

Metro Solid Waste Advisory Committee (SWAC)
Meeting Minutes
Special Meeting, June 1, 2000

Members / *Alternates

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

Non-voting Members Present

Terry Petersen, REM

Metro and Guests

Councilor David Bragdon	Tim Raphael, Celilo Group
Councilor Rod Park	Cherie Yasami, ASD
Doug Anderson, REM	Tom Wyatt, BFI
Meg Lynch, REM	Dan Schooler, CRC
Tom Chaimov, REM	Jim Watkins, REM
John Houser, Metro Council	Roy Brower, REM
Easton Cross, Easton Cross Consulting	Leann Linson, REM
Greg Nokes, The Oregonian	Connie Kinney, REM
Doug Drennen, DCS	Estelle Mazurkiewicz, ASD
Steve Kraten, REM	Kent Inman, CRC
Jan O'Dell, REM	Pete Daly, RB Recycling, Inc.

Chair Washington opened the meeting by asking attendees to introduce themselves.

Chair Washington thanked the members of the SWAC for their attendance at this specially called meeting. He said the Council has been working diligently on revisions to the proposed ordinance in order to get a document that can be approved by SWAC and the Council. He then turned the meeting over to Councilor Park, who distributed the most recent version of the ordinance (Attachment A).

Councilor Park also thanked everyone for coming on such short notice. He said some revisions had been made to the ordinance since the SWAC met and discussed it at its May meeting. He wanted to make sure that everyone understood the technical pieces in the ordinance. He said there would be a hearing on the ordinance at the REM Committee meeting at 1:30 p.m. on June 7th and another on June 15th before the full Council. Councilor Park reviewed the basic goals the Council is trying to accomplish through the proposed ordinance: The same excise tax per ton of

garbage is paid by all citizens; additional recycling and recovery is encouraged and actually assisted; a simple method of calculating the annual tax rate is provided; and a tax credit for recycling facilities is established to encourage additional recycling.

Councilor Park asked committee members if they reviewed the draft ordinance and if they found the definitions clear and concise and did they understand how and when the tax is levied. Councilor Park pointed out that the tax on petroleum-contaminated soil (PCS) has been changed to a minimal amount. Councilor Park asked for comments from the committee.

Mr. White noted that the body of Section 7.01.020 talks about contract operator, and asked if that is Waste Management? He asked if we need to differentiate between “operator” and “contract operator”?

Mr. Fjordbeck agreed with Mr. White that a refinement should be included in the ordinance to define “contract operator.”

Ms. Godwin asked why the definition of Facility Retrieval Rate was removed, since that term is still used in the ordinance.

Mr. Fjordbeck replied this was an oversight, and the reference to facility retrieval rate should be removed in the new iteration of the ordinance.

There were no further questions with regard to the definitions section of the ordinance.

Mr. Chaimov was introduced and asked to explain how the excise tax rate of \$4.63 was determined. He said he would cover three items: how the new per-ton rate was calculated; why it is different from the previous estimates; and what the sensitivities are. Mr. Chaimov distributed a one-page handout (Attachment B).

Mr. Chaimov said the process would begin by taking FY 00-01 needs of \$5.7 million and dividing this by some tonnage base, in this case, 1,177,463 tons. He said the actual recovery rate of 43% can be used to infer the 1999 tonnage.

Ms. Keil questioned why there is a change in the excise tax figure on PCS. Mr. Chaimov replied that the Rate Review Committee recommended that the regional system fee portion for environmental cleanup be reduced by \$2.50 because it is perceived this will encourage the proper disposal of this waste.

Ms. Keil then asked why add back in other special waste, which was deducted above.

Mr. Chaimov replied that he was making an adjustment for aspirational recovery.

There was confusion on why the Metro tons were added back in and why Metro facilities did not pay the tax. Mr. Chaimov said Metro could not legally tax itself. Mr. Chaimov said that fundamentally, this is a tax on users.

Mr. Winterhalter asked if the calculation would be the same if we added regional transfer stations? Mr. Chaimov replied that he was not too familiar with the Service Plan, but it actually depended on whether or not they were subject to the 25% recovery minimum.

Mr. Petersen replied, trying to clear up the confusion, that although the new tax is not the easiest to explain and/or understand, basically the facilities were treated the same as they have always been treated insofar as the excise tax is concerned. The only difference is that the minimum recovery rate has been set at 25% on all facilities, other than Metro facilities, which have been exempted because they are the disposal of last resort.

Mr. White commented that the hauling industry is under the impression they are paying both at the front door and the back door; in other words, being “double” taxed. Mr. White said that he is being put in the position of defending or explaining a system that he is not sure he understands. On the one hand, he understands what is being taxed, and on the other hand, he is confused as to whom and when it is being taxed.

Mr. Kampfer asked where in the ordinance it explained about the concept of the 25% minimum recovery? Mr. Kampfer asked if staff were confident it was properly linked so that the reader was properly informed. Mr. Fjordbeck said he was comfortable with the way it was presented in this legislation.

Chair Washington asked Mr. Petersen to have staff develop some language to aid the reader as it involves the 25% minimum recovery.

The discussion turned to concerns about how the tax would affect Metro’s facilities and whether or not the calculation actually used Metro’s facility tonnage inappropriately. Mr. Winterhalter and Mr. White stated their apprehension about whether all players were treated equitably under the new taxing system. Mr. Winterhalter commented that equity would dictate that the Metro tons go back into the tax equation.

Chair Washington stated he wanted the record to reflect Mr. Winterhalter’s concern on the equity issue.

Mr. Chaimov, continuing with his explanation of the tax computation, said the per-ton changed, not because the amount needed for the budget (\$5.7 million) changed, but because that \$5.7 million is distributed over a larger tonnage base.

Ms. Keil said the most troublesome part of the equation is the fact that actual tonnage figures (for each year) are not used, whereas local governments use actual tonnage figures to set rates.

Mr. Hamilton questioned why the idea of tying the rate to the Consumer Price Index was not abandoned. Mr. Hamilton said the way they are recommending to set the tax, policy and procedure are divided, without checks and balances. He said he doesn’t believe that is appropriate and he doesn’t think they are actually intending to do that. He believes the CPI process, left unchecked, should be more carefully looked at and there should be a cap.

Councilor Park said the Metro Charter places a cap of 10% on the total amount of excise tax that can be imposed. He said that Mr. Hamilton is concerned about an issue we don't have control of. He said that a CPI, depending on the growth rate, is less than if we were to convene and check every 6 months. We are putting on a cap as to what Metro needs in funds to fund the mandates listed in the Charter.

Chair Washington said Mr. Hamilton's concerns are so noted, and that perhaps they could go over the question in a later meeting.

Councilor Park stated he thought they had covered the relevant points in the ordinance that was of concern to the committee and asked if there were further discussion points.

Mr. White said that while they had covered the definitions, the body of the ordinance had not been discussed. Mr. White said it was of interest to him to know whether facilities outside the region that are taking in waste would be collecting the excise tax, and whether those recovering materials would be entitled to recovery credits, or whether that is limited to in-region facilities.

Mr. Petersen said that the Regional System Fee Credits apply only to those facilities within the Metro boundary. He said that it is important to remember that some of those facilities were not meeting the 25% minimum recovery level.

Mr. White said this appears to him to be another equity question.

Mr. Petersen said staff could look at that issue again.

Mr. White directed his next comment to Page 8, Section 6 (1) and said that he was under the impression that it was 10% of the amount under solid waste excise tax. He said this does not have a subsection (c), which is the amount of tax we are paying; it looks like the total tax paid by the zoo and the rest of the agency.

Mr. Fjordbeck said that is exactly what it says. Mr. Fjordbeck said they would look to amend that section and add a subsection (c).

Mr. Drennan (from the gallery) said he wanted to echo what Mr. White said about out-of-region facilities. He said he represents Lakeside, which it is required to collect the tax, but can't participate in the credit program, and they indeed do a lot of recovery. He would like this to be seriously looked at as an equity question.

Mr. Irvine, referring to Page 8, Section 6 asked if we have a definition or some criteria on how we will spend that money?

Councilor Park stated that the Rate Stabilization Account is set up to ensure that if Metro sees either a jump in the tonnage or a decrease in the tonnage, we have enough money in reserves to cover our expenses in dealing with that problem.

Chair Washington again stated the important dates for consideration and public hearing of the Ordinance: June 7, REM Committee; and June 15, full Council. He said he urged anyone having questions with regard to computing the excise tax to contact Mr. Chaimov. He said if they want to testify or submit a change, please contact Mr. Houser in the Council Office. He urged that changes to the ordinance be submitted before June 7th REM Committee meeting.

Ms. Godwin (from the gallery) asked if an amended ordinance would be sent out before June 7th REM Committee hearing? Mr. Fjordbeck said his office would endeavor to get an updated draft out quickly. He could not guarantee when it would be ready, but it will be before the REM Committee hearing.

Ms. Keil said it was her understanding that a 90-day advance notice must be made before a new rate could be made. Councilor Park said that was correct, but that the rate in the ordinance was not set to go into effect until December 1, 2000.

Ms. Keil suggested that with as much difficulty as the committee is having understanding the proposed ordinance perhaps more time should be spent in discussion. Ms. Keil also wondered if there was anything that could be done to simplify the ordinance.

Mr. Schwab agreed with Ms. Keil and commented he didn't understand why this was on such a fast track when it was such a complicated matter. He also agreed that the tax should be figured using actual tonnage figures from the previous year. He stated that Metro needs a contingency fund.

Councilor Park said he realized this is a very complicated issue, but due to the way our tax system is set up, the calculations would remain complicated. He said he hoped the committee would work with the Council in implementing this ordinance, and give it a year to see how it will work.

Mr. Irvine commented that he would like a document pointing out what parts of the ordinance are being changed, and what parts are staying the same.

Mr. Murray said he agreed with Mr. Schwab, that Metro needs a contingency fund for those times when extra revenue is needed, but he also agrees with Mr. Schwab that he doesn't believe a huge pool of money should be set aside with no stated purpose.

Mr. Gilbert said he would also like to see the equation simplified, and in fact would like to know the definition of the word "core" in Figure 3 on Mr. Chaimov's handout, because he has never seen an accounting acronym such as that.

Ms. Keil said that in defense of this review, she agrees with Councilor Park, that this ordinance and tax equation can be revisited in a year to see if it is successful and make changes or not as appropriate.

Chair Washington stated that a particular councilor cannot tie the hands of future councilors. He said that everyone's suggestions have been noted and will be addressed and asked if there were any further questions on the body of the ordinance.

Mr. Irvine said he would like a commitment from the Council that it will revisit a review of the tax equation at a future date.

Chair Washington said the Council can and will do that.

Mr. Hamilton asked whether a review date could be incorporated into the ordinance.

Chair Washington said it could and staff would work on language to be inserted in the ordinance. Chair Washington adjourned the meeting.

clk

S:\SHARE\Dept\SWAC\MINUTES\2000\060100swac.min

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 00-857A	
METRO CODE CHAPTER 7.01 TO)		
CONVERT THE EXCISE TAX LEVIED)	Introduced by the Regional	
ON SOLID WASTE TO A TAX LEVIED)	Environmental Management	
UPON TONNAGE ACCEPTED AT)	Committee of the Metro	
SOLID WASTE FACILITIES AND)	Council	
MAKING OTHER RELATED)		
AMENDMENTS)		

WHEREAS, the State of Oregon has set a ~~recycling~~ Regional Recovery Rate goal for solid waste of 56 percent by the year 2005; and

WHEREAS, ~~recycling~~ reduction of solid waste in the region is of the utmost importance and should be a priority in Metro's solid waste fee system; and

WHEREAS, Metro needs a stable funding source for its charter mandated responsibilities; and

WHEREAS, Metro needs to respond to recent ~~centralization~~ consolidation within the solid waste industry; and

WHEREAS, newer processing facilities include both wet and dry waste components; and

WHEREAS, the purpose of this ordinance is to further ~~recycling~~ waste reduction and provide stability and predictability in the setting of solid waste fees during the Metro budget cycle; and

WHEREAS, Metro imposes an excise tax for the use of the facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by Metro; and

WHEREAS, the tax is currently imposed as a percentage of the payment charged by Metro or by the operator of such solid waste facilities; and

WHEREAS, to enable Metro to fulfill its missions, it is desirable to change the method by which the tax on solid waste is imposed from the current method using a percentage of the payment charged for disposal to a method under which the tax is imposed upon each ton of solid waste disposed at solid waste facilities; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.010 is amended to read:

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

(b) "Cash basis accounting" means revenues are recorded when cash is received.

(c) Cleanup Material Contaminated By Hazardous Substances means solid waste resulting from the cleanup of release of hazardous substances into the environment, including petroleum contaminated soils and sandbags from containment of chemical spills provided that such substances are derived from nonrecurring environmental cleanup activity. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(ed) "District facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the district. District facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the ~~Metro Washington Park~~ Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the district.

~~(d)~~ "Facility Retrieval Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(e) "Inert" shall have the meaning assigned thereto in Metro Code 5.01.010(t).

(def) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to the district or to an operator or by an operator to the district.

(efg) "Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

(fgh) "Operator" means a person other than the district who receives compensation from any source arising out of the use of a district facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal.

Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

(ghi) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(hij) "Payment" means the consideration charged, whether or not received by the district or an operator, for the use of a district facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(jk) "Processing Residual" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(kl) "Facility Recovery Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(m) "Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

(ln) "Solid waste system facility" means all facilities defined as such pursuant to section 5.05.010(t) including but not limited to all designated facilities set forth in section 5.05.030 and any non-system facility as defined in section 5.05.010(i) that receives solid waste from within the Metro boundary whether pursuant to an authorized non-system license or otherwise.

(mo) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(np) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(oq) "Tax" means the tax imposed in the amount established in subsection 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

(r) "Useful material" shall have the meaning assigned thereto in Metro Code Section 5.01.010(ww).

(kps) "User" means any person who pays compensation for the use of a district facility or receives a product or service from a district facility subject to the payment of compensation

SECTION 2. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). ~~Each user of all solid waste system facilities shall pay an additional tax of 1.0 percent of the payment charged by the operator or the district.~~ The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of all solid waste system facilities and operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount calculated under section (e) for each ton of solid waste exclusive of source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2000, and for each fiscal year thereafter subject to Section 3 of this ordinance, the tax rate imposed and calculated under this section shall be sufficient to generate at least \$5,700,000 in excise tax revenue net excise tax revenue of \$5,700,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter.

(e) The excise tax rate for each ton of solid waste exclusive of source separate recyclable materials accepted at the solid waste system facilities shall be the amount that results from dividing the amount set forth in sub-section (d) by an amount that is equivalent to the sum of the solid waste tonnage generated within the district and delivered to any disposal site for disposal, exclusive of inert materials and materials accepted for and actually used for a beneficial purpose at a disposal site, during the twelve-month period ending on December 31 of each year, as further adjusted by the Executive Officer under sub-section (f). Subject to subsection 7.01.020(b), the rate so determined shall be the district's rate excise tax on solid waste during the subsequent Metro fiscal year.

(e)(1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, and (iii) Cleanup Materials Contaminated by Hazardous Substances, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the Executive Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be the district's excise tax rate on solid waste during the subsequent Metro fiscal year.

(e)(2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By June 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Council stating the amount of solid waste tonnage generated within the district and delivered to any disposal site for disposal, exclusive of inert materials and materials accepted for and actually used for a beneficial purpose at a disposal site, for the twelve-month period ending the previous December 31. Based upon the tonnage amount set forth in such written report, the Executive Officer at the same time shall calculate the amount of such solid waste tonnage that would have been generated during the previous calendar year if the solid waste recovery rates corresponding for each calendar year set forth on the following schedule had been achieved:

<u>Year</u>	<u>Recovery Rate</u>
<u>2000</u>	<u>46%</u>
<u>2001</u>	<u>48%</u>
<u>2002</u>	<u>50%</u>
<u>2003</u>	<u>52%</u>
<u>2004</u>	<u>54%</u>

2005 56%

The product of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e) of this section.

(f) By December 1, 2000 and by March 1st of each year thereafter, the Executive Officer shall provide a written report to the Metro Council stating the following:

“(1) For the twelve-month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to section 7.01.050(a) of this chapter, and

“(2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

<u>Year</u>	<u>Regional Recovery Rate</u>
<u>1999</u>	<u>43%</u>
<u>2000</u>	<u>46%</u>
<u>2001</u>	<u>48%</u>
<u>2002</u>	<u>50%</u>
<u>2003</u>	<u>52%</u>
<u>2004</u>	<u>54%</u>
<u>2005</u>	<u>56%</u>

The result of such calculation by the Executive Officer shall be used to determine the excise tax rate under sub-section (e)(1).

~~(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(c) or (f) for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:~~

<u>Excise Tax Credit Schedule</u>		
<u>Recovery Rate</u>		<u>Excise Tax Credit</u>
<u>From</u>	<u>Up To & Including</u>	
<u>0%</u>	<u>20%</u>	<u>0%</u>
<u>20%</u>	<u>25%</u>	<u>4%</u>
<u>25%</u>	<u>30%</u>	<u>10%</u>

<u>30%</u>	<u>35%</u>	<u>20%</u>
<u>35%</u>	<u>40%</u>	<u>33%</u>
<u>40%</u>	<u>100%</u>	<u>45%</u>

(g) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Retrieval Rate and the Facility Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the percentage reduction corresponding with the Facility Recovery Rates provided on the following table:

Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax Credit
From Above	Up To & Including	
0%	25%	0%
25%	30%	4%
30%	35%	10%
35%	40%	20%
40%	45%	33%
45%	100%	45%

(ch) In lieu of taxes imposed under ~~(a)~~ of this section and notwithstanding section 7.01.050(a)(6), operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount of ~~\$1.76 per ton of~~ annually calculated under Section 7.01.020(e) for putrescible waste delivered directly to the district's contract operator for disposal of putrescible waste.

SECTION 3. Section 4 of this Ordinance is added to and made a part of Metro Code Chapter 7.01.

SECTION 4. Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, 2001, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Vancouver (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council

if the index described in (a) is discontinued, or such lesser amount as the Executive Officer deems appropriate.

SECTION 5. ~~Budgeting of Excess Revenue~~

~~Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020 (e) exceed the amount set forth in Section 7.01.020 (c) as adjusted by Section 4 of this Ordinance, such additional revenue shall be placed in an account within the General Fund specifically created to receive such revenue. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.~~

SECTION 5. Section 6 of this Ordinance is added to and made a part of Metro Code chapter 7.01.

SECTION 6. Budgeting of Excess Revenue:

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020 (e) exceed the net excise tax revenue amount set forth in Section 7.01.020 (c) as adjusted by Section 4 of this Ordinance, such additional revenue shall be apportioned as follows:

(1) Such excess net excise tax revenue shall first be placed in a Recovery Rate Stabilization Account established in the Metro General fund. The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Section 7.01.020 during the period of the two most recent Metro fiscal years.

(2) If at the end of any fiscal year, the maximum permitted balance for the Recovery Rate Stabilization Account has been reached, during the following fiscal year any additional excess net excise tax revenues shall be used to increase the tax credit provided under Metro Code Section 7.012.020(g) for any solid waste facility that has achieved a Facility Recovery Rate greater than 45%. Such excess revenue shall be used on a dollar-for-dollar basis to reduce the tax liability of all such qualifying facilities. The amount of the additional tax credit shall not exceed the total excise tax otherwise due from the facility under this chapter

(3) Any remaining excess revenue over the amounts apportioned in (1) and (2) of this section shall be appropriated the account established in (1).

SECTION 7. Metro Code Section 7.01.050(a)(6) is amended to read:

(6) Users of the following facilities:

(i) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal

Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;

- (ii) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
- (iii) Licensed yard debris processing facilities or yard debris reload facilities;
- (iv) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.

SECTION 8. Section 9 of this Ordinance is added to and made a part of Metro Code chapter 7.01.

SECTION 9. Metro Code Section 7.01.050(a) is amended to read:

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

SECTION 10. Metro Code Section 7.01.020 (c) is repealed.

SECTION 11. Section 12 of this Ordinance is added to and made a part of Metro Code chapter 7.01"

SECTION 12. Effective Date and Effect of Initiative Passage.

This Ordinance shall be effective on December 1, 2000, *provided that* during the State of Oregon General Election conducted on November 7, 2000, no amendment to the Oregon Constitution is adopted by the people which prohibits the imposition, adoption or levy of any new tax, fee or charge without first obtaining voter approval. If during such election, such an amendment is adopted by the people of the State of Oregon, the provisions of this Ordinance shall not become effective and the provisions of Metro Code Chapter 7.01 in effect as of June 1, 2000 shall remain in full force and effect.

/////

/////

ADOPTED by the Metro Council this _____ day of _____,
2000.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

h:\drafts4pat\ord857.orig.doc

Executive Summary

Ordinance No. 00-857A is seeking to achieve four basic goals.

GOALS

- PROVIDE TAX INCENTIVES TO ENCOURAGE ADDITIONAL RECYCLING
- INSURE THAT METRO'S TAX SYSTEM DOES NOT HAMPER ACHIEVING OUR RECYCLING GOALS, BUT ACTUALLY ASSISTS IN ACHIEVING THOSE GOALS
- PROVIDE A MORE PREDICTABLE LEVEL OF FUNDING FOR METRO'S CURRENT CHARTER-MANDATED PROGRAMS AND
- PROVIDE A SIMPLE METHOD OF CALCULATING THE ANNUAL TAX RATE

BASIC ELEMENTS OF THE PROPOSED ORDINANCE:

- 1) Convert the current percentage excise tax to a per ton tax.
- 2) Establish a methodology for calculating the tax rate annually based on the prior year's solid waste tonnage and an aggressive percentage-recycling goal.
- 3) Set the initial tax rate for FY 2000-01 at a level that would raise an amount equal to the amount raised by the current percentage tax.
- 4) Place the amount to be raised in the ordinance and allow the amount to increase based on the CPI. The initial amount would be \$5.7 million.
- 5) If actual revenues exceed the amount calculated under the ordinance, all excess funds would be placed in a special account or used to enhance the tax credits for facilities that recycle at higher levels. Spending from this account would require a specific action by the Council.
- 6) Establish tax credit for recycling facilities to encourage additional recycling.

SECTION BY SECTION REVIEW:

Section 1. (Definitions)

Provides term definitions necessary for the operation of the ordinance. The amendments provide references to existing definitions in other code sections and add definitions for the terms "cleanup material contaminated by hazardous substances", "facility recovery rate", and "regional recovery rate".

Section 2. (Amends Metro Code 7.01.020)

The section provides necessary amendments to the existing excise tax code. These changes are needed to:

- Replace the existing percentage tax with a per ton tax
- Establish the tax payment method
- Establish who should pay the tax and what types of tonnage are subject to the tax
- Establish the initial amount to be raised by the tax
- Establish how the tax is to be calculated
- Establish a tax credit for facilities that recycle at a rate that exceeds 25%

The proposed amendments would affect subsection © through (h). The intent of these amendments is to:

- Clarify that direct haulers and out of district waste would be subject to the per ton tax
- Clarify that source separated materials and inert materials would not be subject to the tax
- Establish a separate, lower tax of \$1/ton for cleanup materials contaminated by hazardous substances (mostly PCS) that is not used as daily cover or some other beneficial use.
- Ensure that the tonnage base for the calculation of the tax is the same as the tonnage base on which the tax will be collected
- Modify the tax credit table for conform with the credit table for the regional system fee

Section 3 (Adds Section 4 to Metro Code Chapter 7.01)

Section 4 (Provides for an Annual CPI Adjustment of the Amount of Tax to Be Collected)

No amendments

Section 5 (Adds Section 6 to Metro Code Chapter 7.01)

Section 6 (Budgeting of Excess Revenue)

This section establishes how any excess revenue from the tax would be apportioned:

- First, these funds would be placed in a recovery rate stabilization account with the general fund. The maximum balance for this account would be an amount equal to 10% of the total excise tax collections in the preceding two fiscal years.
- Second, if additional revenue exceeds the maximum balance for the recovery rate stabilization account; an additional tax credit would be given to facilities with a recovery rate of greater than 45%. The total credit could not exceed the amount owed by the facility.
- Third, if excess revenue exceeds the both of the needs noted above, these funds would revert to the recovery rate stabilization account.

Section 7 (Clarifies the users of facilities that would be exempt from the tax)

Section 8 (Adds Section 9 to Metro Code Chapter 7.01)

Section 9 (Exemption for Materials Used for Cover or other Beneficial Uses)

This section would continue the current practice of not collecting a tax when disposed materials is used for daily cover or other beneficial uses such as roadways at the disposal site.

Section 10 (Repeals Metro Code Section 7.01.020(c))

Other provisions of the ordinance eliminate the need for this section.

Section 11 (Adds Section 12 to Metro Code Chapter 7.01)

Section 12 (Relationship of Proposed Ordinance to Proposed Initiative Requiring Voter Approval of New Taxes)

A proposed initiative would require voter approval of new taxes such as the one proposed in Ordinance 00-857A. This section would move the effective date of the ordinance to November 15, at which time the outcome of the vote on the proposed initiative would be known. If the initiative passes, the ordinance would not take effect and the current percentage-based excise tax system would continue. If it fails, the ordinance would take effect.

Outline

- Calculate the per-ton rate
- Explain why it is different from previous estimates
- Examine sensitivities

1

Per-ton Basic Formula

$$\text{Per-ton Tax} = \frac{\$5.7 \text{ million}}{\text{Tonnage}}$$

2

Per-ton Tax Rate

FY00-01

Rate Calculation for FY00-01

FY00-01 Needs	\$5,700,000
CY99 Core Disposed-includes o-o-d	1,177,463
CY99 Total PCS	32,461
CY99 Other rev. special	45,864
CY99 "Disposed" tons	1,255,788
"Actual" Recovery Rate	43% CY98 actual assumed for CY99
Implied Core Generated	2,065,725
Target recovery rate	43%
Disposed core if 43% recovered	1,177,463
Other special	45,864
Metro recovered	29,155
PCS	7,016
Subtotal Denominator	1,259,498
Less Tonnage Credits	(27,600)
Total Denominator Tons	1,231,898

Per Ton Tax Rate

\$4.63

3

Why the rate changed

- Not because the \$5.7 million changed
- Because the \$5.7 million is distributed across more tons
 - \$5.08 was based on in-district landfilled waste only plus aspirational recovery rate adjustment
 - \$4.63 includes out-of-district waste at non-exempt facilities plus Metro recovered tonnage, no aspirational recovery rate adjustment

4

Revenue Sensitivity to Tonnage Assumptions

FY00-01 Recovery Rate Achieved	Growth Rate of Generated Waste		
	2%	5%	8%
47%	\$5.5	\$5.7	\$5.9
45%	\$5.7	\$5.9	\$6.1
43.6%	\$5.8	\$6.0	\$6.2

Dollar amounts in \$ millions

5