letter (No. WL-NWR-SW-07-002) for violating the tonnage limit stipulated in its DEQ Solid Waste Disposal Site Permit (No. 443) for calendar year 2006. CTR's permit had authorized the facility to accept up to 25,000 tons of solid waste per year. However, in 2006 CTR had accepted nearly 29,243 tons of solid waste (exceeding its DEQ-permitted tonnage cap by nearly 4,243 tons). The DEQ did not pursue further enforcement action with respect to this permit violation and it did not require CTR to perform any corrective actions to abate the violation. In September 2007, the DEQ renewed CTR's permit and removed the facility's previous tonnage limit restriction. The current DEQ permit no longer stipulates the amount of solid waste that CTR may accept. According to recent communication with the DEQ, CTR is currently in compliance with its permit and the facility has not received any additional notices of violation or enforcement actions.

CTR is also regulated by the City of Canby. The facility is reported to have a good compliance record with local (Clackamas County and the City of Canby) public health, safety and environmental rules and regulations. According to recent communication with both City and County staff, CTR is currently in compliance with all applicable local requirements and there are no pending enforcement actions.

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County's flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

(3) *The adequacy of operational practices and management controls at the non-system facility;*

Metro and DEQ staff considers the operational practices and management controls in place at CTR to be adequate and consistent with other similar facilities.

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be "green power."

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor's property but has offered to mitigate that situation.

(4) *The expected impact on the region's recycling and waste reduction efforts;*

The proposed license covers only putrescible waste, which has little recovery or recycling potential. Thus, the waste authorized by the proposed license is not expected to impact the region's recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro's existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro's existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. Approval of the proposed license will not conflict with Metro's disposal contract or any other of its 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*

The applicant operates KB Recycling, a Metro-licensed material recovery facility, as well as CTR. Both facilities are regarded by their authorizing agencies (Metro, DEQ, and the City of Canby) as well-run and have had a good compliance record with all public health, safety, and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

HDR has requested a 500-ton increase in its NSL tonnage authorization due to population increases within its franchised collection areas (Happy Valley and Damascus).

In addition, the proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

3. Anticipated Effects

The effect of Resolution No. 08-3980 will be to issue a two-year NSL to HDR to deliver up to 5,500 tons per calendar year of putrescible waste to CTR for the purpose of transfer to the RLF for disposal.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to CTR under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-118-05) with a slight tonnage limit increase of 500 tons. The financial impact of this NSL has already been factored into the budget and the impact of this slight tonnage limit increase is expected to be negligible.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3980, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

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Resolution No. 08-3981, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Newberg Garbage Services, Inc. Transfer for Delivery of Putrescible Waste to Newberg Transfer and Recycling Center for the Purpose of Transfer to the Riverbend Landfill for Disposal.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3981
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
NEWBERG GARBAGE SERVICE, INC. FOR) Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE WASTE TO THE) Chief Operating Officer, with the
NEWBERG TRANSFER AND RECYCLING CENTER) concurrence of David Bragdon,
FOR THE PURPOSE OF TRANSFER TO THE) Council President
RIVERBEND LANDFILL FOR DISPOSAL)

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Newberg Garbage Service, Inc. (“NGS”) holds Metro Solid Waste Facility Non-System License No. N-113-08, which expires on December 31, 2008; and

WHEREAS, NGS has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Newberg Transfer and Recycling Center for the purpose of transfer to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, “Solid Waste Flow Control”; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of NGS is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to NGS a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3981

WJ:bjl

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-113-09

LICENSEE:
Newberg Garbage Service, Inc. 2904 Wynooski Road Newberg, OR 97132
CONTACT PERSON:
Merlin LaJoie Phone: (503) 538-1388 Fax: (503) 538-1383 E-mail: newberggarbage@hotmail.com
MAILING ADDRESS:
Newberg Garbage Service, Inc. P.O. Box 1000 Newberg, OR 97132

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste that is generated by residential and commercial customers within the Metro region and collected by Newberg Garbage Service, Inc.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 160 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for the purpose of transfer to the Riverbend Landfill for disposal:</p> <p style="text-align: center;">Newberg Transfer & Recycling Center 2904 Wynooski Road Newberg, OR 97132</p> <p>This license is issued on condition that the non-system facility and disposal site named in this section are authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that the non-system facility or disposal site are not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of waste, described above in Section 1, that it delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and report such records in a manner that is approved by Metro.</p> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month;ii. Remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes; andiii. Report, by e-mail, the tonnage for the preceding month to both Metro (submitted to Janet Tolopka at e-mail address janet.tolopka@oregonmetro.gov) and the Riverbend Landfill (Licensee shall contact the Landfill for the correct name and e-mail address), so that the amount of such tonnage can be incorporated into the formula for proper calculation of Metro's disposal rate under its contract with Oregon Waste Systems, Inc. Failure to provide this information accurately, consistently, and in a timely manner may result in the termination of this license. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;



	<ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3981 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO NEWBERG GARBAGE SERVICE, INC. FOR DELIVERY OF PUTRESCIBLE WASTE TO THE NEWBERG TRANSFER AND RECYCLING CENTER FOR THE PURPOSE OF TRANSFER TO THE RIVERBEND LANDFILL FOR DISPOSAL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

In July 2008, Newberg Garbage Service, Inc. (NGS) was granted a six-month non-system license (NSL) to deliver a maximum of 160 tons of residential and commercial solid waste, including putrescible waste, collected from routes located inside the Metro region to the Newberg Transfer and Recycling Center (NTRC), an affiliated facility co-located with NGS. The license commenced on July 1, 2008 and will expire on December 31, 2008. The Metro Council granted NGS a six-month NSL in order to place its term on a calendar year basis and align its expiration date with that of all the other NSLs that authorize the delivery of putrescible solid waste to non-system facilities. The applicant delivered 123 tons of solid waste to the NTRC under authority of this existing NSL during calendar year 2007. On August 26, 2008, NGS submitted to Metro an application to renew this NSL.

Approval of Resolution No. 08-3981 will authorize the Chief Operating Officer to issue a renewed NSL to NGS to deliver a maximum of 160 tons per calendar year of putrescible waste to the NTRC for the purpose of transfer to the RLF for disposal. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro's obligations under its disposal contract.

The proposed NSL is a renewal of an existing license. The NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply.

ANALYSIS/INFORMATION

1. Known Opposition

Although the waste subject to the proposed NSL will be delivered to the NTRC, ultimate disposal of such waste will be at the RLF. There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the "Stop the Dump

Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The proposed disposal site is a transfer station rather than a landfill and thus does not pose the same potential environmental risk from wastes delivered from prior users. NTRC began operations in 1985. The site was previously a filbert orchard. Staff is not aware of any wastes accepted at NTRC that could pose a risk of environmental contamination.

Ultimate disposal of the waste covered under the proposed NSL will be at the RLF. The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

NTRC is regulated by both the DEQ and Yamhill County and NGS is regulated by the City of Sherwood. To staff’s knowledge, NGS and NTRC have good compliance records with all applicable requirements and there are no pending enforcement actions associated with either operation.

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County’s flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Metro and DEQ staff considers the operational practices and management controls in place at NTRC to be adequate and consistent with other similar facilities.

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

- (4) *The expected impact on the region’s recycling and waste reduction efforts;*

The applicant has applied to deliver 160 tons annually of putrescible waste from its residential and commercial collection routes within the City of Sherwood to NTRC. The proposed license covers only putrescible waste, which has little recovery or recycling potential.

- (5) *The consistency of the designation with Metro’s existing contractual arrangements;*

The waste subject to the proposed license will be delivered to NTRC for the purpose of transfer to the RLF for disposal. The RLF is a Waste Management, Inc. facility. Thus, under Metro’s existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro’s contract operator for purposes of Metro’s disposal contract. Approval of the requested license will not conflict with Metro’s disposal contract or any other of its 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*

The applicant operates both a waste hauling company, which has previously operated entirely outside the Metro boundary, and an out-of-region transfer station. The applicant has a good record regarding compliance with Metro regulations.

The applicant is regulated by both the DEQ and Yamhill County (for the transfer station) and by the City of Sherwood (for the hauling company). To staff’s knowledge, the applicant has a good compliance record with all applicable federal, state, and local requirements.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The majority of the applicant's hauling accounts lie outside the Metro region. In order to route its trucks efficiently, its trucks must cross the Metro jurisdictional boundary and co-mingle in-Metro waste with out-of-Metro waste. In order to determine the appropriate fees and taxes owed to Metro, NGS and Metro have mutually agreed to an estimation method whereby the NGS multiplies the number of in-Metro cans and carts by the average weight of the same size containers as determined by quarterly weight studies used to allocate disposal costs between other jurisdictions where NGS operates. Staff finds this to be a reasonable and verifiable procedure.

In addition, the NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply to the renewal of this existing license.

3. Anticipated Effects

The effect of Resolution No. 08-3981 will be to issue a two-year NSL to NGS to deliver up to 160 tons per calendar year of putrescible waste to the NTRC for the purpose of transfer to the RLF for disposal.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to NTRC under authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-113-08). Therefore, the financial impact has already been factored into the budget.

As stipulated in the existing NSL, the proposed license requires the licensee to send a monthly e-mail to both Metro and RLF to report the amount of in-Metro tonnage delivered to the landfill during the previous month. This monthly report is required so that the amount of such tonnage can be incorporated into the formula for proper calculation of Metro's disposal rate under its contract with Oregon Waste Systems, Inc. This license requirement is intended to assist the landfill distinguish the difference between the in-Metro tonnage it receives from the licensee (via the NTRC) from that of the out-of-Metro waste it receives from the same facility.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3981, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

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Resolution No. 08-3982, Authorizing the Chief Operating Officer to Issue a Renewed Non-System License to Gray and Company for Delivery of Putrescible Waste to the Riverbend Landfill.

Metro Council Meeting
Thursday, December 4, 2008
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER) RESOLUTION NO. 08-3982
TO ISSUE A RENEWED NON-SYSTEM LICENSE TO)
GRAY & COMPANY FOR DELIVERY OF) Introduced by Michael Jordan,
PUTRESCIBLE WASTE TO THE RIVERBEND) Chief Operating Officer, with the
LANDFILL) concurrence of David Bragdon,
) Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Gray & Company holds Metro Solid Waste Facility Non-System License No. N-011-06, which expires on December 31, 2008; and

WHEREAS, Gray & Company has filed a completed application seeking renewal of the non-system license to deliver putrescible waste to the Riverbend Landfill for disposal under the provisions of Metro Code Chapter 5.05, "Solid Waste Flow Control"; and

WHEREAS, the Metro Code Chapter provides that 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; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be renewed together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The non-system license renewal application of Gray & Company is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Gray & Company a renewed Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2008.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 08-3982

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TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-011-09

LICENSEE:
Gray & Company 2331 23 rd Avenue Forest Grove, OR 97116
CONTACT PERSON:
Chad Dewhurst Phone: (503) 359-7103 Fax: (503) 359-0719 E-mail: cmdewhurst@cherryman.com
MAILING ADDRESS:
Gray & Company P.O. Box 218 Forest Grove, OR 97116

ISSUED BY METRO:

Michael Jordan, Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Putrescible solid waste generated at the Gray & Company site located at 2331 23 rd Avenue in Forest Grove, Oregon.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 500 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 to the following non-system facility:</p> <p style="text-align: center;">Riverbend Landfill 13469 SW Highway 18 McMinnville, OR 97128</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality or local regulatory authority that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on January 1, 2009 and expire at midnight on December 31, 2010, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all solid waste that the Licensee delivers to the non-system facility described in Section 3 of this license. The Licensee shall keep and maintain complete and accurate records of the following for all transactions with the authorized non-system facility:</p> <ul style="list-style-type: none">i. Ticket or weight slip number from the non-system facility;ii. Material category designating the type of material transferred to the non-system facility;iii. Date the load was transferred to the non-system facility;iv. Time the load was transferred to the non-system facility;v. Net weight of the load; andvi. Fee charged by the non-system facility <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;



	<ul style="list-style-type: none"> ii. The provisions of this license are actually or potentially in conflict with any provision in Metro’s disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; or iii. Metro’s solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3. <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee’s solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys’ fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 08-3982 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED NON-SYSTEM LICENSE TO GRAY & COMPANY FOR DELIVERY OF PUTRESCIBLE WASTE TO THE RIVERBEND LANDFILL

November 14, 2008

Prepared by: Warren Johnson

BACKGROUND

On November 20, 2008, the Metro Council will be considering the adoption of Ordinance No. 08-1197 for the purpose of amending Metro Code Chapter 5.05 to include Riverbend Landfill (RLF) on the list of designated facilities. In addition, the Yamhill County planning commission will be holding a public hearing on a proposed expansion of the RLF on that same date. The outcomes of the above referenced meetings were not known at the time this staff report was prepared but will likely inform the decision on this resolution. This report was filed with the Metro Council prior to November 20, 2008.

Description of the Resolution

Gray & Company (Gray) is a food processing facility located in Forest Grove, Oregon (Metro District 4). Gray routinely generates solid waste that consists primarily of fruit wastes, residual fruit syrups, containers contaminated with food residue, and a small quantity of miscellaneous waste from the facility's offices, restrooms, and cafeteria.

In April 2006, Gray was granted a non-system license (NSL) to deliver a maximum of 1,000 tons per calendar year of putrescible waste to the RLF. The term of this NSL commenced on April 14, 2006 and was set to expire on December 31, 2007. On November 1, 2007, the Metro Council adopted Resolution No. 07-3866 for the purpose of authorizing the Chief Operating Officer to execute license amendments to extend the term of certain NSLs, including Gray's NSL No. N-011-06, to expire on December 31, 2008. The applicant delivered 568 tons of solid waste to the RLF under authority of this existing NSL during calendar year 2007.

On September 16, 2008, Gray submitted to Metro an application requesting that Metro renew this NSL with a tonnage authorization of 500 tons per calendar year (500-ton reduction from that currently authorized). Gray requested a reduced tonnage limit because it expects that its Forest Grove facility will generate less waste in next few years.

Approval of Resolution No. 08-3982 will authorize the Chief Operating Officer to issue a renewed NSL to Gray to deliver a maximum of 500 tons per calendar year of putrescible waste to the RLF. The RLF is a Waste Management, Inc. facility and thus granting the proposed NSL does not implicate Metro's obligations under its disposal contract.

ANALYSIS/INFORMATION

1. Known Opposition

There is known public opposition to allowing waste generated from within the Metro region to be delivered to RLF. In particular, RLF has applied to Yamhill County for a permit to expand the landfill by 87 acres. Waste Management, Inc. indicates that such an expansion would extend the useful life of the landfill from the current six years to 20 – 30 more years. Metro staff is aware that the owner of a property

bordering the landfill is a leading opponent of the expansion and is seeking to mobilize others to oppose the landfill expansion by organizing under the title of the “Stop the Dump Expansion Committee.” The Metro Council decision on Ordinance No. 08-1197, to amend Metro Code Chapter 5.05 to include RLF on the list of designated facilities, will inform the decision on this resolution.

2. Legal Antecedents

Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council 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;*

The RLF first came into use during the mid-eighties. When RLF became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill deliberately accepted asbestos containing materials earlier in its operation but has not done so for the past ten years. In 2006, RLF inadvertently accepted and landfilled a load of bagged subflooring and tile containing asbestos in violation of its DEQ permit. Other than that, Metro staff has not found any evidence that the landfill has accepted waste that it was not permitted by DEQ to accept. It appears that the future risk of environmental contamination is likely to be minimal, provided that the synthetic liner system remains intact, leachate is collected and properly treated, groundwater is monitored for contamination migration, and the DEQ is diligent in its oversight of the facility.

- (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;*

The RLF is permitted by the DEQ. Metro staff has received confirmation that the DEQ considers the RLF to be a well-run facility that is in compliance with federal and state requirements. In the past five years RLF has received one notice of non-compliance from the DEQ for elevated levels of suspended solids in stormwater discharge.

The RLF is also reported to have a good compliance record with local (Yamhill County and the City of McMinnville) public health, safety and environmental rules and regulations. Property owners neighboring RLF have alleged to Metro that certain portions of the landfill are currently in violation of Yamhill County’s flood plain elevation requirements. However, Yamhill County has neither confirmed this allegation nor notified Metro of any pending compliance issues with regard to the RLF. A fuller discussion of the compliance record related to the RLF is provided in the staff report associated with Ordinance No. 08-1197.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The RLF uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment. In addition, the landfill has a 14-acre poplar plantation irrigated with leachate from the landfill. The uptake potential of the trees is estimated to exceed the amount of leachate used for irrigation. The landfill captures methane gas that is presently flared off. However, Waste Management, Inc. plans to install

generators that will utilize landfill gas to supply electric power to the McMinnville PUD grid. Electricity generated in this manner is considered to be “green power.”

There has been an issue with litter blowing from the landfill into trees that border the neighboring property. The landfill has recently installed a taller litter fence in order to mitigate this problem. The landfill also mistakenly sank a ground water monitoring well on the neighbor’s property but has offered to mitigate that situation.

(4) *The expected impact on the region’s recycling and waste reduction efforts;*

The proposed license covers putrescible waste, which has little recovery or recycling potential. A portion of the waste to be covered by the proposed NSL consists of large tin containers that are contaminated with sticky fruit residues. These tin containers are potentially recyclable; however, Metro staff has previously examined the recyclability of these items and found that the cost to adequately clean the containers presents a barrier to recycling. In addition, the fruit waste generated by Gray is not particularly suitable for composting because the fruit is treated with preservatives for the specific purpose of preventing decomposition. Thus, the waste authorized by the proposed license is not expected to impact the region’s recycling and waste reduction efforts.

(5) *The consistency of the designation with Metro’s existing contractual arrangements;*

The RLF is a Waste Management, Inc. facility. Thus, under Metro’s existing disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro’s contract operator for purposes of Metro’s disposal contract. Approval of the proposed license will not conflict with Metro’s disposal contract or any other of its 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*

The requested license is a renewal of the applicant’s previous two-year license. Gray has a good record regarding compliance with Metro regulations. To staff’s knowledge, the Gray also has a good compliance record with all applicable federal, state, and local requirements.

(7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The RLF is located near one of Gray’s other facilities located in Dayton, Oregon (near McMinnville). Gray routinely transports fruit to Forest Grove from its Dayton facility. The proposed NSL allows the company to backhaul its waste directly to RLF after making fruit deliveries to its Forest Grove facility. To staff knowledge, Gray has a good compliance record with regard to transporting this semi-liquid waste to the RLF.

In addition, the NSL moratorium set forth in Metro Code Section 5.05.035(h) does not apply to the renewal of this existing license.

3. Anticipated Effects

The effect of Resolution No. 08-3982 will be to issue a two-year NSL to Gray to deliver up to 500 tons per calendar year of putrescible waste to the RLF for disposal.

4. Budget Impacts

RLF is owned and operated by Waste Management, Inc. and this NSL will not impact Metro's obligations under its disposal contract. The regional system fee and excise tax will continue to be collected on in-Metro waste delivered to the RLF under the authority of the proposed NSL. The application under consideration is the renewal of an existing NSL (No. N-011-06) with a tonnage limit reduced by 500 tons. The financial impact of this NSL has already been factored into the budget and the impact of this slight tonnage limit reduction is expected to be negligible.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 08-3982, finding that the proposed license satisfies the requirements of Metro Code Section 5.05.035, and renewal of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

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