A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793

METRO

Agenda

MEETING:	METRO COUNCIL WORK SESSION MEETING
DATE:	December 2, 2003
DAY:	Tuesday
TIME:	1:00 PM
PLACE:	Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1:00 PM	**1.**	**DISCUSSION OF AGENDA FOR COUNCIL REGULAR MEETING, DECEMBER 4, 2003**	
1:15 PM	**2.**	**REVENUE SHARING**	Wagner
1:45 PM	**3.**	**FRANCHISE AND NON-SYSTEM LICENSES DISCUSSION**	Hoglund/ Brower
2:30 PM	**4.**	**2003 INDUSTRIAL LAND ALTERNATIVE LAND ANALYSIS STUDY**	O'Brien
3:15 PM	**5.**	**CITIZEN COMMUNICATION**	
3:25 PM	**6.**	**CHIEF OPERATING OFFICER COMMUNICATION**	
3:35 PM	**7.**	**COUNCILOR COMMUNICATION**	

ADJOURN

Agenda Item Number 2.0

REVENUE SHARING

Metro Council Work Session
Tuesday, December 2, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: 12/02/03 Time: 1:00pm Length: 15 min

Presentation Title: Regional Revenue Sharing: *Applying the Minnesota model to the Portland Metro Region*

Department: Council

Presenters: Reed Wagner

ISSUE & BACKGROUND

The Metro Council has given me the opportunity to research and develop my terminal project on Regional Revenue Sharing; this project is my final requirement for my MPA, Public Policy for the University of Oregon. My research of Regional Revenue Sharing has included internal Metro documents, academic periodicals, state legislation and interviews with elected and appointed leaders from the Portland metro area. In addition to my academic study, I agreed to deliver this brief report to Council addressing general definitions of Regional Revenue Sharing, examples of current practices in other regions of the country and input from elected and non-elected leaders from the Portland region.

Initial research included analysis of Senate bill 626 and interviews with Carl Hosticka and David Bragdon. Interviews were also conducted with six Portland area elected officials, four municipal staff and three Metro staff.

My objective was to identify Portland area leaders with familiarity and/or experience with revenue sharing and discuss their concerns regarding legal and political feasibility in our region.

OPTIONS AVAILABLE

Metro may respond by developing a task force to further study the possibilities of regional revenue sharing. The focus of the task force may include more extensive research on tax mechanisms not thoroughly analyzed in this study such as value capture and split-roll tax.

IMPLICATIONS AND SUGGESTIONS

Fiscal zoning is defined by the APA as "the practice of using zoning power to achieve fiscal objectives rather than purely land-use objectives." In an attempt to maximize revenue potential, local officials may zone primarily for the sake of fiscal growth or stability. As each municipality practices this type of zoning, the overall effect has a negative impact on regional planning. It is argued that Regional Revenue Sharing may minimize the practice of fiscal zoning.

QUESTION(S) PRESENTED FOR CONSIDERATION

No specific questions are being presented, however, discussion regarding the appointment of a task force may be considered.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION __Yes _x_No
DRAFT IS ATTACHED ___Yes _x__No

SCHEDULE FOR WORK SESSION

Department Director/Head Approval ______________
Chief Operating Officer Approval __________________

Agenda Item Number 3.0

FRANCHISE AND NON-SYSTEM LICENSES DISCUSSION

Metro Council Work Session
Tuesday, December 2, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date: December 2, 2003 Time: Length: 30 min.

Presentation Title: Renewal of Solid Waste Facility Franchises

Department: Solid Waste & Recycling

Presenter: Michael Hoglund & Roy Brower

ISSUE & BACKGROUND

Three solid waste operating franchises expire at the end of this year:
- WRI, located in Wilsonville,
- Pride Recycling, located in Sherwood, and
- Recycle America, located in Troutdale.

Based on Council guidance at the November 24 work session, staff is further evaluating the comments raised by industry, and questions raised by Councilors. Staff will provide a detailed written response to all the industry comments prior to the work session on December 2.

Following are the significant issues raised by industry:

Term of Franchise. Although franchises are normally granted for five years, the franchises are proposed with a four-year term, so that all transfer station franchises in the region expire at the same time (in 2007). This is intended to allow Council to make a macro-decision about the allocation of tonnage, including all local transfer stations, Forest Grove Transfer Station and all wet waste non-system licenses.

Metro Code Changes Impact on Franchises. Franchises include clarifying language that states when the Metro Code is "amended, the latest amended version shall apply." This is a restatement of a provision that is already contained in the current franchises which states "Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against franchisee." Industry regards this as a unilateral change to a contract.

Tonnage cap. Proposed franchises do not deviate from the current 65,000 annual tonnage cap nor make distinctions about whether the tonnage cap covers in and out of district waste. It appears more appropriate to deal with these issues when the Service Area report is due to the Council in March 2004.

ODOT inspector access to scales. This new condition would allow ODOT inspectors to access the scale house at each private facility to ensure that overweight and unsafe trucks are not traveling the public roads. (ODOT currently performs these inspections only at Metro facilities.)

Confidentiality. The current and proposed franchises afford franchisees as much protection of confidential information as Metro can legally provide. Customer information has been routinely provided to Metro for many years by all three facilities and there has been no breach of confidentiality to date.

QUESTION PRESENTED FOR CONSIDERATION

Are staff recommendations for the proposed franchise terms (above) clear to Council? If so, staff suggests the December 2nd work session be used to discuss any remaining concerns or alternatives proposed on the franchise renewals.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION? Yes. Ordinances pertaining to franchise renewals have been filed.

DRAFT IS ATTACHED ___Yes _X_ No

Department Director/Head Approval ______________
Chief Operating Officer Approval __________________

Agenda Item Number 4.0

2003 INDUSTRIAL LAND ALTERNATIVE LAND ANALYSIS STUDY

Metro Council Work Session
Tuesday, December 2, 2003
Metro Council Chamber

METRO COUNCIL

Work Session Worksheet

Presentation Date:	12/03/03 Time:	Length: 45 minutes
Presentation Title:	2003 Industrial Land Alternatives Analysis Study	
Department:	Planning	
Presenters:	Tim O'Brien, Senior Regional Planner	

ISSUE & BACKGROUND

Review the 2003 Industrial Land Alternative Analysis Study (draft). The document provides the technical analysis completed by staff with assistance from local jurisdictions and service providers to addresses Statewide Planning Goal 2: Land Use Planning and the locational factors of Goal 14: Urbanization as they relate to the expansion of the Urban Growth Boundary. Due to the focus on industrial land, the methodology utilized in some portions of the analysis differs slightly from the methodology used in the 2002 Alternatives Analysis Study.

OPTIONS AVAILABLE

No action necessary.

IMPLICATIONS AND SUGGESTIONS

This technical analysis is intended to assist the Council in their evaluation of the study areas for determining the suitability for urbanization for industrial purposes.

QUESTION(S) PRESENTED FOR CONSIDERATION

Review each of the study areas and provide insight into the overall suitability determination for each area. Provide observations regarding the methodology utilized and how it influences the overall suitability for urbanization determination for each study area.

LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION __Yes X No
DRAFT IS ATTACHED ___Yes ___No

SCHEDULE FOR WORK SESSION

Department Director/Head Approval _______________
Chief Operating Officer Approval ___________________

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797

METRO

Date: November 25, 2003

To: David Bragdon, Metro Council President
Metro Council

From: Tim O'Brien, Senior Regional Planner TOB
Planning Department

Re: 2003 Industrial Land Alternatives Analysis Study

Introduction

The Metro Council's December 2002 Urban Growth Boundary (UGB) decision included approximately half of the industrial land need identified in the 2002 Urban Growth Report: An Employment Land Need Analysis. The Council adopted Resolution 03-3341 in June 2003, which authorized the study of additional land (see attached map) to be included in Metro's industrial land analysis in an effort to meet this identified industrial land shortfall.

The 2003 Industrial Land Alternatives Analysis Study addresses the requirements of Statewide Planning Goal 2: Land Use and Goal 14: Urbanization as they relate to expansion of the UGB for these additional study areas. Specifically the study provides the following information on each study area to address the locational factors of Goal 14:

- *Factor 3 – Orderly and economic provision for public facilities and services.*
  An analysis to determine the feasibility of providing the study areas with public services (water, sewer and stormwater) and transportation services.
- *Factor 4 – Maximum efficiency of land uses within and on the fringe of the existing urban area.*
  A land productivity assessment to determine the expected gross vacant buildable acres for industrial land purposes.
- *Factor 5 – Environmental, energy, economic and social consequences.*
  An analysis to determine the environmental, energy, economic and social consequences of urbanizing the study areas. This is also known as the ESEE analysis and is also part of the Goal 2 requirements.
- *Factor 6 – Retention of Agricultural Land*
  Application of this factor is carried out through the hierarchy of tiers as defined in state law ORS 197.298 (see below).
- *Factor 7 – Compatibility of the proposed urban uses with nearby agricultural activities.*
  An analysis of the compatibility of proposed urban development with nearby agricultural activities.

Land to be included in the UGB is separated into a hierarchy of five tiers, as outlined by the priority of land statute ORS 197.298. The tiers of land are defined as follows:

- Tier 1 – exception land contiguous to the UGB and non-high value resource land completely surrounded by exception land.
- Tier 1a – exception land not contiguous to the UGB (within the one mile extent of study area boundaries).
- Tier 2 – marginal land, a unique classification of non-resource land in Washington County that allows dwelling units on EFU land.
- Tier 3 – resource land that may be needed to serve exception land.

- Tier 4 – resource land, majority class III and IV soils, some class I and II soils.
- Tier 5 – resource land, majority class I and II soils, some class III and IV soils.

The majority of the land in this analysis, identified as areas A through M are in the State hierarchy Tier 5 classification (mostly class I and II soils). There is a small amount of Tier 1a non-resource land and Tier 3 and 4 resource land included in these study areas. A difficult or low score in of the factors, for instance the feasibility of providing sanitary sewer services, does not justify passing over land in a higher priority tier to include land from a lower priority tier of land.

Modifications in Methodology
Generally this study utilized the same methodology used in the 2002 Alternatives Analysis Study. Some minor modifications to the methodology were made since this study is directed at industrial land only. The modifications are outlined below.

- In determining buildable lands a 10% slope constraint was used instead of a 25% slope constraint. The ten percent slope constraint came from staff's conversations with professionals in the land development and brokerage professions that identified a need for relatively flat land.
- A percentage of land was not removed for future streets, schools, churches or parks as these future land uses are not pertinent to industrial land.
- A redevelopment factor for parcels smaller than 0.25 acres or with a building value greater than $150,000 was not used because of the lack of data or experience with the redevelopment of rural residential land to industrial use. The amount of built land is small (6.5%) compared to the overall amount of land.
- The partially vacant portions of developed parcels with homes valued at $250,000 and above were not removed from further consideration as was the case in the 2002 study. This step was not included in this industrial land analysis as there is very little data or evidence regarding the development of partially vacant parcels of high value homes for industrial purposes. There is only one location, in Study Area F, where there is a significant cluster of homes valued greater than $250,000 on lots that range from 1-5 acres.
- There are no parcels in this study that are close to being fully restricted by riparian areas, thus there is no estimate for development of fully vacant parcels that are close to fully (95 percent or more) restricted by riparian areas.
- Staff contacted service providers directly to obtain data on the feasibility of providing sewer, water and stormwater services. In the 2002 study a consultant contacted the service providers.
- Some additional information regarding water rights was obtained from the Oregon Water Resources Department (WRD) and the Tualatin Valley Irrigation District (TVID). The information was not used in determining the impact to agricultural activity since WRD does not know if the water right is being used and having land inside the TVID boundary does not necessarily mean irrigation water is being used.

Suitability for Urbanization
The purpose of assigning an overall urbanization suitability assessment for the study areas is to compare the individual areas relative to each other. This comparison helps in determining which areas are more suitable for urbanization. See attachment 2 for the overall urbanization suitability assessment for each study area.

Please note that while the best available information was used, this is not a scientific analysis even though there are numbers or scores attributed to the urbanization factors. The information received from the service providers illustrates one way to service the <u>entire</u> study area, which tends to favor smaller sized areas due to the greater amount of necessary upgrades to infrastructure to serve a large area and the greater job productivity that translates into increased traffic. In addition a portion of a larger area might be served in an alternative way that would result in an easier rating based on the smaller portion than the rating for the entire area. Thus larger study areas are likely to have lower overall ratings. The difference between a more suitable rank and a most suitable rank may be the result of a subjective score of moderate versus low for the social, energy and economic or agricultural consequence factor.

The following Goal 14 Factors were given a rating as easy, moderate or difficult for the public service factors or a low, moderate or high rating for the consequence factors.

- Sanitary Sewer, Water and Stormwater Services
- Transportation Services
- Environmental Consequences
- Economic, Social and Energy Consequences
- Agricultural Consequences

Determining the overall suitability for urbanization for each area involves the **balancing** of the individual scores from the analyses. No one factor was weighted more than another factor. For the public services feasibility a rating of 'easy' was given a 3, 'moderate' a 2, and 'difficult' a 1. Likewise, for the ESEE and agricultural analysis a 'low consequence' score was given a 3, 'moderate' a 2 and 'high' a 1. The numerical scores were then tallied to determine an overall score for the study area. A maximum score of 21 is possible. Based on the distribution of the overall scores the following breakout was determined:

- Study areas that totaled 13 points or less were determined to be least suitable for urbanization
- Study areas that totaled 14 – 16 points were determined to be more suitable for urbanization
- Study areas that totaled 17 points or more were determined to be most suitable for urbanization

This is the same scoring methodology that was used in the 2002 Alternative Analysis Study. Of the thirteen areas studied, three (C, D & L) were determined to be most suitable for urbanization, two (E & F) least suitable for urbanization and the remaining eight were determined to be more suitable for urbanization.

Study Areas
Provided below is a brief summary of some of the factors, both positive and negative, that influenced the overall suitability ranking for each study area.

Study Area A
This 343-acre study area has 195 gross vacant buildable acres and was categorized as more suitable for urbanization. Sanitary sewer and water services scored as difficult to serve based on the considerable distance to the nearest service connection and in the case of sanitary sewer services the City of Gresham's immediate focus on providing services to the Springwater Industrial area. Agricultural consequences are rated as low, as there is very little adjacent agricultural activity.

Study Area B
This 285-acre study area has 247 gross vacant buildable acres and was categorized as more suitable for urbanization. This area is separated from the current UGB by just over a mile. Wastewater from this area must be transported to either the Willamette River or Columbia River for discharge. Currently there are no services in the immediate area. Therefore the feasibility of sanitary sewer services is rated as difficult. Water services rated as easy as there is an existing water service line within the study area. The social, energy and economic consequences rated high due to the additional land area between the study area and the UGB that needs to be included in order to provide services and not to create an island of urban land. Agricultural consequences are rated as low, as there is very little adjacent agricultural activity.

Study Area C
This 435-acre study area has 278 gross vacant buildable acres and was categorized as most suitable for urbanization. Wastewater from this area must be transported to either the Willamette River or Columbia River for discharge. Currently there are no services in the immediate area. Therefore the feasibility of sanitary sewer services is rated as difficult. Transportation services are rated as easy based on a

relatively low potential trip generation rate, proximity to Highway 212 and the Sunrise Corridor project and low expected volume to capacity ratio. The area also received a rating of low for environmental and agricultural consequences of urbanization due to its isolated nature.

Study Area D
This 192-acre study area has 85 gross vacant buildable acres and was categorized as most suitable for urbanization. Wastewater from this area must be transported to either the Willamette River or Columbia River for discharge. Currently there are no services in the immediate area. Therefore the feasibility of sanitary sewer services is rated as difficult. The social, energy and economic consequences rated low because the area is isolated and has urbanized land on three sides. The environmental and agricultural consequences of urbanizing this land were rated as low due to this isolated condition.

Study Area E
This 892-acre study area has 691 gross vacant buildable acres and was categorized as least suitable for urbanization. The feasibility of sanitary sewer and water services is rated as difficult due to the City of Wilsonville's stated desire not to provide services and required upgrades to infrastructure. Staff determined the difficult to serve rating after reviewing the City of Wilsonville's feasibility of services submittal and an independent consultant engineer's review of alternative ways to provide services. The area also received a moderate consequence rating for the social, energy and economic and agricultural impact factors.

Study Area F
This 1,157-acre study area has 856 gross vacant buildable acres and was categorized as least suitable for urbanization. The feasibility of sanitary sewer and water services is rated as difficult due to the City of Wilsonville's stated desire not to provide services and required upgrades to infrastructure. Staff determined the difficult to serve rating after reviewing the City of Wilsonville's feasibility of services submittal and an independent consultant engineer's review of alternative ways to provide services. Transportation services rated as difficult due to a high potential trip generation, a higher volume to capacity ratio and less availability to transportation facilities. The area also received a high consequence rating for the social, energy and economic and agricultural impact factors, as this large area contains major agricultural activities and the large portion of the adjacent land is also in agricultural production.

Study Area G
This 794-acre study area has 718 gross vacant buildable acres and was categorized as more suitable for urbanization. The feasibility of sanitary sewer services is rated as difficult as there are no existing services adjacent to the property that can provide gravity service. Water services are rated as easy to serve, as there is an existing transmission line adjacent to the area. The area also received a low consequence rating for the social, energy and economic impact factor as the area is almost surrounded by urban or non-agricultural uses.

Study Area H
This 990-acre study area has 828 gross vacant buildable acres and was categorized as more suitable for urbanization. The feasibility of sanitary sewer and water services is rated as easy due to the presence of existing facilities adjacent or very near the study area. The area also received a high consequence rating for the social, energy and economic and agricultural impact factors, as this large area is almost entirely engaged in agricultural activities and the majority of the adjacent land is also in agricultural production.

Study Area I
This 866-acre study area has 747 gross vacant buildable acres and was categorized as more suitable for urbanization. The feasibility of sanitary sewer services is rated as easy due to the presence of an existing gravity facility adjacent to the study area. The area received a high consequence rating for the social, energy and economic and agricultural impact factors, as this large area is almost entirely engaged in agricultural activities and the majority of the adjacent land is also in agricultural production.

<u>Study Area J</u>
This 490-acre study area has 407 gross vacant buildable acres and was categorized as <u>more suitable for urbanization</u>. The feasibility of sanitary sewer services is rated as easy due to the ability to provide gravity services to a nearby transmission line. The area received a high consequence rating for the social, energy and economic and agricultural impact factors, as this large area is almost entirely engaged in agricultural activities and the majority of the adjacent land is also in agricultural production.

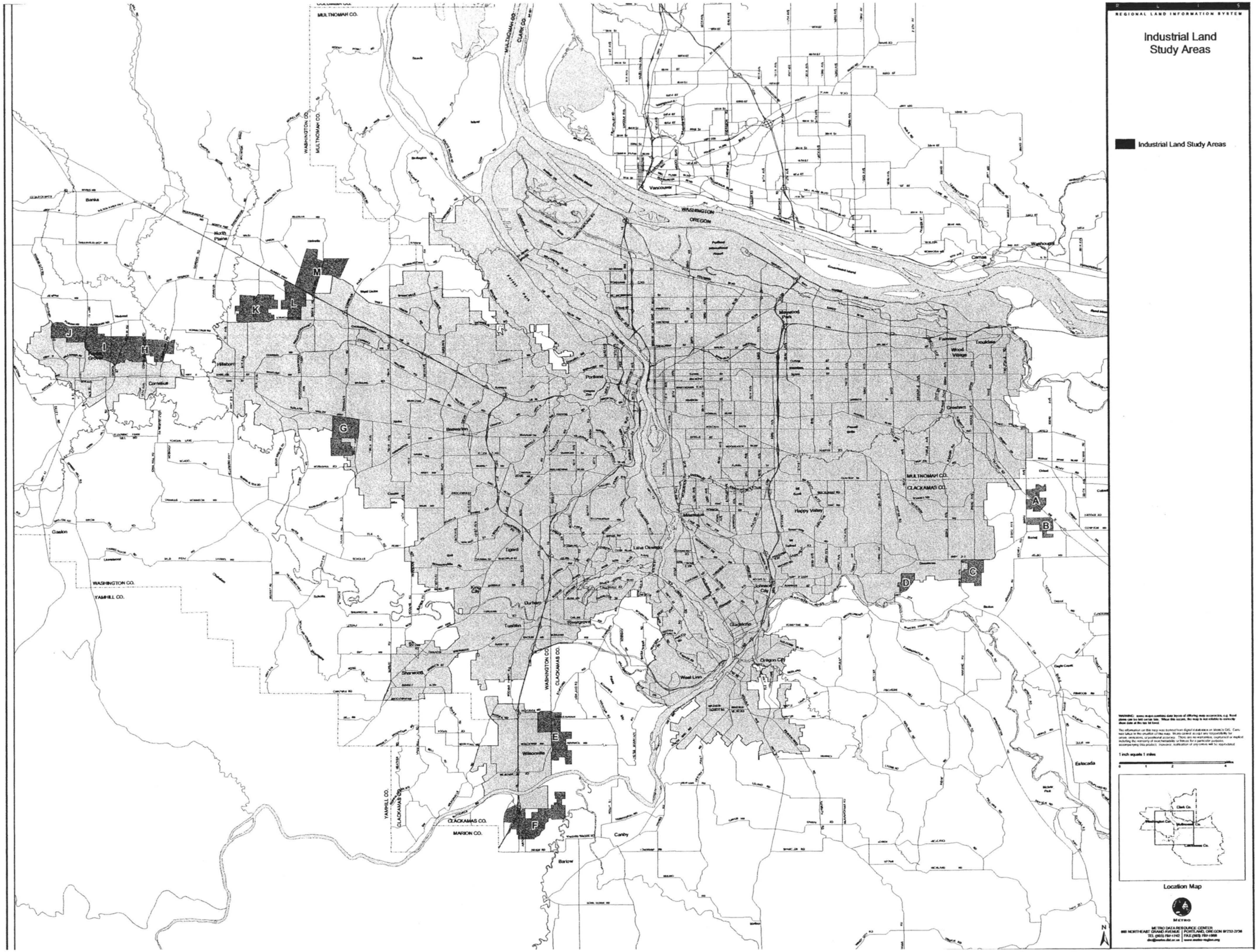
<u>Study Area K</u>
This 904-acre study area has 802 gross vacant buildable acres and was categorized as <u>more suitable for urbanization</u>. The feasibility of sanitary sewer services is rated as difficult, as there are no existing large diameter sewers in the area and extensive downstream improvements are required. Water services are rated as easy to serve, as there is an existing transmission line adjacent to the area. The area received a high consequence rating for the social, energy and economic and agricultural impact factors, as there is an adjacent middle school and adjacent agricultural activities.

<u>Study Area L</u>
This 624-acre study area has 545 gross vacant buildable acres and was categorized as <u>most suitable for urbanization</u>. The feasibility of sanitary sewer services is rated as difficult, as there are no existing large diameter sewers in the area and extensive downstream improvements are required. Water services are rated as easy to serve, as there is an existing transmission line adjacent to the area. The area rated low for agricultural consequences since the study area is isolated from the larger farming community by the UGB, rural residential development and Highway 26. The area also received a low consequence rating for environmental impacts.

<u>Study Area M</u>
This 1,082-acre study area has 958 gross vacant buildable acres and was categorized as <u>more suitable for urbanization</u>. The feasibility of sanitary sewer services is rated as moderate, as a portion of the area can be served by gravity. The remaining portion of the area would be served by a gravity system that is extended from Study Area L. Water services are rated as easy to serve, as there are two existing lines that can provide service to the area. The area received a high consequence rating for the social, energy and economic and agricultural impact factors, as this large area is almost entirely engaged in agricultural activities, contains an elementary school, and the majority of the adjacent land is also in agricultural production.

Next Steps
Please forward to me by the end of December any questions, comments or concerns you may have regarding the study.

I:\gm\community_development\share\Task 3\Additional Industrial Land\AA03\review for council.doc



REGIONAL LAND INFORMATION SYSTEM
Industrial Land Study Areas
Industrial Land Study Areas
WASHINGTON
OREGON
Vancouver
Portland
MULTNOMAH CO.
CLACKAMAS CO.
WASHINGTON CO.
YAMHILL CO.
MARION CO.
Happy Valley
Estacada
Canby
Location Map
A
B
C
D
E
F
G
H
I
J
K
L
M

Attachment 2

2003 Industrial Land Goal 14 Analysis Summary

Study Area	Goal 14 Locational Factors								Overall Goal 14 Suitability
	Public Services Feasibility				ESEE Analysis- Consequences		Agric. Analysis	Productivity	
	Trans	Sewer	Water	Storm	Environmental	Soc/Energ/Econ	Consequences	Job acreage #	
A	Moderate	Difficult	Difficult	Moderate	Low	Low	Low	195	More
B	Moderate	Difficult	Easy	Easy	Low	High	Low	247	More
C	Easy	Difficult	Moderate	Easy	Low	Moderate	Low	278	Most
D	Moderate	Difficult	Moderate	Easy	Low	Low	Low	85	Most
E	Moderate	Difficult	Difficult	Moderate	Low	Moderate	Moderate	691	Least
F	Difficult	Difficult	Difficult	Moderate	Low	High	High	856	Least
G	Moderate	Difficult	Moderate	Moderate	Low	Low	Moderate	718	More
H	Moderate	Easy	Easy	Easy	Moderate	High	High	828	More
I	Moderate	Easy	Moderate	Easy	Moderate	High	High	747	More
J	Moderate	Easy	Moderate	Easy	Moderate	High	High	407	More
K	Moderate	Difficult	Easy	Easy	Moderate	High	Moderate	802	More
L	Moderate	Difficult	Easy	Easy	Low	Moderate	Low	545	Most
M	Moderate	Moderate	Easy	Easy	Moderate	High	High	958	More

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A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793

METRO

Agenda

MEETING:	METRO COUNCIL REGULAR MEETING
DATE:	December 4, 2003
DAY:	Thursday
TIME:	2:00 PM
PLACE:	Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**

2. **CITIZEN COMMUNICATIONS**

3. **CONSENT AGENDA**

3.1 Consideration of Minutes for the November 20, 2003 Metro Council Regular Meeting.

4. **ORDINANCES - SECOND READING**

4.1 **Ordinance No. 03-1025**, For the purpose of approving the Transfer Station Franchise Renewal Application of Willamette Resources, Inc., authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. — Hosticka

4.2 **Ordinance No. 03-1026**, For the purpose of approving the Transfer Station Franchise Renewal Application of Pride Recycling Company, authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. — McLain

4.3 **Ordinance No. 03-1027**, For the purpose of approving the Transfer Station Franchise Renewal Application of Recycling America, authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. — Park

5. **RESOLUTIONS**

5.1 **Resolution No. 03-3390**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Pride Recycling Company for delivery of putrescible solid waste to the Riverbend Landfill. — Hosticka

5.2 **Resolution No. 03-3391,** For the purpose of authorizing the Chief Operating Officer to issue a non-system license to American Sanitary Service, Inc., for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center. — Burkholder

5.3 **Resolution No. 03-3392,** For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Arrow Sanitary Service, Inc., for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center. — Burkholder

5.4 **Resolution No. 03-3393,** For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Willamette Resources, Inc., for delivery of putrescible solid waste to the Coffin Butte Landfill. — Hosticka

5.5 **Resolution No. 03-3394,** For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Crown Point Refuse and Recycling Service Inc., for delivery of putrescible solid waste to the Wasco County Landfill. — Park

5.6 **Resolution No. 03-3395,** For the purpose of authorizing the Chief Operating Officer to issue a non-system license to the Forest Grove Transfer Station for delivery of putrescible solid waste to the Riverbend Landfill. — McLain

6. ORDINANCES AND RESOLUTIONS – PUBLIC HEARINGS ONLY, NO FINAL ACTION

6.1 **Ordinance No. 03-1021,** For the purpose of Amending Title 4 of the Urban Growth Management Functional Plan to improve its protection of industrial land and to make corrections. *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — McLain

6.2 **Ordinance No. 03-1022,** For the purpose of Amending the Employment and Industrial Areas Map to Add Regionally Significant Industrial Areas in Compliance with Subsection J of Section 3.07.420 of Title 4 (Industrial and other employment areas) of the Urban Growth Management Functional Plan. *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — Park

6.3 **Ordinance No. 03-1024,** For the Purpose of Adopting the 2004 Regional Transportation Plan as the Regional Transportation System Plan and the Regional Functional Plan for Transportation to Meet State Planning Requirements *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — Monroe

6.4 **Resolution No. 03-3380,** For the Purpose of Designation of the 2004 Regional Transportation Plan as the Federal Metropolitan Transportation Plan to meet Federal Planning Requirements. *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — Park

6.5 **Resolution No. 03-3381,** For the Purpose of Adopting the 2004-07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area. *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — Burkholder

6.6 **Resolution No. 03-3382,** For the Purpose of Adopting the Portland Area Air Quality Conformity Determination for the 2004 Regional Transportation Plan and 2004-07 Metropolitan Transportation Improvement Program. *(PUBLIC HEARING ONLY, NO FINAL ACTION)* — Monroe

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Cable Rebroadcast Schedule for December 4, 2003 Meeting

	Sunday (12/7)	Monday (12/8)	Tuesday (12/9)	Wednesday (12/10)	Thursday (12/4)	Friday (12/5)	Saturday (12/6)
CHANNEL 11 **Community Access Network** Clackamas, Multnomah and Washington counties, Vancouver, Wash.					Live at 2 p.m.		
CHANNEL 30 **TVTV** Washington County, Lake Oswego	7 p.m.		6 a.m.	4 p.m.			7 p.m.
CHANNEL 30 **CityNet 30** Portland	8:30 p.m.	2 p.m.					
CHANNEL 30 **Willamette Falls Television** West Linn	6 a.m.		9:30 a.m. 5 p.m.		9:30 a.m. 5 p.m.		6 a.m.
CHANNEL 28 **Willamette Falls Television** Oregon City, Gladstone	6 a.m.						6 a.m.
CHANNEL 23 **Milwaukie Public Television** Milwaukie							
CHANNEL 30 **MCTV** Gresham							

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

Portland Cable Access	www.pcatv.org	***(503) 288-1515***
Milwaukie Public Television	www.wftvaccess.com	***(503) 652-4408***
Multnomah Community Television	www.mctv.org	***(503) 491-7636***
Tualatin Valley Television	www.yourtvtv.org	***(503) 629-8534***
Willamette Falls Television	www.wftvaccess.com	***(503) 650-0275***

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

120203C-02

METRO

METRO
Regional Revenue Sharing

December 2003

To: Metro Council and Michael Jordan, COO

From: Reed Wagner, Masters Intern

Date: December 2, 2003

Regarding: Regional Revenue Sharing

PROJECT

Objective
Objective is to report to Council general definitions of Regional Revenue Sharing, examples of current practices in other regions of the country, input from elected and non-elected leaders from the Portland region and general results and recommendations based on my study.

Plan
Initial plan should include analysis of Senate bill 626 and interviews with Carl Hosticka and David Bragdon. General research should then be completed on Revenue Sharing models from other regions of the country including implemented plans in Minneapolis and New Jersey and proposed plans in California. Interviews will be conducted with Metro area Mayors (at least 4), County Commissioners, planning directors, budget analysts and economic development directors. Follow-up research should then be conducted following the interviews. The final phase of the project will include presentation development (written and PowerPoint formats).

Calendar

Month	Hours Available	Objective
August	5/wk	General Research
September	10/wk	Interviews (Goal of 8)
October	Unavailable	No Progress
November	10/wk	Follow-up Research, Presentation development
Totals:	*100 hours*	*15 min presentation & 5 page report*

Interviews

David Bragdon	Presiding Officer, Metro
Carl Hosticka	Councilor, Metro
Michael Jordan	Chief Operating Officer, Metro
Lydia Neill	Principal Regional Planner, Community Development, Metro
Dan Cooper	General Counsel, Metro
Bill Kennemer	Chairperson, Clackamas County Board of Commissioners
Tom Hughes	Mayor, Hillsboro
Rob Drake	Mayor, Beaverton
Lou Ogden	Mayor, Tualatin
James Bernard	Mayor, Milwaukie
Charles Becker	Mayor, Gresham
David Donaldson	Deputy City Manager, Wilsonville
Jim Jacks	Planning Director, Tualatin
Anthony Rufolo	PSU, Professor of Urban Studies & Planning Economist
Mark Campbell	Senior Budget Analyst, Multnomah County
Stephan Lashbrook	Director of Community Development, Lake Oswego

SUMMARY

The Problem
Fiscal zoning, as defined by the APA, is the practice of using zoning power to achieve fiscal objectives rather than purely land-use objectives[1]. In an attempt to maximize revenue potential, local officials will zone primarily for the sake of fiscal stability. These officials are placing an institutional view of their own municipality ahead of the citizen's view. In an attempt to create a more fiscally stable municipality, the leader will make land decisions based on what will bring in the greatest revenue while costing the least in services.

The difference in costs of services for residential development versus commercial/ industrial development is substantial. For example, in Clackamas County services to a residential property would cost more than 3 times the amount of services to an industrial/commercial property. High value single-family properties and commercial/industrial properties bring greater revenues. As each municipality practices zoning that maximizes the fiscal benefits of these realities, the overall effect has a negative impact on the Metro region.

This type of zoning leads to many disruptive results, such as:

- Competition between municipalities for new revenues via expanded property tax base. This is true for soliciting businesses and Metro's appointment of urban growth boundary expansion.
- Urban sprawl is instigated by fiscally rewarding individual municipalities that choose to focus on commercial/ industrial or high-end residential development as opposed to high-density housing.
- An inability to maximize regional planning efforts due to opposing goals of individual municipalities.

Definition of Regional Revenue Sharing
Regional Revenue Sharing (often referred to as Fiscal Disparities Law or Tax-base sharing) is essentially a tax distribution plan that represents the value of the region in addition to the value of the individual municipality. As individual municipalities realize regional responsibilities and services, such as transportation and land use planning, a portion of the increased value is shared among the municipalities in the region. A percentage of each municipality's revenue is pooled then redistributed based on a formula including residential population, population density and/or fiscal capacity.

[1] Growing Smart. Legislative Guidebook, 2002 edition.

Examples of Regional Revenue Sharing

Minnesota - The most popular example of Regional Revenue Sharing is the Twin Cities, Minneapolis plan adopted by the Minnesota state legislature in 1971. In Minnesota, the participating regional municipalities contribute 40% of *increased* property value to a regional fund that is then redistributed throughout the region based on residential population. In the year 2000 (after 25 years of increased property values), the annual regional pool distribution is over $400 million[2].

Hackensack Meadowlands, NJ – The New Jersey plan was developed primarily to create a more rational solution to regional planning. Sensitive wetlands shared by over 14 municipalities and two counties led to the implementation of a tax share plan that reduced the impact of development restrictions on individual municipalities. The participating municipalities contribute 40% of increased property value (after 1971). In 1991 (after 20 years of increased property values) $4.67 million was distributed[1].

Regional Revenue Sharing has been implemented in other areas of the country such as Kalamazoo, MI, Rochester, NY and Dayton, OH*. Regional revenue sharing is also being considered as a solution in other areas including Clark County, WA, Baltimore, MD, San Diego, CA and Sacramento, CA.

* Very small percentage. Part of a larger economic development plan.

Application in the Portland region

The state legislative limitations regarding revenue sharing pertain to the municipality's right to levy at their fixed property tax rate. A municipality could argue that they are protected by the constitution to levy at that rate. An amendment would have to be made that allows a portion of the fixed rate to be shared regionally.

[2] Hinze, Steve, Baker, Karen. Minnesota's Fiscal Disparities Programs. February 2000.

RESULTS

Interview Results
Fifteen interviews were conducted on Regional Revenue Sharing. Interviewees included elected officials, public administrators, Metro staff and academics from the region. While there were varying degrees of knowledge regarding Regional Revenue Sharing among the interviewees, each brought a unique perspective to the process. The purpose of this paper is to obtain candid views from both elected officials and appointed managers, therefore I did not want their identity to interfere with their willingness to offer honest opinions. With this in mind, I will not directly reference quotes, and will paraphrase when necessary.

<u>*Infrastructure*</u>
Discrepancies in infrastructures create disparities in revenue raising capabilities. Some leaders argue that luck, geography and regional support are responsible for a strong infrastructure, while others argue that the municipality's investment is most commonly responsible and that there should be considerable return on investment.

> *"If you look at Wilsonville that incorporated so late with an incredible amount of commercial/ industrial land lumped into their incorporation, they were at an advantage because they didn't have an existing infrastructure to fix."*
>
> *"It seems when there is growth in a particular area the local municipality will receive the added property tax revenue but will also bear the burden of building the infrastructure (water, storm drain, streets, library, fire, etc)."*
>
> *"The problem with creating an infrastructure in (our area) is an industrial sector is expensive to create. Should I share that?"*

<u>*Land-use Planning*</u>
Questions regarding land-use planning led to discussions of job base location, growth for the sake of new revenues and the development of new land at a lower cost which leads to the abandonment of focus on the inner lying cities.

> *"If you're going to look at the region and say the region needs to have wealth, we don't care where it takes place, we've got to find an equitable way to share that wealth. We don't have the job base here; we're providing all these services to this basically bedroom community, which is very costly."*
>
> *"Since measure 5 turned everything upside down in 1990, new property revenues are coming primarily through new growth (this is due to the fact that existing property taxes may only be raised 3% each year). Jurisdictions may say lets grow in order to capture more revenue; then that has a land use implication."*
>
> *"They're talking about expanding the Wilsonville industrial area to the south (the mayor of Wilsonville is not interested in that). My problem is that what incentive does anybody have to redevelop the abandoned industrial land (in our city), if you*

keep giving them cheaper land to develop. So our land just consequently sits there; very close to Portland, 5 miles of great transit opportunities... but it's just sitting there because it's so expensive to redevelop."

I get a sense that if we're looking at the full region, that it's better to have a "tire full of air then a tire with a flat spot on it".

<u>*Current Tax Structure*</u>

Our current property tax structure limits growth to 3% annually and has locked in rates that are inconsistent throughout the region. While one municipality may have bonds that were rolled into, and ultimately raised, their permanent tax rate, another is left with a much lower permanent tax rate. This fact led to many discussions as to whether or not regional sharing would compound the inequities or relieve some of the problem.

"If I look at Happy Valley with a tax base of 79 cents, and ours is like 7 dollars, you're going to have some people that are very badly hurt. (Our City) would lose in that situation, but as far as I'm concerned, anything to smooth it out would make it advantageous for everyone in the long run/term."

"Look at the city of Durham, out of measure 5 and all these other property tax things they only get to collect about 50 cents per thousand. Then there's Beaverton, collects three to four dollars per thousand but doesn't collect all of the property tax it could under measure 5. I think they're allowed, jurisdictions that had operating levies, those got rolled into their permanent tax rate. Those that had bond measures got rolled into their permanent tax rate. So Beaverton I think can charge 4-5 per thousand, but they don't need it so they don't charge all of that."

"So the current system isn't fair, but if you're going to start sharing the proceeds of the current system, well wait a minute, let's not exacerbate the unfairness. Before we do something new i.e. revenue sharing, let's take a look at the current system."

<u>*There are no Excess revenues to share*</u>

A common argument is that, given the current economic climate and the decline in services that cities have been able to offer, there is certainly no excess to share with other municipalities.

"We've talked about sharing, the only problem is there almost has to be a catch-up first, and then you go to sharing."

"If you're going to share revenue, then that assumes that there is excess; I guess the other side of the coin of the first item. Whether it was 50 years ago ...especially these days when services are being reduced constantly to assume that an area with high growth must have extra money, to have them share it, well if you look at what they're doing they probably aren't providing as good a library, police, or any service as they did twenty years ago. Twenty years ago (our city) had a recreation program; we don't anymore. And as we were able to have the voters tax themselves to buy land for parks, we took that money to buy

land…then the same to build the parks. Now we have three new twenty-acre parks in the last fifteen years that our people pay for and now we need people to maintain them. But we have not added the amount of people as we have added acres of parks…We need to look at what level services were provided twenty years ago, because if now we're going to tell jurisdictions to share revenue with others, well why would you want to do that?"

"Instead of finding new ways to split the pie, we need to focus on widening the pie."

<u>*Additional Points*</u>

"We want to be a regional partner and realize that the way the region goes, so goes the local communities. The stronger that we are regionally, the stronger that (our city) is. I recognize that when we come down to defiscalization of land use, the only way that's going to occur is if everyone gets a fair share of development."

"We might be a jurisdiction that would welcome having local revenues go to establish affordable housing somewhere else because with the number of units needed, we aren't able to accommodate."

"It's worthwhile to reduce the competition a little bit. We're not businesses, we're not enterprises built to beat the other one out. We are partners, and I think that partnership is worth something to everybody."

"Support of Voluntary regional idea as Beaverton and Tigard participated in where Beaverton raised money for a homeless shelter based in Tigard due to the fact that Beaverton "uses" the shelter."

Options

A short-term option would include developing a regional sharing pool with revenues outside the property tax revenue share model. In particular, Metro could consider a windfall (value capture) tax that would either create revenues through new subdivisions and partitions or by means of a construction excise tax.

Long-term options would include creating changes to the current property tax structure to allow for a percentage of local levies to be shared regionally. This type of revenue share solution provides a more direct solution to fiscal zoning while the short-term solution establishes a revenue share system.

METRO COUNCIL 120203C-03

Work Session Worksheet

Summary of Franchise Renewal Conditions

The following is a detailed summary of issues raised at the November 25th Council Work Session and in written comments from the three transfer station franchisees (Pride, Recycle America, and WRI). Staff have included responses to the issues that have been raised. This is a follow-up to the earlier worksheet.

The following issues were raised by all three of the transfer station franchisees:

1. Franchise Term.

Issue: Metro Chapter 5.01 was modified recently to allow Council discretion to issue franchises for less than 5 years (the Code previously required franchises to be issued for five years).. The proposed franchise term is four years.

Franchisee comment: The franchisees believe that a four-year term is too short to allow for capitol investment and planning, and request that Metro agree to a five-year term or a rolling franchise term.

Staff comment: Staff disagrees and recommends a four-year term for the current franchise renewals so that all transfer station franchises and wet waste non-system licenses will expire at the end of 2007. This will allow Council to make a macro-decision about allocation of tonnage at all private transfer stations (including Forest Grove) and non-system licenses.

Alternative options:

- Extend the Forest Grove Transfer Station franchise term by one year and keep the three franchises that expire this year at 5 years. However, this will require shortening the term of the wet waste non-system licenses by one year in order to line up all of the tonnage allocation decisions.
- Rolling franchise term. Industry has proposed that franchises be granted on a 5-year rolling basis, meaning franchises would be continually renewed, provided the franchisee did not have major operational or compliance issues. If the Council decided to terminate a franchise, other than on an emergency basis, it would take 5-years for the termination to take effect. Staff recommend against this direction because it limits Council discretion.

2. Definitions.

Issue: Metro staff proposed adding a new provision to the franchises that provided, "In the event that the Metro Code is amended, the latest amended version shall apply to this franchise." This additional language is in proposed section 2.13, "Definitions."

Franchisee comment: Delete this provision. The franchisees' object to the provision because they fear that Metro will make significant, unilateral changes that affect their franchises, without having an opportunity to reject such changes.

Staff comment: Staff disagrees with franchisees' recommendation and believes this provision should be retained. Staff acknowledges that this provision gives the Metro Council more discretion to make franchise changes during the term of the franchise than does the current franchise. The Metro Council will soon be considering several significant policy issues related to definitions (e.g., disposal bans, mandatory recovery, organics composting) that will likely impact the operation of transfer stations in the region. In the event that the Metro Council were to take action on any item that would affect the franchisees' operations, a Metro Code amendment would be necessary, and the franchisees would have an opportunity to review and comment on any such change prior to its adoption.

Alternative options: Maintain the original version and do not include the amended text. This approach would limit the Metro Council's flexibility to amend the franchises during their terms.

3. Out-of-district waste.

Issue: The amended franchise provision would make clear that the tonnage cap of 65,000 tons per calendar year applies to all putrescible waste delivered to the facility, whether it was generated inside or outside the Metro region. The amended provision reflects current Metro practice regarding putrescible waste tonnage authorizations. It should be noted, however, that waste coming from outside the region is only subject to excise taxes, and not the regional system fees, provided that the facility adequately tracks and reports such waste. Currently, only Recycle America provides a level of detail so that regional system fee is not due on out of region waste.

Franchisee comment: The franchisees' have objected to the new text that clarifies current Metro practices of counting all putrescible solid waste received at the facility, including waste delivered from outside the region.

Staff comment. Staff recommends that Council consider this issue when the Service Area Report is discussed in March 2004. Staff is not opposed, however, to Council clarifying this issue at this time. If the clarification is adopted now, staff recommends that facilities be required to report to Metro in adequate detail on the waste they claim is not generated inside the Metro boundary. In addition, partial loads of mixed in and out of region waste should count as in-region generated waste for ease of implementation.

4. Access for ODOT inspectors.

Issue: This new franchise provision would allow ODOT inspectors to have periodic access the scale house at each private facility to be sure that overweight and unsafe trucks are not traveling the public roads. The ODOT inspector will be limited to access in the scale house and the immediate area to conduct weight and safety inspections. Currently, ODOT performs these inspections at Metro Transfer Stations and this provision would ensure that ODOT inspections are the same at all facilities.

Franchisee comment: The franchisees object to this new provision, and its lack of protocol, that requires each franchisee to allow ODOT inspectors periodic access to the facility for the purpose of conducting truck weight compliance and safety checks.

Staff comment. Staff disagrees that this provision should be deleted from the franchises. Staff agrees that the new condition should be revised to clarify that ODOT would have access to the facility scale house to verify commercial drivers licenses, and check both gross and axle weights, as it does at Metro facilities. This new condition was originally suggested by ODOT staff and supported by Metro staff.

Alternative option: Convene a process, outside of the franchise renewal, with ODOT, Metro, haulers, and private transfer station operators to seek a protocol for ODOT inspections at all facilities.

5. Confidentiality.

Issue: The franchise provision requires franchisees to provide Metro, on a semi-annual basis, with a computer listing that cross references the incoming hauler account number with the hauling company's name and address. Metro requires franchisees to report this information to ensure that it receives accurate transaction data. For many years, the transfer station franchisees have provided Metro with their customer account information as customers change or upon request. There has never been a breach in confidentiality.

Franchisee comment: The franchisees object to providing Metro with a computer listing that cross references the incoming hauler account number with the hauling company's name and address semi-annually. The franchisees state that because of Metro's confidentiality clause, this would provide competitors with needed information to take away their business.

Staff comment: Staff disagrees with the franchisees' assertions. Metro's confidentiality clause has never resulted in the disclosure of this type of information to a facility competitor or any unauthorized agency, company or individual. Facilities have provided this information to Metro for many years.

Alternative option: Revise this provision to require the information as customer accounts change. This change can be adopted without formally amending the ordinance or franchise.

The following issues were raised from individual transfer station franchisees as noted below:

Recycle America (Troutdale Transfer Station). Waste Management (WMO), has offered other comments on behalf of the company in a November 17th letter to Council. Staff responses to their main concerns are outlined below.

1. Authorizations.

Issue: *Section 3.9 - Source-separated organic material.* This section of the proposed franchise authorizes the franchisee to accept organic material for the purpose of transfer to a DEQ-permitted composting facility, in accordance with Metro Code Chapter 5.05.

Franchisee comment: WMO proposes that Metro be more specific about the acceptable levels of contaminants in source-separated compostable organic material. WMO proposes that the standard be set forth in the draft franchise at no more than five percent non-organic material by weight.

Staff comment: Staff disagrees and believes it is premature and inappropriate to place such a standard in a franchise agreement at this time. An acceptable standard for a contaminant level in source-separated compostable material has yet to be determined by Metro.

2. Limitations and Prohibitions.

Issue: *Section 4.5 - Prohibition on mixing.* This section of the draft franchise pertains to a prohibition on mixing source-separated materials with other solid wastes. *Section 4.6 - No disposal of recyclable material* prohibits the disposal of "source-separated recyclable materials, yard debris or organic materials." WMO has also offered clarifying amendments to both sections.

Franchisee comment: WMO claims that Section 4.5 and 4.6 of the draft franchise pertaining to a prohibition on disposal and mixing of source-separated materials with other solid wastes is ambiguous and should specify that the prohibition on mixing and disposal applies only to source-separated material.

Staff comment: Staff agrees with the proposed clarification offered by WMO, with the exception of the five percent residual standard for source-separated compostable organic material. This change can be adopted without formally amending the ordinance or franchise.

3. Operating Conditions.

Issue: *Section 5.2 – Qualified operator.* This section states that "Facility personnel shall be familiar with the provisions of this franchise and the procedures contained within the facility's operating plan".

Franchisee comment: WMO suggests that this section be revised to be more realistic about describing who should be familiar with the terms of the franchise.

Staff comment: Staff agrees with the proposed clarifications offered by WMO. This change can be adopted without formally amending the ordinance or franchise.

4. Operating Plan.

Issue: *Section 6.6 – Procedures for odor prevention.* This section requires the franchisee to adopt an operating plan with procedures "for preventing all odors."

Franchisee comment: WMO believes this is not a realistic requirement and has offered an amendment that requires odors to be prevented from being detected off the premises of the facility.

Staff comments: Staff agrees with the proposed clarifications offered by WMO. This change can be adopted without formally amending the ordinance or franchise.

5. Record Keeping and Reporting.

Issues and franchisee comment: WMO has requested that Metro amend:

- *Section 8.2* regarding ticket numbers and weight slips.
- *Section 8.3* regarding the timeframe for submission of records.
- *Section 8.6* regarding submission of copies of "any other similar enforcement actions" by other agencies.
- *Section 8.7* regarding notification of "other significant incidents." WMO requests that Metro require 48 hours for the reporting of incidents, rather than the 12 hours as specified in the franchise.
- *Section 8.8* regarding location of the nuisance complaints section.

Staff Comments:

Section 8.2 - Reporting requirements. Staff disagrees with the issues raised by the franchisee. Generally, there are no new reporting requirements in Section 8.2 of the franchise agreement for WMO. Section 8.2 documents the minimum information that Metro currently expects of all franchisees. Nothing requested or required is unique to Recycle America's franchise. In fact, Recycle America is currently providing the information requested in Section 8.2, the ticket number submitted corresponds to the ticket number their computer generates and prints on each transaction ticket.

Section 8.3 – Record transmittals. Staff disagrees with the issues raised by the franchisee. This section requires records to be submitted to Metro within 15 days following the end of each month in an electronic format prescribed by Metro. As stated above, Section 8.3 does not contain new reporting requirements, and Recycle America currently reports all the requested information prior to the 15th. Since the proposed franchise does not place more reporting requirements on the franchisee than does the existing franchise, staff disagrees with the amendment as proposed by WMO.

Section 8.6 – Copies of enforcement actions provided to Metro. Staff disagrees with the issues raised by the franchisee. This section requires submission of notices of violation or non-compliance, citations or any other similar enforcement actions issued to the franchisee by any government agency other than Metro, <u>and related to the operation of the facility</u> (emphasis added). Staff believes that this section is not ambiguous and would not, therefore, lead the franchisee to believe that Metro wants "traffic citations that might be issued to its employees during the scope of their employment."

Section 8.7 – Unusual occurrences. Staff disagrees with the issues raised by the franchisee. This section requires the franchisee to keep records of unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve them. The section requires the franchisee to report fires, accidents, emergencies and other significant incidents to Metro within12 hours of discovery of their occurrence. Staff believe that these requirements are reasonable and does not agree with the amendment as proposed by WMO that would allow the franchisee 48 hours to notify Metro of fires, accidents, emergencies or other significant incidents that might occur. Facilities should notify Metro of <u>any</u> occurrence within 12 hours if it is likely to disrupt the flow of solid waste. Everything else can be reported within 48 hours.

Section 8.8 – Nuisance complaints. Staff agrees with the issues raised by the franchisee. WMO suggests moving this section to the operating plan section. This change can be adopted without formally amending the ordinance or franchise.

6. Right of inspection and audit.

<u>Issue:</u> *Section 12.4 - Right of inspection and audit.* As written, this section allows Metro authorized representatives to make inspections or audits as the Chief Operating Officer deems appropriate, and be allowed access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours).

<u>Franchisee comment</u>: WMO requests that Section 12.4 regarding Metro's right to inspect a facility be amended to require that Metro give the facility one hour's notice before an inspection.

<u>Staff comment</u>: Staff disagrees and does not support the franchisee's proposal. Such advance warnings from Metro would in effect, defeat the purpose of inspections and invalidate the effectiveness of the inspection program. Metro staff finds that WMO concerns about safety are unwarranted and do not agree with the amendment as proposed by WMO that would require inspectors to warn the franchisee an hour prior to conducting an inspection.

Pride Recycling Company. Pride Recycling Company has also offered comments on the proposed franchise renewal in its November 18th letter to Council. Staff responses to their main concerns are outlined below.

1. Incidental recovery:

Issue: This existing section authorizes the franchisee to perform "low-level" material recovery on putrescible waste, provided that these material recovery efforts are incidental to the activity of transferring the putrescible waste, and are limited to the gleaning of easily extractable recyclable or reusable materials from the waste.

Franchisee comment: The franchisee requests that this provision be "revisited regarding the recycling goals of the region."

Staff comments: It is not clear to staff what amendment is being proposed by the franchisee. Staff however, does not agree with the assertions made by the franchisee that "The transfer station is much more productive and efficient than the source separation of waste."

2. Modification, suspension or revocation by Metro.

Issue: This section describes the franchise modification, suspension, and revocation process.

Franchisee comment: The franchisee believes that this provision allows Metro to terminate a franchise using "vague and subjective standards."

Staff comment: Staff disagrees with the assessment by the franchisee. This is standard language in franchises and licenses that has been used for several years. In order for Metro to revoke a franchise, Metro must follow a detailed process described in Metro Code Chapter 5.01.180 that includes an opportunity for a contested case hearing. Staff is not aware of any instance where any franchise was terminated without clear and valid standards being relied upon.

Willamette Resources, Inc. (WRI). WRI commented on the proposed franchise renewal in its November 18th letter to Council. Staff responses to their main concerns have been addressed in the previous section. Another issue brought up by WRI is outlined below:

1. Direct haul.

Issue: The "direct haul" provisions contained in the franchise have been removed.

Franchisee comment: WRI indicated concern about the elimination of "direct haul" authority in the renewed franchise. WRI is unsure of the effect of the change, and requests that it be reinstated if it precludes the ability of WRI to deliver putrescible waste to Columbia Ridge Landfill.

Staff comment: Staff disagrees. The change does not preclude WRI from delivering putrescible waste to Columbia Ridge Landfill in the future. Metro has eliminated direct haul as a Metro Code Chapter 5.01 requirement in lieu of reliance on Metro Code Chapter 5.05 authority to grant a non-system license. Upon application, Metro can grant authority to WRI to deliver solid waste to the Columbia Ridge landfill via a non-system license and impose all of the applicable Gorge transportation requirements therein.

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