

**Metro Solid Waste Advisory Committee (SWAC)**  
Meeting Minutes  
Special Meeting, April 12, 2000

**Members / \*Alternates**

Councilor Ed Washington, Chair  
Ralph Gilbert, East County Recycling disposal sites)  
David White, Oregon Refuse & Recycling Association (at-large haulers)  
Steve Schwab, Sunset Garbage Collection (Clackamas County haulers)  
John Lucini, SP Newsprint (recycling end users)  
Merle Irvine, Willamette Resources, Inc. (disposal sites)  
Tanya Schaefer, Multnomah County citizen  
JoAnn Herrigel, City of Milwaukie (Clackamas County cities)  
Susan Keil, City of Portland  
Dave Hamilton, Norris & Stevens (business ratepayers)  
Mike Misovetz, Clackamas County citizen  
Glenn Zimmerman, Wood Waste Reclamation (composters)  
Jeff Murray, Far West Fibers (recycling facilities)  
Sarah Jo Chaplen, City of Hillsboro (Washington County cities)  
Mike Leichner, Pride Disposal (Washington County haulers)  
Lynne Storz, Washington County  
Rick Winterhalter, Clackamas County  
\*Tam Driscoll, City of Gresham (East Multnomah County and cities)  
Mike Miller, Gresham Sanitary Service, Multnomah County haulers  
\*Dean Kampfer, Waste Management (disposal sites)

**Non-voting Members Present**

Chris Taylor, Oregon Department of Environmental Quality  
Terry Petersen, REM  
Doug DeVries, STS

**Metro and Guests**

Councilor David Bragdon	Vicki Kolberg, REM
Councilor Rod Park	Tim Raphael, Celilo Group
Leann Linson, REM	Eric Merrill, Waste Connections
Doug Anderson, REM	Joe Wonderlick, Merina, McCoy & Co.
Meg Lynch, REM	Adam Winston, Waste Management
Tom Chaimov, REM	Cherie Yasami, ASD
John Houser, Metro Council	Ray Phelps, Ray Phelps Consultants
Vince Gilbert, East County Recycling	Bill Metzler, REM
Easton Cross, Easton Cross Consulting	Tom Wyatt, Allied/BFI
Greg Nokes, The Oregonian	Connie Kinney, Metro
Doug Drennen, DCS	
Steve Kraten, REM	

Councilor Washington greeted the committee and introduced Tanya Schaefer as the new citizen representative for Multnomah County. The rest of the committee members introduced themselves.

Chair Washington said the council has been working diligently on the ordinance that would change the excise tax. Councilor Park will continue the discussion of the change that began at the March SWAC meeting. Chair Washington thanked the committee members for coming to today's special meeting.

Councilor Park said that approximately 70% of Metro's General Fund come from the solid waste industry. He said some of the problems associated with this funding are that it is sensitive to disposal rates and to tonnage forecasts, and consequently rises and falls. One of the things we can control to some degree is our rate of recycling, and we are increasing our efforts to boost regional recycling activity to meet our goal of 56% by 2005. The "Catch 22," so to speak, is that as we reduce tonnage, Metro's revenue decreases.

Based on the assumption that Metro needs a certain amount of funds in order to carry out its Charter mission, he said he believes we have found a plan to ensure sufficient funds to do that. The plan is revenue neutral. The current budget sets solid waste excise tax revenue needs at \$5.7 million, and we will have the ability to raise or lower that amount based on the Consumer Price Index. He said this plan endeavors to align tax policy with recycling policy.

Councilor Park said that this ordinance would address the question of whether all waste (i.e., what actually gets buried in the landfill) should be taxed equally. Additionally, it would ensure that Metro does not receive a windfall if our recycling efforts do not reach achieve our recovery goal.

Mr. Petersen addressed the committee members, saying the councilors would like to get comments on the general concepts that are in the draft ordinance. Among the questions he would like SWAC to consider are:

- Is it appropriate to put the excise tax revenue needs in the Metro Code?
- Is it appropriate to tax landfilled waste rather than mixed waste?
- Is it appropriate to consider the recycling rate when we estimate what the tonnage will be?

He said because it is hard for a group to simply examine concepts, staff has taken the drafted ordinance, and made its best calculations of what the excise tax would be if the ordinance is adopted as is.

Mr. Petersen quickly went over the three fees and taxes that Metro charges:

- Regional System Fee, which pays for Metro's solid waste program and waste reduction activities. Raises about \$15 million at \$12.90 per ton.
- Excise tax of 8-1/2%, which is levied on all Metro activities, including solid waste disposal, Expo Center, Convention Center, and which funds Metro's general government activities (i.e., Council, support services, transportation, parks. Raises \$5.7 million.
- Tipping fee of \$62.50 per ton, which is charged at both Metro transfer stations (includes the Regional System Fee and the Excise tax). If the excise tax percentage is converted into a per-ton rate, it would be \$5.03 per ton.

Mr. Petersen introduced Tom Chaimov, REM's senior management analyst. Mr. Chaimov began his presentation by saying the ordinance is intended to raise \$5.7 million dollars in excise tax from solid waste, with a focus on encouraging the appropriate actions in terms of recovery. (He said there is also an issue of "special wastes," for which you need a DEQ permit for disposal, and it is not clear whether those are intended to be taxed or exempt from tax.) There are still some data that are not available in the time frame required by the ordinance, for example, actual year-end tonnage.

Mr. Chaimov said the key assumptions that underlie the numbers he will show are:

- Targeted regional recovery rate using source separation (going upstream and taking waste out of the waste stream, as opposed to adjusting individual facilities' recovery rates to determine a regional recovery rate), which is assumed to be 43%.
- Calendar year 1999 actual tonnage.
- The total expected tax revenue based on the tonnage forecast for 2000-2001, adjusted for target recovery and the most recent facility recovery rate.

For our purposes today, the model tax is \$5.08.

Mr. Chaimov emphasized that this is a model scenario to help SWAC members understand how the draft ordinance would work. According to the proposed ordinance, the Metro Code would state that \$5.7 million in excise tax shall be raised. To get a per-ton rate, one would have to divide that amount by some tonnage. That tonnage is calculated as follows: In 1999, the region disposed 1,170,406 tons, with a 43% recovery rate; if we then back out the recovery, we generated 2,053,344 tons. Assuming that we had achieved the aspirational 46% target recovery rate in 1999, and adding back in other special waste (all but petroleum-contaminated soil) and subtracting 27,568 tons for tax credits, we arrive at 1,121,196 tons.

Mr. Chaimov said we now have the denominator of the tax we need to raise. We will take the \$5.7 million we need to raise, divide it by 1,121,196 tons, and this comes out to be the per ton tax rate, in this case \$5.08.

Mr. Phelps from the gallery asked if tonnage credits include the tonnage diverted at the Metro transfer stations as well as at the other facilities? Mr. Chaimov replied that the model described does not allow Metro facilities to receive tax credits.

Mr. Chaimov described the tax credit schedule, which is essentially the same as the system fee credit.

Mr. Park asked why the percentage of the credit decreases as the facility recovers more material. He said since it is harder to recover the last bits of material, he would think the curve should reflect that.

Mr. Anderson said the current system fee credit was developed two years ago with the help of SWAC. He said the theory then was that as your recovery reaches 50% to 60%, you are getting into real rich loads, and we didn't want to give extra credit there because it might encroach into the source-separated system. He said the new tax credit schedule mirrors the previous system fee credit.

Ms. Keil further explained that if you are looking at a 50% recyclable load, the question is might it not be better to get that customer to work with you and source-separate.

Mr. Lucini said that the ordinance refers to a facility retrieval rate with regard to the tax credit schedule. If you achieve a 10% or greater facility retrieval rate, you will be allowed a credit against the excise tax, but if you look at the schedule, you do not receive a credit until you get to 20%.

Mr. Chaimov said Mr. Lucini was talking about *recovery* rate vs. *retrieval* rate. He said retrieval rate is defined as total recovery, whereas recovery rate excludes source-separated and wet waste.

Mr. Chaimov continued his discussion setting forth the different classes of individual facilities, and the amount of revenue from each of them.

Ms. Keil asked what the difference was between the MRFs' internal rate and their market/regulated rate. Mr. Chaimov replied that the distinction was between a materials recovery facility that charges itself for disposal at its own disposal site and a materials recovery facility that has to pay market rate at someone else's landfill. Mr. Petersen said an example of an internal rate would be Wastech, where Waste Management owns the Wastech recovery facility and also owns the Columbia Ridge Landfill. So the rate that they charge the residual out of Wastech is determined within the company, and is not set by the County.

Mr. Kampfer asked if Mr. Chaimov would explain the footnote on the regional recovery rate?

Mr. Chaimov said 43% recovery is the actual rate for 1999, and we needed to adjust it to what it should have been given the mandates of the RSWMP (I believe it is 46%), which we used for the purposes of calculating the \$5.08. The target rate for fiscal year 2000-2001 was taken to be 47%. He said this is a scenario that is meant to reflect how the ordinance would work.

Ms. Keil said the way the ordinance reads, if more waste is generated, irrespective of the recovery rate, the excess revenue would be placed into a fund that the Council would control. Is that correct?

Councilor Park replied that rather than the "trust me" statement from the previous SWAC meeting, we have devised a plan in the event that happens. It will be discussed after Mr. Chaimov's presentation.

Chair Washington said that the members of the council are interested in setting the tax revenue needs in the Metro Code. He said it is of some concern that the region may not meet the recovery rate to which the RSWMP commits the region.

Ms. Herrigel commented that one of the recommendations of the subcommittee for the transfer station service plan is that any new transfer station meet a 25% minimum recovery rate, and Mr. Chaimov's tax credit starts at 20% recovery for MRFs. She believes they should be the same for all facilities.

Mr. Schwab suggested staff use the previous years' landfilled tons as your divider. He said that is what is done in all ratesetting committees, including the City of Portland.

Chair Washington asked Mr. Schwab to restate his suggestion. Mr. Schwab said staff would calculate the rate on landfilled waste only, not using any recovery numbers. Whatever money you want to give back for recovery, you do it through the Regional System Fee. He said to increase that number instead of having two, thereby creating more work for yourselves.

Mr. Irvine said it looks like you have two taxing programs. You have the excise tax, and the system fee, which if both "taxes" and credits increase proportionately, but the regional system fee could stay the same, while the tax could double. And what is going to happen is that you, as an operator, will be penalized because your credit is going to be fixed, unless you adjust, every year, that credit amount.

Mr. Kampfer said the curve doesn't have to top out at what the regional system fee is. It can be \$15 or \$16, even though the Regional System Fee is \$12.90.

Ms. Keil agreed with Mr. Schwab that the calculation will be complex, but said she would be willing to try it a year, and if it doesn't work, revisit it.

Mr. Gilbert said he doesn't see it as being so complex. He said all the information on tonnage and recovery is sent to Metro every month. All of his calculations take about 15 minutes and it might take another 15 minutes to make another calculation. Everything is in the computer; it would just take a couple more minutes. He said it does a very positive thing and puts the onus on recovery.

Mr. Leichner stated he agreed with the concept, but he says you have to be aware of the \$12.90, which pays for the operation of the system, as far as Metro is concerned. He said that if all facilities reached 45% recovery, Metro could be faced with a shortfall.

Eric Merrill (from the gallery), said it looks like Section c shifts the tax from the facilities to the haulers. If that is correct, why isn't that one of the goals?

Mr. Petersen commented that the excise tax is currently a tax on users of the solid waste facility. He said he doesn't see this as a shift in any policy. He said the tax rate is being calculated and assessed on a per-ton basis, rather than on a percentage basis, but the excise tax, by definition, is still a tax on users of solid waste facilities. He said the facilities collect the tax on behalf of Metro from the users of their facilities.

Mr. Merrill said you are taxing the haulers at a flat rate, per ton, and then giving a credit to the facilities for the recovery. It seems like there is a basic inequity in that the haulers are paying the tax, and the facilities are getting the benefit of it. Where is the benefit coming back to the haulers?

Councilor Park replied that under the current system, as he understands it, that is the way it is right now, on a percentage basis. And it always has been.

Mr. White stated that Mr. Merrill was correct, there is a difference between the current system and the system you are proposing. The current system charges a tax, but there is no credit under the current system. Under the current system, the hauler pays the tax, and there is no credit to the facility. So, his point, if the hauler pays the tax and the facility gets a credit, that is a different system, and Mr. Merrill is proposing that is an inequity. Currently, the hauler pays a tax, the facility takes the residual to a facility and pays a tax based on what that facility charges at its front door. So, the hauler may pay \$4.75 and the MRF may pay \$2.81, so there is inequity, too; it's just not based upon a credit, it's based upon the percentage of revenue generated by the transaction.

Mr. Irvine commented that we've talked about the inequities, but the credit, as I understand it, is to encourage recovery. The hauler may go out of his way to bring it to a facility, but my experience is he will take it to the closest facility, whether or not he has a rich load. Mr. Irvine's question is, is that credit passed on to the hauler because he comes to the facility that is in his service area, or do you provide it to the facility operator who is going to the expense of pulling the material out?

Mr. Leichner said that he understood Section c to say he would have to pay the excise tax on every load through the front door, although he would get some of it back (up to \$2.29) if he recovers enough materials, but will never get all of the excise tax, no matter how much they recycle. He does not believe it is a good incentive. He asked if they would again be taxed on the residual at the facility they take it to be landfilled?

Mr. Kampfer said he believes he is hearing the same question from everyone: Is this a tax on tons tipped at the facility? Or is it a tax on tons disposed from a facility?

Mr. Anderson said there is a section in the Metro Code that is not replicated here because it is not being changed, and that is the section that grants an exemption to Pride, East County, Wastech and Recycle America. So that means you would not be levied tax at the front door. This "use" tax would be levied on you as the user when you finally tip it at your final destination, i.e., the landfill. Mr. Anderson said that one of the key things the Councilors asked is whether this should be a front door or a back door tax; as the ordinance is now written, that exemption will remain.

Ms. Keil asked Mr. Leichner and Mr. Kampfer if they had the ability to adjust their rate. She said if they wanted more tons and more business, it is her assumption that they could adjust their rate downward if they were making more money than their target profit margin needed to be. She said that essentially they could be passing on some of the credit to haulers using their facility.

Mr. Irvine said it was true, they do have different rates.

Mr. Gilbert said you can spend your credits to attract more waste, or you can spend it on equipment and manpower to achieve a better percentage. As a business person, you have that decision to make.

Mr. Irvine said they might want to revisit the draft ordinance, because it appears that a disposal site could mean, for instance, a MRF, which is defined in state law.

Councilor Washington commented that the committee had expressed themselves very clearly, and he believes further conversation will be needed before a final product can be constructed. He asked Mr. Park, Mr. White, Mr. Merrill and Mr. Petersen to sit down and have a further discussion with him about the concerns they have expressed.

Councilor Park said he would like to discuss Section 5 (on the collection of excess excise tax). He cautioned the committee that the draft ordinance is a work in progress. He said that a simple, fast solution to the collection of excess excise tax would be to put it in a separate account. He is proposing that an account be established (such as the Rate Stabilization Account), which can be used when spikes to the system occur, whether through too much tonnage or not enough. The new fund would be called a Recycling Rate Stabilization Account and would be used for solid waste programs (up to a set amount of money) should the programs fail to be properly funded due to economic conditions. We could use the money by adding another layer to the credit system for material recovery to facilities.

Mr. Miller replied he would rather see the money used to reduce the next year's excise tax per ton.

Councilor Washington stated that he, Councilor Park and Mr. Petersen have had that discussion, and we are in agreement that that should be one of the considerations we look at.

Mr. White said his concern wasn't with Section 5, but with Section 2f, which is the same concern raised by Mr. Merrill earlier. He believes that the formula, when adjusted for what is being called an "aspirational" goal, lowers the amount of solid waste you put into the formula, and thus lowers the denominator. And that means that when you divide it into the amount of revenue you need, you increase the per-ton tax. He said it will be extremely difficult to go all the way to 56%, so the problem he has is that you create a fiction, one that creates a higher per-ton tax. He said he believes we will have a difficult time reaching the 48%, the 50%, etc. and if we don't and the amount of tonnage that comes in is taxed at the higher per-ton tax, that will automatically create excess revenue. He said he doesn't believe that is the policy that Metro has tried to have, i.e., that you benefit from failure.

Councilor Park asked Mr. White how he saw Metro being rewarded?

Mr. White said he doesn't believe the facilities feel good with paying a tax, even though they may be getting some back or that it goes into a particular use. They don't want to be taxed in the first place. He said he foresees this as a system whereby Metro will continually collect more or excess excise tax. He said he believes you should get rid of the "aspirational" percentage, or you should say, if you are going to set the rate at 43% (if that is the real number), somehow you only

collect tax up to 43% because you shouldn't benefit from setting this artificial number and collecting extra tax. He says the formula creates a benefit to Metro.

Councilor Park replied that the tax being raised is still \$5.7 million plus the Consumer Price Index. It is who pays the tax, and where it is redistributed, not the total tax rate. Those who are doing a good job at their facilities will be rewarded as they continue to do a better job. Those who are not, will continue to be penalized.

Mr. Phelps said the aspirational thing with regard to the recovery rates is not a Metro program. This is a state-legislated program adopted many years ago, and 50% was plucked out of the air. He said he wasn't convinced that wasn't a noble effort, and is not convinced that number isn't still correct. Having said that, he believes Metro is trying to follow state law and that is why these numbers are here. He said if there needs to be an adjustment, it has to be made in state law, and not by Metro trying to adjust state law without benefit of that conversation with the legislature. He said that if Metro were to thumb its nose at the legislative intent, Metro would be, and correctly so, harshly criticized. Metro can benefit the process during the next legislative session by going down and letting the Legislature know what the region, unlike any other area in the State of Oregon, has put forth to bring recycling close to the 50%. The rest of the state is a long way from where the region is right now. He said we need to try to operate within the parameters of the state legislated policy, and do the best we can with what we've got. And he believes that is what Councilor Park is trying to reflect here.

He said that with regard to the benefit, he believes that with the adjustment in the amendment that Councilor Park just distributed, Metro would be the beneficiary, but now he believes that recycling will be the beneficiary by generating a different revenue strain to go after more recycling because as we know the dollar per ton is going to be much higher as we get closer to 50% than it was when we first started going out after the 10% or 15%. He believes that Metro correctly is keeping faith with the legislative process, until such time as it changes.

Mr. Gilbert said he believes that within a two-year period, we will see the fee go up because we are going to meet that 50% goal. He believes that processing organics will get us another 7% to 8% and we are totally ignoring that.

Mr. Murray said he is not real hot on the set up of the fund, but he is all for the goals of 46%, 48%; he absolutely supports that. He hopes and believes that organics will play a large part of that. However, he agrees with what Mr. White and Mr. Merrill brought up, that Metro is putting itself possibly in a strange position, with the aspirational aspect of the equation. He favors more in the line of what Mr. Schwab proposed, i.e., using the previous year's tonnage, but keeping the goals.

Mr. Taylor said he supports the aspirational goals, and also thinks that so long as they can come up with a system that keeps the excise revenue from just building up on and on, then you have a system that doesn't create an incentive or create rewards for not meeting the goals. He said he would rather see the excess, if there is one, go back into excise tax credits, or things that promote additional recovery, than reducing the overall flat tax rate. He supports the proposal the councilors have proposed in draft form.



Ms. Keil said she agrees with Mr. Gilbert. From what she knows about the City of Portland's numbers on organics – 75% of the city's waste comes from the commercial sector; 23% of that 75% is in the organic material. So if we got half of that (and the city represents ½ of what is generated in the region), Mr. Gilbert's numbers are correct. She believes the fee structure and the incentives are separate kinds of items. She said that in the city's ratesetting, staff uses information that we know, in fact, are results from the previous year. With some things, staff take a prospective look, for instance, at markets. If we think there are things that would have a bearing on costs for the next year, we use that in our ratemaking as well. Ms. Keil said she is willing to say try it, you decide how you want to do this, whether it is putting it back into recycling, or funding another layer of the credit program.

Mr. Drennen (from the gallery) said he would like to be assured that the credits apply to all facilities. His facility is outside the Metro boundary, although it handles Metro waste. And if there are credits available, the facility certainly wants to participate in that.

Mr. Winterhalter asked whether Metro facilities would be eligible for the tax credit, or not?

Councilor Park said they will not be eligible.

Councilor Washington stated they would take all the information SWAC members have shared today. He appreciates SWAC attendees' patience and time. He realizes it is important to everyone. He said there is no fast track on this proposal, and they will keep with it until they get a good product. He said that lastly, in terms of any kind of excess monies, the council is extremely sensitive about not creating a "pot" for Metro.

Councilor Washington adjourned the meeting

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