



METRO

Agenda

MEETING: METRO COUNCIL
DATE: May 7, 2009
DAY: Thursday
TIME: 2:00 p.m.
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. PROCUREMENT CARD PROGRAM AUDIT PRESENTATION Flynn

4. QUARTERLY MANAGEMENT REPORT

5. CONSENT AGENDA

5.1 Consideration of Minutes for the April 30, 2009 Metro Council Regular Meeting.

5.2 **Resolution No. 09-4047**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into An Intergovernmental Agreement with the Tualatin Hills Park and Recreation District for Joint Management of Cooper Mountain Nature Park.

6. ORDINANCES - SECOND READING

6.1 **Ordinance No. 09-1217A**, For the Purpose of Amending Metro Code Chapter 5.02 to Establish Metro's Solid Waste Disposal Charges and System Fees for Fiscal Year 2009-10. Collette

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for May 7, 2009 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, April 2 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmtv.org – (503) 288-1515 8:30 p.m. Sunday, April 5 2 p.m. Monday, April 6</p>
<p>Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, April 6</p>	<p>Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, April 4 11 p.m. Sunday, April 5 6 a.m. Tuesday, April 7 4 p.m. Wednesday, April 8</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 in which they are listed. If you have questions about the agenda, please call the Council Office at (503) 797-1540. 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 Council Office to be included in the decision record. Documents may be submitted by e-mail, fax, mail or in person at the Council Office. For additional information about testifying before the Metro Council, and for other public comment opportunities, please go to this section of the Metro website www.oregonmetro.gov/participate. For assistance per the American Disabilities Act (ADA), dial Metro’s TDD line (503) 797-1804 or (503) 797-1540 for the Council Office.

Agenda Item Number 3.0

PROCUREMENT CARD PROGRAM AUDIT PRESENTATION

Note: Audit presentation materials will be available the day of the meeting.

Metro Council Meeting
Thursday, May 7, 2009
Metro Council Chamber

Agenda Item Number 4.0

QUARTERLY MANAGEMENT REPORT

Note: Quarterly Management Report materials will be available the day of the meeting.

Metro Council Meeting
Thursday, May 7, 2009
Metro Council Chamber

Agenda Item Number 5.1

Consideration of Minutes for the April 30, 2009 Metro Council Regular Meeting.

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2009
Metro Council Chamber

Agenda Item Number 5.2

Resolution No. 09-4047, For the Purpose of Authorizing the Chief Operating Officer to Enter Into An Intergovernmental Agreement With the Tualatin Hills Park and Recreation District for Joint Management of Cooper Mountain Nature Park.

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2009
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING OFFICER)
TO ENTER INTO AN INTERGOVERNMENTAL) RESOLUTION NO. 09-4047
AGREEMENT WITH THE TUALATIN HILLS PARK)
AND RECREATION DISTRICT FOR JOINT) Introduced by Chief Operating Officer
MANAGEMENT OF COOPER MOUNTAIN) Michael J. Jordan, with the concurrence of
NATURE PARK) Council President David Bragdon
)

WHEREAS, Metro acquired more than 230 acres of property located in Washington County, Oregon, known as the Cooper Mountain Natural Area as part of the 1995 Open Spaces Bond Measure; and

WHEREAS, Metro worked with Tualatin Hills Park and Recreation District to develop the Cooper Mountain Master Plan and Management Recommendations (the “Master Plan”);

WHEREAS, on December 1, 2005, the Metro Council adopted Resolution No. 05-3643, “For the Purpose of Approving the Cooper Mountain Master Plan and Management Recommendations;” and

WHEREAS, the Washington County Board of Commissioners approved the Master Plan in April 2006;

WHEREAS, the Master Plan established a mission to “balance protection and restoration of the unique natural resources of the Cooper Mountain Natural Area with the public’s enjoyment of nature-based recreation”;

WHEREAS, using funding from the 2006 Metro Natural Areas Bond Measure, Metro will soon complete construction of extensive public improvements to open the Nature Park for public use and enjoyment;

WHEREAS, in order to efficiently and cost-effectively deliver high-quality service to the public from a local parks provider and to expand environmental education and natural area access for citizens, Metro and THPRD have negotiated the intergovernmental agreement attached as Exhibit A (the “IGA”);

WHEREAS, the IGA provides for joint management of the Nature Park consistent with the approved Master Plan, with the primary goal being protection of the Nature Park’s natural resources, enhancement and protection of wildlife habitat, and providing public recreation and education consistent with the foregoing; and

WHEREAS, the THPRD Board approved the IGA at its March 2, 2009 meeting; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to execute an intergovernmental agreement with the Tualatin Hills Park and Recreation District, substantially in the form attached hereto as Exhibit A, for joint management of Cooper Mountain Nature Park.

ADOPTED by the Metro Council this _____ day of _____, 2009.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

M:\attorney\confidential\16 BondMeas.2006\00 Program\05 Management IGAs\01 Cooper and Talbert\Reso 09-4047 Cooper - THPRD IGA 042309.doc

Exhibit A
Form of Intergovernmental Agreement

**Note: Exhibit A, Form of Intergovernmental Agreement can be obtained from Darka Stebivka,
Darka.Stebivka@oregonmetro.gov, or 503-797-1869**

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4047 AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TUALATIN HILLS PARK AND RECREATION DISTRICT FOR JOINT MANAGEMENT OF COOPER MOUNTAIN NATURE PARK.

Date: April 20, 2009

Prepared by: Teri Dresler
503-797-1790

BACKGROUND

Metro acquired more than 230 acres of property located in Washington County, Oregon, known as the Cooper Mountain Natural Area as part of the 1995 Open Spaces Bond Measure. Metro staff worked with Tualatin Hills Park and Recreation District to develop a Master Plan that was approved by Metro Council on December 1, 2005 as the Cooper Mountain Master Plan and Management Recommendations. In April 2006 the Washington County Board of Commissioners approved the Cooper Mountain Master Plan and Management Recommendations.

The Master Plan established a mission to “balance protection and restoration of the unique natural resources of Cooper Mountain Natural Area with the public’s enjoyment of nature-based recreation”. Using funding from the 2006 Metro Natural Areas Bond Measure, Metro will soon complete construction of extensive public improvements to open the Cooper Mountain Nature Park for public use and enjoyment.

Metro and THPRD wish to jointly manage the Nature Park consistent with the approved Master Plan, with the primary goal being protection of the Nature Park’s natural resources, enhancement and protection of wildlife habitat, and providing public recreation and education.

Metro and THPRD believe there are numerous benefits to managing this facility as a partnership. The benefits include: efficient delivery of high quality service from the local provider (THPRD), expansion of environmental education and natural area access for patrons, new hiking, wildlife watching, recreation opportunities, and cost savings for taxpayers.

The Intergovernmental Agreement clearly outlines the responsibilities and obligations of the parties with respect to the allowable uses, improvements, management, maintenance, restoration, and operation of the Nature Park. The THPRD Board approved the IGA at their March 2, 2009 meeting.

THPRD will be compensated for services provided according to an annual budget agreed upon by both parties in advance. The term of the IGA is for 10 years with an automatic extension for another 10 years if neither party wishes to terminate the agreement.

ANALYSIS/INFORMATION

1. **Known Opposition**

None

2. **Legal Antecedents**

1995 Metro Open Spaces Bond Measure approved by the voters on May 16, 1995.

Resolution No. 05-3643, "For the Purpose of Approving the Cooper Mountain Master Plan and Management Recommendations," approved, December 1, 2005.

2006 Metro Natural Areas Bond Measure approved by the voters on November 8, 2006.

3. **Anticipated Effects**

Metro staff has already begun the process of transitioning information about the property, the improvements, and Metro standards and policies. Effective with the opening of the Nature Park, Metro staff will work with THPRD staff to transition the property management activities from Metro to THPRD. THPRD will be immediately responsible for the daily operations of the built facilities, educational programming, overall operations, and property maintenance. Metro staff will coordinate with THPRD on educational offerings and volunteer activities that may be provided by Metro staff.

Metro and THPRD natural resource science staff will work together to develop a new Cooper Mountain Natural Resource Management Plan to replace the current plan that expires in 2010. During the first five years of this agreement, Metro staff will take the lead on natural resource management of the site, involving THPRD staff in this work as often as possible to transfer the skills developed on this site by Metro staff, to THPRD staff.

Metro staff will continue to be involved in the management of the Cooper Mountain Nature Park to the extent necessary and reasonable for as long as needed.

4. **Budget Impacts**

Metro has agreed through this IGA to pay THPRD on a quarterly basis for services provided at the Nature Park. The budget for the first year is agreed to be \$128,478. Each year thereafter, based on an annual meeting between Metro and THPRD, and within a 3% inflation factor, an agreed upon amount will be budgeted for services to be provided by THPRD at the Nature Park. Please see Attachment 1 to the Staff Report.

All renewal and replacement projects will be budgeted and paid for by Metro. Any capital improvement investments will be agreed upon in advance by both Metro and THPRD as to the substance of the improvement and how the costs for the improvement will be paid.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution 09-4047.

**Attachment 1 to Staff Report
Resolution 09-4047
Staffing and Compensation**

Tualatin Hills Park & Recreation District - Cooper Mountain Nature Park - Operation & Maintenance Costs

<u>Tualatin Hills Park & Recreation</u>			<u>Metro</u>		
Description	FTE	Salary Costs	Description	FTE	Salary Costs
Maintenance & Operations			Maintenance & Operations		
Park Ranger	1	\$ 59,230	Supervisor	0.5	\$ 42,500
Worker - seasonal	0.5	\$ 14,276	Park Ranger	1	\$ 64,000
building maintenance/cleaning		\$ 3,960	Seasonal Worker	0.5	\$ 10,000
mowing/heavy equip support		\$ 500			
demand maint support/repair		\$ 950			
Trail maintenance		\$ 2,500	Trail Maintenance		\$ 2,500
Operating supplies		\$ 4,500	Operating Supplies		\$ 11,000
Utilities			Utilities		
water/sewer		\$ 625	water/sewer		\$ 625
electric		\$ 2,000	electric		\$ 2,000
gas		\$ 625	gas		\$ 625
telecom		\$ 1,500	telecom		\$ 1,500
garbage/recycle		\$ 2,025	garbage/recycle		\$ 2,025
Sonitrol Security		\$ 1,728			
Contract services (building related)		\$ 800	Misc. supplies, vehicle, fuel		\$ 6,000
Hazard tree contractors		\$ 4,500	Contracted services		\$ 20,000
Vehicle rental/maintenance		\$ 800	Brush cutting, spot weed control		\$ 3,000
Staff development		\$ 500	Staff development		\$ 500
Environmental Education			Environmental Education		
Program Coordinator	0.5	\$ 16,710			
Env. Educator - seasonal	0.25	\$ 6,050			
General operating		\$ 3,000			
Events budget		\$ 1,000			
Mileage		\$ 700			
Total		\$ 128,478	Total		\$ 166,275

Agenda Item Number 6.1

Ordinance No. 09-1217, For the Purpose of Amending Metro Code Chapter 5.02 to Establish Metro's Solid Waste Disposal Charges and System Fees for Fiscal Year 2009-10.

Metro Council Meeting
Thursday, May 7, 2009
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 09-1217A
METRO CODE CHAPTER 5.02)
TO ESTABLISH METRO'S SOLID WASTE) Introduced by David Bragdon, Council President
DISPOSAL CHARGES AND SYSTEM FEES)
FOR FISCAL YEAR 2009-10)

WHEREAS, Metro Code Chapter 5.02 establishes charges for disposal of solid waste at Metro South and Metro Central transfer stations; and,

WHEREAS, Metro Code Chapter 5.02 establishes fees assessed on solid waste generated within the District or delivered to solid waste facilities regulated by or contracting with Metro; and,

WHEREAS, Metro's costs for solid waste services and programs have changed; and

WHEREAS, pursuant to its charge under Metro Code section 2.19.170, the Solid Waste Rate Review Committee has reviewed the proposed FY 2009-10 budget for the Solid Waste Fund, rate methodology, cost allocations and rate management options; and whose recommendations have been reviewed by the Metro Council; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

(1) The following charges for each ton of solid waste delivered for disposal:

- (A) A tonnage charge of ~~\$51.6549.00~~ per ton,
- (B) The Regional System Fee as provided in Section 5.02.045,
- (C) An enhancement fee of \$.50 per ton, and
- (D) DEQ fees totaling \$1.24 per ton;

(2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and

(3) The following Transaction Charge for each Solid Waste Disposal Transaction:

(A) For each Solid Waste Disposal Transaction completed at staffed scales, the Transaction Charge shall be ~~\$10.008.50~~.

(B) For each Solid Waste Disposal Transaction that is completed at the automated scales, the Transaction Charge shall be \$3.00.

(C) Notwithstanding the provisions of subsection (A), the Solid Waste Disposal Transaction Charge shall be \$3.00 in the event that a transaction that is otherwise capable of being completed at the automated scales must be completed at the staffed scales due to a physical site limitation, a limit or restriction of the computer operating system for the automated scales, or due to a malfunction of the automated scales.

(b) Notwithstanding subsection (a) of this section,

(1) There shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing 440 pounds or less of ~~\$2825~~, which shall consist of a minimum Tonnage Charge of ~~\$18.00+6.50~~ plus a Transaction Charge of ~~\$10.008.50~~ per Transaction.

(2) The Chief Operating Officer may waive collection of the Regional System Fee on solid waste that is generated outside the District, and collected by a hauler that is regulated by a local government unit, and accepted at Metro South Station or Metro Central Station.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(d) The Director of the Solid Waste & Recycling Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

Section 2. Metro Code Section 5.02.045 is amended to read:

5.02.045 System Fees

(a) The Regional System Fee shall be ~~\$17.53+17.48+6.04~~ per ton of solid waste, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

(c) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

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(d) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

(e) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

Section 3. Metro Code Section 5.02.047 as amended by Ordinance No. 07-1147B effective July 1, 2009 is amended to read:

5.02.047 Regional System Fee Credits

Any person delivering Cleanup Material Contaminated by Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances shall be allowed a credit in the amount of \$~~15.03~~14.98~~13.54~~ against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.

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Section 4. Effective Date

Pursuant to Metro Code section 7.01.020(e)(1), the provisions of this ordinance shall become effective on August 6, 2009, or 90 days after adoption by Metro Council, whichever is later.

ADOPTED by the Metro Council this _____ day of _____, 2009.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Anthony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 09-1217
METRO CODE CHAPTER 5.02)
TO ESTABLISH METRO'S SOLID WASTE) Introduced by David Bragdon, Council President
DISPOSAL CHARGES AND SYSTEM FEES)
FOR FISCAL YEAR 2009-10)

WHEREAS, Metro Code Chapter 5.02 establishes charges for disposal of solid waste at Metro South and Metro Central transfer stations; and,

WHEREAS, Metro Code Chapter 5.02 establishes fees assessed on solid waste generated within the District or delivered to solid waste facilities regulated by or contracting with Metro; and,

WHEREAS, Metro's costs for solid waste services and programs have changed; and

WHEREAS, pursuant to its charge under Metro Code section 2.19.170, the Solid Waste Rate Review Committee has reviewed the proposed FY 2009-10 budget for the Solid Waste Fund, rate methodology, cost allocations and rate management options; and whose recommendations have been reviewed by the Metro Council; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

(1) The following charges for each ton of solid waste delivered for disposal:

(A) A tonnage charge of ~~\$51.6549.00~~ per ton,

(B) The Regional System Fee as provided in Section 5.02.045,

(C) An enhancement fee of \$.50 per ton, and

(D) DEQ fees totaling \$1.24 per ton;

(2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and

(3) The following Transaction Charge for each Solid Waste Disposal Transaction:

(A) For each Solid Waste Disposal Transaction completed at staffed scales, the Transaction Charge shall be ~~\$10.008.50~~.

(B) For each Solid Waste Disposal Transaction that is completed at the automated scales, the Transaction Charge shall be \$3.00.

(C) Notwithstanding the provisions of subsection (A), the Solid Waste Disposal Transaction Charge shall be \$3.00 in the event that a transaction that is otherwise capable of being completed at the automated scales must be completed at the staffed scales due to a physical site limitation, a limit or restriction of the computer operating system for the automated scales, or due to a malfunction of the automated scales.

(b) Notwithstanding subsection (a) of this section,

(1) There shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing 440 pounds or less of ~~\$2825~~, which shall consist of a minimum Tonnage Charge of ~~\$18.00+6.50~~ plus a Transaction Charge of ~~\$10.00+8.50~~ per Transaction.

(2) The Chief Operating Officer may waive collection of the Regional System Fee on solid waste that is generated outside the District, and collected by a hauler that is regulated by a local government unit, and accepted at Metro South Station or Metro Central Station.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(d) The Director of the Solid Waste & Recycling Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

Section 2. Metro Code Section 5.02.045 is amended to read:

5.02.045 System Fees

(a) The Regional System Fee shall be ~~\$17.48+6.04~~ per ton of solid waste, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

(c) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

(d) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

(e) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

Section 3. Metro Code Section 5.02.047 as amended by Ordinance No. 07-1147B effective July 1, 2009 is amended to read:

5.02.047 Regional System Fee Credits

Any person delivering Cleanup Material Contaminated by Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances shall be allowed a credit in the amount of \$~~14,9813.54~~ against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.

Section 4. Effective Date

Pursuant to Metro Code section 7.01.020(e)(1), the provisions of this ordinance shall become effective on August 6, 2009, or 90 days after adoption by Metro Council, whichever is later.

ADOPTED by the Metro Council this _____ day of _____, 2009.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Anthony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 09-1217 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO ESTABLISH METRO'S SOLID WASTE DISPOSAL CHARGES AND SYSTEM FEES FOR FISCAL YEAR 2009-10

Date: April 30, 2009

Prepared by: Douglas Anderson

EXECUTIVE SUMMARY

Adoption of the FY 2009-10 Solid Waste Rate Ordinance would implement the rates shown in **boldface** in the following table. As a result, on August 6, 2009, the Metro tip fee would rise by \$4.95 per ton to \$80.70 and the Regional System Fee collected from privately-owned disposal sites would rise by \$1.44 to \$17.48 per ton.

Certain rate reduction options are built into the rates. Absent these reductions, the tip fee would increase \$10.67. The options are described at length in this staff report. The Council may implement or modify some, none or all of the reduction options. Modifications will require that the Rate Ordinance be amended.

**Table 1. Solid Waste Disposal Charges
Effective August 6, 2009 through August 31, 2010**

Solid Waste Rates	Current Rates	This Ordinance	Change
Transaction Fees			
Staffed scales	\$8.50	\$10.00	\$1.50
Automated scales	\$3.00	\$3.00	- 0 -
Per-ton rates:			
Tonnage charge	\$49.00	\$51.65	\$2.65
Regional System Fee	\$16.04	\$17.48	\$1.44
Excise tax	\$8.97	\$9.83	\$0.86
DEQ & host fees	\$1.74	\$1.74	- 0 -
Metro Tip Fee	\$75.75	\$80.70	\$4.95
Minimum load charge	\$25	\$28	- 0 -

Note

Boldface type indicates the rates that are amended by this ordinance.

These rates reflect a mild departure from Metro's history of recovering the full solid waste operating budget from rate revenue. The purpose of the departure this year is to implement a smooth rate path in the near term, meeting the Metro Council's adopted rate criterion that "rate adjustments be predictable and orderly." A full explanation is provided in this staff report.

These rates reflect most, but not all, of the recommendations of the Rate Review Committee. The reasons for the departure from the committee's recommendations are set forth at length in this staff report.

BACKGROUND

The Rate Environment in 2009

A number of features distinguish Metro's rate-making environment this year. Among those with the greatest impact:

- Retirement of the solid waste revenue bonds eliminated over \$2.3 million of debt service costs as well as a number of constraints in the form of bond covenants.
- A new long-term waste transport contract that will take effect January 1, 2010.
- The sharpest and deepest economic downturn since the early 1980s when the Portland region experienced net out-migration for the first time since World War II.
- Related to the point above, the most significant and rapid reduction in tonnage since the closure of St. Johns landfill in the early 1990s.

Within this environment, the Chief Operating Officer's proposed budget included almost \$1 million of reductions to solid waste programs and personnel costs.

Full-Cost Recovery Rates

Metro's solid waste rate model estimates the solid waste rates that are needed to recover the full cost of the Solid Waste Fund operating budget. The model establishes rates for Metro's disposal functions based on the "user pays" principle and establishes the rates that recover program costs on the "beneficiary pays" principle. The rates meet the requirements of state law on the use of solid waste rate revenue, the Metro Charter and Metro's financial and capital asset management policies and overall, follow sound rate-making methodology. Since the bonds have been defeased, bond covenants no longer constrain decision making, although many of the covenants are also reflected in the financial policies.

Under the full-cost recovery rate model, the FY 2009-10 tip fee would need to be \$10.67 (14 percent) higher than the current rate. The staffed transaction fee would rise \$1.76 (21 percent) and the Regional System Fee by \$2.98 (19 percent). (In addition, although not part of this ordinance, the Metro excise tax will rise by \$0.86, or 9.6 percent.)

Rate Reduction Options

These increases are larger than any that Metro has faced in the last two decades. The current economic environment has exacerbated their effect for several of Metro's stakeholders — local governments that set curbside collection rates, in particular.

Metro's adopted solid waste rate policies seek to ensure "predictable and orderly rate adjustments" when possible. About half of the potential increases for FY 2009-10 result solely from the decline in tonnage. In the next year Metro will realize a \$0.93 per ton reduction in its disposal costs, the result of a previously negotiated change with its landfill contractor. These conditions suggest that the sharp increases for FY 2009-10 may be a short-term spike and warrant consideration of special measures to manage the rates on a smooth path through these rocky times.

In response to the adopted rate criteria and the conditions described above, staff prepared a number of one-time rate reduction options for consideration during the rate setting process. If implemented, these options would cut the FY 2009-10 increases by more than half. The rates shown in the Executive Summary and the Rate Ordinance reflect implementation of these reduction options.

The options fall into four conceptual categories:

- **Revenue enhancement.** Alternative sources of revenue reduce the need for revenue from the tip fee.
- **Cost reductions.** Reducing the budget reduces the need for revenue.
- **Use of uncommitted Solid Waste Fund balance:**
 - To backfill budget appropriations. Uses fund balance rather than rate revenue when an appropriation is required by contract or business practice, but with a low likelihood of expenditure.
 - Instead of rate revenue. Substitutes fund balance for rate revenue. This option is appropriate for one-time or limited duration expenditures, but not for ongoing expenses.

Staff identified rate reduction options based on the following objectives and criteria:

- Provide material ratepayer relief while maintaining fiscally prudent management practices.
- Do not constrain the ability to perform mission-critical or priority work.
- Do not foreclose future opportunities.

In addition, each option had to pass a key screening criterion: is the option “pay-as-you-go,” or if not, is it a one-time or limited duration event?

The resulting options are:

Enhance Revenue: Options

- Recognize minimum load revenue
The higher minimum load threshold was implemented this year to continue toward right-pricing of self-haul and to provide an economic incentive to consolidate loads. Because there has been little load consolidation, Metro has realized higher net revenue due to capture of more loads weighing less than the threshold. For FY2009-10 the expected overage is \$570,000. Explicit recognition as program revenue provides an offset to the tip fee.
- Move effective date to August 1
The two-month delay between the start of the fiscal year and the effective rate date produces a revenue gap that is recovered over the last ten months of the year. Moving the effective date one month earlier reduces this revenue gap and can be implemented timely. The additional revenue for August 2009 is projected to be \$241,000. There is not sufficient time to implement rates to cover the two month gap.

Reduce Costs: Options

The Chief Operating Officer’s proposed budget includes over \$976,000 of program and personnel reductions. Documentation of these reductions has been provided with the budget materials.

Backfill Revenue Appropriations: Options

- Recovery bonus
By contract, Metro must appropriate funds to cover recovery bonuses for its station operator. It is unlikely these bonuses will be paid. Under this option, fund balance would be appropriated (rather than rate revenue) as the source of funds—and expended only if the bonus is earned.
- Recover expected expenditures
With defeasance of the bonds Metro is now freer to set rates to recover expected expenditures, rather than budgeted expenditures. There are two ways to implement this option: appropriate fund balance to

cover the difference between expected and budgeted expenditures, or reduce the budget to expected expenditures. Because the underexpenditure rate is projected at a categorical level rather than by a position or line item level, and considering the nearly \$1 million line item reductions made in the proposed budget, the Chief Operating Officer recommends the backfill option.

Use Fund Balance Instead of Rate Revenue

- Cover selected interim transport costs
 Cover selected costs of the interim transport contract from uncommitted fund balance. Variations on this option include paying all fixed costs of the interim contract, or only the fixed costs that exceed those in the old contract; and to cover expenses for two months, until the new rates take effect, or until January 1, 2010, when the new contract was originally scheduled to take effect. The rate impact ranges from \$0.16 to \$0.74 for these options. The option that staff implemented for the Rate Ordinance covers all fixed costs of the interim contract during July and August (about \$102,000), having a rate impact of \$0.25.
- Cover July revenue gap
 The two-month delay between the start of the fiscal year and the effective rate date produces a revenue gap that is recovered over the last ten months. It is not possible to move the effective date to July 1 this year, but the revenue gap can be covered from uncommitted fund balance.
- Fund Renewal and Replacement deposit
 Make the annual contribution to the Renewal and Replacement sinking fund from uncommitted fund balance rather than rate revenue.

The individual and total effect of all rate options is shown in the following table. Taken together, staff’s recommended options reduce the revenues required from rates by \$4,200,000, thereby shrinking the potential tip fee increase by \$5.72 per ton:

Enhance revenue	\$811,000
Cost Reductions:	\$976,000
Backfill appropriations	\$1,325,000
<u>“Instead of”</u>	<u>\$1,088,000</u>
Total	\$4,200,000

Table 2. Rate Reduction Options and Derivation of Proposed FY 2009-10 Rates

	Staffed Trn.Fee	Tip Fee			Total
		Ton.Chg	RSF	Other*	
Current Rates	\$8.50	\$49.00	\$16.04	\$10.71	\$75.75
Full-Cost FY 2009-10 Rates	\$10.26 **	\$55.83	\$19.02	\$11.57	\$86.42
Change	\$1.76	\$6.83	\$2.98	\$0.86	\$10.67
Rate Reduction Options					
Enhance Revenue					
Minimum Load Revenue	-	(\$1.38)	-	-	(\$1.38)
Move Effective Date to August 1	(\$0.17)	(\$0.32)	(\$0.18)	-	(\$0.50)
Subtotal	(\$0.17)	(\$1.70)	(\$0.18)	-	(\$1.88)
Reduce Costs					
<i>Included in full-cost rates above</i>	-	-	-	-	-
Use Fund Balance to Backfill Appropriation					
Recovery Bonus	-	(\$0.24)	-	-	(\$0.24)
Recover Expected Expenditure	(\$0.24)	(\$0.05)	(\$1.22)	-	(\$1.27)
Subtotal	(\$0.24)	(\$0.29)	(\$1.22)	-	(\$1.51)
Use Fund Balance Instead of Rate Revenue					
Interim trucking contract	-	(\$0.25)	-	-	(\$0.25)
Cover July revenue gap	(\$0.13)	(\$0.26)	(\$0.14)	-	(\$0.40)
Renewal & Replacement deposit	-	(\$1.68)	-	-	(\$1.68)
Subtotal	(\$0.13)	(\$2.19)	(\$0.14)	-	(\$2.33)
Grand Total	(\$0.54)	(\$4.18)	(\$1.54)	-	(\$5.72)
Rates with Reduction Options	\$9.72 **	\$51.65	\$17.48	\$11.57	\$80.70
<i>Change from current rates</i>	<i>\$1.22</i>	<i>\$2.65</i>	<i>\$1.44</i>	<i>\$0.86</i>	<i>\$4.95</i>

* Metro excise tax, DEQ fees and the host fee.

** Transaction fees are rounded up to the nearest 50¢, in this case, to \$10.

The Metro Council has the option of implementing or modifying some, none or all of these options. The Rate Ordinance reflects implementation of all eight as summarized above. If the Council decides to eliminate or change any of these options, the Rate Ordinance must be amended.

A Note on the Uncommitted Solid Waste Fund Balance

The beginning FY 2009-10 solid waste fund balance is currently projected to have \$4.4 million in uncommitted resources above the targeted and fully funded reserve accounts. The “Backfill” options above would require appropriation of \$1.325 million of these dollars (but with low likelihood of actual expenditure). The “Instead of” options above would require appropriation of \$1.088 million of these dollars with near-certainty they will be spent.

The Work of the Rate Review Committee

This year, the Rate Review Committee focused on the options presented above. The committee worked through each option individually, and as a group. The committee’s recommendations were made by motion and vote on each option.

The Rate Review Committee recommended that the Metro Council adopt all of the rate reduction options as presented above, *with two exceptions*, both involving the use of uncommitted fund balance in lieu of rate revenue:

- Covering the July revenue gap
- Renewal and Replacement deposit

In both cases, the committee recommended that Council move forward on the option, but recommended a different method of implementing it. The difference affects the rates and the uses of fund balance.

An extended discussion of the differences, the effect on the rates and the uses of fund balance, the Chief Operating Officer’s recommendations, and the Council’s options follow in the next two sections.

The July Revenue Gap

Background

A revenue gap arises in July 2009 from the fact that Metro’s new costs commence with the beginning of the fiscal year, but the new rates do not take effect until September 1. In most years when the rate changes are minimal, the two-month difference in revenue is negligible. However, for FY 2009-10, when the difference between the full-cost tip fees is almost \$11 per ton, the two month delay translates to a revenue gap exceeding \$1 million. Under a full-cost recovery system, this revenue must be made up in the last ten months of the year.

This gap can be narrowed by implementation of other rate reduction options. If Council implements all of the reduction options identified by staff, the two-month revenue gap would be cut about in half. The following analysis is based on implementation of all other options identified in this report as set forth in Table 2.

Staff’s Recommendation

Staff recommended that uncommitted Solid Waste Fund balance be used to cover the revenue gap in July. In staff’s implementation, the fund balance would be allocated across each rate component according to the amount of revenue shortfall. For example, the Regional System Fee shortfall is projected to be \$147,000 in July. Covering that amount from the fund balance would result in a \$0.14 reduction from the full-cost Regional System Fee. Table 3 shows the potential reduction in each rate if the fund balance is used to cover the July shortfall.

Table 3. July 2009 Revenue Shortfalls & Rate Effects: Staff’s Implementation

	Transaction Fee	Tonnage Charge	Regional System Fee	Tip Fee	Total July Shortfall
Revenue shortfall	\$26,600	\$117,400	\$147,000	\$264,400	\$291,000
Rate effect	\$0.13	\$0.26	\$0.14	\$0.40	----

The Rate Review Committee’s Recommendation

The Rate Review Committee agreed with the use of uncommitted fund balance to make up the revenue gap, but differed on which rates should be reduced. Specifically, the committee recommended that the funds be used to offset the Regional System Fee only, rather than all rate components as shown in Table 3.

If all \$291,000 is used against the Regional System Fee, the total reduction would be \$0.32 on the tip fee and no reduction of the Transaction Fee. The difference stems from the fact that the \$291,000 is spread over all regional tonnage. The committee’s recommendation is quantified in Table 4.

Table 4. July 2009 Revenue Shortfalls & Rate Effects: Rate Review Committee’s Implementation

	Transaction Fee	Tonnage Charge	Regional System Fee	Tip Fee	Total July Shortfall
Revenue shortfall	- 0 -	- 0 -	\$291,000	\$291,000	\$291,000
Rate effect	- 0 -	- 0 -	\$0.32	\$0.32	----

Basis of the Committee’s Recommendation

The committee’s recommendation is based two premises:

- o The region “owns” the uncommitted Solid Waste Fund balance; and therefore,
- o Use of the uncommitted balance should provide rate relief to the greatest number of rate payers.

Following is an explanation of the committee’s thinking.

Sources and Uses of Uncommitted Fund Balance: the Rate Review Committee Position. The uncommitted Solid Waste Fund balance has not been raised for specific purposes, but rather has accumulated over several years from many sources: efficiency improvements that have reduced costs, underspending on programs, extra transaction revenue when traffic at Metro stations surged, interest earnings that exceeded budget estimates, unanticipated fines and forfeitures, and so forth. However, it is not possible to quantify exactly how much each source has contributed to the fund balance. Therefore, the committee argued, the fund balance should be viewed as a regional resource, “owned” by the public. If Metro were to use this fund balance to reduce rates, the committee argued further, then it should be used where it provides the broadest benefit. Because the Regional System Fee is levied against all disposal from the region, the committee concluded that rate relief would reach the greatest number of rate payers if it offset the Regional System Fee.

For these reasons, the committee supported covering the July revenue gap with uncommitted fund balance, but disagreed with reducing all rate components.

Summary and Conclusion

The Chief Operating Officer stands by his original recommendation to reduce each rate component, as shown in Table 3. This recommendation is based on choosing options that provide the greatest ratepayer relief while maintaining fiscally prudent management practices. In addition, the rate model is based on a distribution of costs by function, a principle that staff recommends be followed in assigning any reductions.

In monetary terms the difference between the two recommendations is small — \$0.08 on the tip fee according to Tables 3 and 4, which translates to less than a penny per month on the residential curbside rate. Therefore, the tradeoff is more about principles than dollars: does the Council want to realize the higher rate reduction or extend a lower reduction to a broader set of ratepayers?

The Chief Operating Officer recognizes that the Council has not established any policies that would guide decisions on the use of uncommitted fund balances based on the distribution of benefits, as the Rate Review Committee has suggested for this option. Bond covenants have precluded this discussion in prior years. Accordingly, the Council may choose to begin that discussion with the decision on this year’s rates, or direct staff to begin that discussion in a more general context at a later date.

However, before the Council makes its decision on the “July” option, it is encouraged to consider it together with the following “Renewal and Replacement” option. For that option, the Council will find that the Rate Review Committee has based its recommendation largely on the same premises as articulated above, but with different effects on the rate, fund balance, and financial policies.

If the Council agrees to implement the Rate Review Committee’s recommendation, the Rate Ordinance must be amended from the proposed version.

The Renewal and Replacement Deposit

Background

Each year Metro makes a deposit into its sinking fund for renewal and replacement of solid waste capital assets. Historically (and as a requirement of the bond covenants), this deposit was made from rate revenue. Maintaining a fully-funded capital renewal account is good business practice and fulfills Metro’s adopted Financial and Capital Asset Management policies.

Staff’s Recommendation

Staff recommended that this year’s deposit into the Renewal and Replacement Account be made from the uncommitted Solid Waste Fund balance rather than rate revenue. Because the whole deposit is normally recovered from the Tonnage Charge at Metro transfer stations, the Tonnage Charge would be the only rate affected in staff’s implementation. The reduction would be \$1.68 from the full-cost recovery rate.

The Rate Review Committee’s Recommendation

The committee recommended that Metro skip this year’s deposit. The rate effect of this recommendation would be the same \$1.68 on the Tonnage Charge. However, the amount of the scheduled deposit, \$694,700, would remain in the uncommitted fund balance.

The committee’s recommendation is based two premises:

- Low risk relative to the result, and
- Equity.

Following is an explanation of the committee’s thinking.

Low Risk. The Renewal and Replacement Account is fully funded for the FY 2009-10 capital demands. One payment, skipped now, can be made up with higher payments later when economic conditions are more favorable. Therefore there is low financial risk to the capital account from foregoing one payment at this time. The rate effect, however, is relatively high: \$1.68 reduction from the tip fee.

Equity. Metro recovers its capital costs from Metro transfer station customers only. The committee agrees this is appropriate, as the users who cause the capital to depreciate are paying for its upkeep. However, the committee argues that paying for Metro’s capital costs from the uncommitted fund balance constitutes an unfair subsidy, based on the same position it took toward the uncommitted fund balance under the “July Revenue Gap” option: the region “owns” these resources and they should be used on programs and projects with a broad regional benefit.

During discussion on the motion to skip the deposit, the committee, made aware of Metro’s financial policies, appeared to have consensus on a contingent recommendation: if the Metro Council chooses to make the renewal and replacement deposit from the uncommitted balance, then the entire rate effect

should be taken against the Regional System Fee, consistent with the recommendation for the “July” option, to ensure that any rate reduction is shared most widely among ratepayers.

A comparison among all three implementation options is shown in Table 5. The committee’s contingent recommendation has a large impact, adding \$0.94 back onto the tip fee.

Table 5. Effects of the Renewal and Replacement Options

Recommendation	Transaction Fee	Tonnage Charge	Regional System Fee	Tip Fee	FY 2009-10 Draw on Fund
Staff	- 0 -	\$1.68	- 0 -	\$1.68	\$694,700
RRC—“Skip”	- 0 -	\$1.68	- 0 -	\$1.68	- 0 -
RRC—contingent	- 0 -	- 0 -	\$0.74	\$0.74	\$694,700
<i>Difference between recommendations</i>				<i>(\$0.94)</i>	<i>\$694,700</i>

Summary and Conclusion

The Chief Operating Officer stands by his original recommendation to make the renewal and replacement deposit from the uncommitted Solid Waste Fund balance. This recommendation is based on the Council’s adopted financial and capital asset management policies, and the Council’s budget direction to follow those policies. The Rate Ordinance reflects this recommendation.

The Chief Operating Officer recognizes that the Council has not established any policies that would guide decisions on the use of uncommitted fund balances based on equity or the distribution of benefits, as the Rate Review Committee has suggested for this option. In fact, Metro’s only policy on uncommitted balances comes in the form of a guideline within Capital Asset Management Policy No. 8: “Fund Balances above established reserve requirements may be used for one-time expenditures such as capital equipment or financing of capital improvements.” Accordingly, the Council may choose to begin that discussion with the decision on this year’s rates, or direct staff to begin that discussion in a more general context at a later date.

If the Council agrees to implement the Rate Review Committee’s contingent recommendation, the Rate Ordinance must be amended from the proposed version. If the Council agrees to implement the committee’s “Skip” recommendation, no changes to the Rate Ordinance are needed the account balances will be handled within the budget.

INFORMATION/ANALYSIS

- 1. Known Opposition.** Subject to the disclaimer that the Rate Ordinance implements staff’s original recommendation, and not that of the Rate Review Committee on two of the rate reduction options, there is no known opposition.
- 2. Legal Antecedents.** Metro’s solid waste rates are set in Metro Code Chapter 5.02. Any change in these rates requires an ordinance amending Chapter 5.02. Metro reviews solid waste rates annually, and has amended Chapter 5.02 when changes are warranted.
- 3. Anticipated Effects:** If adopted, this ordinance would raise the tip fee, staffed transaction fee, Regional System Fee and minimum load charge by the amounts indicated in Table 1.

The average effect on the residential customer’s curbside collection bill would be \$0.31 per month.

Owners of private solid waste facilities will pay an additional \$1.44 in Regional System Fee (and, unrelated to this ordinance, an additional \$0.86 in Metro excise tax) on solid waste delivered to a

landfill for disposal — a total of \$2.30 more in Metro fees and taxes. However, insofar as many private facility operators use the Metro tip fee as a price marker, these same facilities would be able to consider tip fee increases similar to the \$4.95 increase in the Metro rates. A facility that exactly matches Metro’s price increases will have the \$2.65 difference (\$4.95 tip fee increase minus the \$2.30 higher system fee and excise tax) to cover cost increases in its own operations. As cost structures vary from facility to facility, no general statement can be made about the adequacy or inadequacy of this number for covering increases in private facility operating costs.

- 4. Budget Impacts.** This ordinance implicitly affects the sources of funds for FY 2009-10 Solid Waste Fund expenditures and will require adjustments between enterprise revenue and fund balance appropriations as follows:

Additional enterprise revenue	\$811,000
Reduction of unappropriated fund balance:	
Backfill appropriations	\$1,325,000
<u>“Instead of”</u>	<u>\$1,088,000</u>
Change in appropriated fund balance	\$2,413,000

These changes can be made after the budget has been reviewed by the Tax Supervising and Conservation Commission, but before the budget is approved.

RECOMMENDATION

The Chief Operating Officer recommends adoption of Ordinance No. 09-1217.

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