

Agenda Item No. 2.0

**2013 LEGISLATIVE SESSION
(WORK SESSION #3)**

Metro Council Work Session
Tuesday, Jan. 8, 2013
Metro, Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: January 8, 2013 Time: 9:45 AM Length: 90 minutes

Presentation Title: 2013 Legislative Session (Work Session #3)

Department: Government Affairs and Policy Development

Presenters: Randy Tucker

ISSUE & BACKGROUND

This work session is for the purpose of discussing the 2013 legislative session and the Metro Council's objectives for the session. A number of legislative concepts and principles were discussed on November 6 and November 27. Additional issues on which the Council might want to promote legislation or adopt positions will be discussed, as well as some further proposed modifications to the Council's legislative principles in response to conversations that have taken place since November 27. A proposed legislative agenda will be presented for discussion.

OPTIONS AVAILABLE

Council may wish to discuss specific legislative concepts or principles, direct staff to develop additional concepts and give preliminary approval to a 2013 legislative agenda.

IMPLICATIONS AND SUGGESTIONS

QUESTION(S) PRESENTED FOR CONSIDERATION

Staff requests that Councilors provide feedback on proposed legislative priorities. No specific Council actions are required at this time.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION X Yes
 No

DRAFT IS ATTACHED X Yes No

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF PROVIDING) RESOLUTION NO. 13-4403
DIRECTION TO METRO CONCERNING BILLS)
BEFORE THE 2013 OREGON LEGISLATURE) Introduced by Council President Tom Hughes
)
)

WHEREAS, Metro has an interest in bills before the 2013 Oregon Legislature; and

WHEREAS, the Metro Council and Metro staff will represent Metro’s interest during the upcoming legislative session; and

WHEREAS, the Metro Council wishes to establish a united position on important legislative proposals and provide direction to its staff in order to represent the will of the agency; and

WHEREAS, the attached Exhibit “A” of this resolution lists specific expected and potential 2013 issues that are of concern to Metro and the metropolitan region and gives guidance to staff on the Metro Council’s position on these issues; and

WHEREAS, on January 10, 2013, the Joint Policy Advisory Committee on Transportation [unanimously] endorsed legislative priorities for transportation policy and funding that are reflected in the attached Exhibit “B”; and

WHEREAS, the Metro Council adopted these transportation priorities by [unanimously] passing Resolution 13-4402 on [January 17, 2013];

WHEREAS, the attached Exhibit “C” states the Metro Council’s principles regarding categories of potential legislation in order to provide guidance to staff in representing Metro; and now therefore

BE IT RESOLVED that the Metro Council hereby directs the Metro Chief Operating Officer, the Metro Attorney, and Metro staff to communicate the agency’s position on a variety of legislative proposals to the 2013 Oregon Legislature consistent with Exhibits “A,” “B” and “C” attached hereto.

ADOPTED by the Metro Council this _____ day of January, 2013.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

METRO COUNCIL LEGISLATIVE PRIORITIES 2013 Legislative Session



TOP PRIORITY ITEMS

- **I-5 Replacement bridge over the Columbia River:** Support adoption of a state finance package that reflects the importance of this project to the state while protecting the interests of the Portland region and addressing the project's impacts on the local community.
- **Oregon Convention Center headquarters hotel:** Pursue state participation in finance package for development of headquarters hotel needed to attract national conventions to Oregon.
- **Paint stewardship:** Lift the sunset on Oregon's paint stewardship program while incorporating improvements in convenience, public outreach and accountability.
- **Willamette Falls Legacy Project:** Pursue allocation of funds identified in Governor's Balanced Budget for redevelopment of Blue Heron paper mill site in Oregon City.
- **Service provision in unincorporated areas:** Support legislation moving "Area 93" from Multnomah County to Washington County upon adoption of intergovernmental agreement between the counties. Oppose legislation allowing landowners to demand services outside local planning processes.

OTHER ITEMS, BY ISSUE AREA

Transportation Finance and Policy

- **Funding for non-highway transportation:** Support adoption of Connect Oregon V and development of "Connect Plus" package that provides ongoing funding for investment in air, rail, marine, transit, bicycle and pedestrian capital projects as well as transit operations.
- **TriMet collective bargaining:** Support legislation restoring collective bargaining to transit districts.
- **Clean Fuels Program:** Support legislation lifting the sunset on Oregon's Clean Fuels Program.
- **Local revenue authority:** Preserve and expand local options so local governments have the flexibility to build, operate and fund transportation systems that support prosperous, livable and sustainable communities.

Land Use/Community Development

- **Industrial site readiness:** Support creation of state financial tools to help make land inside the urban growth boundary available for industrial development and job creation through infrastructure investment, brownfield cleanup, land aggregation, and other means.
- **Urban growth management:** Oppose efforts to force larger urban growth boundary expansions by legislatively removing certain areas from the buildable lands inventory.
- **Brownfields:** Support creation of policy tools including tax credits and tax abatements to facilitate brownfield redevelopment.

Resource Conservation and Recycling:

- **Product stewardship:** Support creation of systems for collection and recycling of batteries and mercury-containing fluorescent light bulbs based on producer responsibility.
- **Diesel emissions reduction:** Update state law to allow federal Diesel Emissions Reduction Act funds to be spent on most effective means of reducing diesel emissions.
- **Labeling of compostable materials:** Support legislation to improve information to households and businesses about the compostability and environmental impact of products and packaging.
- **Plastics pyrolysis:** Oppose changing the state waste reduction hierarchy to designate plastics pyrolysis as a form of recycling.
- **Toxics:** Support legislation requiring disclosure and removal of toxic chemicals in children's products and expanding the use of integrated pest management by state agencies.

Regional Parks and Natural Areas

- **Allocation of RV fees:** Support change in the formula for allocation of recreational vehicle fees to increase percentage allocated to county parks, including Multnomah County parks owned and operated by Metro.
- **Abandoned vessels:** Support legislation that improves Metro's ability to address problems associated with abandoned or derelict vessels at Metro facilities.

Smart Government

- **Property tax reform:** Support changes in Oregon's property tax system that enhance the fairness of the system and improve the ability of local voters to effectively approve increases in local revenue without inadvertently affecting the ability of other jurisdictions to provide services to their residents.
- **Transient lodging tax:** Support legislation requiring internet travel companies to pay transient lodging tax on full consideration paid for lodging.
- **Efficient government:** Maintain or enhance local control related to public retirement and benefit costs.

METRO COUNCIL 2013 LEGISLATIVE PRINCIPLES¹

LOCAL AUTHORITY

1. **Pre-emption:** The Legislature should remove existing restrictions on local and regional revenue-raising authority and avoid enacting new limitations or pre-emptions. Within the context of Oregon's land use system, Metro's authority should not be pre-empted.
2. **Funding:** State mandates should be accompanied by funding.

LAND USE:

3. **Efficiency:** Land within UGBs should be used efficiently before UGBs are expanded.²
4. **Need:** The UGB should not be expanded in the absence of demonstrated need.³
5. **Transportation:** Land use and transportation planning should be coordinated so land uses do not undermine the efficiency and reliability of the transportation system and transportation investments do not lead to unintended land uses.⁴
6. **Annexation:** As cities are the preferred governing structure for providing public services to urban areas, Metro supports reforms that will facilitate, or reduce barriers to, orderly annexation and incorporation.
7. **Rules/Statutes:** Administrative rules should not be adopted into statute.
8. **Successful Communities:** Metro supports legislation that facilitates the achievement of the region's six desired outcomes for successful communities: vibrant, walkable communities; economic competitiveness and prosperity; safe and reliable transportation choices; leadership in minimizing contributions to global warming; clean air, clean water and healthy ecosystems; and equitable distribution of the burdens and benefits of growth and change.⁵
9. **Non-Regulatory Tools:** State efforts at regulatory streamlining should include funding to support development of non-regulatory tools for achieving desired land use outcomes.⁶
10. **Fiscal Responsibility:** Funding to support urban development should be generated at least in part by fees on those who directly benefit from that development.

SOLID WASTE:

11. **Product stewardship:** Metro supports efforts to minimize the health, safety, environmental, economic and social risks throughout all lifecycle stages of a product and its packaging, and believes that the producer of the product has the greatest ability, and therefore the greatest responsibility, to minimize those adverse impacts.

TRANSPORTATION:

12. **Transportation Funding:** Metro supports an increase in overall transportation funding, investments in a balanced multimodal transportation system, and flexibility in the system to provide for local solutions to transportation problems.

PARKS AND NATURAL AREAS:

13. **Parks and Natural Areas:** Metro supports measures to increase local and regional authority to raise revenues to support parks and natural areas and to increase the level of state funding distributed to local governments for acquisition, capital improvements, and park operations.

SUSTAINABILITY:

14. Climate Change: Metro supports efforts to combat and adapt to climate change and to meet the state's goals for reducing greenhouse gas emissions.

~~14.~~**15. Conservation Education:** Metro supports efforts to provide stable and reliable funding to conservation education.

ECONOMIC PROSPERITY:

~~15.~~**16. Infrastructure Finance:** Metro supports measures, including funding or revenue measures, that facilitate state, regional or local investments in the public structures needed to accommodate population and economic growth in a way that helps the region achieve its six desired outcomes for successful communities.

~~16.~~**17. Metro Venues:** Because the Oregon Convention Center, Expo Center, Portland Center for the Performing Arts and Oregon Zoo are assets that contribute millions of dollars to the state and regional economies, Metro supports legislative measures that facilitate the success of these venues in attracting visitors and enhancing the quality of their experiences.

AGENCY OPERATIONS:

18. Firearms and public facilities: Metro supports legislation that increases Metro's authority to regulate the carrying of firearms on Metro properties, and opposes legislation that limits or reduces that authority.

¹ Footnotes refer to applicable policy statements in Metro's Regional Framework Plan (RFP).

² RFP Policy 1.1 (Compact Urban Form).

³ RFP Policy 1.9 (Urban Growth Boundary).

⁴ RFP Policy 1.3.13 (Housing Choices and Opportunities); Transportation Goal 1 (Foster Vibrant Communities and Efficient Urban Form).

⁵ RFP Chapter 1 (Land Use).

⁶ Policy 1.1 (Compact Urban Form); Policy 1.2 (Centers, Corridors, Station Communities and Main Streets).

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Visitor Venues

Date: 12/12/12

Person completing form: Stephanie Soden

Phone: x1818

ISSUE: Oregon Convention Center hotel

BACKGROUND: The Oregon Convention Center (OCC) is a regionally-owned asset that catalyzes visitor spending throughout the Portland metropolitan area and across the state. Over half a billion dollars is injected into the state's economy each year as trade associations and large groups of working professionals attend multi-day conventions at the OCC and visit destinations throughout Oregon for pre- and post-meeting leisure. Analysis reveals that convention attendees spend, on average, \$330 per day in hotels, restaurants, retail shops, recreation outfitters and transportation service providers in the region and beyond during their stay.

The OCC has been envisioned as an economic driver for the city, region and state since its inception. The 1987 Oregon Legislature contributed \$15 million in Oregon Lottery funds toward the OCC's total construction cost of \$90 million. This state investment has been paid back many times over. Each year, the state of Oregon receives \$4-5 million in personal income and corporate excise/income tax revenues as a result of the center's business. The OCC also generates roughly \$600,000 annually in state transient lodging taxes, which fund tourism promotion and destination marketing activities in nearly every Oregon community.

Recent independent analysis estimates that, with an adjacent 600-room convention center hotel, the OCC can expect an average of seven additional conventions each year, which would induce an extra \$120 million in direct and indirect spending annually throughout the Portland metropolitan region alone. In addition to the 4,000 to 5,000 local jobs currently supported by the OCC's business, 2,200 construction jobs and 950 permanent hospitality jobs would be created and sustained through the hotel project. The project would be expected to yield \$330 million in state and local tax revenues over a 30-year period. The State of Oregon would be the largest beneficiary by far, receiving \$180 million in additional tax revenues over this time period.

Negotiations are currently under way with Mortenson Development/Hyatt Corporation to develop a hotel package for Metro, Portland Development Commission (PDC), City of Portland and Multnomah County approval in early-mid 2013. The focus of these negotiations is to decrease the gap in funding between total project costs and public resources tentatively allocated to the project, including \$4 million in grants from both Metro and its project partner, PDC. The finance package may also include reinvestment of the site-specific local transient lodging taxes for a period of time to be negotiated.

RECOMMENDATION: The Oregon Convention Center has delivered on its original promise of inducing spending, supporting Oregon businesses, creating and sustaining jobs and generating tax revenues. Now, in consideration of the estimated future state economic and fiscal impacts, the OCC hotel project team hopes to pursue \$15 million in state lottery funds in the 2013 legislative session. Staff recommends that the Metro Council support this request.

LEGISLATIVE HISTORY: In 1987, through passage of House Bill 3075, the Legislature approved allocation of \$15 million in state lottery funds for construction of the Oregon Convention Center.

OTHER INTERESTED PARTIES: Likely allies include Travel Portland, Travel Oregon and the Oregon Tourism Commission. The Oregon Restaurant and Lodging Association (ORLA) will, at best, remain neutral because a small but vocal minority of its membership opposes the project.

IMPACT IF PROPOSED ACTION OCCURS: Metro will benefit by receiving financial support of the Oregon Convention Center hotel project. The state of Oregon and local communities statewide will benefit from increased tourist spending and increased revenues.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Visitor Venues

Date: 11/19/12

Person completing form: Stephanie Soden

Phone: x1818

ISSUE: Online travel companies and transient lodging taxes

BACKGROUND: State and local transient lodging tax (TLT) is generally calculated based on the retail cost of a hotel room. However, online travel companies (OTC) operating in Oregon, such as Expedia, Orbitz and Travelocity, have been remitting TLT payments based not upon the retail price they receive from the customer, but rather upon the wholesale price they pay the hotel for the room. The result is lower TLT revenues for important tourism promotion efforts, including support to the Portland Center for the Performing Arts (PCPA) and Oregon Convention Center (OCC) via the Visitor Development Initiative (VDI) agreement.

Many jurisdictions across the country have pursued legislation and legal action to remedy this. In response, OTCs are seeking federal legislation to create a tax exemption through a preemption of state and local taxing authority.

The Oregon Restaurant and Lodging Association (ORLA) led efforts to pass legislation to standardize the calculation of TLT by OTCs in 2012 and plans to do so again in the 2013 session. Metro, along with other local government partners, supported this effort. A legislative concept is currently being drafted, modeled after SB 1519 (2012).

RECOMMENDATION: Staff recommends that the Metro Council support this legislation.

LEGISLATIVE HISTORY: In the 2012 legislative session, SB 1519 was introduced and considered by the Senate Finance and Revenue Committee. Questions were raised as to whether the legislation amounted to a tax increase; under the Oregon Constitution, all revenue-raising legislation must originate in the House of Representatives. While that question was not answered, efforts were made to amend a bill that was in the House Revenue Committee, but ultimately time ran out in the short session.

OTHER INTERESTED PARTIES: The Oregon Restaurant and Lodging Association will take the lead on this legislation. Other likely supporters include Travel Portland, the League of Oregon Cities and the Association of Oregon Counties.

IMPACT IF PROPOSED ACTION OCCURS: Metro would benefit from increased TLT revenues, as would local governments around the state.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Parks and Environmental Services

Date: November 14, 2012

Person completing form: Justin Patterson

Phone: 503.797.1886

ISSUE: Distribution of RV registration fees between the State Parks Department and County park providers

BACKGROUND: The Oregon Parks and Recreation Department (OPRD) and county governments share recreational vehicle licensing revenues collected by the Oregon Department of Transportation. These fees are statutorily dedicated to maintaining, acquiring, developing and operating county park and recreation sites. Since 2007 the split has been 35% to counties and 65% to the state.

On July 1, 2015 this split will revert to its pre-2007 formula of 30% to counties and 70% to the state. This change in the formula was enacted in recognition of the then-scheduled expiration of Measure 66 (lottery set-aside for parks and salmon); however, Measure 66 was reauthorized by the voters in 2010 with the passage of Measure 76. (Since the passage of Measure 66 in 1998, OPRD has eliminated most of its backlog of deferred maintenance.)

Counties provide 49% of Oregon's combined state and county campsites. (Metro is the park provider for Multnomah County and receives the county share of the revenues.) Legislation proposed by the Oregon Parks Association and the Association of Oregon Counties would amend the statute to provide for a 50/50 distribution of RV fees.

RECOMMENDATION: Metro should actively support this proposed legislation.

LEGISLATIVE HISTORY: Prior to 2007, RV fees were distributed 30% to counties and 70% to OPRD. The passage of SB 29 in 2007 instituted the current 35/65 distribution.

OTHER INTERESTED PARTIES: County park providers are supportive via the Oregon Parks Association and are working closely with the Association of Oregon Counties. The Oregon Recreation and Park Association has yet to take a position on this issue. The State Parks Department opposes this proposed change.

IMPACT IF PROPOSED ACTION OCCURS: The proposed new formula would provide an estimated \$170,000 in additional revenue to Metro, and additional funding to other County providers around the state, many of whom face acute financial distress that has led to park closings, staffing cuts, and reduced service levels.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Parks and Environmental Services

Date: December 12, 2012

Person completing form: Justin Patterson

Phone: 503.797.1886

ISSUE: Abandoned and derelict vessels

BACKGROUND: In March of 2012, a large vessel owned by an individual was found adrift in the Columbia River in the middle of the night. To secure the Columbia's navigational channel for safety, the US Coast Guard secured the vessel at Metro's Gleason Boat Ramp without Metro's authorization.

Metro became responsible for the disposal of the structure due to the owner's inability to afford or otherwise provide for its removal. The vessel was technically abandoned, but because Metro is not an authorized "removal authority" under state law, we were unable to legally remove the vessel for disposal. As a result, Metro had to have the owner sign over interest in the vessel to Metro so it could be moved from the boat ramp for disposal. This problematic solution was necessary but carried significant risk.

Proposed legislation would streamline the process for seizing and disposing of abandoned vessels, and would allow for the seizure and disposal of derelict vessels (vessels in a condition that constitutes a hazard). The concept also makes failure to remove an abandoned vessel and possession of a derelict vessel on the waters of this state criminal offenses.

The abandoned vessel statutes were last amended in 2003 to allow Oregon public ports to act as "removing authorities" (in addition to law enforcement) and to establish the Abandoned Boat Removal and Cleanup Sub-account to reimburse ports and law enforcement for the removal of abandoned vessels. Several challenges have hampered full utilization of the fund: ports and law enforcement are not always willing or able to act as removing authorities; it can be difficult for agencies to meet the 25% match requirement; and the seizure and notification process is long and burdensome. In addition, waiting for a vessel to be abandoned is expensive and inefficient. Before vessels are abandoned they have almost always been in a "derelict" condition for months or years. It would be more cost effective to intervene early and have a process to compel owners to remedy the derelict condition of their vessels or remove them from the waters of this state.

The proposed legislation would:

- Add the definition of "derelict vessel" and provide for the seizure and removal of these vessels by enforcement agencies; make it an offence to fail to remedy the derelict condition of a vessel after notification.

- Expand the authority to seize and remove abandoned and derelict vessels to federal agencies and public bodies that have the responsibility for the land or water on which an abandoned vessel or a derelict vessel is located; this definition would include Metro.
- Revise the procedures for owner notification both pre- and post-seizure and for hearings where owners can challenge whether seizure was warranted and /or the reasonableness of any salvage, towing or storage costs incurred by the enforcement agency; agencies can issue final orders imposing liability for those costs on the owners of the vessels.
- Raise the reimbursement percentage to 90% for vessels that are or have been registered with the Marine Board; allow for a portion of the sub-account to be used for a recreational vessel turn-in program.
- Change the definition of a "threatened spill or release" to include ships which are in danger of sinking, thus requiring ship owners to remove pollution and prevent a spill or release.
- Add ships to the places DEQ may investigate, add hazardous materials to the threatened spills DEQ may investigate, and make the scope of DEQ access authority consistent with the statute's definition of threatened spill or release.

RECOMMENDATION: Metro should actively support this proposed legislation.

LEGISLATIVE HISTORY: See above.

OTHER INTERESTED PARTIES: The State Marine Board and other currently specified removal authorities including Ports or law enforcement agencies.

IMPACT IF PROPOSED ACTION OCCURS: The proposed action would help streamline and otherwise improve the process regarding abandoned vessels. Adding Metro to the definition of "removing authority" would allow Metro to more easily address future incidents like the one that recently occurred at the Gleason Boat Ramp.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Government Affairs and Policy Development

Date: January 2, 2013

Person completing form: Randy Tucker

Phone: x1512

ISSUE: Returning TriMet to standard collective bargaining

BACKGROUND: The Portland metropolitan region cannot realize the vision embodied in the 2040 Growth Concept without an efficient, reliable and affordable system of public transit. Yet over the last few years, a sagging economy (resulting in reduced payroll tax revenues) and increased costs (for employee benefits and fuel) have undermined TriMet's financial stability and led to significant fare increases and service cuts. Restoration and further enhancement of transit service is critical to the region's ability to achieve its desired outcomes.

Employee benefits are a particular concern. TriMet's health benefits to retirees are the most generous in the nation. Health care costs increased by an average of 12% per year between 2001 and 2011. The cost of active and retiree health benefits now represents 29% of TriMet's revenue from payroll taxes. If these trends continue, health benefits will equal nearly half of TriMet's payroll tax revenue by 2020.

TriMet has already cut 200 staff positions, frozen wages and hiring for management staff, used stimulus money to fill budget gaps, delayed new bus purchases and other capital investments, raised fares, eliminated free rides downtown, and reduced bus and rail service, which means longer wait times, crowded vehicles and inconvenient transfers for some riders. Without changes in TriMet's underlying financial structure, these trends will continue to undermine service and the confidence of residents in the utility and reliability of public transit.

Since 2007, Oregon transit agencies have been required to use baseball-style, all-or-nothing binding interest arbitration to resolve union contract disputes. This process favors the status quo and tends to force both sides to submit only modest, incremental proposals. Moreover, the time-consuming process of binding arbitration disfavors one-year contracts. While the current process might be appropriate if TriMet's current cost structure were not so distorted, binding arbitration is likely to lead to a decade or more of two- or three-year contracts with only modest changes to achieve a contract with sustainable wages and health care costs. The region cannot sustain a decade of diminished transit service and still reach its goals for jobs, community development and greenhouse gas emissions reductions.

TriMet has proposed legislation (HB 2119) that would remove transit districts from binding interest arbitration and return them to standard collective bargaining.

RECOMMENDATION: Metro should support proposed legislation restoring collective bargaining to transit districts.

LEGISLATIVE HISTORY: In 2005, Lane Transit District's Amalgamated Transit Union (ATU) employees went on strike for 6 days. This was the first and only mass transit strike in Oregon history. It was successfully resolved after management and labor returned to the bargaining table with a state mediator and a hand-picked mediation team that included Eugene Mayor Kitty Piercy, former state labor commissioner Jack Roberts and local attorney Art Johnson.

In 2007, the Oregon Legislature passed House Bill 2537 to replace collective bargaining with binding interest arbitration and prohibit unionized transit employees from striking. The ATU supported this bill, arguing that transit services are critical services like police and fire, and that the strike in Eugene had been very traumatic for the community. Binding arbitration replaced 40 years of traditional collective bargaining practices.

OTHER INTERESTED PARTIES: Potential supporters include cities and counties, business associations, chambers of commerce, trades groups and trades unions, and the Oregon Transit Association. ATU may oppose.

IMPACT IF PROPOSED ACTION OCCURS: Restoring collective bargaining will enable TriMet to more quickly move toward a labor contract that more accurately reflects national norms and the market. A more sustainable contract will enable TriMet to begin to restore service, thereby improving public confidence in the reliability of public transit, and will also improve the confidence of the business community, whose payroll taxes support TriMet's services.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION - DRAFT

Department: Sustainability Center

Date: Dec. 17, 2012

Person completing form: Scott Klag

Phone: x1665

ISSUE: Plastics Pyrolysis (Plastics to Fuel/Oil)

BACKGROUND: Plastics-to-fuel technologies have been around for many years but technical difficulties have prevented the development of commercial-scale facilities. In the last several years, technical issues have been addressed and a number of manufacturers have produced test or pilot facilities. A pilot facility has been operating for several years in Tigard and a full-scale commercial facility in NE Portland is under construction and nearing the operational stage.

Plastics pyrolysis is a technology that utilizes heat and pressure to convert plastic products and materials into a “synthetic crude oil.” A review of plastics-to-oil technologies identified nearly two dozen of these technologies. The technologies vary regarding inputs – types of plastic resins that can be used, preprocessing requirements and levels of contamination allowed – and outputs – useful products (e.g., gases, oils) and waste residuals (e.g., char, wastewater or sludges).

The developers and users of these technologies believe that steps should be taken to increase their acceptance and implementation. They argue that wider use of these technologies will create jobs and divert to a productive use waste plastics that would otherwise go to a landfill. Uncertainty over how facilities with these technologies will be regulated was noted as a barrier to advancement of the technology.

Legislation was introduced in the 2011 and 2012 sessions to modify how state statute treats plastics pyrolysis. A 2011 bill (HB 3597) had multiple elements including modifying the state waste management hierarchy, changing the definition of recycling to include pyrolysis and enabling the use of energy tax credits. The current proposed bill requires plastics pyrolysis to be considered recycling rather than energy recovery under the statutorily defined waste management hierarchy.¹

Opponents of the bill argue that changing the waste management hierarchy to call plastics pyrolysis “recycling” is not warranted by the evidence. They cite life cycle information from DEQ² showing that the environmental benefits of recycling waste plastics are greater than when plastics are pyrolyzed and used as fuel.

¹ Proponents of the technology are seeking legislation because the state attorney general has opined that pyrolysis of plastics where the useful outputs are used as fuel should be considered “energy recovery” under Oregon law and not “recycling”.

² “From an energy conservation perspective, it appears that recycling is still better than pyrolysis, while pyrolysis is better than mass burn (e.g., Covanta), and far better than landfilling. However, when viewed from the perspective of greenhouse gas emissions, recycling remains on top, but landfilling may actually be better than pyrolysis

Opponents also argue that policy makers should ensure that efforts to expand plastics recycling are not undermined. In their view, which is shared by Metro staff, maintaining the proper distinction between recycling and energy recovery for plastics can help to keep incentives in place that maximize the source separation and recycling of plastics. Plastics recycling markets provide price signals to keep currently recyclable plastics going to recycling, but encouraging innovation for currently hard-to-recycle plastics is also important. To that end, DEQ has developed and EQC approved a state materials management 2050 Vision affirming the need for research to ensure materials such as waste plastics are directed to their highest and best use.

Finally, during both the 2011 and 2012 sessions, many parties pointed to a forthcoming DEQ rulemaking process on conversion technologies, including plastics pyrolysis, as the most appropriate venue for making policy about those technologies. That rulemaking is now drawing to a conclusion. It is affirming that plastics pyrolysis whose products are used as fuel is a form of energy recovery and not recycling. The rulemaking also establishes a state regulatory framework (including performance, registration and permitting requirements) under which conversion technologies will operate.

RECOMMENDATION: While supporting the use of plastics pyrolysis as a form of energy recovery for unrecyclable plastics, Metro should oppose legislation changing the state waste reduction hierarchy to designate plastics pyrolysis as a form of recycling.

LEGISLATIVE HISTORY: Both HB 3597 (2011) and HB 4081 (2012) passed out of the House Energy, Environment and Water (EEW) Committee and were referred to additional committees but failed to advance. 2013 legislation has been introduced by the House EEW Committee.

OTHER INTERESTED PARTIES: Expected supporters include the American Chemistry Council, Agilyx (makers of a plastic conversion technology) and possibly Waste Management. WM is building the NE Portland facility mentioned earlier. Organizations wanting changes to or opposing the bill may include the Association of Oregon Recyclers (AOR), Recycling Advocates, Physicians for Social Responsibility and individuals opposing the bill in previous sessions.

IMPACT IF PROPOSED ACTION OCCURS:

- Supports DEQ policy making process among solid waste and recycling stakeholders regarding conversion technologies and regulations for facilities employing those technologies.
- Supports the DEQ 2050 Vision, which the Metro Council has endorsed, to conduct research on the highest and best use of materials.
- Maintains consistency between the Regional Solid Waste Management Plan (RSWMP), application of Metro Code and state waste reduction policy. The RSWMP and our solid waste regulations do not recognize any conversion technologies as recycling.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Sustainability Center

Date: Oct. 12, 2012

Person completing form: Scott Klag

Phone: x1665

ISSUE: Labeling of Compostable and Biodegradable Products

BACKGROUND: The proliferation of products that do not compost fully, but that are labeled as “compostable” or mislabeled as “biodegradable,” is a significant issue for Oregon. Composting facilities are incurring significant costs from screening out materials that do not fully compost. Consumers are being misled about the actual environmental impacts of “degradable” products and packaging they buy.

The proposed legislation is intended to address the growth of marketing claims where products or packaging is labeled “compostable,” “biodegradable” or similar terms. The aim is to provide consumers with better guidance about the impacts of products while preventing those selling these products from spreading deceptive or misleading information (“greenwashing”). The bill would require that “compostable” claims be substantiated through standards and testing, and that no product or packaging be allowed to claim to be “biodegradable.” Provisions in the legislation are expected to include:

- **Compostable labeling requirements:** Require manufacturers or suppliers selling plastic products or food and beverage containers in Oregon labeled “compostable,” “home compostable,” or “marine degradable” to verify that those products meet specific technical standards for compostability.
- **Prohibition on “biodegradable” labeling:** Prohibit manufacturers or suppliers of plastic products or food and beverage containers from selling products or packaging in Oregon labeled “biodegradable,” “degradable” and “decomposable,” or other like terms. Labels must not imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.
- **Content requirements:** Require plastic products sold or distributed in the state that are labeled as “compostable” or “compostable plastic” to be manufactured using only certified compostable plastic resins.
- **Plastic bag labeling:** Require manufacturers of compostable plastic bags to meet composting standards and label the bags in a readily and easily identifiable manner that distinguishes them from other plastic bags (e.g., through coloring, striping or lettering).

Metro is currently working with stakeholders in the region on best practices for the use of “compostable” serviceware (e.g., cutlery, plates, beverage cups etc.), because some of these products do not in fact compost at some facilities. Composting facilities incur significant costs from screening out these materials and from the potential contamination of their end products. Governments that regulate either the facilities themselves or the food waste collection programs that provide material to those facilities are challenged to provide generators with lists of acceptable compostable materials. Businesses that generate these materials often try to do the right thing, but still end up using products that get screened out and disposed as garbage.

While the proposed legislation could help deal with the worst greenwashing of these products, it would not solve all the issues being addressed. For example, some serviceware may meet industry compostability standards required by this legislation, but still not be compostable in a facility that employs a composting process that is faster than that used in setting those standards.

RECOMMENDATION: Support legislation to reduce greenwashing and improve information to households and businesses about the actual compostability and environmental impact of products and packaging. Ensure legislation continues to allow Metro, in consultation with stakeholders and the compost industry, to establish standards for the region even if the standards are more stringent than those in the legislation. Provide support through testimony, letters and similar means.

LEGISLATIVE HISTORY: The proposed Oregon legislation is modeled on California’s SB 527. California’s labeling statutes developed over several years. The proposed legislation is based on model legislation discussed among a number of stakeholders, including the US Composting Council, about the best approach to labeling products and packaging for compostability.

OTHER INTERESTED PARTIES: The legislation is expected to be advanced by the Association of Oregon Recyclers. Likely supporters include other recyclers including post-consumer plastic recyclers; environmental groups (e.g., those concerned with littering or greenwashing); industry standards groups and their supporters; and individual companies with certifiable compostable products or packaging. The position of plastics manufacturers will vary. Opposition might come from manufacturers of plastics that believe they are adversely affected by the legislation (e.g., makers of plastics with “degradable” additives).

IMPACT IF PROPOSED ACTION OCCURS:

- Improve the quality of information available to consumers in the region about the environmental impact of products and packaging offered in the marketplace.
- Assist Metro in preserving natural resources and achieving regional recycling goals.
- Support Metro efforts to improve the compostability of the organics waste stream available for composting.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Sustainability Center

Date: Oct. 12, 2012

Person completing form: Scott Klag

Phone: x1665

ISSUE: Integrated Pest Management (IPM) for State Agencies

BACKGROUND: The Oregon Environmental Quality Commission has determined that toxic chemicals and pollutants pose an increasing threat to human health and the environment. To address this problem, the Department of Environmental Quality has adopted Toxics Reduction Strategies to protect Oregonians from the impacts of toxic pollutants, including pesticides. DEQ has established a target list of persistent bioaccumulative pollutants in current use that includes a significant number of pesticides.

DEQ has concluded that the most effective way to reduce these toxics is through prevention that targets the chemical pollutants at the source. Prevention measures are less expensive and more effective, efficient and reliable than treating or cleaning up pollutants after use.

Oregon has a history of supporting policies that stimulate widespread adoption of the safest and most ecologically sound toxics reduction programs. In 1991, Oregon was an early adopter of Integrated Pest Management (IPM) legislation, a proven method of managing pests while reducing reliance on pesticides. Metro adopted an IPM policy for its facilities in 1995 and is currently updating and implementing the policy. Implementing IPM is a high priority action in Metro's Sustainability Plan.

IPM programs use biological, cultural, physical, mechanical, educational, and chemical methods in site-specific combinations to solve pest problems. The goal of IPM is to prioritize pest control options that represent the least risk of damage to the environment, non-target species, and humans. Chemical controls are used only when needed, as a last resort, and in the least-toxic formulation that is effective. IPM has been shown to reduce pesticides in the built and natural environment and has proven cost-effective over time.

The 1991 legislation required state agencies to convene an Integrated Pest Management Coordinating Committee, designate a state IPM Coordinator and implement IPM procedures for public facilities. However, in 2001 the Legislature eliminated funding for the committee and the coordinator. This has left state agencies without a coordinated set of IPM policies, guidelines and program models. The situation in state agencies contrasts with schools where, as a result of 2009 IPM legislation, significant efforts are under way to coordinate development of IPM programs for Oregon's K-12 schools.

Interagency coordination can reduce costs while improving the efficiency and effectiveness of programs. Having an organizational structure that promotes communication and collaboration

is critical. Communities that are recognized as IPM leaders (e.g., San Francisco, Boulder) highlight their workgroup efforts as a key to their success.

RECOMMENDATION: Support (through testimony, endorsement letters or similar means) anticipated legislation that would renew Oregon’s State IPM statute (ORS 634.650) with the more up-to-date IPM definitions from the 2009 school IPM bill (ORS 634.700) and restore funding for inter-agency IPM coordination. The new legislation would apply to state agencies only, not the private sector.

LEGISLATIVE HISTORY: The 2009 School IPM bill (SB 637) passed with strong support in both the House and the Senate. A similar bill concept to revise the definition of IPM and revitalize state agency coordination was floated in 2011. However, the legislation that was introduced (HB 2188) was narrowly focused on just updating the definition of IPM and did not pass.

OTHER INTERESTED PARTIES: The legislative effort will be led by Beyond Toxics (a non-governmental organization), environmental health groups, medical societies, children’s support groups, disability support groups, organic growers and the organic trades industry. Opponents may include groups traditionally concerned about regulation of pesticides.

IMPACT IF PROPOSED ACTION OCCURS:

- Supports the Regional Solid Waste Management Plan (RSWMP) toxics reduction objectives.
- Supports the Metro Council’s goals to reduce toxics in the waste stream.
- Aligns with Metro’s own sustainability efforts including toxics reduction through IPM at our facilities.
- Reduces costs to Metro and other local governments by providing model programs that can be adopted.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Planning & Development

Date: December 21, 2012

Person completing form: Miranda Bateschell

Phone: x1817

ISSUE: Brownfields assessment and remediation

BACKGROUND: A brownfield property experiences redevelopment complications from the presence or perceived presence of hazardous substances or pollutants. These sites exist throughout the region and constitute an unrealized asset with the potential to help the region meet multiple goals relating to economic development, environmental protection, and efficient use of land and existing infrastructure. At the local level, these properties often lie vacant, detracting from the quality of neighborhoods, and pose potential threats to human health and the environment. Redeveloping these sites enables local governments to generate greater tax revenues due to the increased value of the redeveloped and neighboring properties.

Metro's recently completed Regional Brownfields Scoping Project estimated that there are up to 2,300 brownfield properties in the region covering 6,300 acres of land. Findings include:

- Half of the known brownfields are in, or within 1,000 feet of, sensitive environmental areas.
- Brownfields are highly likely to be located in underserved communities.¹
- There are over 1,800 brownfield sites in centers and corridors with the maximum potential of providing 38,000 net new jobs and up to 138,000 new dwelling units at full buildout.
- Over 4,000 acres of industrial land face redevelopment barriers related to environmental contamination. At full buildout these properties could produce 27,500 jobs and \$108,000,000 of net new annual personal income tax.
- Existing tax structures, lack of incentives, and a shortage of designated funds for brownfield redevelopment keep most of these sites from redeveloping.

Up to 29% of brownfields may be financially feasible to develop, but these are largely small commercial sites located in areas of the region with the highest land values and redevelopment densities, and even in these cases there are risk and timing issues associated with the regulatory process. Return on investment analysis showed that another 47% of all brownfield sites are within close range of the tipping point from infeasible to feasible. Each policy tool tested as part of the Regional Brownfields Scoping Project moved sites from infeasible to feasible, resulting in significant redeveloped acres, new jobs and dwelling units, and property and personal income tax revenue. Every tool tested also has a revenue-to-cost ratio that breaks

¹ According to Metro's Equity Composite, underserved communities are communities that simultaneously have a high underserved population (nonwhite, elderly, low-income, non-English speaking, youth), a low density of essential services (food, essential retail, health, civic, financial/legal), and low proximity to non-auto transportation.

even within one to five years. However, no single incentive moved all brownfields to feasibility, meaning that a coordinated set of policy tools needs to be adopted to address multiple challenges and different types of brownfields.

RECOMMENDATION: Given the extent of brownfields in the region, the complications these sites face in redevelopment and the region's desired outcomes for healthy, vibrant, and economically viable communities, Metro should support the development of a range of policy tools to address multiple challenges and different types of brownfields. For the 2013 legislative session, staff recommends pursuing the development of financing tools such as (a) a remediation tax credit targeted to mixed-use projects or projects in centers and corridors and (b) property tax abatement for ongoing industrial properties. In the longer term, more aggressive approaches could be pursued, such as dedicated state funding for site assessment, integrated planning and cleanup or changes to the property tax valuation methodology that would provide incentives to clean up contaminated sites.

LEGISLATIVE HISTORY:

A tax credit for job creation on brownfield sites was proposed last session. It received some interest and traction, but ultimately failed to advance.

OTHER INTERESTED PARTIES:

Members of MTAC and MPAC commented on the need for new policies and tools to address brownfield redevelopment and their support of corresponding legislative proposals. Feedback from regional partners also suggests the need to pursue tools that address both industrial lands and infill in centers and corridors, and to couple brownfield redevelopment incentives with equity initiatives.

Beyond elected officials and local governments, other supporters include: Business Oregon, DEQ, developers, property owners, lending community, other planning and economic development professionals, and non-profit organizations who would all benefit from increased flexibility and incentives to make redevelopment of brownfields easier. Depending on the criteria, support may also be gained from organizations pursuing equity initiatives.

IMPACT IF PROPOSED ACTION OCCURS: Impacts will vary depending on the specific tools that are established and implemented, but in general, these changes are intended to result in the cleanup and redevelopment of brownfield properties, which in turn will lead to job creation and increased tax revenues at the local and state levels, in addition to the environmental benefits of eliminating contamination.

METRO
2013 LEGISLATIVE ISSUE IDENTIFICATION

Department: Planning & Development

Date: 8/27/12

Person completing form: John Williams

Phone: x1635

ISSUE: Deadline for LCDC orders

BACKGROUND: Limited resources at DLCD and the Attorney General's office have resulted in very long delays between LCDC's oral decision and DLCD's issuance of a final order. For example, the recent urban and rural reserves final order took almost exactly one year to be released. This extensive delay makes it difficult for Metro, local jurisdictions and the private sector to move ahead on implementation of growth management policy decisions.

RECOMMENDATION: Create a reasonable timeframe for final orders by amending ORS 197.626(2) as follows:

"A final order of the commission **shall be adopted by the commission within 150 days following the commission's oral decision on the submission. The final order** under this section may be appealed to the Court of Appeals in the manner prescribed in ORS 197.650 and 197.651."

A provision should be considered to allow for extension of this deadline by agreement between DLCD and the local government making the submittal.

LEGISLATIVE HISTORY: None.

OTHER INTERESTED PARTIES: Local jurisdictions, land use advocacy groups, business groups, developers, citizens, stakeholders of all stripes. No opposition expected from these groups. DLCD would be likely to oppose.

IMPACT IF PROPOSED ACTION OCCURS: Allows Metro and local jurisdictions to move forward on implementing land use decisions more quickly. No negative financial impact for Metro.

If the delays are caused by resource limitations at the state, the state might need to find additional funding or reprioritize work in order to comply with the new timelines.

Materials following this page were distributed at the meeting.

 **Metro** | *Agenda*

Meeting: Metro Council
Date: Thursday, Jan. 10, 2013
Time: 2 p.m.
Place: Metro, Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATION

3. CONSENT AGENDA

3.1 Consideration of the Minutes for Dec. 18, 2012

3.2 **Resolution No. 13-4405**, For the Purpose of Appointing the Following Members to the Metro Policy Advisory Committee (MPAC): Ed Gronke as Clackamas County Citizen Member Alternate, Paul Manson as Multnomah County Citizen Member Alternate, and Bob Silverforb as Washington County Citizen Member Alternate.

4. RESOLUTIONS

4.1 **Resolution No. 13-4404**, For the Purpose of Organizing the Metro Council and the Deputy Council President and Confirming Committee Members. **Hughes**

5. CHIEF OPERATING OFFICER COMMUNICATION

6. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for Jan. 10, 2013 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, Jan. 10</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, Jan. 13, 7:30 p.m. <i>Date:</i> Monday, Jan. 14, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, Jan. 14, 2 p.m.</p>	<p>Washington County Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Saturday, Jan. 12, 11 p.m. <i>Date:</i> Sunday, Jan. 13, 11 p.m. <i>Date:</i> Tuesday, Jan. 15, 6 a.m. <i>Date:</i> Wednesday, Jan. 16, 4 p.m.</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement Coordinator to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).