

SOLID WASTE ADVISORY COMMITTEE MEETING
SUMMARY OF 2/18/98

Members Present

Councilor Don Morissette, Chair
Recycling Industry Representative

Jeff Murray, Alternate

EZ Recycling

Hauling Industry Representatives

Steve Schwab

Clackamas County Haulers

David White

ORRA/Tri-County Council

Mike Lechner

Washington County Haulers Association

Doug DeVries

Jack Gray Transport

Solid Waste Facility Representatives

Garry Penning

Oregon Waste Systems

Merle Irvine

Willamette Resources

Tom Wyatt

BFI / Trans Industries

Citizen Representatives

Jeanne Roy

Recycling Advocates

Frank Deaver

Washington County Citizen

Government Representatives

Susan Keil

City of Portland

Carol Devenir-Moore

Clark County

JoAnn Herrigel

City of Milwaukie

Rick Winterhalter

Clackamas County

Lynne Storz

Washington County

Tam Driscoll

City of Gresham

Non-Voting Member

Bruce Warner

Metro REM Director

Metro—REM

Jennifer Erickson

Bryce Jacobson

Roosevelt Carter

Jim Watkins

Paul Ehinger

Connie Kinney

Ava Brooks

Doug Anderson

Metro—Other Departments

Leo Kenyon

John Houser

Guests

Dean Large

Susan Robinson

Todd Irvine

Diana Godwin

Rob Guttridge

Richard Jones

Estle Harlan

Sally Fender

Easton Cross

Dean Kampfer

Loretta Pickerell

Steve Engle

Doug Drennen

Announcements

Chair Morissette called the meeting to order. Mr. Morissette asked for a motion on the last meeting minutes.

ACTION ITEM

Mr. Gilbert moved the Minutes of the SWAC meeting of 1/17/98 be approved. Mr. Penning seconded the motion. The committee passed the motion unanimously.

Director's Update

Mr. Warner distributed a copy of the Director's Update that he delivered to REMCommittee the previous week. Mr. Warner said he was very proud of the Enforcement Unit headed by Steve Kraten. Mr. Warner also congratulated Jack Gray Trucking for their amazing safety record and thanked them for being such a good partner with the region. He said the paint return program has progressed very well and has remained popular. Ms. Keil invited anyone interested in further information on the City of Portland's co-mingled program to attend the public meeting to be held at the State Office building in room 121 at 7:00 p.m. Mr. Warner stated anyone having issue that might be discussed at the quarterly meetings between DEQ and Metro to be in contact with him. Lastly, Mr. Warner was at an appeals meeting at Beaverton on the matter of Tcm Miller's company Citistics new reload facility. Mr. Miller said that basically his application prevailed after the appeal of the land use decision which the City of Beaverton denied. The City of Beaverton Council denied the land use appeal and forwarded the permit with some additional conditions which was added at that meeting. Mr. Miller considered this a rather hollow victory as the objective all along was to try to resolve the issues with his neighbors and to be a good partner.

IV. Performance-Based Regional System Fees

Mr. Warner directed the committee that the rate ordinance and incentive program were included in the agenda that was sent out. He said that the REMCommittee is recommending to Council that they endorse the ordinance. The Council will hear this item at the Council meeting of February 26th at 7:00 p.m. for the first time. Mr. Warner said he wanted to go through the changes to the ordinance that had been made since the last SWAC meeting.

1. Corrected language which had previously excluded our existing contractor (STS) from the ability to haul.
2. Added a sunset provision to the incentive based curve program which says it will end on July 1, 1999, unless through next year's rate review process, that continues.
3. Narrowed the recoverable materials provision for a rate change at the transfer stations (determined by formula) to be limited to tires, wood, and yard debris.
4. The incentive-based curve program.

Mr. Warner said there were a number of folks who testified to the issue. He said that as a result of the provision which eliminated the prohibition of out-of-district waste, based on Metro Counsel opinion, he committed to work with Clark County and to help create a dialogue between staff from Clark County and Metro to establish a way that ensures that a migration of waste is not illegally or improperly transported to the Metro Region from Clark County. Mr. Warner invited anyone interested in participating in this issue to contact him.

Ms. Keil asked about a reduction in the self-haul fee. Mr. Warner replied that the current prevailing fee is \$17/ton minimum and the per ton minimum load fee would be decreased to \$15/ton, however the minimum load size was reduced from 500 pounds to 320 pounds.

Mr. Warner congratulated his staff and the committee and said that the Ordinance was a good piece of work and he believed everyone was enthused with the performance based incentive program. He said there was a lot of work yet to do in order to implement this program and to make it work effectively for everyone. He said an implementation team headed by Ray Barker of his staff has already begun work putting together the guidelines so that everyone understands how to make the program work over the next few months.

Mr. Schwab said that when he had been contacted as to his concurrence of the incentive program he was not informed about the 10% minimum per facility. He said the call that he received explained that if you cleaned your load, and basically dumped and picked something out, you could move it to your dry side, count it on your dry side -- which helps, and there is nothing gained on the wet side, but then there is this caveat that says if you don't make it to 10% recovery, you receive nothing on anything. Mr. Schwab added he didn't feel this was fair or right or what the SWAC intended. He said it was clear from the way they voted at the previous meeting what was being proposed, and the 10% was not part of the package they voted on.

Mr. Murray said he understood there were a lot of good reasons for staff wanting to keep the curve as proposed, but he doesn't feel that Metro is promoting recycling with this proposal. He said SWAC developed the curve in a method to help continue a strong recycling region. He said that for various reasons the sharp decline of the curve might have to progress in some kind of an angle, but he is concerned that as a result of staff's new proposal some of the larger facilities will forego the MRFing side and just go to reloads. He believes there will be no facilities recovering in the mid-range.

Mr. White said it was explained to him that the 10% came about because Metro Central recovered that percentage, and was that a fact, and is staff comparing apples to apples in comparing the situation at Central and disposal out the back end to a reload facility?

Mr. Ehinger replied that Metro Central did recover from 6% to 9% depending on what markets were looking like and staff determined they wanted to have some line where beyond the avoided cost the recovery went beyond that level. He said that 10% was a bit arbitrary, but they felt that would encourage recovery and it was close to what was being

achieved at Metro Central. The theory was that if Metro could operate their transfer station in that range, it was a fair conclusion that other facilities could also.

Mr. Warner added that if your facility is operating down in that range you are clearly operating more like a transfer station than you are either a MRF or a reload that is doing incidental recovery, with some MRF work at the same time. He reminded the Committee that the biggest cost saving and incentive for pulling material out remains the avoided cost.

Mr. White asked if the 8% or 10% recovery achieved by Metro Central was comparable to what a reload would have to do to survive financially?

Mr. Ehinger stated it is Metro's continued belief that a reloads justification is sufficient savings on the collection side because presently limited purpose landfills have a lower price than Metro's fee as well as economic gain to "dry out the waste" in order to send to that landfill.

Ms. Mills commented that some of the reloads that are run by haulers educate their customers about how to recycle. If a commercial load comes in and is very heavy in wood, the hauler would take it back to the customer and educate them how to pull it out. She feels that the staff proposal encourages haulers not to do that, but to leave it in a load so that they can pull it out and make more money. She also stated that she is disappointed in the REM staff recommendation and REM direction.

Mr. Murray said that the cost avoidance issue is a huge part of the reason to recover, but we (Far West Fibers) have had one year of experience with a clean facility with residual less than 2% or 3% percent. It sounds like, in these facilities, at least half is going to be residual. He added that if he was running a facility similar to what Tom (Miller) or Mike (Leichner) is running, he didn't think that he would bother recovering because it wouldn't pay for itself.

Mr. Leichner commented that if the current REM proposal goes through, we (Washington County Haulers Association) could not support it. He feels that his recovery rate is down because he is doing the proper thing, which is getting recoverable material out before it ever gets into the garbage. He said that the current proposal would force him to go back to his customers and tell them to throw recoverable materials back in the garbage can or the drop box, so that he can make his facility work. He feels that the proposal, in dropping the incentive curve, was to encourage recycling and use a carrot rather than a stick. Now, he feels that the staff is putting the stick back into it. His fear is that the stick is going to get bigger and bigger as years go by and the 10% percent will increase up to maybe a 20% minimum recovery. So, he asked, what incentive does he have to do source-separated recycling in his facility? He said that he is not going to be able to go out and draw other material from the region to his facility because Tom (Miller) is north of him, Willamette south of him and Newberg west of him, which is outside the Metro region. He feels that he is in the position of no growth volume. The only other tricks he

has, he said, is to look at reducing costs out the back, which was an issue that all the MRF's brought forward, and that is why the curve came into effect. He said that it is really punishing the reload part of the business, when you have got them under the same roof. He concluded that he had to repeat that he couldn't support the current REM proposal.

Mr. Schwab referred back to the comparison with Central and asked what the difference in cost is from South, where there is very little picking, to Central who does some? He said that it is the marginal stuff that you want to get, because you got to. He feels that the 10% percent is the big stick, and the fact that a facility receives no credit until they reach 20% percent. Just look at the difference between South and Central, he said. There is an example that they are not the same cost, and look at the difference of what you, (Metro) are getting out of it. He asked if the contractors get paid for pulling stuff out? Mr. Ehinger answered that they get \$30 dollars a ton. Another way to look at this proposal, he said, is if a facility is operating above 35% recovery this has the exact same impact, of a payment of \$26 dollars a ton to the operator of the MRF on a recovered ton basis. So, Mr. Ehinger added, the economic value of this curve, for an operator, is far higher than our operator has at the transfer station.

Ms. Keil said that she believes the performance curve in the ordinance is what the SWAC has been discussing, but asked what the point of the 10% was? Mr. Ehinger replied that staff was trying to draw a bright line between facilities that are primarily or significantly recovery facilities and those that are primarily just transfer facilities. Ms. Keil responded these rates apply only to dry-mixed waste, so how does wet waste fit into the picture?

Mr. Gilbert said that something everyone has failed to express here is that on anything that is pulled out they receive \$62.50 plus the cost and they are talking about \$2.00 or 2% to 3% is going to put them out of business. He doesn't believe anyone operates that close to the margin.

Mr. Murray said that SWAC has been arguing for the past two or three years at what minimum recovery rate the MRFs should operate (currently 45%), and we are averaging 35%. It is now looking like MRFs will have to be bringing in loads with less recovery potential in order to get additional recyclables out of the system and the present curve is too late, it is not giving back soon enough.

Mr. White responding to Mr. Gilberts statement said he didn't believe people were operating that close to the margin but it is now happening because to some degree the rules of changed -- the reduction of the tipping fee and the newly proposed curve. Mr. White responding to Ms. Keil's point about the curve applying to only dry waste, said he did not understand that either. However when he asked about it at the REMCom, it doesn't exactly say it in the ordinance, but it is premised on the "waste swap." He said that in other words you take it out of the wet and it gets shifted over to your dry numbers so it is applying only to dry but it really came out of the wet stream. He said he knew

staff had good intentions with this scenario, but the SWAC did also and the 10% is an unknown and he believes it would be more fair to leave the 20% and eliminate the 10% and if the worst case scenario happens, staff can say I told you so in a year from now and change it because it didn't work. He said that meanwhile out there is a couple of companies that are trying to do good for the system and recover something and we are just not sure if this will really truly hurt them and we should give them a one-year attempt without the 10%.

Chair Morissette asked if Mr. Schwab, if in his calculation he did so with the wet/dry assumption? Mr. Schwab replied yes, that was what he was told, but that was tough if you didn't have a lot of dry waste to start with. Chair Morissette said it bothered him some that committee members have expressed that Metro is cutting their margins to next to nothing, just short of putting them out of business.

Mr. Schwab said he is saying Metro is not going to get the "marginal loads" recycled.

Ms. Keil asked Mr. Warner to restate for the committee the cost of the curve put in place versus the cost of the curve proposed by SWAC.

Mr. Warner said that Sue was making reference to staff's recommendation to REMCom where they brought to light that the financial impact (subsidy) of SWAC's curve was \$1.4 million whereas staff's proposal was \$900,000.

Mr. Vince Gilbert (from the gallery) said haulers are not remembering is that they are receiving a rate reduction from what was once \$75/ton down to \$62.50/ton which really hurts the MRFs. He said everyone has to give something to help make things work.

Mr. Warner, with reference to worry that loads would essentially not be source-separated because of the 10% and/or performance curve, said staff believes we already have that problem and it wouldn't change regardless of the shape of the curve.

Mr. Penning said he did not necessarily agree that the lower grade loads would not be recycled. He said that no matter where one is on the performance curve, you will, 1) avoid the regional user fee; and 2) you have the opportunity to see the recovered material and/or 3) move your percentage higher down the line which makes a lower fee across.

Mr. Miller said that Mr. Penning's operation was working a lot further from the 10% than his operation was. He said that if the 30% load was more on the wet side of his operation and he is working on maybe an 80/20 split to begin with, he is going to have to avoid that load because it will put him below the 10% and you lose everything you tried to accomplish to that point. So it is how close you are to that 10% as to whether you are able financially to accept those marginal loads. Mr. Miller said the penalty has moved from 45% on the dry side to 10% overall, and the penalty is quite sever when your discount/credit is to zero.

Chair Morissette asked for a short recess while staff prepared some visuals.

Mr. Anderson distributed a graph that was discussed at the REM meeting yesterday. He said the graph is intended to show some of the points that Vince Gilbert has brought up. The graph, he said, shows the avoided cost per ton on an incoming ton basis. For example, if a facility is doing zero percent recovery on an incoming ton basis, you get zero credit. In recovering 100% percent you are getting the full \$14 because you remove that from the waste stream, it gets recovered and you are not paying anything. This is the point Ralph Gilbert made a moment ago. What the performance curve is doing is giving that additional little bump. Staff has designed this curve so that it peaks out at 50% percent as an incentive. The SWAC curve that you drew on the 28th he said, peaked at 25% and actually fell on an incoming per ton basis afterwards. Staff felt that was very problematic from a point of view of public policy. Mr. Anderson added that one thing the SWAC wanted to attempt to do was drop any curve below the "make whole" curve at about the regional average of about 35%. Which is, he said, something else Staff's curve does. The SWAC curve dropped below this "make whole" curve at about 25%.

Mr. Penning said that the way Mr. Anderson phrased it yesterday in the REM meeting was that the staff looked at it and after 25% there was a declining return for recycling, and what Staff didn't want to do was suddenly draw the line at 25%. Once a facility reaches 25%, he said, they get their biggest bang for their buck. After that it is a declining return. So you move that declining return out to 50% so the businesses continue to go after that material. There is more of an incentive voted on the front end of the curve that is more equal on the back end of the curve, he said. So as it is coming in, if you hit 25% percent for the month you shut the door and the rest goes out the back and goes to the landfill.

Mr. Murray asked how many facilities are getting 50% percent? Mr. Ehinger answered by saying that he looked at it on the value per ton that is pulled out of the waste. His definition of encouraging recovery is, if you recover 25% percent, you are going to get \$3 dollars a ton. If you recover 30% percent, you are going to get \$7 dollars a ton, on that recovery ton, up to some higher number as you increase your effort. The curve that Staff has proposed, he said, goes up to \$12 dollars a ton. The reason why staff capped out at \$12 dollars a ton and brought it to that point at 35% percent, was so that staff could meet the other objective; which was to, up in the range of around 30% percent on, have no economic impact.

Mr. Warner responded to Mr. Murray's question if anyone was getting 50%, by saying he didn't think that was the issue. The issue, he said, is that staff laid out a target and an incentive. The reason was to preserve post collection recovery capacity. Staff didn't want to have every MRF close their doors. Secondly, he said, what he thought SWAC said was to provide an incentive out in those higher levels for companies to be able to get rewarded for their higher efforts, so staff provided a target.

Mr. Murray said that with the target at 50% percent, if he were a hauler and owned his own facility, he would be tempted to put an awful lot more back into his waste stream. To hit the 50% percent would not give him an incentive to source-separate. Mr. Murray added that it would cost him more money. If he were using one vehicle, it would be cheaper to haul that material. The material is not in the waste stream, it is not the recoverable material, because we are doing such a good job right now at source separation. He stated that he would be more apt to, just taking it from a hauler perspective and processor, to just not promote source-separation.

Ms. Keil, said that in the garbage load your not going to get 50%? Ms. Keil said that out of a MRF, she would find it difficult to believe that you're never going to get 50% on a co-mingled recycling system.

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Mr. Murray, said to correct him if he is wrong, but the intent of all of this, is that the more you take out in source-separation, the less you have to count going through your facility. So if you are doing a good job at source-separation, every pound you take out of your wastestream, of your dry wastestream, you are shooting yourself in the foot on the MRF end -- the way this is set up.

Mr. Winterhalter said as a clarification, what Mr. Murray is saying that if you are separating out the dry waste and that may be all cardboard, or pallets, are you saying that is a source-separated.

Mr. Murray said it was his understanding that if its mixed cardboard, office papers, if a customer set it out source-separated, -- is that counted our not?

Mr. Gilbert said when you do that Jeff, that doesn't come to your facility, does it? When you have a source-separated load like that, it goes to a facility like EZ Recycling like you have or something like that. He said it goes to someplace where there is a direct market for it. There is no reason to take them to your place when you can take them to an EZ Recycling or a SMURFIT direct.

Ms. Keil said that source-separated in this instance means something that doesn't need any more sorting.

Mr. White, referring to page 2, second bullet, in the summary it says the recovery rate formula for returning a fee excludes source-separated recyclables whether source-separated or co-mingled. So you are saying they don't need any further processing. If

they are co-mingled, they are all put together but they are source-separated, that doesn't count.

Mr. Irvine said that if you look at Code, you find source-separated by type, in other words, it has to be on paper. He doesn't believe that under Code, a load of paper and metals and wood though they are all recoverable is considered a source-separated load under definition.

Mr. Ehinger said that Metro's Code refers to the state definition which indicates that it is a decision made by the generator. If he sets it aside for recovery it is source-separated.

Chair Morissette asked what the budget impact of 10% percent would be? Mr. Warner answered that the budget impact is minimal. Mr. Ehinger added that the impact was zero based on the data staff has. Chair Morissette asked if 8% percent was the right number? Ms. Keil said if Central is getting 6% to 9% percent, what about 5% percent? Mr. Warner said the SWAC wanted to have some point where if a facility is not performing at a MRF level, a penalty would come into play. Staff suggested that rather than a penalty, to have a point at which a facility could start taking advantage of the curve.

Chair Morissette asked how that could not have a budget impact when a facility operating at 20% gets nothing? Mr. Warner answered that he believes most are operating above that level now. He asked if the level would be dropping below that point with more material going through the facilities?

Ms. Keil answered that the problem is the wet material and that she had been laboring under a misconception on the co-mingled material. These percentages, she said, would be no problem where you set all aside and have certain other materials that are not counted, like aggregate and so on. Now we may be doing something different. She feels that on the remote franchises for the facilities that are taking co-mingled materials, that is where a block is needed and the percentage must not drop below 25%.

Mr. Warner said that he and Chairman Morissette have been talking about what is a reasonable percentage. He prefers, if that is a problematic issue for the SWAC, he would recommend to excise that piece and to move on and see where we are in six months, nine months or a year from now.

Mr. Penning said that a lot of the discussion is centered on Tom Miller and Mike Lechner's facility. He doesn't feel that this is any different than any other pilot project that has been tried in other areas. It has got a one-year limit on it and we are going to come back and revisit it then. I don't know, he said, if anyone of us knows what the right percentage is. What is the problem with trying both scenarios? Maybe for Mike, you can gain some information at 10% percent or without 10% percent so the next time there is a one hauler only situation, you will have some data.

Mr. Warner asked, are you suggesting to go forward with the ordinance as drafted to the Council with a discussion of trying to understand the difference between no minimum, 10% minimum and use of two facilities as test cases? Mr. Penning answered that he is looking at the discussions that he has heard and where they have been raised and they are on two different sides of the line. Mr. Warner added that maybe Staff could tell Council there is some adjustment coming.

Mr. Gilbert suggested a look at the contract with Waste Management. It says that if a MRF has over 5% putrescibles in one load, they could not take it, and that knocks out all of the reloads. Ms. Keil asked what would happen if the load consisted of more than 5% putrescibles? Mr. Gilbert answered that it is stated in Change Order No. 7, very distinctly that a MRF or a facility like that could not take that load. That is how you preserve the 90% clause.

Mr. Irvine said this is all under the assumption that the reloads will in fact happen. In order for us to proceed, he said, the permit would have to be modified by Metro and DEQ to allow it to happen. The putrescible waste ends up at Arlington to be consistent with the Change Order. Mr. Gilbert commented that the Change Order says any one load. It doesn't say anything about any load coming in the door. Mr. Penning said that Mr. Gilbert is talking about loads coming in the door of a MRF, not going out the back door. Mr. Gilbert answered that is correct, coming in the door. The Change Order, he said, is very specific on that.

Chair Morissette said that the current situation, as he understands it, is the SWAC has passed a resolution that speaks to the curve, which was originally discussed. A substantive modification, he said, would require a delay of implementation. If we could vote on the staff curve, he said, with the caveat that for the next 60 days we would get together and talk about the 10% percent. Chair Morissette continued that his concern was budgetary. My commitment to moving the current curve forward is that in the next 60 days we will have a debate with the Council about the 10% percent and the pilot projects. He said as SWAC moved forward, we all knew there was going to be some problems. There has been an enormous concern about what we are doing here. That's why when Councilor McFarland suggested that it contains a 12-month sunset and we had a strong debate with another Councilor, I didn't resist it.

Mr. Gilbert moved that the SWAC adopt the REM curve as we have discussed it with the caveat that we will have the 10% percent discussion over the next 60 days.

Ms. Keil seconded the motion. She asked if the SWAC could convince Council that a better approach would be the pilot project, could they modify it at that point? Chair Morissette answered that he didn't see that being a problem. He stated that he wanted to make it real clear to the Council that what they would be passing, with the 10% percent, was a concern and that we needed to get back before you with some kind of a proposal.

Mr. Schwab said that the SWAC has been asked to recommend this proposal which is not ours, it's staff's proposal. I wonder what we do here, he said, because everything that we suggested has changed.

Mr. Miller thought that Mike Leichner hit on one of the philosophical difficulties that the SWAC is having here. He thinks we need to assess as a regulator and look at your franchisees and say: what is the most effective way to regulate these individuals or companies? Do we have responsible operators who are willing to respond favorably to an incentive-type program and do the right thing? Or are we worried about what all of these operators saying? If we don't come up with a big stick and stop them from doing specific things, we need to take a position and say we are going to prevent unwanted behavior as opposed to encourage wanted behavior. He thinks that is the biggest difference between the two curves. Economics aside, and in terms of the impact of the fund balance, but the philosophy of these two curves is carrot and stick.

Chair Morissette stated he still believed that SWAC is talking about an incentive-based program. Maybe it's not as much as some people wanted, he said, but he wouldn't paraphrase it as a stick and carrot thing. Chair Morissette called for a show of hands, but asked for clarification on what was proposed.

Mr. Gilbert said that he proposed SWAC follow the vote of the REM meeting yesterday, with a caveat that there is discussion in 60 days on the 10% percent.

Chair Morissette said the conclusion, potentially to go to the Metro Council, and the concern that he brought forward, is that a deal is a deal. This would be a heads up to his fellow Councilors that the full SWAC is coming back to revisit this portion of what we're doing and he wanted to triple check the budgetary implications.

Mr. DeVries asked if the SWAC was going to revisit the proposal or discuss it? He asked Mr. Leichner if a pilot program sounded appealing to him? Mr. Leichner answered that he truthfully couldn't afford to invest in upgrading his facility for the notion of a one-year promise. Mr. DeVries asked if the whole discussion is going to be academic? Chair Morissette disagreed that something isn't better than nothing.

Mr. Irvine said that he was not going to invest a whole lot of money in an additional MRF, maybe a reload, but not a MRF until he sees what is going to happen. He said that we have an investment, and one year is better than nothing. Hopefully we'll be able to demonstrate during that year that we're going to keep more material out on the MRF side. Probably more so, he said, because of the sunset.

Mr. Gilbert called for the question.

Five members voted in favor: Merle Irvine, Sue Keil, Garry Penning, Michael Misovetz, Don Morissette.

Seven members opposed: Dave White, Loreen Mills, Frank Deaver, Rick Winterhalter, Steve Schwab, JoAnn Herrigel, Jeff Murray, Bruce Broussard and Tom Miller.

Chair Morissette stated that we would have to tell the Council that the majority of the SWAC does not agree with the 10% issue. Mr. Warner asked if someone had a different proposal?

Mr. Schwab said he didn't have a problem with the proposal if the 10% percent was gone.

Chair Morissette asked for confirmation that the SWAC had decided to delay the conclusion to the proposal. Mr. White asked what was the test on the delay? Chair Morissette answered that a substantive change would cause a delay. Mr. White asked in going from 10% percent to 5% percent, just in terms of that number, is a substantive change? Mr. Miller referred to Mr. White's question and asked, even though staff's calculations have indicated no economic impact?

Mr. Houser contacted the Metro's General Counsel and was informed that if the SWAC was talking about modifying the 10% requirement, the Metro Charter requires that the Council can not adopt an Ordinance at any meeting at which a substantive amendment is made to an Ordinance. He would recommend to the Council, he said, that they could not adopt the Ordinance. Also, because of the tight deadline for a June 1st implementation date, the final Council action would be delayed until sometime in March and that would mean the implementation date would have to be pushed back until probably July 1st.

Mr. White asked if there is a week delay so that the REM committee could meet just prior to the Council meeting so that the Ordinance may be passed? Mr. Houser answered that there is a one-week delay.

Mr. Warner said that what he is hearing is that the SWAC wants the 10% percent to be removed.

Mr. Schwab moved that the 10% percent go away. Mr. White seconded and asked if this meant that there would be a delay? Mr. Houser answered that yes, this would cause a delay.

Mr. Penning said that he would like to vent some frustration and asked where was everybody yesterday? Now, he said, the rate decrease would be delayed another month. Mr. Murray commented that he received his copy of Friday afternoon but this was a change that needed to be discussed with his boss. In representing the recycling industry, he said, this was not a reasonable amount of time to receive feedback and then testify.

Mr. White commented that the votes don't happen in a vacuum. Had we had this meeting earlier, he said, we would not have been boxed in now, we didn't have a chance to discuss it. He felt that if the SWAC had been able to meet before the REM committee meeting, then the REM would have had the SWAC committee's input.

Ms. Devenir-Moore asked if just the 10% percent could be delayed for a week. Chair Morissette answered that, according to Mr. Houser, that was a substantive change and required an Amendment to the Ordinance. That is why, he said, he gave the SWAC a commitment that we could talk about the 10% percent during the 60 days if this proposal was approved. Mr. Schwab said that the SWAC would approve the curve with the 10% being changed or not included at all.

Chair Morissette said what SWAC is clearly saying the majority supports the Ordinance without the 10% percent. We can make that in a Staff Report.

Mr. Gilbert asked if the SWAC should vote on that? Mr. White asked if there would still be a delay? Chair Morissette answered that there would not be a delay because no changes would be made to the Ordinance. Mr. Schwab voiced his concern that the Council will go ahead and approve the Ordinance as is with or without SWAC support.

Mr. Anderson asked if he could make a suggestion? He thought that SWAC may want to choose to entertain a motion to draft language--subsequent verbiage that rescinds the 10% percent. That way, he said, we could move forward with the current Ordinance. Then, he said, the second Ordinance can rescind the 10% percent if that is what the SWAC wishes. Mr. Warner commented that Mr. Anderson did not have his team's support on his suggestion.

Mr. Warner said that the SWAC was at a decision point. He would rather delay and go to the Council next week with a Staff Report, which indicates the SWAC committee does not support the 10% percent in the curve. Because this is a year program, he believes that Staff can get behind that and carryover for a week without the adoptions.

Chair Morissette asked if the SWAC would like to revote on the original proposal? Ms. Keil asked since the Council won't view the proposal until the 26th couldn't a phone vote be done and the proposal be changed if necessary? Chair Morissette answered that he knows he has his Council votes now if he follows the process, but he didn't want to take the chance of losing supporters by moving too quickly.

Mr. Warner said that his recommendation would be to make it a clean curve.

Mr. Gilbert asked why doesn't the SWAC try one more vote on his original motion? Ms. Keil again seconded the motion.

Members voting in favor numbered 5, including Morissette. Opposed numbered 9.

Several members of the Committee commented that they didn't feel everyone knew what they were voting on. Mr. Warner said the Committee just voted on a motion to support the Ordinance, with a revisit of the 10% percent in the next 60 days, to look at a potential

pilot of one or two or more of the facilities, to determine the difference between the zero and the 10% percent.

Mr. Gilbert called for the questions.

Members in favor numbered 9, opposed numbered 5 (including Morissette)
Abstentions: Tam Driscoll, Loreen Mills, Lynne Storz, and Garry Penning.

Mr. Warner said that Staff will work with the Chairman on a revised proposal.

V. Revision of Metro Code Related to Facility Regulation

Mr. Anderson suggested that SWAC member's pick-up the informational materials about the Revision of Metro Code Related to Facility Regulation on their way out.

VI. Other Business and Adjourn

Chair Morissette adjourned the February 18, 1998 SWAC meeting at 11:50 am.

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