

**A G E N D A**

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TEL 503 797 1542 | FAX 503 797 1793



**METRO**

**Agenda**

MEETING: METRO COUNCIL WORK SESSION MEETING  
DATE: May 24, 2005  
DAY: Tuesday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

**CALL TO ORDER AND ROLL CALL**

- |         |    |                                                                                                                                                      |                          |
|---------|----|------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 2:00 PM | 1. | <b>DISCUSSION OF AGENDA FOR COUNCIL<br/>REGULAR MEETING, MAY 26, 2005/<br/>ADMINISTRATIVE/CHIEF OPERATING OFFICER<br/>AND CITIZEN COMMUNICATIONS</b> |                          |
| 2:15 PM | 2. | <b>PERSONNEL CODE</b>                                                                                                                                | Scott                    |
| 2:45 PM | 3. | <b>HAZARDOUS WASTE TRANSPORT DISPOSAL</b>                                                                                                            | Biedermann/<br>Watkins   |
| 3:05 PM | 4. | <b>BREAK</b>                                                                                                                                         |                          |
| 3:10 PM | 5. | <b>DISPOSAL SYSTEM PLANNING: EVALUATION<br/>CRITERIA AND 6-MONTH WORK PLAN</b>                                                                       | Hoglund                  |
| 3:50PM  | 6. | <b>BACKGROUND/BRIEFING AND HISTORY OF<br/>RECOVERY RATE STABILIZATION RESERVE</b>                                                                    | Park/Feher/<br>Rutkowski |
| 4:20 PM | 7. | <b>COUNCIL BRIEFINGS/COMMUNICATION</b>                                                                                                               |                          |

**ADJOURN**

Agenda Item Number 2.0

***PERSONNEL CODE***

Metro Council Work Session  
Tuesday, May 24, 2005  
Metro Council Chamber

## METRO COUNCIL

### Work Session Worksheet

Presentation Date: May 24, 2005                      Time: 2:15pm                      Length: 30 minutes

Presentation Title: Transfer of Personnel Code to Executive Order

Department: Human Resources

Presenters: Kevin B. Dull & Katie Pool

#### **ISSUE & BACKGROUND**

After passage of the Metro charter amendment in 2001, Metro's form of government changed from a *strong* Council Executive to a *strong* Council Administrator form of managing the organization's day-to-day activities. One of the primary effects of the amended Charter was to align the strategic direction of the Metro Council to the goals and objectives of the Chief Operating Officer.

The Charter's change in the form of administering the day-to-day activities necessitates the need for the COO to have the tools necessary to effectively and efficiently manage the organization. Moving personnel policies from Code to an Executive Order effects the purposes of the charter amendment and allows the COO to effectively complete Council's policy directives regarding the management of Metro's human resources.

The efficient administration of Metro personnel matters regularly requires changes to Metro's personnel rules to meet budgetary goals, improve organizational efficiency, and to accommodate changes in laws and results of case law. The current Metro Personnel Rules contain policy statements as well as procedures for implementing personnel management.

The personnel code in its current state is a static document that prevents management from adopting best human resources management practices and changing the rules when laws affecting the code change. Removing the personnel rules from the code will allow management the ability to make necessary changes as required by law or to adjust to best human resource practices.

The changes as proposed direct the Chief Operating Officer to create a body of personnel policies that comply with the laws related to human resource management and incorporate best human resource practices.

Removal of the personnel rules from code will not diminish a labor union's ability to demand to bargain over changes to the rules that affect mandatory subjects of bargaining (e.g. wages, hours and working conditions).

Additionally, removal of the personnel rules from code will not eviscerate the present language from existence. Rather, the present personnel rules will be transferred to an Executive Order. Human Resources will abide by and administer the Executive Order in this form until such time as revisions are made. All changes will be presented to the Council.

The COO will make quarterly reports to the Council regarding personnel administration of Metro. The council will retain oversight of the broad policy direction that the Council wishes Metro to pursue.

The current version of the Personnel Code was created through a number of ordinances. In order to delegate the responsibility of creating and administering personnel policies to the Chief Operating Officer, the council must also pass an ordinance to move the current Personnel Code into an Executive Order.

If Council adopts the Ordinance 05-1082, the Chief Operating Officer will have the authority to develop, maintain, administer and enforce Metro's Personnel Policies and Procedures.

**OPTIONS AVAILABLE**

Continue the current administration of Metro Personnel Code.

**IMPLICATIONS AND SUGGESTIONS**

**QUESTION(S) PRESENTED FOR CONSIDERATION**

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION XYes \_\_\_ No**  
**DRAFT IS ATTACHED XYes \_\_\_ No**

**SCHEDULE FOR WORK SESSION**

Department Director/Head Approval \_\_\_\_\_

Chief Operating Officer Approval \_\_\_\_\_

Agenda Item Number 3.0

***HAZARDOUS WASTE TRANSPORT DISPOSAL CONTRACT***

Metro Council Work Session  
Tuesday, May 24, 2005  
Metro Council Chamber

## METRO COUNCIL

### Work Session Worksheet

Presentation Date: 5/24/05 Time: 2:45PM Length: 20 min.

Presentation Title: AUTHORIZING ISSUANCE OF REQUEST FOR PROPOSALS 05-11416-SWR FOR COMPETITIVE SEALED PROPOSALS TO PROCURE HAZARDOUS WASTE DISPOSAL SERVICES, AND AUTHORIZING EXECUTION OF THE RESULTING MULTI-YEAR CONTRACTS

Department: Finance and Administrative Services, Solid Waste and Recycling

Presenters David Biedermann, Jim Quinn, Jim Watkins

#### ISSUE & BACKGROUND

**Contract:** The Metro Solid Waste and Recycling Department contracts with a qualified vendor to haul and dispose of hazardous waste gathered in its various collection programs. Approximately 4.7 million pounds of hazardous waste were collected in 2004.

The current contract is on the FY04-05 Budget Contract list as "Existing". As the contract expires in early FY05-06, it is appropriate to now to re-advertise, solicit proposals and award a new contract. The new contract is not listed in the FY04-05 budget and the FY05-06 budget is in review and there is no legal appropriation as yet. No legal authority currently exists to issue the request-for-proposal and award the contract.<sup>1</sup>

The new contract will be for two years and is estimated to cost \$1,500,000 over that period. The department expects to execute a contract with a start date soon after the beginning of the FY05-06 fiscal year.

The 10-day letter was issued to the Council on March 4 2005 notifying the Council of the contract. Councilors Park and McLain subsequently requested this contract be considered "significant impact" and action be brought before the Metro Council.

**Service provided by the contract:** Metro operates a hazardous waste program, which includes two permanent household hazardous waste collection facilities, roundup collection events held at various locations around the region, and a small business collection program. The current contract for transportation and disposal of most of the waste collected expires at the end of September 2005. Members of the Metro Council have requested a review of the RFP for procurement of a new contractor prior to its release.

The number of customers using Metro's program and the amount of waste handled each year increased steadily in the thirteen years that the program has been operating. Annual waste volumes increased an average of 15 percent each year, growing from about 1 million pounds in FY92-93 to over 4.7 million pounds in FY03-04.

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<sup>1</sup> (Metro Code 2.04.026 (a), "The Chief Operating Officer...must obtain authorization by the Council prior to execution of the following types of contracts:

Any contract which commits the Metro to the expenditure of appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed and which has a significant impact on Metro)."

Program staff continually found new ways to increase both efficiency and revenue, resulting in decreases in the net cost for managing each pound of waste received. For example, in FY03-04 the program handled more two and half times as much waste as it did in FY95-96, but net operating costs increased by only 20% in that same timeframe.

The Solid Waste and Recycling Department's requested budget for FY05-06 includes \$729,000 for hazardous waste disposal services. Under Metro's new contracting rules procurement of public contracts exceeding \$100,000 may be awarded using competitive sealed proposals. Hazardous Waste Program staff has drafted an RFP for this procurement, attached. The proposed RFP uses a standard evaluation using a variety of pertinent criteria.

A committee will evaluate proposals received. Initial evaluation to narrow proposals received to a Competitive Range will be conducted based on cost and the proposer's experience and qualifications. Proposals in the Competitive Range will be evaluated to select the most highly-ranked Proposal based on cost, environmental soundness of disposal methods proposed, and qualifications of key staff assigned to the project.

The Contract awarded to the successful proposer will include the standard contract termination language, which allows Metro to terminate the contract with seven days notice.

### **OPTIONS AVAILABLE**

- The Council could allow release of the RFP and award of the contract.
- The Council could delay release of the RFP until the new budget is adopted.
- The Council could reject release of the RFP.

### **IMPLICATIONS AND SUGGESTIONS**

If the release of the RFP is delayed or denied, after September 2005 Metro will not have a viable method of transporting and disposing of the hazardous waste from the two permanent household hazardous waste collection facilities and roundup collection events.

Initial preliminary understanding of the Councilors' interest is:

- The commitment of a multi-year contract when the Council is studying the long term operation of the transfer stations, and
- The dollar amount of the contract.

### **QUESTION(S) PRESENTED FOR CONSIDERATION**

See attached resolution.

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION Yes**  
**DRAFT IS ATTACHED Yes**

### **SCHEDULE FOR WORK SESSION (5/26/05)**

Department Director/Head Approval \_\_\_\_\_

Chief Operating Officer Approval \_\_\_\_\_

BEFORE THE METRO CONTRACT REVIEW BOARD

AUTHORIZING ISSUANCE OF REQUEST ) Resolution no. 05-3558  
FOR PROPOSALS 05-11416-SWR FOR )  
COMPETITIVE SEALED PROPOSALS TO ) Introduced by Chief Operating Officer  
PROCURE HAZARDOUS WASTE ) Michael J. Jordan, with the concurrence of  
DISPOSAL SERVICES, AND ) Council President David Bragdon  
AUTHORIZING EXECUTION OF THE )  
RESULTING MULTI-YEAR CONTRACTS )

WHEREAS, Metro operates a hazardous waste collection program, which includes two permanent household hazardous waste facilities, a series of roundup collections around the region, and a conditionally exempt generator (CEG) program; and

WHEREAS, Metro's current contracts for transportation and disposal of wastes collected in the hazardous waste program expire on September 30, 2005; and

WHEREAS, the proposed FY 2005-06 budget of the Solid Waste and Recycling Department authorizes expenditures of a total of \$729,000 for hazardous waste transportation and disposal; and

WHEREAS, pursuant to Metro Code Section 2.04.026(a), Council approval is required for any contract which commits Metro to the expenditure of appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed and which has a significant impact on Metro; and

WHEREAS, the Metro Council considers the contracts for transportation and disposal of waste collected in hazardous waste programs to have a significant impact on Metro; and

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore

BE IT RESOLVED

1. That the Metro Council authorizes the release of a request for proposals substantially similar to RFP #05-1146-SWR for Transportation and Disposal of Waste Collected in Metro's Hazardous Waste Programs, attached as Exhibit A; and
2. That the Metro Council authorizes the Chief Operating Officer to execute multi-year contracts for Transportation and Disposal of Hazardous Wastes Collected in Metro's Hazardous Waste Collection Program with the most qualified proposers.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

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***DISPOSAL SYSTEM PLANNING: EVALUATION CRITERIA AND 6-MONTH WORK PLAN***

Metro Council Work Session  
Tuesday, May 24, 2005  
Metro Council Chamber

## METRO COUNCIL

### Work Session Worksheet

Presentation Date: May 24, 2005

Time: 40 minutes

Presentation Title: Disposal System Planning: Workplan for Comparative System Analysis

Department: Solid Waste and Recycling

Presenters: Mike Hogle and Paul Ehinger

### ISSUE & BACKGROUND

Disposal System Planning addresses a number of issues faced by Metro in the years ahead, with one being possible sale of Metro's transfer stations. As requested by Council and as background for making a decision on divestiture, staff provided a history of the evolution of the solid waste transfer and disposal system at the April 12<sup>th</sup> Council work session. The presentation also included a review of other models for delivering these solid waste services, and a comparison between the current system and a totally private one based on a number of key policy considerations.

Council requested additional information regarding policy and functional issues and how these might be addressed in subsequent analysis. At the Council work session of April 26<sup>th</sup>, staff presented a matrix depicting how evaluation criteria such as previously identified Councilor values could be used to evaluate the relative performance of different ownership patterns (Private, Public and Current Mix) of the solid waste transfer system. Staff also presented a list of system constraints that would need to be addressed in a transfer station system analysis. Staff then presented a proposed approach for conducting the analysis.

The Council then directed staff to proceed in developing the transfer station system analysis. In response staff has developed a work plan (Exhibit A) it proposes to use in conducting the analysis.

### **Proposed Work Plan**

The work plan envisions the use of two consultants in conducting the analysis together with Metro staff from the Solid Waste & Recycling Department and the Office of Metro Attorney. One consultant would be responsible for creating the analytical framework that will be used together with evaluation criteria and background information to conduct the alternatives analysis. A second consultant would be used to determine the value of the stations.

The scope of work for consulting contracts will be based on the information contained in the work plan. This includes the materials developed for the previous work sessions and the Council's discussions. The system consultant would be the lead for developing the alternatives analysis, and the valuation consultant would provide the range of values to be used in the analysis.

The analysis would be conducted over a period of up to six months (see work plan for a more detailed schedule) and provide the Council with sufficient information for a decision on whether system modifications are warranted. Regular updates to Council during the six month study period are anticipated.

## **OPTIONS AVAILABLE**

Council options include:

1. ***Proceed with the transfer station system analysis.*** Council would decide at the conclusion of the study whether system modifications are warranted.
2. ***Modify the approach to the analysis.*** Council can modify the approach to the analysis suggested herein.

## **IMPLICATIONS AND SUGGESTIONS**

If Council directs staff to proceed with the analysis, staff anticipates incurring approximately \$75,000 in consulting costs for the system consultant and approximately \$10,000 to \$20,000 for the valuation consultant. In addition, approximate 1.5 non-managerial FTE would be required from SW&R and approximately .25 FTE from OMA for the duration of the project. The analysis should provide Council with sufficient information on making a decision on the whether to proceed with divestiture or pursue other types of modifications to the transfer system portion of Disposal System Planning.

## **QUESTION(S) PRESENTED FOR CONSIDERATION**

1. Does Council concur with the proposed approach for the analysis?

**LEGISLATION WOULD BE REQUIRED FOR COUNCIL ACTION** \_\_ Yes **X** No

**DRAFT IS ATTACHED** \_\_ Yes **x** No

Note: RFP for system consultant will require either formal review through the resolution process or a waiver through the 10-day letter process.

## **SCHEDULE FOR WORK SESSION**

Chief Operating Officer Approval \_\_\_\_\_

## EXHIBIT A

### Disposal System Planning

#### Transfer Station System Analysis- Proposed Work Plan

Task 1. Develop Project Work Plan The work plan will provide a process to conduct a comparative analysis of how different ownership alternatives of the solid waste transfer system in the Metro region affects the performance of the system, and determine Metro's role in that system as operator and regulator.

Completion Date: May 24, 2005

Product: Work Plan discussed/approved by Metro Council

Lead: Staff

Task 2. Develop Outreach & Communications Plan with Council Liaison

Completion Date: June 30, 2005

Product: Outreach & Communications Plan

Lead: Staff

Task 3. Select Consultants

**a. Solid Waste System Alternatives Analysis**

- o *Purpose* - Select a consultant to assist in conducting the comparative analysis including the development of models, evaluative criteria, data gathering and feedback processes
- o *Process*
  1. Develop scope of work based on work plan
  2. Incorporate changes to work plan at May 24<sup>th</sup> work session
  3. Conduct procurement<sup>1</sup>

Completion Date: July 30, 2005

Product: Executed Contract

Lead: Staff

**b. Transfer Station Valuation Study**

- o *Purpose*- Select a consultant to assist in estimating the value of Metro's two transfer stations from multiple perspectives (the analysis will consider selling one or both):
  1. Sale as transfer station
  2. Highest & Best Use
  3. Other methods as appropriate
- o *Process*
  1. Develop scope of work based on approved work plan
  2. Modify based on input from system consultant
  3. Conduct procurement

Completion Date: August 30, 2005

Product: Executed Contract

Lead: Staff

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<sup>1</sup> The schedule for each task is premised on the use of a 10-day letter approval process to obtain the system consultant. If formal approval is required through a resolution, add 4 to 6 weeks to the projected schedule.

Task 3. Develop Appropriate Background Information

- a. **Conduct Valuation Study on value of Metro Stations**
  - o Identify potential impacts of waste disposal guarantee
  - o Effects of removing IRS constraints after bonds paid off
  
- b. **Research Legal Issues**
  - o Review potential statutory limitations on uses of proceeds of sale of assets
  - o Review charter limitations on excise tax expenditures, sales of Metro assets
  - o Review impacts of conveyance on solid waste disposal contract
  - o Identify additional legal issues in modifying or altering current disposal system including alternative governance structures
  
- c. **Identify Other System Issues**
  - o Identify essential/desired functions of transfer system
  - o Review state law requirement to provide HHW depots
  - o Consider impacts on recovery rates and amounts at transfer stations
  - o Impacts on policy/program formation
  - o Ability to respond to natural disasters
  - o Impacts on different customer classes
  - o Political feasibility of different actions in achieving outcomes, for example controlling rates in a private, public or mixed system
  
- d. **Gather information**
  - o Review other transfer configurations
  - o Interviews as appropriate
  - o Literature review
  - o Incorporate Valuation Study

Completion Date: September 30, 2005

Lead: Valuation Consultant/System Consultant/OMA/Staff

Task 4. Alternative Analysis

- a. **Ownership options to be explored**
  - o *Current Mixed System:* System of public and private stations and current regulatory structure
  - o *Private System:* System of privately owned transfer stations with regulation to ensure service delivery as directed by Metro Council
  - o *Public System:* System of public transfer stations only
  
- b. **Define evaluation criteria based on council work sessions / staff input**
  - o Utilize council values
  - o System issues previously identified in background phase
  - o Develop metrics to measure performance of criteria (ex. rates in other jurisdictions)
  
- c. **Conduct Alternatives Analysis, utilizing evaluation criteria across ownership options, and incorporating background information as appropriate**
  
- d. **Based on review, final analysis**

Completion Date: November 30, 2005

Product: Report to COO

Lead: System Consultant

Task 5. Develop Recommendation - COO develops staff recommendation for presentation to Council

Completion Date: December 31, 2005

Lead: Staff

Task 6. Recommendation and Report forwarded to Metro Council for Consideration

Completion Date: December 31, 2005

Lead: Council Liaison

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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: May 26, 2005  
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 May 19, 2005 Metro Council Regular Meeting.

**4. ORDINANCES – FIRST READING**

4.1 **Ordinance No. 05-1082**, Amending Metro Code Chapter 2.02, Regarding Personnel Rules, and Declaring an Emergency.

**5. ORDINANCES - SECOND READING**

5.1 **Ordinance No. 04-1063A**, For the Purpose of Denying a Solid Waste Facility Franchise Application of Columbia Environmental, LLC to Operate a Local Transfer Station Hosticka

**6. RESOLUTIONS**

6.1 **Resolution No. 3582**, For the Purpose of Amending the Unified Planning Work Program to Include the Development of a Regional Concept For Transportation Operations. Park

**7. CONTRACT REVIEW BOARD**

7.1 **Resolution No. 05-3558**, Authorizing Issuance of a Request For Proposals 05-11416-SWR for Competitive Sealed Proposals to Procure Hazardous Waste Disposal Services, and Authorizing Execution of the Resulting Multi-Year Contracts. Liberty

8. OREGON LEGISLATIVE UPDATE
9. CHIEF OPERATING OFFICER COMMUNICATION
10. COUNCILOR COMMUNICATION

**ADJOURN**

**Television schedule for May 26, 2005 Metro Council meeting**

<p><b>Clackamas, Multnomah and Washington counties, Vancouver, Wash.</b>  Channel 11 -- Community Access Network  <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534  2 p.m. Thursday, May 26 (live)</p>	<p><b>Washington County</b>  Channel 30 -- TVTV  <a href="http://www.yourtv.org">www.yourtv.org</a> -- (503) 629-8534  11 p.m. Saturday, May 28  11 p.m. Sunday, May 29  6 a.m. Tuesday, May 31  4 p.m. Wednesday, June 1</p>
<p><b>Oregon City, Gladstone</b>  Channel 28 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>	<p><b>West Linn</b>  Channel 30 -- Willamette Falls Television  <a href="http://www.wftvaccess.com">www.wftvaccess.com</a> -- (503) 650-0275  Call or visit website for program times.</p>
<p><b>Portland</b>  Channel 30 (CityNet 30) -- Portland Community Media  <a href="http://www.pcatv.org">www.pcatv.org</a> -- (503) 288-1515  8:30 p.m. Sunday, May 29  2 p.m. Monday, May 30</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 Clerk of the Council, Chris Billington, (503) 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 e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website [www.metro-region.org](http://www.metro-region.org) and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).



052405c-02

 **DRAFT**

Department	#

### AMENDMENT TO FY 2005-06 BUDGET

**PRESENTER:** Rod Park

**DRAFTER:** Karen Feher, Kathryn Schutte

**DATE:** May 23, 2005

**PROPOSED AMENDMENT:** (provide a brief summary of the requested action along with the specific line items affected)

Department(s)	Fund(s)	Line items		
		Acct #	Account Title	Amount
Non-departmental	General Fund	5900	Unappropriated	(\$1,000,000)
Non-departmental	Nature in Neighborhoods	5445	Grants	\$1,000,000

**PROGRAM/STAFFING IMPACTS** Full program details are currently in discussion. The budget will be adjusted if there are staffing impacts

**ARGUMENTS IN FAVOR OF THE PROPOSED AMENDMENT** – Please refer to Resolution No 05-3580 and its accompanying staff report (copy attached).

**OPTIONS FOR FUNDING THIS AMENDMENT** – See staff report.

BEFORE THE METRO COUNCIL

TRANSFERRING \$1,000,000 FROM THE	)	RESOLUTION NO. 05-3580
BALANCE OF THE FY 2004-05 RECOVERY	)	
RATE STABILIZATION RESERVE TO A	)	Introduced by Councilor Park
GENERAL FUND RESERVE FOR NATURE IN	)	
NEIGHBORHOODS RESTORATION PROJECTS	)	
	)	

WHEREAS, Metro has established a regional fish and wildlife protection, restoration and greenspaces initiative named "Nature in Neighborhoods," as provided in Resolution No. 05-3574; and

WHEREAS, the Nature in Neighborhoods initiative commits Metro to marshal the region's resources in a concerted effort to protect and restore fish and wildlife habitat and to integrate greenspaces into the urban landscape by bringing together individuals, government agencies at the local, state, and federal levels, watershed councils, soil and water conservation districts, friends groups, building trades firms and organizations, industry groups, environmental groups, businesspeople, and homeowners across the region; and

WHEREAS, illegal dumping frequently occurs in natural areas and near streams and rivers, posing a particular threat to our region's clean water, to the health of our watersheds, and to healthy functioning fish and wildlife habitat; and

WHEREAS, the region's partners in the solid waste and recycling industry operate responsible, environmentally-friendly businesses that are a vital part of the region's economy, provide good jobs for our citizens, and help ensure that solid waste is recovered, recycled, and reused whenever possible, and that it is safely and responsibly disposed when reuse is no longer an option; and

WHEREAS, in order to alleviate the impacts of illegal dumping on natural areas, Metro should encourage the citizens of the region to use solid waste and recycling haulers that operate pursuant to all appropriate local franchises, licenses, and permits, and that transport the solid waste that they collect to material recovery facilities and transfer stations that are operated, licensed, or franchised by Metro; and

WHEREAS, the Metro Solid Waste and Recycling Department operates a proven and effective program for the identification, cleanup, and prevention of illegal dumpsites and for the prosecution and the imposition of penalties against individuals and businesses that engage in illegal dumping; and

WHEREAS, the Solid Waste and Recycling Department has learned that illegal dumpsites frequently attract more illegal dumping, and that illegal dumping is best deterred when new illegal dumpsites are quickly identified and cleaned up; and

WHEREAS, the Metro Regional Parks and Greenspaces Department has learned from its experience managing natural areas that, when such areas are restored and enhanced as natural areas, the public is more likely to respect such areas for the benefits they provide to humans and wildlife; and

WHEREAS, by protecting natural areas from illegal dumping and restoring and enhancing our natural areas, that is, by nurturing nature in neighborhoods, the region can thereby ensure that our region

enjoys the benefits of nature in neighborhoods for years to come, protecting our region's clean water and the health and vitality of our watersheds; and

WHEREAS, the balance of the Recovery Rate Stabilization Reserve in the General Fund is expected to reach \$1.5 million at the end of FY 2004-05, and such reserve funds have not been designated for any alternative use; now therefore

BE IT RESOLVED that the Metro Council:

1. Hereby transfers \$1,000,000 from the Recovery Rate Stabilization Reserve to a General Fund Reserve for Nature in Neighborhoods to provide a coordinated regional effort to ensure the restoration and enhancement of our region's natural areas and the protection of such areas from degradation caused by illegal dumping; and
2. Directs the Chief Operating Officer to perform, within six months of the adoption of this resolution, an assessment of the additional resources necessary for an even more aggressive program to identify, cleanup, mitigate for, monitor, and prevent illegal dumping in areas identified in Metro's inventory of regionally significant fish and wildlife habitat.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2005.

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David Bragdon, Council President

Approved as to Form:

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Daniel B. Cooper, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 05-3580, TRANSFERRING \$1,000,000 FROM THE BALANCE OF THE FY 2004-05 RECOVERY RATE STABILIZATION RESERVE TO A GENERAL FUND RESERVE FOR NATURE IN NEIGHBORHOODS RESTORATION PROJECTS

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Date: April 27, 2005

Prepared by: Rod Park

## BACKGROUND

### Nature in Neighborhoods:

Council President Bragdon is proposing that Metro establish a regional fish and wildlife protection, restoration and greenspaces initiative named "Nature in Neighborhoods," as provided in Resolution No. 05-3574. The Nature in Neighborhoods initiative commits Metro to marshal the region's resources in a concerted effort to protect and restore fish and wildlife habitat and to integrate greenspaces into the urban landscape by bringing together individuals, government agencies at the local, state, and federal levels, watershed councils, soil and water conservation districts, friends groups, building trades firms and organizations, industry groups, environmental groups, businesspeople, and homeowners across the region.

Illegal dumping frequently occurs in natural areas and near streams and rivers, posing a particular threat to our region's clean water, to the health of our watersheds, and to healthy functioning fish and wildlife habitat. The Metro Solid Waste and Recycling Department operates a proven and effective program for the identification, cleanup, and prevention of illegal dumpsites and for the prosecution and the imposition of penalties against individuals and businesses that engage in illegal dumping, yet illegal dumping continues. Through that program, Metro has learned that illegal dumpsites frequently attract more illegal dumping, and that illegal dumping is best deterred when new illegal dumpsites are quickly identified and cleaned up. In addition, the Metro Regional Parks and Greenspaces Department has learned from its experience managing natural areas that, when such areas are restored and enhanced as natural areas, the public is more likely to respect such areas for the benefits they provide to humans and wildlife.

The region's partners in the solid waste and recycling industry operate responsible, environmentally-friendly businesses that are a vital part of the region's economy, provide good jobs for our citizens, and help ensure that solid waste is recovered, recycled, and reused whenever possible, and that it is safely and responsibly disposed when reuse is no longer an option. If the citizens of the region used solid waste and recycling haulers that operate pursuant to all appropriate local franchises, licenses, and permits, and that transport the solid waste that they collect to material recovery facilities and transfer stations that are operated, licensed, or franchised by Metro, the detrimental impact of illegal dumping on natural areas could be significantly curtailed.

This resolution therefore proposes a two-pronged mobilization against illegal dumping in natural areas. First, Metro proposes expanding its highly effective illegal dumping monitoring and enforcement program, and to educate the public about how to make sure their waste is being hauled by responsible solid waste and recycling businesses, and not illegally dumped. Second, Metro proposes dedicating more funding to restore natural areas degraded by illegal dumping, and to ensure that they do not become attractive to illegal dumpers. By protecting natural areas from illegal dumping and restoring and enhancing our natural areas, that is, by nurturing nature in neighborhoods, the region can thereby reduce illegal dumping, protect our watersheds and water quality, and ensure that our region enjoys the benefits of nature in neighborhoods for years to come.

### Recovery Rate Stabilization Reserve:

It is expected there will be an additional one million one hundred thousand dollars contributed to the Recovery Rate Stabilization Reserve in FY 2004-05. This contribution is mandated by Metro Code Section 7.01.028. Section 7.01.028(a) on Budgeting of Excess Revenue states:

(a) Such excess net excise tax revenue shall first be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Section 7.01.020(c) during the period of the two (2) most recent Metro fiscal years. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.

The current account balance is \$443,712. As of March 31 the FY 2004-05 contribution is projected to be \$1,106,678 and would bring the balance to \$1,546,934.

The Metro Code provides that, if the maximum permitted balance in the Recovery Rate Stabilization Reserve is reached, additional excess funds are to provide additional solid waste recovery tax credits. The Solid Waste Department is currently fully funding solid waste tax credit program in both the current fiscal year and in Fiscal Year 2005-06.

This resolution will transfer \$1,000,000 from the Recovery Rate Stabilization Reserve account for use in natural area restoration projects, as part of Metro's Nature in Neighborhoods initiative. This action will leave approximately \$500,000 in the Recovery Rate Stabilization Reserve account.

### **ANALYSIS/INFORMATION**

- 1. Known Opposition:** None known
- 2. Legal Antecedents:** Section 7.01.028(a) allows the Metro Council to budget these funds as it determines appropriate.
- 3. Anticipated Effects:** This resolution transfers \$1,000,000 from the Recovery Rate Stabilization Reserve account for use in natural area restoration projects, as part of Metro's Nature in Neighborhoods initiative. In addition, this resolution directs the Chief Operating Officer to perform, within six months of the adoption of this resolution, an assessment of the additional resources necessary for an even more aggressive program to identify, cleanup, mitigate for, monitor, and prevent illegal dumping in areas identified in Metro's inventory of regionally significant fish and wildlife habitat.
- 4. Budget Impacts:** A substantive Budget Amendment to the FY 2005-06 will move these funds from this reserve to Restoration Fees in the Nature in Neighborhoods initiative.

### **RECOMMENDED ACTION**

The Council President recommends adoption of Resolution No. 05-3580. ***[Councilor Park needs to confirm or edit this section.]***

## Solid Waste Per-Ton Excise Tax Briefing

### 1. Short History of the Solid Waste Excise Tax

Karen Feher

- ✓ Metro's Use of Excise Tax
- ✓ Percent Calculation of Excise Tax
- ✓ Conflict with recovery goals
- ✓ Provisions of the Ordinance

Attachment A      History of Excise Tax Collections  
Attachment B      Solid Waste Per Ton Excise Tax History

### 2. Per Ton Excise Tax Calculation

Tom Chaimov

- ✓ Formula for Statutory Calculation of Excise Tax

$$\text{Tax Rate} = \frac{\text{Statutory Yield}}{\text{Prior Year Actual Tonnage}}$$

- ✓ Explanation of Why Actual Revenue may Exceed Statutory Yield
  - Target Recovery Rate Adjustment
  - Environmental Cleanup Material
  - Normal Tonnage Growth

Attachment C:      Why Collections Exceed Statutory Yield

**HISTORY OF EXCISE TAX COLLECTIONS**  
**FY 1990-91 through FY 2005-06**

	Audited FY 1990-91	Audited FY 1991-92	Audited FY 1992-93	Audited FY 1993-94	Audited FY 1994-95	Audited FY 1995-96	Audited FY 1996-97	Audited FY 1997-98	Audited FY 1998-99	Audited FY 1999-00	Audited FY 2000-01	Audited FY 2001-02	Audited FY 2002-03	Actual FY 2003-04	Budgeted FY 2004-05	Budgeted FY 2005-06
<b>Excise Tax Rate</b>	5.00%	5.25%	6.00%	7.00%	7.5% - 7.0%	7.50%	7.5% - 7.25%	7.50% - 8.50%	7.50% - 8.50%	7.50% - 8.50%	7.50%	7.50%	7.50%	7.50% *	7.50% *	7.50% *
<b>Solid Waste per ton Rate</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$4.68	\$5.04	\$6.39	\$6.32	\$8.58	\$8.33
<b>Total Excise Tax Collected by Facility</b>																
Zoo	\$256,105	\$359,025	\$365,200	\$456,299	\$545,007	\$570,101	\$521,636	\$565,172	\$637,323	\$784,093	\$886,105	\$867,287	\$861,896	\$954,630	\$1,048,165	\$1,028,663
Planning	1,832	4,745	3,115	8,364	6,659	8,881	11,128	12,598	11,952	12,621	12,888	12,100	12,843	13,111	10,651	12,682
Regional Parks	0	0	0	0	0	109,660	125,145	137,720	150,278	148,626	164,670	168,739	185,352	189,266	194,425	197,310
Expo Center	0	0	0	0	104,503	199,352	281,218	286,433	299,404	349,487	327,588	368,078	385,461	403,106	430,374	417,455
Building Management	6,145	11,107	25,168	28,141	21,697	25,405	36,432	37,388	31,637	31,493	39,325	9,244	10,569	27,044	39,513	39,513
Convention Center	91,026	120,738	165,945	222,289	232,654	652,257	625,214	658,205	642,294	742,217	717,355	545,333	751,099	1,064,350	893,158	953,402
Solid Waste	2,511,987	3,223,139	3,967,675	4,736,557	5,088,605	5,430,595	5,627,800	5,924,184	5,632,576	5,658,305	5,471,292	5,951,379	7,614,768	7,854,574	9,466,867	10,155,986
<b>Total Excise Tax Earned</b>	<b>\$2,867,095</b>	<b>\$3,718,754</b>	<b>\$4,527,103</b>	<b>\$5,451,649</b>	<b>\$5,999,125</b>	<b>\$6,996,251</b>	<b>\$7,228,573</b>	<b>\$7,621,699</b>	<b>\$7,405,463</b>	<b>\$7,726,842</b>	<b>\$7,619,223</b>	<b>\$7,922,160</b>	<b>\$9,821,988</b>	<b>\$10,506,081</b>	<b>\$12,083,153</b>	<b>\$12,805,011</b>

Attachment A

**SOLID WASTE PER TON EXCISE TAX HISTORY**

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05*	FY 2005-06
<b>Total Excise Tax Budget by Year</b>						
Solid Waste	5,700,000	5,888,100	6,050,000	6,128,650	6,214,451	6,338,740
Parks			1,184,000	1,230,914	2,748,066	3,181,038
Mtoca				-	504,306	636,208
<b>Per Ton Rates</b>						
Base Excise Tax	4.68	5.04	5.39	5.31	5.58	5.27
Parks July 1st			1.00	1.013	1.027	2.55
Parks September 1st					2.50	
MTOCA July 1st					-	0.51
MTOCA September 1st					0.50	
<b>Total</b>	<b>4.68</b>	<b>5.04</b>	<b>6.39</b>	<b>6.32</b>	<b>8.58</b>	<b>8.33</b>
CPI		3.30	2.70	1.30	1.40	2.00

\* This year had two rates, one July 1 and one Sept 1, this is the Sep 1 rate and the Jul 1 rate was 6.61

	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
<b>Total Excise Tax Collected by Year</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Budget</b>	<b>Budget</b>
Solid Waste	5,471,293	5,952,226	6,404,523	6,590,168	6,214,451	6,338,740
Parks			1,210,246	1,264,406	2,748,066	3,181,038
Mtoca				-	504,306	636,208
Recovery Rate Stabilization Reserve Contribution	(228,707)	64,126	354,523	461,518	1,139,365	-
<i>Funding provided for Reg Sys Fee Credits</i>			207,748			
<i>Made up for first year shortfall</i>				(228,707)		
<b>Balance Recovery Rate Stabilization Reserve</b>		64,126	210,901	443,712	1,583,077	
<b>10%</b>		0	1,142,352	1,356,700	1,546,934	1,732,140



Attachment C  
**Why Collections Exceed Statutory Yield:  
Preliminary Findings**

	Fiscal Year						<i>Total Contributions</i>
	00-01	01-02	02-03	03-04	04-05	05-06 (projected)	
Collections in Excess of Statutory Yield	(\$228,707)	\$64,126	\$354,523	\$461,518	\$1,139,365	\$485,566	<b>\$2,276,391 *</b>
of which...							
			Allocation to the various sources is approximate...				
Target Recovery Rate	\$10,000	\$338,021	\$396,541	\$134,830	\$530,818	\$427,176	<b>\$1,837,385</b>
Env. Cleanup Mat'l.	(281)	6,355	119,138	289,966	151,132	0	<b>\$566,309</b>
Tonnage Difference	(238,426)	(113,008)	2,249	99,754	472,149	58,390	<b>\$281,108</b>
Recovery Credits	0	(167,242)	(163,405)	(63,032)	(14,733)	0	<b>(\$408,412)</b>

\* The FY 05-06 ending balance is projected to be closer to \$2.1 million because in FY 02-03 Metro expended \$207,748 for recovery credits, while the FY 04-05 ending balance is projected to be about \$1.6 million.