

 **Metro** | *Agenda*

Meeting: Metro Council  
Date: Thursday, Feb. 13, 2014  
Time: 2 p.m.  
Place: Metro, Council Chamber

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#### **CALL TO ORDER AND ROLL CALL**

**1. INTRODUCTIONS**

**2. CITIZEN COMMUNICATION**

**3. CONSENT AGENDA**

3.1 Consideration of the Council Minutes for Jan. 23, 2014

3.2 **Resolution No. 14-4504**, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property in the Willamette River Greenway Target Area.

**4. ORDINANCES – SECOND READ**

4.1 **Ordinance No. 14-1323**, For the Purpose of Amending Metro Code Chapter 5.02 and Related Provisions of Metro Code Chapter 7.01 to Allow Solid Waste Disposal Fees and Charges and Solid Waste Excise Tax Rates to Take Effect at the Beginning of Each Fiscal Year, and to Update Other Sections of Metro Code.

**Doug Anderson, Metro**

4.1.1 Public Hearing on Ordinance No. 14-1323.

**5. CHIEF OPERATING OFFICER COMMUNICATION**

**6. COUNCILOR COMMUNICATION**

#### **ADJOURN**

**EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660 (2) (h). TO CONSULT WITH COUNSEL CONCERNING THE LEGAL RIGHTS AND DUTIES OF A PUBLIC BODY WITH REGARD TO CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED.**

**Television schedule for Feb. 13, 2014 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, WA</b>          Channel 30 – Community Access Network  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  <i>Date:</i> Thursday, Feb. 13</p>	<p><b>Portland</b>          Channel 30 – Portland Community Media  <i>Web site:</i> <a href="http://www.pcmtv.org">www.pcmtv.org</a>  <i>Ph:</i> 503-288-1515  <i>Date:</i> Sunday, Feb. 16, 7:30 p.m.  <i>Date:</i> Monday, Feb. 17, 9 a.m.</p>
<p><b>Gresham</b>          Channel 30 - MCTV  <i>Web site:</i> <a href="http://www.metroeast.org">www.metroeast.org</a>  <i>Ph:</i> 503-491-7636  <i>Date:</i> Monday, Feb. 17, 2 p.m.</p>	<p><b>Washington County and West Linn</b>          Channel 30– TVC TV  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  <i>Date:</i> Saturday, Feb. 15, 11 p.m.  <i>Date:</i> Sunday, Feb. 16, 11 p.m.  <i>Date:</i> Tuesday, Feb. 18, 6 a.m.  <i>Date:</i> Wednesday, Feb. 19, 4 p.m.</p>
<p><b>Oregon City and Gladstone</b>          Channel 28 – Willamette Falls Television  <i>Web site:</i> <a href="http://www.wftvmedia.org/">http://www.wftvmedia.org/</a>  <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 and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site [www.oregonmetro.gov](http://www.oregonmetro.gov) and click on public comment opportunities.

**Metro’s nondiscrimination notice**

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Agenda Item No. 3.1

**Consideration of the Council Minutes for Jan. 23, 2014**

*Consent Agenda*

Metro Council Meeting  
Thursday, Feb. 13, 2014  
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Agenda Item No. 3.2

**Resolution No. 14-4504**, For the Purpose of Authorizing the  
Chief Operating Officer to Purchase Property in the Willamette  
River Greenway Target Area.

*Consent Agenda*

Metro Council Meeting  
Thursday, Feb. 13, 2014  
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE ) RESOLUTION NO. 14-4504  
CHIEF OPERATING OFFICER TO PURCHASE )  
PROPERTY IN THE WILLAMETTE RIVER ) Introduced by Chief Operating Officer  
GREENWAY TARGET AREA ) Martha J. Bennett, with the concurrence of  
) Council President Tom Hughes

WHEREAS, at the general election held on November 7, 2006, the voters of the Metro region approved the 2006 Natural Areas Bond Measure, authorizing Metro to sell \$227.4 million in general obligation bonds to fund natural area acquisition and water quality protection; and

WHEREAS, the Willamette River Greenway Target Area was identified in the Bond Measure as one of 27 regional target areas for land acquisition; and

WHEREAS, on September 27, 2007, the Metro Council adopted Resolution No. 07-3859 “Approving the Natural Areas Acquisition Refinement Plan for the Willamette River Greenway Target Area” which Resolution approved the acquisition of the properties within the target area; and

WHEREAS, a primary goal of the Willamette River Greenway Area refinement plan is to “Protect fish and wildlife habitat, water quality, scenic resources and improve public access to the river along the greenway from Wilsonville to the Multnomah Channel”; and

WHEREAS, certain real property legally described and identified in the executive session (the “Property”) that meets this goal and which is identified in the Willamette River Greenway Area refinement plan may be available for purchase; and

WHEREAS, Metro Code Chapter 2.04.026 requires Metro Council authorization for any contract for the purchase of real property to be owned by Metro; now therefore

BE IT RESOLVED that the Metro Council finds that, for the reasons stated and as provided herein and discussed in the executive session on February 4, 2014, it is in the public interest to purchase the Property, and therefore authorizes the Chief Operating Officer to:

- 1. Acquire the Property on terms and under conditions acceptable to the Chief Operating Officer and the Office of Metro Attorney, consistent with the discussion at the executive session; and
- 2. Execute such ancillary documents as may be required in connection with this acquisition, in the form approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Tom Hughes, Council President

Approved as to Form:

\_\_\_\_\_  
Alison R. Kean, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 14-4504, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN PROPERTY IN THE WILLAMETTE GREENWAY TARGET AREA

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Date: February 13, 2014

Prepared by: Kathleen Brennan-Hunter, (503) 797-1948

#### BACKGROUND

Resolution No. 14-4504 requests authorization for the Chief Operating Officer to purchase real property (the "Property") located within the Willamette River Greenway target area.

The subject Property is located on Sauvie Island in the Willamette Greenway target area. This Property meets the goals and objectives of the target area refinement plan by protecting one of the few available parcels adjacent to the river. The target area goal states "Protect fish and wildlife habitat, water quality, scenic resources and improve public access to the river along the greenway from Wilsonville to the Multnomah Channel." The Tier One objective is to "Secure remaining unique and rare habitats. These include Multnomah Channel..."

Metro staff has been in negotiations with the six members of the family that own the Property and we recently submitted an offer for the Property. The family received another bona fide offer from a non-related entity (the "Competing Offer"), for the same amount. In order to secure an agreement to acquire the Property, Metro staff is proposing an amended offer to the owners consistent with the discussion at the Metro Council executive session on February 4<sup>th</sup>, 2014.

Conservation values that would be protected with acquisition of the Property by Metro include:

1. Acquisition will protect important open land and habitat including potential bottomland forest.
2. Acquisition will protect scattered large Oregon white oaks that occur on the drier uncultivated areas.
3. Located on the migratory bird flyway, the site could be frequented by waterfowl, eagles, kestrels, and a wide variety of songbirds.

This acquisition represents an opportunity to expand an existing Metro park, Howell Territorial Park, as well as create more buffer for the park's current habitat areas, including savanna, wetlands and forest. A portion of the Howell property is used for farming, and an expansion of that use is possible.

#### ANALYSIS/INFORMATION

##### 1. Known Opposition

None.

##### 2. Legal Antecedents

Resolution No. 06-3672B, "For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisitions and Water Quality Protection," was adopted on March 9, 2006.

The voters' approved Metro's 2006 Natural Areas Bond Measure at the general election held on November 6, 2006.

Resolution No. 07-3859, "Approving the Natural Areas Acquisition Refinement Plan for the Willamette River Greenway Target Area," was adopted on September 24, 2007.

Resolution No. 07-3766A “Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” was adopted by the Metro Council on March 1, 2007, and established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

**3. Anticipated Effects**

Metro will endeavor to acquire the Property, pursuant to the terms discussed by the Metro Council during executive session on February 4<sup>th</sup>, 2014. If all conditions are met, the transaction will close within 90 days.

**4. Budget Impacts**

Funds to acquire the Property will come from the Natural Areas Bond Measure.

**RECOMMENDED ACTION**

Staff recommends the adoption of Resolution 14-4504.

Agenda Item No. 4.1

**Ordinance No. 14-1323**, For the Purpose of Amending Metro Code Chapter 5.02 and Related Provisions of Metro Code Chapter 7.01 to Allow Solid Waste Disposal Fees and Charges and Solid Waste Excise Tax Rates to Take Effect at the Beginning of Each Fiscal Year, and to Update Other Sections of Metro Code.

*Ordinances – Second Reading*

Metro Council Meeting  
Thursday, Feb. 13, 2014  
Metro, Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE ) ORDINANCE NO. 14-1323  
CHAPTER 5.02 AND RELATED PROVISIONS OF )  
METRO CODE CHAPTER 7.01 TO ALLOW SOLID ) Introduced by Chief Operating  
WASTE DISPOSAL FEES AND CHARGES AND SOLID ) Officer Martha Bennett with the  
WASTE EXCISE TAX RATES TO TAKE EFFECT AT ) concurrence of Council President  
THE BEGINNING OF EACH FISCAL YEAR, AND TO ) Tom Hughes  
UPDATE OTHER SECTIONS OF METRO CODE )

WHEREAS, Metro Code currently requires the annual process for setting solid waste fees to be strictly aligned with the annual budget process; and,

WHEREAS, As a result of this code requirement, it is not possible for solid waste fees and solid waste excise tax rates to take effect at the beginning of the fiscal year; and,

WHEREAS, The Code does not allow for the adoption of a standard rate schedule, but instead requires extensive amendments to the Code itself in order to adopt new solid waste fees and charges; and,

WHEREAS, The Metro Council finds that the efficiency and transparency of Metro’s financial operations are enhanced when rate changes coincide with the beginning of the fiscal year and when all rate changes are consolidated in a single rate schedule; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- Section 1. Metro Code Amendment. Metro Code Section 5.02.020 is amended in the form attached hereto as Exhibit “A.”
- Section 2. Metro Code Amendment. Metro Code Section 5.02.025 is amended in the form attached hereto as Exhibit “B.”
- Section 3. Metro Code Amendment. Metro Code Section 5.02.045 is amended in the form attached hereto as Exhibit “C.”
- Section 4. Metro Code Amendment. Metro Code Section 5.02.047 is repealed and replaced with the language attached hereto as Exhibit “D.”
- Section 5. Metro Code Amendment. Metro Code subsection 5.01.150(c) is repealed and the remaining subsections of Metro Code 5.01.150 shall be renumbered accordingly, and all other subsections of Metro Code Section 5.01.150 shall remain unchanged.
- Section 6. Metro Code Amendment. The term “Parks and Environmental Services (or its successor department)” shall replace the term “Regional Environmental Management Department” in Metro Code subsection 5.02.015(a), and all other subsections of Metro Code Section 5.02.015 shall remain unchanged.
- Section 7. Metro Code Amendment. Metro Code subsection 7.01.020(e)(1) is amended in the form attached hereto as Exhibit “E” and all other subsections of Metro Code Chapter 7.01 shall remain unchanged.

ADOPTED by the Metro Council this \_\_\_\_ day of January, 2014.

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Tom Hughes, Council President

Attest:

Approved as to Form:

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Kelsey Newell, Recording Secretary

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Alison R. Kean, Metro Attorney

**Exhibit "A" to Ordinance No. 14-1323**

METRO CODE - TITLE V SOLID WASTE  
CHAPTER 5.02. DISPOSAL CHARGES AND USER FEES

5.02.020 Establishment of Disposal Fees and Charges; Procedures

(a) Purpose. The purpose of this section is to establish a consistent, predictable, open and transparent framework for the adoption of solid waste disposal fees and charges by Metro.

(b) Definitions. As used in this subsection, "rates" means any of Metro's solid waste fees or charges as set forth in Metro Code section 5.02.025 or 5.02.045. "Rate year" means a period of 365 consecutive days (366 leap year days) commencing from the date on which a rate becomes effective.

(c) Frequency. The Council shall consider rates annually and adopt changes as needed.

(d) Rate-Making Requirements; Independent Review. Each year the Chief Operating Officer shall prepare rates for consideration by the Council. Rates shall be regarded as provisional until transmitted to the Council pursuant to paragraph (e) of this section. In preparing provisional rates the Chief Operating Officer shall:

(1) Consider all sources and uses of funds that affect the Solid Waste Revenue Fund budget during the next rate year.

(2) Follow generally accepted practices for selection of methodologies, assumptions, requirements, and other technical factors that determine the rates.

(3) Incorporate rate criteria and policies adopted by resolution of the Council pursuant to paragraph (e) of this section.

(4) Submit the provisional rates to review by at least one independent expert. The reviewer shall test the provisional rates for accuracy, adequacy, the reasonableness of underlying assumptions, compliance with applicable law and requirements, consistency with adopted criteria of the Council, and any other criteria specified by the Chief Operating Officer or recommended by the reviewer under generally accepted professional or best practices for rate review. The Chief Operating Officer shall provide the reviewer with access to the rate model, data, assumptions, criteria, and any other information that the Chief Operating Officer used to calculate the provisional rates. At the conclusion of his work, the reviewer shall deliver a written report to the Chief Operating Officer documenting the reviewer's findings, exceptions and recommendations.

(5) Perform any other forms of due diligence that the Chief Operating Officer finds necessary to meet the purpose of this section.

(e) Transmittal of Proposed Rates to the Council. Each year the Chief Operating Officer shall transmit to the Metro Council in ordinance form a set of proposed rates for consideration. ~~Transmittal of the rates shall coincide with transmittal of the proposed budget by the Budget Officer.~~ At the same time that he transmits the rates, the Chief Operating Officer shall transmit to the Metro Council:

(1) A report that documents the methodologies, data, assumptions, adopted criteria and the other factors that the Chief Operating Officer used to calculate the proposed rates including his response to the recommendations of the independent review; and

(2) The report of the independent review prepared pursuant to paragraph (d)(3) of this section.

~~(f) Public Review and Comment. The Council shall open public hearings on the proposed rates on a time line designed to coincide with public hearings on the proposed annual budget.~~

(g) Periodic Review of Rate Criteria and Policies. From time to time the Council shall undertake a review of its adopted rate criteria and policies. The purpose of these reviews shall be to assure that adopted criteria and policies reflect the purpose of this section, meet Metro's needs, support Metro's management of the regional solid waste system, and address any findings of the Council that result from the periodic review. ~~The Chief Operating Officer shall initiate the first such periodic review on a time line designed to facilitate consideration by the Council before December 31, 2010.~~ The Chief Operating Officer shall initiate ~~subsequent~~ periodic reviews no less frequently than every three years ~~thereafter~~. The Council may initiate, or the Chief Operating Officer may propose to initiate, a review of rate criteria or policies at any time.

**Exhibit "B" to Ordinance No. 14-1323**

METRO CODE - TITLE V SOLID WASTE  
CHAPTER 5.02. DISPOSAL CHARGES AND USER FEES

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

(1) The following charges for each ton of solid waste delivered for disposal:

(A) A tonnage charge in the dollar amount adopted by an ordinance of the Metro Council of \$61.74 per ton,

(B) The Regional System Fee as provided in Section 5.02.045,

(C) ~~An~~The Community Rehabilitation and Enhancement Fee set forth in Metro Code Chapter 5.06 of \$.50 per ton, and

(D) The applicable DEQ fees established in Oregon Revised Statutes chapters 459 and 459A, as implemented in Chapter 340 Division 90 of Oregon Administrative Rules totaling \$1.24 per ton;

(2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and

(3) ~~The following~~ A Transaction Charge in the dollar amount adopted by an ordinance of the Metro Council for each Solid Waste Disposal Transaction that is:

(A) ~~For each Solid Waste Disposal Transaction~~ Completed at staffed scales, or the Transaction Charge shall be \$12.00.

(B) ~~For each Solid Waste Disposal Transaction that is~~ Completed at the automated scales, the Transaction Charge shall be \$3.00.

(C) Notwithstanding the provisions of subsection (A), the Solid Waste Disposal Transaction Charge shall be the amount authorized in subsection (B) \$3.00 in

the event that a transaction that is otherwise capable of being completed at the automated scales must be completed at the staffed scales due to a physical site limitation, a limit or restriction of the computer operating system for the automated scales, or due to a malfunction of the automated scales.

(b) Notwithstanding subsection (a) of this section,

- (1) There shall be a minimum charges at ~~the~~ Metro South Station and at ~~the~~ Metro Central Station for the acceptance of solid wastes ~~for loads of solid waste weighing 340 pounds or less of \$28,~~ which shall consist of a transaction charge as set forth in Metro Code section 5.02.025(a)(3) plus a tipping charge based on the minimum load weight adopted by an ordinance of the Metro Council ~~Tonnage Charge of \$16.00 plus a Transaction Charge of \$12.00 per Transaction.~~
- (2) The Chief Operating Officer may waive collection of the Regional System Fee on solid waste that is generated outside the District, and collected by a hauler that is regulated by a local government unit, and accepted at Metro South Station or Metro Central Station.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(d) The Director of Parks and Environmental Services may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

## Exhibit "C" to Ordinance No. 14-1323

### METRO CODE - TITLE V SOLID WASTE CHAPTER 5.02. DISPOSAL CHARGES AND USER FEES

#### 5.02.045 Regional System Fees

(a) The Regional System Fee shall be ~~\$18.56~~the dollar amount per ton of solid waste adopted by an ordinance of the Metro Council, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

(c) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

(d) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

(e) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

**Exhibit "D" to Ordinance No. 14-1323**

METRO CODE - TITLE V SOLID WASTE  
CHAPTER 5.02. DISPOSAL CHARGES AND USER FEES

5.02.047 Regional System Fees on Cleanup Material Contaminated by  
Hazardous Substances

(a) Notwithstanding Section 5.02.045(a), there is hereby established a reduced Regional System Fee on Cleanup Material Contaminated by Hazardous Substances that is delivered to any Solid Waste System Facility authorized to accept such material.

(b) The Regional System Fee on Cleanup Material Contaminated by Hazardous Substances shall be the dollar amount per ton adopted by an ordinance of the Metro Council.

(c) The Chief Operating Officer is authorized to issue administrative procedures that define the terms and conditions under which solid wastes may qualify for the reduced Regional System Fee. The Chief Operating Officer is further authorized to establish an application process for said reduced rate; and may approve, deny, or approve with conditions any application submitted under this process.



**Exhibit "E" to Ordinance No. 14-1323**

METRO CODE - TITLE VII FINANCE  
CHAPTER 7.01. EXCISE TAXES

Metro Code Section 7.01.020 Tax Imposed

- (e)(1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) recoverable solid waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year ~~2006-07~~2014-15, and each fiscal year thereafter, the rate determined by this subsection shall be effective ~~as of September 1st~~on the first day of each fiscal year unless another effective date is adopted by the Metro Council.

## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1323 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 AND RELATED PROVISIONS OF METRO CODE CHAPTER 7.01 TO ALLOW SOLID WASTE DISPOSAL FEES AND CHARGES AND SOLID WASTE EXCISE TAX RATES TO TAKE EFFECT AT THE BEGINNING OF EACH FISCAL YEAR, AND TO UPDATE OTHER SECTIONS OF METRO CODE

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Date: February 6, 2014

Prepared by: Douglas Anderson, FRS (Ext. 1788)

### Summary

This ordinance would implement three sets of changes. It would:

1. Amend Metro Code to allow solid waste charges and excise tax rates to take effect at the beginning of each fiscal year.
2. Amend Metro Code in a manner that improves the transparency of future rate ordinances.
3. Authorize the Chief Operating Officer to develop administrative procedures for waste generators who seek a reduced-fee system fee and excise tax on contaminated soils.

### Background

**1. Aligning rates with the fiscal year.** In 2005, the Council President, acting in his role as the Budget Officer, directed staff to prepare new solid waste rates only after all budget decisions for the next fiscal year had been made. This direction was one element of the Council President's initiative to simplify, streamline, and improve the transparency of the budget and rate processes.

As a matter of practicality, it is difficult to complete the budget process early enough to implement solid waste rates at the start of the fiscal year. By law, revenue ordinances require a 90-day referral period, meaning that rates must be adopted by March of each year if they are to be implemented on July 1. Accordingly, rates now take effect in August or September. There are two main consequences of this fact: (a) the General Fund foregoes some revenue that would be forthcoming if the new tax rates could take effect a month or two earlier; (b) new contract and personnel costs take effect on July 1, but with only 10 or 11 months to recover these costs, solid waste rates are generally higher than if they could be collected over the full 12 months of the fiscal year.

If adopted, this ordinance would remove the sections of Metro Code that require the budget and solid waste rate processes to be developed sequentially. In the future, the Council would set the appropriate effective date within the annual rate ordinance.

It is important to note that these changes will not constrain the council's deliberations over the budget in the future. Any changes to the proposed solid waste budget after the rates have been adopted would simply be managed through the Rate Stabilization Account of the Solid Waste Fund. This account would serve as a source (repository) of funds for any increase (decrease) in the proposed budget that is not covered in the adopted rates.

These amendments are implemented in Sections 1 and 7 of Ordinance No. 14-1323.

**2. Improving transparency.** The second set of amendments is intended to make future rate changes more transparent for decision-makers and stakeholders.

Most municipal codes authorize utility rates, but the numerical rates are usually adopted separately. At present, Metro Code both authorizes solid waste rates *and* specifies the numbers themselves. As a result, it takes an ordinance of 6 to 8 pages containing at least 10 amendments scattered across at least 7 different sections of the Code to implement solid waste rate changes. In this format, it is difficult for decision-makers and ratepayers to see the “big picture.”

This ordinance would change that. Under this ordinance, rate *authority* would remain in Metro Code, but the numbers would be set forth in a separate rate schedule that the council would adopt as needed. The simplification in format, and the resulting improvement in transparency, is considerable. Rate ordinances of the future could consist of findings and ordaining clauses, and a single rate schedule on which all rates are shown together in one place. An example is shown in Figure 1.

These amendments are implemented in Sections 2 through 5 of Ordinance No. 14-1323.

Figure 1. Example of a future rate ordinance – simpler and easier to understand

<p style="text-align: center;">BEFORE THE METRO COUNCIL</p> <p>FOR THE PURPOSE OF ADOPTING SOLID WASTE CHARGES AND USER FEES FOR FY 2014-15. )          )          )          )          )</p> <p style="margin-left: 200px;">ORDINANCE NO. 14-XXXX          Introduced by Chief Operating Officer          Martha Bennett with the concurrence of          Council President Tom Hughes</p> <p>WHEREAS, Metro Code Chapter 5.02 establishes charges for the acceptance of solid waste at Metro Central and Metro South transfer stations; and,</p> <p>WHEREAS, Metro Code chapters 5.01 and 5.02 establish user fees on solid waste accepted at all disposal sites in the system; and,</p> <p>WHEREAS, Metro’s costs for solid waste services and programs have changed; now therefore,</p> <p>THE METRO COUNCIL ORDAINS AS FOLLOWS:</p> <p>Section 1. <u>Solid Waste Fees and Charges.</u> The schedule of solid waste fees and charges attached hereto as Exhibit “A” shall be implemented on the effective date of this ordinance.</p> <p>Section 2. <u>Effective Date.</u> This ordinance shall become effective on July 1, 2014, or the first day of the first full month following 90 days after adoption by the Metro Council, whichever is later.</p> <p>ADOPTED by the Metro Council this 13<sup>th</sup> day of March, 2014.</p> <p style="text-align: right; margin-right: 100px;">_____ Tom Hughes, Council President</p> <p>Attest: _____ Approved as to Form:</p> <p>_____ Kelsey Newell, Recording Secretary</p> <p>_____ Alison R. Kean, Metro Attorney</p>	<p style="text-align: center;">Exhibit “A” to Ordinance No. 14-xxxx</p> <p style="text-align: center;">SCHEDULE OF SOLID WASTE FEES AND CHARGES          Effective July 1, 2014</p> <p style="text-align: center;">Charges at Metro Central Station and Metro South Station</p> <p><u>Tonnage Charges by waste class</u>          The rates per ton pursuant to Metro Code sections 5.02.025(a)(1) and 5.02.029 shall be:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">(1) Mixed solid waste .....</td> <td style="text-align: right;">\$ xx.xx</td> </tr> <tr> <td>(2) Wood waste or yard debris (separated or comingled).....</td> <td style="text-align: right;">xx.xx</td> </tr> <tr> <td>(3) Residentially generated organic waste .....</td> <td style="text-align: right;">xx.xx</td> </tr> <tr> <td>(4) Commercially generated organic waste (Metro Central only).....</td> <td style="text-align: right;">xx.xx</td> </tr> </table> <p><u>Transaction Charges by transaction class</u>          The rates per transaction pursuant to Metro Code 5.02.025(a)(3) shall be:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">(1) For users of staffed scales .....</td> <td style="text-align: right;">\$ xx.xx</td> </tr> <tr> <td>(2) For users of automated scales .....</td> <td style="text-align: right;">xx.xx</td> </tr> </table> <p><u>Minimum Charges</u>          Minimum tonnage charges pursuant to Metro Code section 5.02.025(b) shall be based on xxx pounds for all classes of solid waste.</p> <p style="text-align: center;">Fees on Disposal of Solid Waste</p> <p><u>Regional System Fees by waste class</u>          The rates per ton pursuant to Metro Code sections 5.01.150, 5.02.045 and 5.02.047 shall be:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">(1) Environmental cleanup material contaminated by hazardous substances.....</td> <td style="text-align: right;">\$ x.xx</td> </tr> <tr> <td>(2) All other solid wastes.....</td> <td style="text-align: right;">xx.xx</td> </tr> </table>	(1) Mixed solid waste .....	\$ xx.xx	(2) Wood waste or yard debris (separated or comingled).....	xx.xx	(3) Residentially generated organic waste .....	xx.xx	(4) Commercially generated organic waste (Metro Central only).....	xx.xx	(1) For users of staffed scales .....	\$ xx.xx	(2) For users of automated scales .....	xx.xx	(1) Environmental cleanup material contaminated by hazardous substances.....	\$ x.xx	(2) All other solid wastes.....	xx.xx
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(2) All other solid wastes.....	xx.xx																

**3. Rules for contaminated soils.** The third set of amendments is intended to address Metro’s administration and fees on contaminated soils. “Contaminated soil” is dirt and other media that cannot be used for clean fill, and is best managed by disposal in a modern landfill.

Metro Code has long authorized a reduced Regional System Fee and excise tax rate (\$2.50 and \$1.00 per ton, respectively) on contaminated soils. The policy was originally adopted in the late 1990s to establish an equitable rate for the disposal of soils and other media containing petroleum-based

compounds (“petroleum contaminated soil,” or PCS) that was being generated in large quantities at the time by the remediation of leaking underground oil and gasoline tanks. The policy issues were both environmental and economic: Metro’s full fees and taxes, if assessed on PCS, would constitute the largest single cost of most remediation projects. Stakeholders argued that level of economic burden threatened the sound environmental handling of contaminated soils. In response, the Metro Council adopted reduced fees and-taxes on such material.

With the increase in urban redevelopment and brownfield remediation since the late 1990s, the amount of and types of soils and contamination have become more complex. Administrative procedures are now called for. This ordinance, if adopted, authorizes the Chief Operating Officer to develop administrative procedures on contaminated soils, and to develop recommendations on a fee structure, with the intent of implementing such procedures and fees by FY 2015-16.

These amendments **do not** affect any other class of solid waste. In particular, these amendments **do not affect** the exemption status for industrial wastes that are used for operational purposes in landfills, such as mixed glass cullet used for drainage or auto shredder residue used for daily cover.

This amendment is implemented in Section 4 of Ordinance No. 14-1323.

### **Information/Analysis**

- 1. Known Opposition.** There is no opposition.
- 2. Legal Antecedents.** Any change to Metro code requires an ordinance of the Metro Council.
- 3. Anticipated Effects:** If adopted, this ordinance would (1) allow updated rates to be collected over the full fiscal year, rather than 10 or 11 months when rate implementation is delayed; (2) allow future rate ordinances to be simpler and more transparent; (3) authorize the Chief Operating Officer to develop procedures and recommend a fee structure that will update Metro’s administration of contaminated soils.
- 4. Budget Impacts.**
  - There would be no impact on the Solid Waste Revenue Fund. The rates would be set to recover same total revenue, but could be a bit lower, all else equal, because they would be collected over a 12-month period rather than over 10 or 11 months as is current practice.
  - There would be a small positive fiscal impact on the General Fund because the new rates would be collected over the full fiscal year rather than over 10 or 11 months.

### **RECOMMENDATION**

The Chief Operating Officer recommends adoption of Ordinance No. 14-1323.

Materials following this page were distributed at the meeting.



## **METRO COUNCIL MEETING**

Meeting Summary

Jan. 23, 2014

Metro, Council Chamber

Councilors Present: Council President Tom Hughes, and Councilors Shirley Craddick, Sam Chase, Kathryn Harrington, Bob Stacey, Carlotta Collette and Craig Dirksen

Councilors Excused: None

Council President Tom Hughes called the regular council meeting to order at 2:02 p.m.

### **1. INTRODUCTIONS**

There were none.

### **2. CITIZEN COMMUNICATIONS**

Les Poole, Gladstone: Mr. Poole stated that he is active in Clackamas County and spoke on behalf of local citizens. He addressed Damascus and stated that the city is right between urban and rural area. He stated that Metro's reaction to activities in the city has been safe and convenient despite the pressures of growth. Mr. Poole also addressed potential legislation at the Oregon Legislature regarding urban growth boundary decisions. He was not in support of the potential legislation and expressed support for more local involvement, at the city and county level, in land use issues.

### **3. METRO CENTRAL ENHANCEMENT COMMITTEE OUTCOMES FOR 2013 AND NEW SLATE OF AWARDS 2014**

Councilor Sam Chase and Ms. Heather Nelson Kent of Metro introduced a presentation on the Metro Central Enhancement Committee grant awards for 2014. The Metro Central grants, which primarily support northwest Portland, were created with the intention of enhancing neighborhoods impacted by the Metro Central transfer facility. The target area stretches along the west side of the Willamette River from the Northwest Neighborhood Association to Linnton and the Cathedral Park neighborhoods. The 2014 grant funding cycle marks the 20<sup>th</sup> year of the grant awards.

Ms. Kent recognized the full committee for their service, and introduced Ms. Mary Peveto of the grant committee and Mr. Daniel Faccinett, a grant recipient from the Linnton Community Center, to share a few words. Ms. Peveto stated that the committee selected 10 applications to receive funding in 2014. In total, the committee awarded nearly \$72,000 in grants ranging from \$3,500 to \$20,000. Examples of organizations and projects funded in 2014 included: (1) Golden Harvester's application for the purchase and installation of a joint heat and air conditioning unit; (2) Portland Festival Symphony's application to support a free classical concert in Cathedral Park; and (3) Tsuga's application for funds to support the Parks Learning and Community Enhancement summer camp. (Full slate of awards included as part of the meeting record.)

Mr. Faccinett thanked Metro for its support. Linnton Community Center, through the *Hungry Families* emergency food services program, served over 10,000 people in 2013 – an increase of over 23 percent since 2012. Mr. Faccinett stated that 2013 Metro Central grant funds were used to purchase a three-door refrigerator. The fridge has allowed the program to store an increased, and more consistent, supply of fresh vegetables and fruits for local families.

***Council discussion***

The Metro Council thanked Mr. Faccinett and Ms. Peveto for their presentations and Councilor Chase for his leadership on the committee. Councilors stated that the presentations bring the grant awards to life. Councilors emphasized that the Metro Central Enhancement Committee sets the gold standard in terms of grant criterion, and review and presentation processes.

Councilors also addressed the importance of equitable distribution of the region’s benefits and burdens, and recognized current and past Councilors for always keeping in mind the impact of policy decisions that are regionally good, but may have implications for immediate communities. Councilors stated that the Metro Central program is an example of where the rubber meets the road and that program helps to mitigate the impacts, caused by the regional facility, on the surrounding community.

Additional discussion addressed the Metro South Enhancement Fund program, a program in Oregon City. For more information, visit [www.orcity.org](http://www.orcity.org). Grant applications are due May 2, 2014.

**4. CONSIDERATION OF THE COUNCIL MINUTES FOR JAN. 16, 2014**

Motion:	Councilor Kathryn Harrington moved to approve the Council Minutes for Jan. 16, 2014.
Second:	Councilor Craig Dirksen seconded the motion.

Vote: Council President Hughes, and Councilors Craddick, Harrington, Chase, Dirksen, Collette and Stacey voted in support of the motion. The vote was 7 ayes, the motion passed.

**5. ORDINANCES - FIRST READING**

5.1 **Ordinance No. 14-1323**, For the Purpose of Amending Metro Code Chapter 5.02 and Related Provisions of Metro Code Chapter 7.01 to Allow Solid Waste Disposal Fees and Charges and Solid Waste Excise Tax Rates to Take Effect at the Beginning of Each Fiscal Year, and to Update Other Sections of Metro Code.

Second read, public hearing and Council consideration and vote are scheduled for Feb. 13, 2014.

**6. CHIEF OPERATING OFFICER COMMUNICATION**

Ms. Martha Bennett provided updates on the following items:

- She distributed two annual compliance reports to the Metro Council: (1) the 2013 annual report on amendments to the Employment and Industrial Areas map, and (2) 2013 Urban

Growth Boundary minor adjustment report. (Memorandums included as part of the meeting record.)

- She announced two upcoming events: (1) the Center for Architecture event with the author of Made for Walking, Density and Neighborhood Form on Jan. 30, and (2) *Creation of the Thriving Cities* event on Feb. 5.

Ms. Bennett and Council also took at moment to recognize Ms. Kelsey Newell for her service at Metro. Ms. Newell will depart Metro on Feb. 5 after seven years of service in the Planning and Council offices.

**7. COUNCILOR COMMUNICATION**

Councilors provided updates on the following meetings or events: the Metro Policy Advisory Committee meeting, the lighting of Oregon City's municipal elevator, the Nature in Neighborhood capital grants steering committee meeting, and kick off of the ID Southwest group. Highlighted upcoming meetings included the Feb. 25 offsite Metro Council meeting in Forest Grove. The regular meeting will be held from 5 to 7 p.m. at the Forest Grove Auditorium.

**8. ADJOURN**

There being no further business, Council President Hughes adjourned the regular meeting at 2:52 p.m. The Metro Council will convene the next regular council meeting on Thursday, Feb. 13 at 2 p.m. at Metro's Council Chamber. The Metro Council is scheduled for a retreat on Thursday, Feb. 6 from 2 to 5 p.m. at the Portland's Centers for the Performing Arts, Madison Room.

The Metro Council recessed into the Council Annex for a work session.

Respectfully submitted,



Kelsey Newell, Regional Engagement & Legislative Coordinator



**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JAN. 23, 2014**

<b>Item</b>	<b>Topic</b>	<b>Doc. Date</b>	<b>Document Description</b>	<b>Doc. Number</b>
2.0	Handouts	N/A	Handouts delivered by citizen Art Lewellan. No testimony provided.	12314c-01
3.0	PowerPoint	1/23/14	Metro Central Enhancement Committee 2014 Funding	12314c-02
3.0	PowerPoint	N/A	Linnton Community Center: Hungry Families Program	12314c-03
4.0	Minutes	1/16/14	Council minutes for Jan. 16, 2014	12314c-04
6.0	Memo	1/1/14	2013 Annual Report on Amendments to the Employment and Industrial Areas Map	12314c-05
6.0	Memo	1/3/14	End of Calendar Year Urban Growth Boundary Minor Adjustment Report	12314c-06