

**SOLID WASTE ADVISORY COMMITTEE (SWAC)**  
Summary of the Meeting of 6/24/93

**MEMBERS and ALTERNATES PRESENT**

Ken Spiegle, Clackamas County  
Jeanne Roy, Citizen  
Merle Irvine, Citizen  
Ralph Gilbert, East County Recycling  
Ralph Orrino, BFI  
Joseph Cassin, Sanifill  
Tom Miller, WCHA  
Doug Coenen, OWS  
Steve Schwab, CCRDA  
Jerry Morse, Clark County  
Chris Boitano, Gresham  
John Pinkstaff, Yamhill County  
Brian Heiberg, Tri-County Haulers  
Mary Sue Smith, Far West Fibers  
Susan Keil, City of Portland  
James Cozzetto, Jr., MDC  
Delyn Kies, Washington County  
Loreen Edin, City of Tigard  
Pam Arden, Multnomah County  
Kathy Kiwala, Lake Oswego  
Bill Bree, DEQ

**GUESTS**

Brad Rafish, Talbot, Kukvola & Warwick  
Ray Phelps, OWS  
Jerry Yudelson, RDC

**METRO STAFF**

Terry Petersen  
Connie Kinney  
John Houser, Council Staff  
Steve Kraten  
Jim Watkins

## SUMMARY OF COMMITTEE

### Actions:

Motion was made to change By-Laws to read: Alternate committee members will be selected by current Solid Waste Advisory Committee member. Motion passed

The Minutes were unanimously approved as read with the inclusion of the above referenced motion, (Doug Coenen made the motion, Ralph Gilbert seconded it).

Form subcommittee to study Yard Debris report.

Fee Ordinance: clause be inserted (with regard to no. 5): "including but not limited to the following"

Chair Buchanan asked the alternate committee members to introduce themselves.

Mr. Petersen asked the Committee to review the resolution submitted in the agenda packet which will be going to the Council Solid Waste Committee on July 6 which will formalize the process for recommendations on how to restructure the rate.

Mr. Petersen said he invited Todd Sadlo to lead a discussion about some of the legal issues related to solid waste rates, the intent being to provide the committee with what authority we have before discussing alternatives.

Mr. Petersen said the proposed resolution establishes a process for reviewing the rates and lets people know that the Metro Council will be looking at it as well as being a public invitation for people to participate in the rate review process. Mr. Petersen said we currently have a policy which says that the solid waste system maintain stable, equitable, predictable solid waste rates. He said currently Metro collects all of its revenue on a per-ton basis. He said that includes whatever revenue is needed to cover costs independent or dependent of tonnage. He said we know we are losing solid waste tonnage despite the population growth and this trend will continue if we are to meet our recycling goals. Mr. Petersen then went on to review the items covered in the resolution (resolution attached).

Mr. Petersen outlined some of the alternatives the SWAC would be considering: (1) broaden the rate base, (2) restructure rates, (e.g., license fee), fees based on customer counts, other ways of not linking fixed costs to tonnage; and (3) diversify the rate base, (e.g., taxes). Mr. Petersen listed the criteria the SWAC will consider: consistency with other Metro plans, adequate revenue, equity (cost of service), economic impact on rate payers, waste reduction, ease of implementing, authority, predictability and reliability. Mr. Petersen said that by January, 1994 we will ask the questions: Who shall pay the fees, What kind of fees shall they be, and What costs should be included in those fees.

Ms. Kies suggested the clause be inserted (with regard to no. 5): including but not limited to the following: She also suggested "unbundling" some charges now in the tip fee or which "appear" to be in the tip fee, *i.e.*, excise tax.

Ms. Kiel stated (with regard to no. 6) the importance of having the ability to verify the accountability of the rate.

Mr. Petersen suggested "assure that the rates are verifiable and enforceable."

Ms. Kies stated there were impacts other than economic, *i.e.*, environmental and other policy issues which need to be considered as well as the effects on the various types of rate payers, but she also felt that we needed to include "system partners" -- the collectors, the processors, and local government.

Mr. Bree suggested that the committee look at whether or not it is appropriate in concept to charge a certain payer for a certain type of service.

Mr. Miller suggested there be a system whereby the Committee review current programs or services as to whether or not they are appropriate. He said we should not continue to do something just because we have done so in the past, but because it is appropriate to continue.

Mr. Petersen cautioned the Committee against that course of action because it might cause the SWAC to lose focus.

Mr. Boitano felt the Committee's charge was indeed to analyze the issue and not just trust it to a governmental body. He also said he wanted to more fully understand what would happen, from the industry's point of view, if cost of recovery, per ton, does go up because tonnage continues to decline.

Mr. Coenen asked if Terry could come back to the next SWAC meeting and respond to the question of how does Metro deal with the real issue of how the money is spent, is it spent well, and how does that process work.

Chair Buchanan asked for a motion on the resolution, and that Mr. Petersen return to the next meeting of SWAC prepared to explain the process as outlined by Mr. Coenen.

Mr. Petersen said he wanted the Committee to know that in addition to the items covered in the ordinance, they would be updating the Waste Reduction Chapter of the Solid Waste Management Plan which would look very closely at some of their programs.

Ms. Kies said it was her impression that the Committee would be unable to make determinations on rate questions without evaluation or knowledge of services and how they relate to rate and budget.

Chair Buchanan asked for a motion for approval of the Ordinance as presented by Mr. Petersen.

Ms. Keil made a motion for approval of the Ordinance. Mr. Broussard seconded the motion. The Committee unanimously approved adoption of the ordinance with the amendments suggested.

Chair Buchanan introduced Mr. Todd Sadlo, Senior Assistant Counsel, Metro, to speak to how Metro can raise money. The first thing Mr. Sadlo discussed was Metro's general authority, which he said was from two sources: the Charter and Statutory authority. Mr. Sadlo said both sources grant Metro "general power" which is often referred to as "police power". Mr. Sadlo said the concept of police power is that a government has the general authority to do what it deems necessary to carry out its duties or responsibilities limited only by the constitution or to the extent that it is pre-empted by some government on a higher level. To that end, Metro is limited to the Constitution, the Charter and to the extent that we are told specifically we cannot or shall not do something. He said that Metro's authority as regards solid waste, we are again limited only by the Charter and Statute. He said the statutes grant very broad authority. As well, Metro has statutory pre-emptory authority over local governments to pass an order, regulation or contract affecting solid or liquid waste, resource recovery, and solid waste management providing Metro has a DEQ approved plan.

Mr. Sadlo said that Section 11 requires Metro to seek voter approval for specific new broadly based taxes of general applicability. Further, for purposes of Sections 11, 13 and 14, taxes do not include any user charge, service fee, franchise fee, charge for the issuance of any franchise license, permit or approval or any benefit assessment against property. Section 15 states: charges for the provision of goods and services by Metro may not exceed the cost of providing the goods or services. These costs include but are not limited to costs of personal services, materials, capital outlay, debt service, operating expenses, overhead expenses and capital and operational reserves attributable to the service. Mr. Sadlo said that a tax is a fee imposed for the purpose of raising general revenues and fees are attributable to a specific activity or function of the government. Mr. Sadlo continued referring to cases re taxes and continued with a discussion with taxes as it stands after Ballot Measure 5. Mr. Sadlo said that none of the ideas Mr. Petersen put forward in his memo looked even remotely like a tax. It was intended that the solid waste system be funded from revenue generated by the system and that those fees would not be used for general revenue purposes of Metro.

Mr. Petersen asked Mr. Sadlo if the "rate payer", *i.e.*, hauler, business, manufacturer was relevant as long as the revenue is dedicated to a specific solid waste activity?

Mr. Sadlo said the question really was whether or not somebody was benefiting from the system or the service that they are receiving. He said that for this particular service, it is very difficult to identify anyone living in the region who has not benefited by it.

Mr. Spiegle asked if a regional sales fee on goods and services would be considered a tax.

Mr. Sadlo said that would be considered a tax.

Mr. Sadlo said he could locate no express statutory limitations on Metro's ability to impose and enforce a step system. He said he didn't fully understand the issue of eliminating self-haul and the institution of mandatory collection and could not fully speak to that question. He said it would depend on how that ties into collection of Metro fees and why that component would be included in a policy,

Ms. Kiel suggested looking at that question separately, either self-haul or mandatory collection. Ms. Kiel suggested that with a mandatory collection system there would be more tonnage -- you would capture tonnage you are not currently capturing. People would have more of a reason to use garbage service if they were required to pay for it. Therefore more garbage would be disposed of legally as opposed to illegally.

Mr. Stone suggested that the queuing lines at Metro South, for instance, might be reduced if self-haul were banned and there would be fewer transaction costs, which might then be a benefit to the rate payer.

Mr. Heiberg asked: Do I understand you to say that after Ballot Measure 5 that universal service would be acceptable if it generated a benefit to that potential customer whether or not they take advantage of it through Metro's operation in increased recycling programs or availability so that Metro does have the authority to implement universal service to capture that revenue that, if we left it the way it is, those self-haulers aren't paying their fair share towards supporting the programs.

Mr. Sadlo said he felt that was a fair statement. He said that if such a program were to be implemented we would attempt to structure it similar to the way that Roseburg structured their stormwater fees.

Ms. Roy asked with regard to the Roseburg case, was there a distinction made between using the property and owning the property?

Mr. Sadlo said that was not important to the Court. If there was no one living on the property (*i.e.*, land with no structure), a fee was not assessed.

Mr. Bree asked with regard to an advanced disposal fee -- if an item or class of items have some unique characteristics that relate to their eventual disposal possibly within the region, is it possible to consider the fee charged at the point of purchase to cover the cost of disposal of that product. For instance could they charge the fee of .01 per pound for hazardous materials which have to go through the hazardous disposal system when they dispose of it in the region.

Mr. Sadlo said he could not respond to that question without research.

Mr. Coenen said the Committee had just approved of a resolution under the context of diversifying the revenue base and we specifically used the word "tax" and wondered if that reference should be removed.

Mr. Sadlo said they could use that word but the Committee should remember that anything of that nature would have to be analyzed by the Tax Committee and would come under the \$12,000,000 CAP.

Chair Buchanan referred the Committee on to the next agenda item and assured the committee members that Mr. Sadlo would be available in the future for questions as they arise.

Mr. Jim Watkins, Engineering and Analysis Manager for the Solid Waste Department presented a review of the Wilsonville Transfer Station.

Mr. Watkins said the final agreement with WRI to fund the Wilsonville Transfer station had not been reached, although it was very close. Mr. Watkins said they were still in the process of making a fairly lengthy staff report. He said the tenant agreement with WRI is a 20 year agreement with an additional extension period of up to 20 years at 5-year increments. He said Metro has the right to terminate the agreement after the 20 years. At the end of 20 years, Metro has the right to purchase the facility at fair market value and is still negotiating that if WRI wants to sell the facility during the first 20-years, Metro has the first right of refusal. He said the facility will be financed through issuance of approximately \$12,000,000 of project bonds, of which \$1,000,000 will be for the land. He said the proceeds of the bond will be loaned to WRI and for that they will provide a credit enhancement to Metro which will be in the form of a letter of credit. Mr. Watkins said the site will contain approximately 26 acres, and Metro is financing approximately 9.3 acres (that portion which will be developed into the transfer station). Mr. Watkins said that after building the facility, if there is money left over from the sale of the bonds, WRI could use that money for purchase of equipment. He said that Metro's obligation during construction is to inspect the site and determine if they have installed what the specifications call for.

Mr. Watkins said the facility will be open 363 days per year from 6:00 a.m. to 6:00 p.m. on week days for commercial only. During the weekends the hours will be from 8:00 a.m. to 6:00 p.m. for self-haul and commercial. Mr. Watkins then reviewed the cost of the facility.

The next agenda item was a review of the revised Yard Debris Evaluation.

Mr. Kraten reviewed the items that were revised as per the discussion at the prior SWAC meeting.

After considerable discussion it was decided that Chairman Buchanan would appoint a subcommittee to review the remaining points of concern and the subject would be put on the July SWAC agenda for approval. Subcommittee members were appointed by Chair Buchanan as follows: Jeanne Roy, Doug Coenen, Bill Bree, Tom Miller and Delyn Kies.

The meeting was adjourned until Thursday, July 22, 1993 at 9:00 a.m.