



METRO

Agenda

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

PLEASE NOTE: Agenda Item No. 5.1's title has been corrected.

DATE: March 11, 1993
MEETING: METRO COUNCIL
DAY: Thursday
TIME: 4:00 p.m.
PLACE: Metro Council Chamber

Approx.
Time*

Presented
By

4:00 ROLL CALL/CALL TO ORDER
(5 min.)

1. INTRODUCTIONS
2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS
3. EXECUTIVE OFFICER COMMUNICATIONS

4:05 4. CONSENT AGENDA (Action Requested: Motion to Adopt the
(5 min.) Consent Agenda)

- 4.1 Minutes of November 24 and December 22, 1992, and January 28 and February 11, 1993

4:10 5. ORDINANCES, FIRST READINGS
(5 min.)

- 5.1 Ordinance No. 93-486, An Ordinance Amending the Metro Code, Section 2, and Establishing Procedures to Create a Tax Study Committee, and Declaring an Emergency (Action Requested: Refer to Finance Committee)
- 5.2 Ordinance No. 93-487, For the Purpose of Adopting the Annual Budget for Fiscal Year 1993-94, Making Appropriations and Levying Ad Valorem Taxes; and Declaring an Emergency (Action Requested: Refer to the Finance Committee)

6. ORDINANCES, SECOND READINGS

REFERRED FROM THE SOLID WASTE COMMITTEE

4:15 6.1 Ordinance No. 93-483A, For the Purpose of Amending Metro Buchanan
(20 min.) Code Section 5.05.030 to Modify the Designated Facility Status of Columbia Ridge Landfill, Hillsboro Landfill and Lakeside Reclamation for Purposes of Flow Control, to Add Roosevelt Regional Landfill and Finley Buttes Regional Landfill to the List of Designated Facilities, and Declaring an Emergency Public Hearing (Action Requested: Motion to Adopt the Ordinance)

7. RESOLUTIONS

REFERRED FROM THE REGIONAL FACILITIES COMMITTEE
BEFORE THE CONTRACT REVIEW BOARD

4:35 7.1 Resolution No. 93-1774, For the Purpose of Exempting the Gardner
(10 min.) Move of the Metro Center Telephone System to the Metro Washington Park Zoo from Competitive Bid, and Authorizing a Sole Source Extension to the Matrix Communications, Inc. Contract No. 901599 (Action Requested: Motion to Adopt the Resolution)

For assistance/services per the Americans with Disabilities Act (ADA), dial TDD 273-5577 or 221-1646, ext. 206.

* All times listed on this agenda are approximate; items may not be considered in the exact order listed.

7. RESOLUTIONS (Continued)

REFERRED FROM THE SOLID WASTE COMMITTEE
BEFORE THE CONTRACT REVIEW BOARD

- | | | |
|-------------------|---|------------|
| 4:45
(10 min.) | 7.2 Resolution No. 93-1683A, For the Purpose of Authorizing an Exemption from the Competitive Procurement Procedures of Metro Code Section 2.04.053 to Permit the Executive Officer to Execute Contract Amendment No. 16 with SCS Engineers (Action Requested: Motion to Adopt the Resolution) | Washington |
| 4:55
(10 min.) | 7.3 Resolution No. 93-1754A, For the Purpose of Approving Designated Facility Agreements Under Metro Code Section 5.05.030 for Columbia Ridge Landfill, Roosevelt Regional Landfill, Hillsboro Landfill, Lakeside Reclamation Landfill and Finley Buttes Regional Landfill (Action Requested: Motion to Adopt the Resolution) | Buchanan |
| 5:05
(10 min.) | 7.4 Resolution No. 93-1767, For the Purpose of Approving Projects for the One Percent for Recycling Program for the 1992-93 Fiscal Year (Action Requested: Motion to Adopt the Resolution) | Washington |
| 5:15
(10 min.) | 7.5 Resolution No. 93-1766, For the Purpose of Approving a Gas Extraction Agreement with B.I.O. Gas Industries (Portland), Inc., for Landfill Gas Generated at the St. Johns Landfill (Action Requested: Motion to Adopt the Resolution) | McFarland |
| 5:25
(10 min.) | 7.6 Resolution No. 93-1759, For the Purpose of Authorizing the Issuance of a Request for Bids (RFB) #93B-5-SW for Repairs and Improvements to the Roof and Ventilation System at Metro South Station (Action Requested: Motion to Recommend Council Adoption) | McLain |
| 5:35
(10 min.) | <u>8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS</u> | |
| 5:45 | ADJOURN | |



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Meeting Date: March 11, 1993
Agenda Item No. 4.1

MINUTES

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

November 24, 1992

Council Chamber

Councilors Present: Presiding Officer Jim Gardner, Deputy
Presiding Officer Judy Wyers, Roger
Buchanan, Tanya Collier, Richard Devlin,
Ed Gronke, Sandi Hansen, Ruth McFarland,
Susan McLain, Terry Moore, George Van
Bergen and Ed Washington

Councilors Absent: None

Presiding Officer Gardner called the regular meeting (scheduled
on a Tuesday due to holiday meeting schedule) to order at 5:34
p.m.

Presiding Officer Gardner announced Agenda Item No. 5.2 had been
removed from the agenda at the request of Executive Officer
Cusma. He announced Agenda Item No. 7.7 would be considered
before Agenda Item No. 7.1.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

3.1 Briefing on Metropolitan Sports Authority

Will Glasgow, chair, Metro Sports Authority Task Force, briefed
the Council on the Task Force's activities to-date and
distributed "Report on Portland Metropolitan Sports Authority."

3.2 Briefing on Facilities Funding Task Force

David Knowles, chair, Facilities Funding Task Force, briefed the
Council on the Task Force's activities to-date and distributed a
memorandum to himself from the Funding Needs Subcommittee dated
November 24, 1992, "Funding Needs Subcommittee: Report and
Recommendations."

4. CONSENT AGENDA

4.1 Minutes of October 22, 1992

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

4.2 Resolution No. 92-1708, For the Purpose of Approving a Contract Amendment and Extension with WM Benefits

REFERRED FROM THE FINANCE COMMITTEE

4.3 Resolution No. 92-1710, For the Purpose of Approving a Request for Proposals Document for Property/Casualty Agent of Record/Broker and Waiving the Requirement for Council Approval of the Contract and Authorizing the Executive Officer to Execute the Contract Subject to Conditions

4.4 Resolution No. 92-1707, Authorizing the Finance and Management Information Department to Undertake an Escrow Restructuring for the 1992 General Obligation Refunding Bonds

Motion: Councilor Devlin moved, seconded by Councilor Wyers, for adoption of the Consent Agenda.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington Wyers and Gardner voted aye. Councilor Buchanan was absent. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 92-475, An Ordinance Amending Ordinance No. 92-449B Revising the FY 1992-93 Budget and Appropriations Schedule for the Purpose of Funding a Hardware Upgrade and Software Support Services Enhancements to Metro's Financial Management System and for Funding Improvements to the Efficiency of Metro's Business Operations

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 92-475 had been referred to the Finance Committee for consideration.

5.2 Ordinance No. 92-476, For the Purpose of Amending the Metro Code to Modify the Designated Facility Status of Columbia Ridge Landfill for Purposes of Flow control, to Add Roosevelt Regional Landfill to the List of Designated Facilities, and Declaring an Emergency

Presiding Officer Gardner announced Agenda Item No. 5.2 had been removed from this agenda for first reading per Executive Officer Cusma's request for additional time for staff to prepare supporting materials for the ordinance.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-471B, For the Purpose of Amending the Metro Code to Establish Criteria to Consider in Designating Disposal Facilities, and Declaring an Emergency (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-471 was first read on August 27, 1992, and referred to the Solid Waste Committee for consideration. He announced the Solid Waste Committee considered the ordinance at its September 1, November 3 and November 17 meetings and recommended Ordinance No. 92-471B to the full Council for adoption at the November 17 meeting.

Main Motion: Councilor Wyers moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-471B.

Councilor Wyers gave the Solid Waste Committee's report and recommendations. She explained the ordinance was fairly complicated because of revisions to the Metro Code to clarify criteria for designated facilities and language on agreements with actual entities. She said the Committee decided to split the ordinance and have it deal with Metro Code revisions only. She noted a company planned to open a landfill in Klickitat for the disposal of petroleum-contaminated soils, construction debris and other similar materials. She said for that facility to qualify as a designated facility in the current Metro regional solid waste system, Metro Code language had to be amended.

Councilor Wyers discussed leakage problems and said Solid Waste Department staff hoped that adding designated facilities would give Metro greater control of leakage. She said the non-system license program had covered these issues before, but that more specific language was now needed. She said the ordinance listed all the facilities meant to be designated facilities as well as listing the criteria to be used to determine if existing

facilities could be added. She said staff would provide reports in the future on revenue impacts and recycling rates.

Councilor Van Bergen expressed concern about the need criteria listed.

Presiding Officer Gardner opened the public hearing.

Jim Benedict, Oregon Waste Systems (OWS) attorney, 1001 SW Fifth Avenue, Portland, said OWS was interested in the ordinance's effect because of Metro's contract with OWS to send 90 percent of all landfillable waste to Columbia Ridge Landfill.

Councilor McFarland asked if OWS received solid waste from the State of Washington. Mr. Benedict said OWS took municipal waste from the City of Seattle.

Councilor McFarland noted Legal Counsel had stated that Metro and OWS had agreed to disagree on whether designated facilities were exempt or not from the 90 percent clause in Metro's contract with OWS. She said the application by Roosevelt Landfill to be listed as a designated facility appeared fairly simple, but noted Metro had received other applications. She said the Solid Waste Committee determined criteria should be further defined so that these and other applications/facilities could be evaluated.

Jay Waldron, Finley Buttes Regional Landfill, Morrow County, urged the Council to adopt Ordinance No. 92-471B. He said adding Finley Landfill to the designated facilities list would create a "win/win" situation and lower solid waste disposal rates. He said the ordinance would give smaller companies the opportunity to compete and would save Metro money.

Councilor McFarland asked when Finley Landfill became operational. Mr. Waldron said Finley Landfill became operational in 1990.

Mr. Waldron said, with regard to Mr. Benedict's testimony, that OWS had had its opportunity and that it was time for competitive opportunities for other companies.

Diana Godwin, Regional Disposal Co. attorney, asked that Roosevelt Landfill be added to the designated facilities list to handle special waste. She said Regional Disposal Co. worked with Metro's Legal Counsel on language and criteria to determine when a facility should or should not be added. She said there was a tremendous need for the disposal of municipal solid waste. She said OWS operated a first-class facility for Metro, but that Metro had expanded its system with recycling activities, the

composter facility and Metro Central Station. She said there was a solid waste stream not picked up by collectors and not processed at Metro transfer stations that had not yet become a focus of Metro's concern. Ms. Godwin said such waste included asbestos, grit and screenings, industrial sludges such as ink, industrial dust, grease from railroad tracks and other miscellaneous special wastes. She noted the Tier One User Fee cost \$7 per ton in 1990, \$13 per ton in 1991, and currently cost \$19 per ton. She said the Hillsboro Landfill's capacity to take special wastes was limited by its agreement to take yard debris.

Presiding Officer Gardner noted the Tier One User Fee was not a tax.

Councilor Buchanan asked if Regional Disposal Co. was affiliated with Browning-Ferris, Inc. Ms. Godwin said Rabanco had been a partner in financing Metro Central Station. She understood that relationship would end, but said Rabanco was not part of Browning-Ferris or any of its subsidiaries. Councilor Buchanan said he had asked the question because of the competition issues raised.

Councilor Moore asked about petroleum-contaminated soils. Councilor Wyers noted those soils either went to designated facilities or were heated to high temperatures releasing lead and other contaminants, leaving sterile soil.

Ms. Godwin noted Roosevelt Landfill was required to do a six-inch cover daily. She said when petroleum-contaminated soils were used for that purpose, it was spread thinly enough that it volatilized on its own.

Presiding Officer Gardner asked if any other citizens present wished to testify. No other citizens appeared to testify and the public hearing was closed.

Councilor Van Bergen said designated facility permits should be granted because of the obvious public need. He expressed concern permits would take on a different capacity in the future. He said staff had assured the Council criteria and oversight language as developed would protect the public good.

Councilor Wyers noted Ordinance No. 92-471B had become 92-471C because language was inadvertently dropped from the ordinance when word processing work was done. Presiding Officer Gardner referred the Council to Legal Counsel Todd Sadlo's November 24 memorandum which explained Section 5.05.030(a)(8) had been deleted from the ordinance accidentally.

First Motion to Amend: Councilor Wyers moved, seconded by Councilor Buchanan, to amend Ordinance No. 92-471B by adding back Section 5.05.030(a)(8): The need for additional disposal capacity and the effect on existing designated facilities; and."

Vote on First Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and the motion to amend passed.

Councilor Moore asked if the word "need" in the ordinance referred to current need or future need. She asked if language on detriments to residents could be added to Section 5.05.030(b)(9).

Councilor Wyers said the Solid Waste Committee deliberately kept the criteria broad in scope. She said the question of need could be defined now or in the future. She said Councilor Moore's point was good and that the ordinance could be amended for clarification. Councilor McLain concurred with Councilor Moore's language as suggested.

Second Motion to Amend: Councilor McLain moved, seconded by Councilor Wyers, to amend Ordinance No. 92-471C, Section 5.05.030(b)(9) to read (additional language underlined): "Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation."

Vote on Second Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Ordinance No. 92-471C was adopted as amended.

6.2 Ordinance No. 92-473A, For the Purpose of Amending Metro Code Sections 5.02.015 and 5.02.065, Relating to Disposal Charges at Metro Facilities and Declaring an Emergency (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-473 was first read on October 22, 1992, and referred to the Solid Waste Committee for consideration. He said the Solid Waste Committee considered it on November 17 and recommended Ordinance No. 92-473A to the full Council for adoption.

Motion: Councilor McFarland moved, seconded by Councilor Wyers, for adoption of Ordinance No. 92-473A.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She noted language recommended by the Rate Review Committee (RRC) had inadvertently been omitted, resulting in an "A" version of the ordinance. She said the language omitted from Section 5.02.065(a) read: "with the exception of CFC tanks and refrigeration units." She said the ordinance addressed more than just freon disposal because other elements had to be completely vacuumed out also. She said the ordinance would raise the rate to \$15 for a residential refrigeration unit and \$20 for a commercial unit. She said the intent of the RRC's amendment was to provide that other existing special waste disposal fees and surcharges would not be applicable to the items covered by the new fee established in this ordinance. She said the Committee asked about future costs because of special equipment that must be acquired now. She said Sam Chandler, Solid Waste Facilities Manager, said Metro would profit from the higher freon disposal charges, but said that if Metro did so in the future, the rate would be amended to match the true costs of disposal.

Presiding Officer Gardner opened the public hearing. No citizens present appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Ordinance No. 92-473A was adopted.

7. RESOLUTIONS

7.1 Resolution No. 92-1709, Approving a RFP Document for an Agent of Record for Employee Benefits and Authorizing the Executive Officer to Execute the Contract

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1709.

Councilor Devlin gave the Governmental Affairs Committee's report and recommendations. He explained the services to be provided by an agent of record for three years at an annual cost of \$36,000.

Councilor Van Bergen noted Resolution No. 92-1708, For the Purpose of Approving a Contract Amendment and Extension with WM Benefits, adopted earlier at this meeting under the Consent Agenda, would provide risk management benefits.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor Buchanan was absent. The vote was unanimous and Resolution No. 92-1709 was adopted.

Presiding Officer Gardner recessed the Council at 7:25 p.m. The Council reconvened at 7:35 p.m.

7.1 Resolution No. 92-1673A, Greenspaces Willing Seller Policy at Sunset Lightrail Transit Station

Motion: Councilor Devlin moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1673A.

Councilor Devlin gave the Transportation and Planning Committee's report and recommendations. He explained the "A" version of the resolution and the actions Metro could take with regard to eminent domain. He noted Metro's Regional Urban Growth Goals and Objectives (RUGGOS) specified a regional planning process. He said once Resolution No. 92-1673A was adopted, the Peterkort family's legal representatives would withdraw three cases filed with the Land Use Board of Appeals (LUBA). He discussed debate at Committee on eminent domain issues as well as discussion on recent construction at 112th Avenue which had caused area residents some concern. He said the Peterkort family was fulfilling previous obligations to Washington County with that construction and noted Be It Resolved Section No. 4 language, "That, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objections of the Regional Transportation Plan, Metro will monitor and become a party in all

planning and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT station; and" should address such concerns in the future.

Presiding Officer Gardner opened a public hearing.

Charlotte Corkran and Troy Horton, both representing Friends of Cedar Springs, said the area Friends was most concerned about was a forested area in addition to a three-acre sized pond, all part of a significant natural area. Ms. Corkran said Friends was also concerned about the preservation of a triangular-shaped area containing old growth trees. Ms. Corkran gave a slide show with pictures of the recent construction activity at 113th Avenue. She said Washington County had insisted a road be built at that location.

Mr. Horton distributed a statement by the Washington County Citizens Empowerment Committee in addition to a brochure, "Help Create the Cedar Springs Natural Area Park and Preserve the Last Large Stand of Cedars in Portland." He said Friends of Cedar Springs' membership was comprised of residents from the entire Portland, and not just the Cedar Springs, area. He said Tryon Creek State Park was similar to the vision they had in mind for the area owned by the Peterkorts. Mr. Horton said Friends had supported Resolution No. 92-1673A as written because they hoped Metro would monitor the property and achieve the best possible use for it. He asked the Council to amend the resolution at this time to add language preventing destruction of natural areas during the time period Metro would not exercise its right of eminent domain. He said Friends hoped Metro would realize all stated goals for the property, including light rail and Greenspaces goals.

Councilor Wyers asked Mr. Horton if Friends discussed the construction on the property with the Transportation and Planning Committee. Mr. Horton said they did not. Presiding Officer Gardner asked Mr. Horton if Friends had specific amendment language to propose at this time. MR. Horton said he did not.

The Council and Mr. Horton discussed the issues further. Councilor Devlin said concerns raised by Friends representatives at this meeting were not raised at the Transportation and Planning Committee and said Resolution No. 92-1673A had gone through the committee process and been discussed with Friends of Cedar Springs. He did not want to amend the resolution at this time until Metro heard from the other parties involved. He said eminent domain could be conditioned on the premise that natural areas would not be destroyed, but said that was not the kind of detail work that should be done at the Council level.

Presiding Officer Gardner concurred with Councilor Devlin and said, if time permitted, the resolution could be referred back to committee for further work.

Councilor Gronke said the Peterkorts had owned the property for a long time and asked Mr. Horton why his proposal should be considered more important than Metro's pledge to give up its right of eminent domain. Mr. Horton said Friends did not propose the Peterkorts give up the right to develop their property and said Friends was supportive of development in the commercially zoned area. He said the overall area should be developed properly with a combination of quality development, light rail and natural areas. He said Friends did not encourage appropriation of the property. He said Friends had worked with the Peterkorts for years and that Metro representatives should ask the Peterkorts why they would not meet with Friends now. He said funds to compensate the Peterkorts for the natural areas could be raised. Councilor Gronke asked why Friends wanted an amendment in that case. Mr. Horton said they wanted assurances because of the construction activity that had just taken place on 112th Avenue.

Ms. Corkran emphasized also that Friends did not intend to obstruct the Peterkorts from development of their property. She said the significant natural areas could not be developed immediately anyway. She said Friends objected to the road building and construction at 112th Avenue and wanted Metro staff involved in any discussions on future construction.

Tim Ramis, Ramis O'Donnell, said Resolution No. 92-1673A was an unusual document in that it involved a settlement case taking place in public. He said if the resolution was adopted as written now, litigation would be halted and all parties involved would be in agreement.

Mr. Ramis explained the construction in question related to a set of overall agreements with Tri-Met and Washington County resulting from conditions, zoning code requirements and agreements. He said the construction was part of a package to hook the Surface Transportation Plan (STP) to Sunset Highway. He said the construction had involved six acres, three of which the Peterkorts had donated along with the right-of-way to Barnes Road. He said the Peterkorts had also provided engineering services and agreed to provide an additional county right-of-way. He said the trees cut down during construction were not on Peterkort property. He said with regard to construction effecting wetlands as shown in the slide show given earlier, the Peterkorts had paid for a retaining wall so that a wetlands permit would not be needed.

Mr. Ramis said Mr. Horton was correct when he said the Peterkort property was subject to many restrictions. He said the Peterkorts entered into agreement with Metro with the understanding that Metro would carefully monitor county restrictions. He expressed concern about any language which would amend the county's comprehensive plan. He noted the entire property was comprised of 250 acres with 100 acres slated for commercial development, 20 for parks development, the key area for the Sunset Light Rail Station, and the remainder for residential development.

The Council discussed the issues with General Counsel Dan Cooper. Councilor Moore said if the resolution was referred back to committee there would be more opportunity to review the issues raised at this meeting. Councilor McFarland said the resolution was the result of a long process in which all parties involved were trying very hard to reach an equitable agreement. She said the Peterkorts had already contributed a great deal and would obviously resist amendment at this time because future impacts on the resolution would be unknown. Councilor McLain was not in favor of referring the resolution back because it had been deemed satisfactory by all of the involved parties. She said the resolution was not meant to benefit only the Peterkorts. Councilor Gronke did not believe it was Metro's role to be the main arbiter in every area. Councilor Devlin agreed that Metro could not arbitrate every issue. He said the property was unique and wanted to achieve an agreement that would satisfy all parties. Councilor Moore asked Mr. Ramis if he would agree to continuing suspension of LUBA activity if the resolution was referred back to committee rather than adopted at this meeting. Mr. Ramis said he would, but said that suspension was not open-ended. Councilor Washington asked Mr. Ramis how much time he would allow for committee review. Mr. Ramis said two or three weeks would be acceptable. Presiding Officer Gardner said the resolution could go back to Committee in time to be considered at the December 10 Council meeting.

Withdrawal of Motion: Councilor Devlin withdrew his motion to adopt Resolution No. 92-1673A.

Motion to Refer: Councilor Buchanan moved, seconded by Councilor Devlin, to refer Resolution No. 92-1673A back to the Transportation and Planning Committee for further review based on discussion at this meeting.

METRO COUNCIL

November 24, 1992

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Vote on Motion to Refer: Councilors Buchanan, Devlin, Hansen, Moore, Washington, Wyers and Gardner voted aye. Councilors Collier, Gronke, McFarland, McLain and Van Bergen voted nay. The vote was 7 to 5 in favor and the motion to refer Resolution No. 92-1673A back to committee passed.

Presiding Officer Gardner recessed the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District to consider Agenda Item Nos. 7.2 and 7.3.

7.2 Resolution No. 92-1704A, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.041(c), Competitive Bidding Procedures, and Authorizing a Sole-Source Contract with Oregon Graduate Institute of Science and Technology for Coordination Services on the Greencity Data Project

Motion: Councilor Washington moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1740A.

Councilor Washington gave the Transportation and Planning Committee's report and recommendations. He explained this was the second year Metro had chosen the Saturday Academy of the Oregon Graduate Institute to do the Greencity Database Project. He said the project would utilize students in grades 6 through 12 to supplement part of the field inventory work, part of Metro's Natural Areas Inventory data base for the Greenspaces Program. He said last year 54 students from 6 schools visited 15 sites and provided data on same. He said the contract cost of \$20,000 would hopefully allow Metro to double the number of schools involved and sites visited. He said Saturday Academy was the only institution with the facilities and capability of conducting this program.

Councilor Van Bergen asked what the funding source was and if the project was originally budgeted.

Councilor Devlin said the funding was part of a grant from the U.S. Department of Fish and Wildlife and the project had been budgeted. Councilor Van Bergen asked if this project would exhaust those funds or if other projects would be funded. Councilor Devlin said the funds were meant for educational purposes, but that there was still U.S. Department of Fish and Wildlife funding for the enhancement portion of the program for fish and wildlife purposes.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1704A was adopted.

7.3 Resolution No. 92-1705A, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.041(c), Competitive Bidding Procedures and Authorizing a Sole Source Contract with the Urban Streams Council of the Wetlands Conservancy

Main Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1705A.

Councilor Devlin gave the Transportation and Planning Committee's report and recommendations. He explained the resolution would enable Metro to provide a much higher level of technical assistance to cities, counties and special districts groups carrying out the 33 different restoration projects. He said the Urban Streams Council would work with Metro staff to meet with local project managers on a monthly "one-to-one" basis. He said quarterly meetings of all project managers would allow time to share ideas and information. He said the Urban Streams Council was uniquely qualified to provide such assistance because it also utilized the services of technical experts in other states. He said for the third year of program restoration, Metro would seek projects within the inner city and said that approach was the result of concerns raised regarding the lack of projects located within north and northeast Portland.

Motion to Amend: Councilor Moore moved, seconded by Councilor Devlin, to list the contract amount of \$25,000 in the resolution Be It Resolved section.

Councilor Moore explained an amendment she made at Committee to show the amount of the project was not included in the resolution before the Committee and said she preferred all legislation in future to list contract costs.

Vote on Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Resolution No. 92-1750A as adopted as amended.

Presiding Officer Gardner adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

7.4 Resolution No. 92-1711, For the Purpose of Suspending Negotiations with Tri-Met Regarding Development of a Joint Work Program to Study Potential of a Transfer of Tri-Met to Metro and Expressing Intent of the Council Regarding Future Study of the Issue

Motion: Councilor Devlin moved, seconded by Councilor Buchanan, for adoption of Resolution No. 92-1711.

Councilor Devlin gave the Transportation and Planning Committee's report and recommendations. Councilor Devlin distributed Resolution No. 90-1361, For the Purpose of Establishing a Work Plan for the Analysis of Issues Related to the Transfer of Mass Transit Services From Tri-Met to the Metropolitan Service District, adopted December 13, 1990, for the Council's reference.

Councilor Gronke asked why a resolution to suspend negotiations with Tri-Met was necessary. Councilor Devlin explained it was easier to track the history of issues via legislation. Councilor Collier said the potential merger with Tri-Met was one of the first issues she saw when she came on board the Metro Council six years ago. She said the Council had the opportunity to resolve the issues a few months earlier for a modest cost but did not. She urged the Council to decide on merger issues in January 1993. She said if the issues were not settled soon, the seven-member Council would discuss the same issues in 1995.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1711 was adopted.

7.5 Resolution No. 92-1713, For the Purpose of Approving a Contract Increase to Sunflower Recycling/Pacific Bottle Regeneration to Complete the Wine Bottle Washing Project Funding as Part of the 1991-92 1% for Recycling Program

Motion: Councilor Buchanan moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1713.

Councilor Buchanan gave the Solid Waste Committee's report and recommendations. He explained Sunflower Recycling received a grant for \$77,700 in the last 1% for Recycling Funding cycle to establish a wine bottle washing operation at its recycling center in southeast Portland. He said the plant would ultimately process for reuse approximately two million bottles per year for resale to local Oregon vintners and said that amount represented approximately one-fourth of the nine million wine bottles consumed in Oregon each year. He said the total project was expected to cost approximately \$100,000, \$22,300 of which Sunflower would meet with a partial match. He said the project had experienced unanticipated costs since the work began and the total cost was now estimated to be approximately \$162,000. He said cost increases resulted from fluctuations in the U.S. dollar in the foreign currency market; increases in shipping and U.S. Customs costs; added costs to modify the recycling center facility housing the bottle washing facility and pre-payment of supplies to package the cleaned bottles for delivery to Oregon vintners. He said Sunflower would bear approximately \$50,000 of the increased costs and said funds for the grant increase were available in the 1% for Recycling Program budget because two projects were not funded because their concepts proved unfeasible. He said Sunflower would not be able to complete the project unless they received an increase in funds and said there was no other source of funds for the project.

The Council discussed the resolution briefly. Councilor Moore asked if Metro could recoup its costs from other sources such as restaurants.

Judith Mandt, Program Manager for the 1% for Recycling Program, said that option had been discussed, but noted restaurants believed they were contributing by using and recycling green glass. Councilor Moore asked who would profit from the project. Ms. Mandt said the project would be profitable to Sunflower, but said staff's ultimate hope was that the project became successful and the public's investment was repaid with increased recycling of a product not previously re-used that much.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1713 was adopted.

7.6 Resolution No. 92-1714, For the Purpose of Amending the Consolidation Agreement Between the City of Portland and Metro and Transferring Memorial Coliseum from MERC to City Control and Authorizing an Admission Tax Offset Agreement with OAC and City

Motion: Councilor McLain moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1714.

Councilor McLain gave the Regional Facilities Committee's report and recommendations. She referenced all pertinent documents and discussed the City of Portland's role in MERC's budget process. She said the agreement did not contain all that Metro had asked for in terms of language, but said the time line matched what Metro wanted. She said the December 1 deadline was important because Portland had indicated if it were missed, the arena project would collapse.

Councilor Gronke said the resolution represented an agreement between Metro and Portland only, not an agreement between Metro and the Oregon Arena Corporation (OAC). He did not believe that if the Council did not adopt the resolution, the Blazer deal would fall through.

The Council discussed the consolidation agreement further. Councilor Van Bergen said he preferred not to have title to the Coliseum because it would require repair and refurbishing in the near future. He did not believe the admission tax was enforceable. Councilor Collier said she would reluctantly vote aye on the resolution, but said the City should move into Phase II of the agreement soon. Councilor Buchanan said the City had largely ignored the issue of permanent funding. The Council discussed the issues further.

Vote: Councilors Buchanan, Collier, Devlin, Hansen, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilors Gronke, McFarland and Van Bergen voted nay. The vote was 9 to 3 in favor and Resolution No. 92-1714 was adopted.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Wyers discussed the proposed Metro West Station, noted a report would be given on it at the Solid Waste Committee meeting December 1, and encouraged Councilors to attend that meeting. She said the Committee would discuss whether regional tonnage figures justified building another regional transfer station.

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Presiding Officer Gardner reminded the Council of the Metro Legislative Committee meeting to be held Wednesday, November 25, Room C-124, Oregon Convention Center, at 2:30 p.m. to discuss issues related to the Charter. He said all local governmental officials had been invited to discuss the impacts and implications of the Metro Charter on local governments.

All business having been attended to, Presiding Officer Gardner adjourned the meeting at 9:51 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paulette Allen".

Paulette Allen
Clerk of the Council

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

December 22, 1992

Council Chamber

Councilors Present: Presiding Officer Jim Gardner, Deputy Presiding Officer Judy Wyers, Roger Buchanan, Tanya Collier, Richard Devlin, Ed Gronke, Sandi Hansen, Ruth McFarland, Susan McLain, Terry Moore, George Van Bergen and Ed Washington.

Councilors Absent: None

Also Present: Executive Officer Rena Cusma

Presiding Officer Gardner called the regular meeting (moved to a Tuesday to facilitate holiday scheduling) to order at 5:46 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

Executive Officer Cusma noted that Councilors would likely spend more time at Metro Center beginning January 1993 and offered the use of two offices recently vacated in the Executive Management Department.

Executive Officer Cusma noted former Councilor Larry Bauer was present. She presented the Executive Officer's Awards of Valor to Mr. Bauer and Councilors Collier and Gronke. She said all three would be greatly missed, that she had enjoyed working with them very much and thanked them for their contributions to Metro.

4. CONSENT AGENDA

REFERRED FROM THE REGIONAL FACILITIES COMMITTEE

4.1 Resolution No. 92-1716, For the Purpose of Confirming the Reappointment of Ben Middleton to the Metropolitan Exposition-Recreation Commission

REFERRED FROM THE GOVERNMENTAL AFFAIRS COMMITTEE

- 4.2 Resolution 92-1715, For the Purpose of Adopting the Revised Affirmative Action Policy and Program
- 4.3 Resolution No. 92-1725, For the Purpose of Accepting the November 3 General Election Abstract of Votes of the Metropolitan Service District

REFERRED FROM THE TRANSPORTATION AND PLANNING COMMITTEE

- 4.4 Resolution No. 92-1720, For the Purpose of Establishing the Metropolitan Greenspaces Environmental Education Small Grants Program Guidelines and Funding Criteria

Motion: Councilor Devlin moved, seconded by Councilor McFarland, for adoption of the Consent Agenda.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and the Consent Agenda was adopted.

5. ORDINANCES, FIRST READINGS

- 5.1 Ordinance No. 93-477, For the Purpose of Establishing Criteria for Council District Apportionment, and Declaring an Emergency

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 93-477 had been referred to the Governmental Affairs Committee.

- 5.2 Ordinance No. 93-479, An Ordinance Creating the Office of Citizen Involvement; Establishing a Citizen's Involvement Committee and a Citizen Involvement Process; and Declaring an Emergency

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 93-479 had been referred to the Governmental Affairs Committee.

5.3 Ordinance No. 93-480, An Ordinance Amending Ordinance No. 92-449B Revising the FY 1992-93 Budget and Appropriations Schedule for the Purpose of Funding Councilor Salaries and Benefits and a Citizen Involvement Program; and Declaring an Emergency

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 93-480 had been referred to the Finance Committee.

5.4 Ordinance No. 93-481, An Ordinance Amending Metro Code Section 2.01.170 to Repeal Councilor Per Diem Procedures; Establish Councilor Salary Procedures; and Declaring an Emergency

The Clerk read the ordinance for a first time by title only.

Presiding Officer Gardner announced Ordinance No. 93-481 had been referred to the Finance Committee.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 92-478, An Ordinance Amending Ordinance No. 92-449B Revising the FY 1992-93 Budget and Appropriations Schedule for the Purpose of Fully Funding the Portland/Oregon Visitor Association Marketing Plan for the Oregon Convention Center (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Gardner announced Ordinance No. 92-478 was first read on December 10 and referred to the Finance Committee for consideration. He said the Finance Committee considered the ordinance on December 17 and recommended it to the full Council for adoption.

Motion: Councilor Wyers moved, seconded by Councilor Hansen, for adoption of Ordinance No. 92-478.

Councilor Wyers gave the Finance Committee's report and recommendations. She explained during Council deliberations on the FY 1992-93 Convention Center Operating Fund, issues arose about the level of funding to the Portland/Oregon Visitors Association (P/OVA) for marketing services. She said at that time, the Council included \$320,000 in the Oregon Convention Center Operating Fund Contingency potentially for this purpose and instructed the Metropolitan Exposition-Recreation Commission (MERC) and P/OVA to reach agreement on the amount required for

marketing services. She said the two parties agreed to raise P/OVA's budget by \$193,085 to a total of \$1,276,500 for FY 1992-93. She said to complete that agreement, Ordinance No. 92-478 would transfer \$193,085 from the Fund Contingency to the Materials & Services category. She said P/OVA had agreed to provide a more detailed listing of marketing services provided.

Presiding Officer Gardner opened the public hearing. No persons present appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Ordinance No. 93-472 was adopted.

7. RESOLUTIONS

Presiding Officer Gardner adjourned the Council of the Metropolitan Service District and convened the Contract Review Board of the Metropolitan Service District to consider Agenda Item Nos. 7.1 and 7.2.

7.1 Resolution No. 92-1730A, For the Purpose of Authorizing an Agreement with Steelcase and Smith Brothers Office Environments, Inc. and an Intergovernmental Agreement with Washington County

Motion: Councilor McLain moved, seconded by Councilor McFarland, for adoption of Resolution No. 92-1730A.

Motion to Substitute: Councilor McLain moved, seconded by Councilor McFarland, to substitute Resolution No. 92-1730B, For the Purpose of Exempting an Agreement with Environetics, Inc. From Formal Bidding Requirements, for Resolution No. 92-1730A.

Vote on Motion to Substitute: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington and Gardner voted aye. Councilors Buchanan and Wyers were absent. The vote was unanimous to substitute the "B" resolution for the "A" resolution.

Councilor McLain gave the Regional Facilities Committee's report and recommendations. She said staff had originally planned to contract with Washington County for furniture on what was at that time deemed to be the lowest cost. She said the State of Oregon informed Metro staff they did not have a list of furniture

providers. She said after the Regional Facilities Committee forwarded Resolution No. 92-1730A to the full Council for adoption, Metro was contacted by vendors the State did not have listed. She said four vendors submitted bids by the deadline at 12:00 p.m. on the date of this meeting and the low bidder selected was Environetics, Inc., to provide furniture by Herman Miller. She said the product to be provided was comparable or equal to the furniture that would have been provided previously. Councilor McLain said approximately \$50,000 would be saved because of the change in vendors.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington and Gardner voted aye. Councilor Wyers was absent. The vote was unanimous and Resolution No. 92-1730B was adopted.

7.2 Resolution No. 92-1728, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.043 Competitive Bidding Procedures and Authorizing a Sole Source Agreement with Dun & Bradstreet Corp. for the Purchase of Credit Reporting Services

Motion: Councilor Van Bergen moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1728.

Councilor Van Bergen gave the Finance Committee's report and recommendations. He said Dun & Bradstreet Corporation was the sole bidder. He had hoped more bids would be submitted, but said it appeared Dun & Bradstreet was the only entity that could provide such credit reporting services.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1728 was adopted.

Presiding Officer Gardner adjourned the Contract Review Board and reconvened the Council of the Metropolitan Service District.

7.3 Resolution No. 92-1673D, Greenspaces Willing Seller Policy at Sunset Light Rail Transit Station

Motion: Councilor Moore moved, seconded by Councilor McLain, for adoption of Resolution No. 92-1673D.

Councilor Moore gave the Transportation and Planning Committee's report and recommendations. She explained Metro's goal with

regard to this resolution was two-fold: 1) To see that the Peterkort's Land Use Board of Appeals (LUBA) appeal of the Greenspaces Master Plan was dropped; and 2) To adopt a good policy applying Metro's Greenspaces policies to the Peterkort parcel. She said to achieve those ends, Metro was giving up its ability to use its power of eminent domain to acquire property owned by the Peterkorts for a period lasting until two years after Westside light rail opened.

Councilor Moore explained Metro was committing to acquire property from a willing seller only in the 150 acre area now either owned by the Peterkorts, Tri-Met, or in public right-of-way for that time period, up to or until, 1999.

Councilor Moore said Metro's interest in acquisition of property in the area was to preserve the significant greenspaces areas not yet precisely defined, but consisting of wetlands, water features such as ponds and streams, and forested upland areas, all of which provided natural resource values and wildlife habit areas.

Councilor Moore said Metro's additional interest in the area related to light rail transit (LRT) and ensuring that Metro's Regional Urban Growth Goals and Objectives (RUGGOS) were implemented, specifically within the station area, and potentially in the larger surrounding area if it were to become one of the regional "activity centers" anticipated in RUGGOS.

Councilor Moore said the resolution intended that Metro would play an integral role in all "planning activities and proposed development actions" on the Peterkort property in the station area, which encompassed an area approximately one-half mile in all directions from the Sunset LRT station location. She said that would allow Metro staff and the Council to determine if any proposed actions might jeopardize the future of the natural resource area included in the adopted Greenspaces plan or under-used development opportunities near the LRT station.

Councilor Moore explained the resolution would establish policy involving Metro and the Peterkorts only and would not directly involve local jurisdictions, Washington County, Beaverton and/or Tri-Met or any entity to which some portion of the Peterkort property might be sold between now and two years following opening of the Westside line. She said the Peterkort Company would act on its own behalf in the planning and development of the property, and as the agent of Washington County in the development of public right-of-way through the property, and said it must be assumed that this policy meant that Washington County and any other entity undertaking to develop or plan for the land in the subject area must acknowledge the policy that Metro would

have an informed role in all that planning and development. She reiterated this policy was Metro's alone and did not specifically guarantee that Washington County would acknowledge Metro's involvement as specified in the agreement.

Councilor Moore stated for the record that the Transportation and Planning Committee at a minimum, and ideally the Council, should immediately request a briefing from Tri-Met, Washington County, and Metro staff on the status of station area planning, LRT station design, roadway and parking lot design, and other issues including, existing zoning, natural resource protection, transportation plan designations, and the Washington County proposed interim overlay zone, in order to evaluate the current status of the area with regard to the public investment in LRT and the potential vulnerability of the Cedar Springs natural resource area. She said following that briefing, the Transportation and Planning Committee should discuss with Metro staff any needed action on the part of Metro with regard to implementation of policy.

Councilor Moore said Resolution No. 92-1673D reiterated Metro's commitment to a cooperative planning approach with close inter-jurisdictional involvement in areas such as the land represented around the Sunset/217 LRT station. She said such an approach to planning would support the regional public infrastructure costs as well as coordinate the various private and public goals for the region's future. She said the resolution also clearly stated Metro's recognition of the unique characteristics of the site and its existing policy of acquiring policy from "willing sellers."

Councilor Gronke asked if the resolution legally bound future Councils to the agreement.

General Counsel Dan Cooper said the resolution would not bind future Councils to abide by its stipulations.

Councilor Devlin said when the Council adopted a resolution, that action did politically and morally bind its successors. He said future Councils could live with the stipulations contained in the resolution because it represented a reasonably good agreement by all of the parties interested in the property. He said none of the parties involved were completely satisfied with the resolution, but said all were in reasonable agreement on the issues.

Presiding Officer Gardner opened a public hearing.

Troy Horton, chair, Friends of Cedar Springs, concurred with Councilor Devlin that the resolution was a good compromise for

what had been a difficult situation and urged the Council to adopt the resolution as written.

Presiding Officer Gardner asked if any other persons present wished to testify. No other persons appeared to testify and the public hearing was closed.

Councilor Van Bergen said he could not support the resolution because Metro was giving up its legal rights and duty of condemnation. He said there could be future problems that were not now anticipated.

Councilor McFarland concurred with Councilor Van Bergen. She did not believe Metro could vote away its legal rights.

Presiding Officer Gardner asked Councilor Moore if the agreement contained in the resolution would be binding upon any party(s) that bought Peterkort property in the future. Councilor Moore said she did not know, but said the answer was likely to be no. She said she wanted her report to clearly state it would be Metro's policy not to exercise eminent domain on property owned by the Peterkorts in the context of the LUBA appeal and Metro's commitment to Greenspaces and the LRT station.

Mr. Cooper said the resolution would confirm policy already adopted in the Greenspaces Master Plan as it applied to the Peterkort property. He said Councilor Gronke had asked if that legally bound a future Council to the same agreement. He said it would not because a future Council could come back and amend the Greenspaces Master Plan policy which would override Resolution No. 92-1673D. He said if Peterkort property was sold, policy stated in the resolution would apply to the property owned by the Peterkorts. He said the Greenspaces Master Plan applied to all District property. He said Resolution No. 92-1637D applied to property owned by the Peterkorts and would not necessarily be applicable to a new owner(s), but said the Greenspaces Master Plan would.

Councilor Devlin said the resolution might not legally bind a future Council, but could do so politically. He said with regard to eminent domain and Greenspaces, the resolution reiterated Metro's stated policy of only using eminent domain as a last resort after all other avenues had been exhausted.

Councilor McLain said trust had been established among the three parties involved. She said the trust factor was discussed extensively at committee and said the results proved the power of dialogue when it was used properly. She said the resolution created good public policy.

Councilor McFarland said she did not attend committee meetings when the resolution was being discussed, but said everyone who had an interest in the issues should feel satisfied because the parties involved arrived at a mutual and satisfactory conclusion rather than an impasse. She congratulated all three parties involved on their hard work on the issues.

Vote: Councilors Buchanan, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilors Collier and Van Bergen voted nay. The vote was 10 to 2 in favor and Resolution No. 92-1673D was adopted.

7.4 Resolution No. 92-1706, For the Purpose of Endorsing Alternatives for Evaluation in the Draft Environmental Impact Statement (DEIS) Phase of the Western Bypass Study

Motion: Councilor Washington moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1706.

Councilor Washington gave the Transportation and Planning Committee's report and recommendations. He said the resolution would consider replacing parking charges with congestion pricing as another set of options. He said congestion pricing should be considered for the region as a whole and not as part of any one project. He said the Committee discussed the resolution and congestion pricing at length. He said the Joint Policy Advisory Committee on Transportation (JPACT) considered two alternatives in lieu of the action taken at its previous meeting in November: 1) Do a congestion pricing assessment associated with the Western Bypass, but not within the Draft Environmental Impact Study (DEIS); and 2) To not consider congestion pricing in the context of the Western Bypass option at all. He said JPACT chose the latter option. He said this resolution represented the beginning of information that would be gathered on congestion pricing.

Councilor Devlin clarified the resolution before the Council was an amended Resolution No. 92-1706 per JPACT action with four Be It Resolved sections and that the resolution printed in the agenda packet with the original five Be It Resolved sections was not before the Council for consideration. He said the Council would consider several alternatives when all work was done. He said not all alternatives would be clear-cut, but could be merged.

Councilor McLain suggested the Council hold a work session on congestion pricing issues. Presiding Officer Gardner concurred.

Councilor Van Bergen asked why the new Resolution No. 92-1706 had not been labelled an "A" if it had been amended. Councilor Devlin explained the original resolution was printed in the agenda packet in error and that JPACT legislation as amended was not labelled unless amended at the Council committee level. Councilor Van Bergen asked if congestion pricing was still included in the resolution in any form. Councilor Devlin said it was not. Councilor Van Bergen said he did not advocate congestion pricing and would continue to oppose it.

Presiding Officer Gardner noted a letter submitted on the resolution from Merv Johnson, citizen, 6150 SW 190th, Beaverton, and read it into the record (a copy of which is also filed with the record of this meeting): "Attention, Council Staff: I oppose the Western Bypass proposal from Hillsboro to Tigard until and if other options are exhausted. Other options as I see them are: Expand MAX; Increase bus service; Install more bike routes (This is probably the most cost efficient transportation there is.); Widen arterials, such as Farmington Road and Baseline (Farmington is now being surveyed, but only for a turning lane, as I understand it. Why not do it all now?). Another reason for opposition is that I do not like to see good farm land paved over, nor do I want to see the resulting development adjacent to the proposed freeway."

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1706 (minus the fifth Be It Resolved section) was adopted.

7.5 Resolution No. 92-1712B, For the Purpose of Designating the Regional Growth Concepts to Be Evaluated in Phase II of the Region 2040 Project

Main Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1712B.

Councilor McLain gave the Transportation and Planning Committee's report. She noted Council Analyst Gail Ryder's December 18 memo, "Resolution No. 92-1712B Amendment." She said an amendment approved by both the Regional Policy Advisory Committee (RPAC) and JPACT was inadvertently omitted by Metro staff in the resolution version recommended to the full Council for adoption on December 21. She said the omitted language was contained in the Concept B description in Exhibit A to the resolution. She said according to City of Gresham staff, sentence two of paragraph one should read (additions underlined and deletions bracketed): "LUTRAQ and the Livable City Projects would provide

more specific local models for how land use intensification could occur in this concept focused [on] along high capacity transit line [~~intersection~~] and transit "Main Streets."

Councilor McLain listed and explained Be It Resolved Section Nos. 1 through 9 as amended. She explained Section No. 9 would rename the Region 2040 Program to "Region 2045" to ensure the Metro Charter's requirements were addressed in relation to development of a Future Vision Commission and development of a regional framework plan.

Councilor Moore referred to Concepts A, B and C on resolution page 3 which listed the year 2040 as the end date for program goals and asked if that should be changed to match Region 2045.

Andy Cotugno, Director of Planning, said he would not characterize the reference to "2045" as changing the name of the program. He said staff had received feedback that Region 2040 had a clearly defined identity and did not want it confused with other processes. He said the intent of resolution language was to meet all the requirements of the Charter and clarify one process was being followed rather than two separate processes.

Motion to Amend: Councilor Moore moved to amend Resolution No. 92-1712B, seconded by Councilor Devlin, to change "2040" where referenced in the resolution to "2045."

Vote on Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. The vote was unanimous and Resolution No. 92-1712B was adopted.

7.6 Resolution No. 92-1718A, For the Purpose of Endorsing the Recommendations of the Governor's Task Force on Motor Vehicle Emissions Reduction in the Portland Metropolitan Area

Main Motion: Councilor Buchanan moved, seconded by Councilor Wyers, for adoption of Resolution No. 92-1718A.

Councilor Buchanan gave the Transportation and Planning Committee's report and recommendations. He said the resolution

endorsed the exhibit which summarized the task force's recommendations. He said the recommendations, particularly to adopt the "Base Strategy," were the best possible combination of activities that the Governor's Task Force on Motor Vehicle Emission Reduction believed would meet the standards of air quality control and maintain those standards while allowing for growth within the region. He said the resolution represented a policy action indicating Metro's opinion and said legislation would need to be approved by the state legislature before implementation. He said if that occurred, Metro would probably need to adopt a State Implementation Plan within two years. He said the Committee also discussed the contingency containing additional strategies that would require another endorsement.

Councilor Gronke noted No. 5 of the seven items under "Base Strategy" called for a phased-in vehicle emission fee based on actual emissions and mileage driven starting in 1994 at a \$50 (\$5 to \$125 range) average and reaching a \$200 (\$20 to \$500 range) average by 2000 and asked staff to explain same.

Mr. Cotugno explained the emissions fee would be based on the amount driven and the age of the car, or in effect, how much the car in question polluted. He said the dirtiest cars with the most mileage polluted the most and would pay the most in fees.

Councilor Gronke asked how such fees would be calculated. Mr. Cotugno said when cars were registered every two years, odometer readings would be taken to calculate user mileage.

Councilor Gronke said, in addition to paying licensing fees, citizens could conceivably pay \$20-\$500 every two years.

The Councilor and Mr. Cotugno discussed emissions fees further. Presiding Officer Gardner agreed with Councilor Gronke that the Pacific Northwest had an older than usual fleet of cars compared to the national average. He said the action referenced by Councilor Gronke seemed rather extreme, but said that option was part of a package determined upon after addressing numerous, different and possible ways on how to handle emissions in the region. He said it was agreed this option was the cheapest possible package to meet the emissions reduction levels that had to be achieved. He said the consequences of not meeting Clean Air Act requirements were more severe.

Councilor Gronke asked how the Task Force arrived at the \$500 amount and how it would reduce hydrocarbon emissions by 4.4 percent nitrous oxide. Mr. Cotugno said the charge was applied to behaviors based on the rationale that citizens would buy new cars, as well as raising revenue to provide alternative modes.

He said the regional target was to achieve 35.6 percent reduction in volatile organic compounds (VOC) and 20.2 percent reduction in nitrous oxides. He said those goals could be achieved in a variety of ways and said, if lower percentages were aimed at for those mechanisms, then higher goals had to be achieved elsewhere and that Metro had the flexibility to do so. He said those rates resulted in the 5.0 percent VOC and 5.5 percent nitrous oxide.

Councilor McLain noted the document before the Council was developed by the Governor's Task Force on Vehicle Emissions and noted resolution Be It Resolved Section No. 3 stated: "Directs Metro staff through TPAC and JPACT to continue to review key issues and develop implementation strategies." She said other options such as parking fees would continue to be reviewed. She said adoption of the resolution simply recognized that there was a task force that had developed a base case strategy and that other options would continue to be looked at. She said there would be much more discussion before any option was implemented.

Councilor Hansen noted other states were considering similar options. Mr. Cotugno said each state had to determine what course they would take and said some states would have more stringent plans. Councilor Hansen said if that were true, clean air regulations in Oregon would not drive business away.

Councilor Van Bergen said he did not see emissions fees as a way to eliminate pollution, but believed it was being instituted as a revenue raiser for light rail transit (LRT). He did not believe emissions fees would survive at the State Legislature. He said Oregon was not currently violating pollution attainment levels. Mr. Cotugno said Oregon had not violated attainment levels for two years.

Councilor Devlin said although Oregon had not violated the Clean Air Act of 1990 for two years, Oregon still had to show proof of compliance. He asked which would be more draconian, imposing fees, or requiring that vehicles manufactured after 1986 could not be on the road.

Presiding Officer Gardner noted the impact of the fee on poorer citizens had been discussed and that they would not have to pay fees.

The Council discussed the resolution further as well as possible amendment language. Councilor Moore expressed concern about the fiscal impact to low-income residents and said parking fees should be included in the scenarios to be addressed.

Motion to Amend: Councilor Moore moved, seconded by Councilor Buchanan, to amend Resolution No. 92-1718A Be It Resolved Section 5 as follows (additions underlined; deletions bracketed): "5. That in the event the base strategy is not fully implemented, further consideration [~~and a~~] should be given to parking fees in the contingency plan strategy [~~should be given to parking fees~~].

Vote on Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McLain, Moore, Van Bergen, Washington, Wyers and Gardner voted aye. Councilor McFarland voted nay. The vote was 11-1 in favor and the motion to amend passed.

Vote on Main Motion as Amended: Councilors Buchanan, Collier, Devlin, Hansen, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilors Gronke and McFarland voted nay. Councilor Van Bergen was absent. The vote was 9 to 2 in favor and Resolution No. 92-1718A as amended was adopted.

7.7 Resolution No. 92-1719A, For the Purpose of Endorsing the Oregon Transportation Financing Plan

Motion: Councilor Buchanan moved, seconded by Councilor Devlin, for adoption of Resolution No. 92-1719A.

Councilor Buchanan gave the Transportation and Planning Committee's report. He explained the Committee had previously reviewed the Oregon Transportation Plan (OTP), the substantive document in terms of plans and different objectives for the different modes. He said the resolution represented the financing element of the OTP and the cooperative effort between the League of Oregon Cities, the Association of Oregon Counties and the Oregon Department of Transportation (ODOT). He said the OTP was fairly aggressive in terms of urban transit, inner city, inner city rail objectives, and marine and port facilities and aviation. He said the OTP focused on all objectives in three segments. He said the first two segments were highway and transit with the short-term, or six-year, OTP Funding Plan and the third segment was the initial implementation of future funding priorities. He said actual implementation would involve referral to the next legislative session and would include road funding, gas tax increases, associated increases in weight mile taxes on trucks, and vehicle registration fee increases for road funding purposes. He said it was also recommended that road funding be sufficient to allow for the current highway funds that could be transferred for transit. He said current highway funds

were already committed to road purposes and that this would allow them to be released for flexible funding, Surface Transportation Act (STA) funds, to include transit. He noted Mr. Cotugno distributed an Errata Sheet correcting Exhibit A, page 4, to include an additional requirement for "further work to specify bike and pedestrian needs in order to meet the vehicle miles traveled reduction goals implied in this recommendation as a high priority."

Councilor Buchanan said Committee questions and discussion included whether the tire and battery tax would apply to bicycle equipment and that Mr. Cotugno had stated imposition of a tire and battery tax was within the basic recommendation. He said also in the document under future funding priorities, language called for the creation of an excise tax on bicycles and related accessories for non-road bicycle needs and said that requirement had been objected to by several bicycle groups. He said the Committee amended the resolution to add Be It Resolved Section No. 10: "That the excise tax on bicycles and related accessories for non-road bicycle needs not be pursued further."

Presiding Officer Gardner opened a public hearing.

Rex Burkholder, said he worked with the Bicycle Transportation Alliance and was a member of the Oregon Bicycle Advisory Committee, an advisory committee to ODOT, and distributed a "Bicycle Excise Tax: Issue Paper." He said bicycle riding should be encouraged and not taxed.

Councilor Devlin agreed with Mr. Burkholder's analysis that taxes discouraged desirable activities, but noted when interest groups were taxed, their influence on state policy significantly increased.

The Council, Mr. Cotugno and Mr. Burkholder discussed the issues further. Mr. Cotugno noted all transit system users paid for their use of the system.

Motion to Amend: Councilor Devlin moved, seconded by Councilor Gronke, to delete Be It Resolved Section No. 10 from the resolution.

The Council briefly discussed the motion to amend. Councilor Buchanan said the Planning and Development Committee felt that bicycle users/groups should not be singled out for taxation especially since bicycle riders did not cause wear and tear on the highway system and/or pollute with emissions. Councilor Moore and Presiding Officer Wyers concurred with Councilor Buchanan.

Vote on Motion to Amend: Councilors Devlin, Gardner and Gronke voted aye. Councilors Buchanan, Collier, Hansen, McFarland, McLain, Moore, Washington and Wyers voted nay. Councilor Van Bergen was absent. The vote was 8 to 3 against and the motion to amend failed.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 92-1719A was adopted.

7.8 Resolution No. 92-1722, For the Purpose of Accepting Metro's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 1992, the Schedule of Federal Financial Assistance for the Fiscal Year Ended June 30, 1992 and the Various Auditor Reports Thereon, and the Letter to Management Provided by KPMG Peat Marwick

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1722.

Councilor Devlin gave the Finance Committee's report and recommendations. He noted the majority of comments in the Comprehensive Annual Financial Report pertained to MERC management and operations and Committee discussion centered on how to address MERC over-expenditures in the future.

Vote: Councilors Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilors Buchanan and Van Bergen were absent. The vote was unanimous and Resolution No. 92-1722 was adopted.

7.5 Resolution No. 92-1712B, For the Purpose of Designating the Regional Growth Concepts to Be Evaluated in Phase II of the Region 2040 Project (Continued)

Presiding Officer Gardner noted the City of Gresham had asked for an amendment to Resolution No. 92-1712B which was not attended to when the Council considered the resolution earlier at this meeting.

Motion to Reconsider: Councilor Gronke moved, seconded by Councilor Devlin, to reconsider Resolution No. 93-1712B for the purposes of amendment.

Vote on Motion to Reconsider: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 92-1712B was again before the Council for consideration.

Motion to Amend: Councilor McLain moved, seconded by Councilor Devlin, to amend Resolution No. 92-1712B, Exhibit A, Concept B, paragraph one, sentence one to read as follows (additions underlined; deletions bracketed): "LUTRAQ and the Livable City projects would provide more specific local models for how land use intensification could occur in this concept focused [en] along high capacity transit line [intersection] and transit "Main Streets."

Vote on Motion to Amend: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 92-1712B was amended and re-adopted.

NON-REFERRED RESOLUTIONS

Presiding Officer Gardner noted there were four non-referred resolutions before the Council for consideration.

1. Resolution No. 92-1734, For the Purpose of Expressing Appreciation to Larry Bauer for Services Rendered to the Council of the Metropolitan Service District
2. Resolution No. 92-1735, For the Purpose of Expressing Appreciation to Tanya Collier for Services Rendered to the Council of the Metropolitan Service District
3. Resolution No. 92-1736, For the Purpose of Expressing Appreciation to Edward P. Gronke for Services Rendered to the Council of the Metropolitan Service District
4. Resolution No. 92-1737, For the Purpose of Continuing Council Standing Committees and Making Committee Appointments

Motion to Suspend the Rules: Councilor Collier moved, seconded by Councilor Devlin, to suspend the Council's rules requiring that resolutions be referred by Committee so that the Council as a whole could consider Resolution Nos. 92-1734, 92-1735, 92-1736 and 92-1737.

Vote on Motion to Suspend the Rules: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolutions Nos. 92-1734, 92-1735, 92-1736, and 92-1737 were before the Council for consideration.

Vote: The Council voted collectively to adopt Resolution Nos. 92-1734, 92-1735 and 92-1736. Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution Nos. 92-1734, 92-1735 and 92-1736 were adopted.

Motion: Councilor Devlin moved, seconded by Councilor Hansen, for adoption of Resolution No. 92-1737.

The Council briefly discussed Resolution No. 92-1737.

Vote: Councilors Buchanan, Collier, Devlin, Gronke, Hansen, McFarland, McLain, Moore, Washington, Wyers and Gardner voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 92-1737 was adopted.

8. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Wyers distributed her December 22 memorandum "Report - Task Force on Future Vision Commission" and discussed same.

Councilor Devlin said the issues raised by Councilor Wyers in her memo should be defined further at the Council retreat scheduled for January 23 and then discussed at the appropriate Council committee.

Jon Kvistad, Metro Councilor-Elect, discussed the need for a mission statement and how to implement Future Vision in conjunction with the Region 2040 Program. He said he had spoken with Metro staff about developing a specific work plan. He said a mission statement should be developed as well as a framework in which to operate.

Councilor Washington asked who would staff the Future Vision Commission and other committees/commissions required by the Metro Charter for implementation. Presiding Officer Gardner said to-date Council Department staff had provided staff support.

Presiding Officer Gardner noted a letter received from Steve Schell, Portland Future Vision, expressing concern about Metro's pending Future Vision Commission. He said Mr. Schell suggested Metro hold a forum to answer questions on Metro's Future Vision plans. Councilor Wyers said the Council could give direction to the Task Force at the January 23 retreat and hoped the mission statement could be further defined then as well. Councilor Devlin said the Task Force had developed good discussion topics for consideration at the retreat. He noted the Future Vision Commission would be the primary mechanism monitoring the progress of the Region 2045 Program. Councilor Wyers asked if the Task Force should begin work on selection of applicants or wait until after the retreat. Presiding Officer Gardner said it was probably best to wait until after a mission statement was developed. Councilor Washington urged the Task Force to fully define who in the region would be available to serve.

Councilor Buchanan noted Councilor Wyers would most likely be elected the Council's Presiding Officer for calendar year 1993. He listed those who were planning to vote for Councilor Wyers: Councilors Buchanan, McFarland, Van Bergen and Wyers and Councilors-Elect Gates, Kvistad and Monroe. He asked the rest of the Council to vote for Councilor Wyers also to ensure the Council's success in making the transition of the new Metro Charter a vital, successful and comfortable process. Councilor Buchanan noted there were new Committee interest forms for Councilors to fill out.

Councilor McLain said the new Charter and Councilor salaries had created new issues, and noted new Councilors would be on the Council January 1993. She said the new Councilors had not yet been sworn in, and to her knowledge, no definitive decisions had been made. She said she had already filled out a committee preference form. She said the Council would be comprised of 13 equal members in January.

Councilor Collier urged the Council to work together to avoid a difficult Presiding Officer selection process. She said the Council needed to work together as a team to resolve and implement the issues raised by the Metro Charter.

Councilor Collier told the Council it had been a pleasure to work with them for the past six years and that she would miss them all.

Councilor Wyers noted Councilors, especially the three Councilors-Elect, wished to have an organizational meeting at the beginning of the year rather than waiting until January 14. She noted the committee preference form contained a new proposed meeting time.

Councilor McLain said the committee preference form contained major changes, including adding Wednesday as a committee meeting day in addition to Tuesdays and Thursdays. She said the Council should discuss that in addition to starting Council and committee meetings at 2:00 p.m. instead of 5:30 p.m. She said she had encouraged her constituents to attend Council and committee meetings on the assumption that they would begin at 5:30 p.m. She asked at what times other jurisdictions held their meetings and said that data should be reviewed before the Council made a final decision on meeting times.

Councilor Moore concurred with Councilor McLain and said her committee preferences had not changed since she had filled out the first preference form and did not need to fill out a second one. She expressed dismay that committee membership could be dependent on how a Councilor voted.

Councilor McFarland said it was extremely important to know who might want to serve on a particular committee and said an organizational meeting possibly on January 4 would help the Council get started earlier because of all the work related to implementation of the Metro Charter.

Presiding Officer Gardner said Council business was not so pressing that the first meeting of the year could not take place January 14. He said the five Council committees were not going to do anything in the first 14 days that they could not do after January 14.

Councilor Moore asked when a meeting schedule would be provided to the Council. Don Carlson, Council Administrator, said the Council would be notified of any meeting variations or changes.

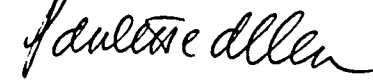
Councilor Washington said the Council should think about the issues during the rest of December and come back prepared to work as a team.

Councilor Gronke said he was privileged to have had the opportunity to serve as a Metro Councilor and thanked the Council for an educational experience.

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All business having been attended to, Presiding Officer Gardner adjourned the meeting at 8:49 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paulette Allen".

Paulette Allen
Clerk of the Council

MINUTES OF THE METRO COUNCIL

January 28, 1993

Council Chamber

Councilors Present: Presiding Officer Judy Wyers, Deputy Presiding Officer Roger Buchanan, Richard Devlin, Jim Gardner, Mike Gates, Sandi Hansen, Jon Kvistad, Ruth McFarland, Susan McLain, Rod Monroe, Terry Moore, George Van Bergen and Ed Washington

Councilors Absent: .None

Also Present: Executive Officer Rena Cusma

Presiding Officer Wyers called the regular meeting to order at 4:00 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. ORDINANCES, FIRST READINGS

4.1 Ordinance No. 93-482, For the Purpose of Amending Metro Code Chapter 5.02, Metro Solid Waste Disposal Charges and User Fees at Metro Facilities

The Clerk read the ordinance for a first time by title only.

Presiding Officer Wyers announced Ordinance No. 93-482 had been referred to the Solid Waste Committee for consideration.

5. ORDINANCES, SECOND READINGS

5.1 Ordinance No. 93-477A, For the Purpose of Establishing Criteria for Council District Apportionment, and Declaring an Emergency (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Wyers announced Ordinance No. 93-477 was first read on December 22, 1992, and referred to the Governmental

Affairs Committee for consideration. She said the Governmental Affairs Committee considered the ordinance on January 7 and 21 and recommended Ordinance No. 92-477A to the full Council for adoption on January 21.

Motion: Councilor Moore moved, seconded by Councilor Hansen, for adoption of Ordinance No. 93-477A.

Councilor Moore gave the Governmental Affairs Committee's report and recommendations. She explained amendments made by the Committee and how the Committee established criteria for the Apportionment Commission. She said the Committee discussed at length having whole districts comprised within the counties. She said arguments in favor were that counties did exist and citizens would be more aware of who their Councilor was. She said to that effect, Section No. 4 was amended to read: "To the maximum extent possible after meeting all other applicable criteria, each of the three counties with territory in the Metro area shall have at least one district wholly within that county," and that Section No. 5 was amended to read: "The commission shall give consideration to existent precincts and, to the maximum extent possible after meeting all other applicable criteria, maintain communities of interest. Communities of interest are represented in counties, cities under 15,000 population, established neighborhood associations, neighborhood planning organizations, community planning/participation organizations, or other similar groups as specifically defined by the commission." She clarified that the last sentence in Section No. 5 of the ordinance printed in the agenda packet was incorrect and the corrected copy of the ordinance should be referred to for the vote.

Councilor Moore said the Committee also discussed the Commission's work plan and that they wanted the Commission to hold at least one hearing within 30 days after forming to gather information and then, after a draft reapportionment plan was developed, to hold public hearings in each of the proposed seven districts.

Councilor Moore said the Committee also amended the ordinance to add Section No. 7, "The apportionment commission shall complete a draft plan by May 15, 1993, in order to provide sufficient time for public hearing and review."

Councilor Moore noted Council Analyst Casey Short's memorandum dated January 28, 1993, "Ordinance No. 93-477A - Apportionment Criteria," which gave the Clackamas County Board of Commissioner's apportionment preferences for Clackamas County cities, which information was provided by Councilor Gates.

Councilor Washington noted in Section No. 6 of the ordinance, "on" should be spelled "one."

Councilor Devlin stated for the record an issue he believed could come up with regard to the Apportionment Commission, noting the two criteria as stated by the Governmental Affairs Committee: 1) Consistency with federal guidelines contained in the 1990 census; and 2) The Commission should use the latest estimates. He said the two criteria might not conflict, but said if growth in the region had increased more than the stated 5 percent, or more than 53,000 citizens, the Apportionment Commission should use the latest population estimates for consistency with federal guidelines.

Presiding Officer Wyers opened the public hearing. No citizens appeared to testify and the public hearing was closed.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye on Ordinance No. 93-477A with typographical errors as noted corrected. The vote was unanimous and Ordinance No. 93-477A was adopted.

5.2 Ordinance No. 93-474, An Ordinance Amending Ordinance No. 92-449B, Revising the FY 1992-93 Budget and Appropriations Schedule for the Purpose of Funding Increases in the Solid Waste Revenue Fund Operating Account (Public Hearing)

The Clerk read the ordinance for a second time by title only.

Presiding Officer Wyers announced Ordinance No. 92-474 was first read on December 10, 1992, and referred to both the Solid Waste and Finance Committees for consideration. She said the Solid Waste Committee considered the ordinance on January 5 and the Finance Committee considered it on January 13 and recommended Ordinance No. 93-474 to the full Council for adoption.

Motion: Councilor Buchanan moved, seconded by Councilor Devlin, for adoption of Ordinance No. 93-474.

Councilor Buchanan gave the Finance Committee's report and recommendations. He explained the ordinance would amend the Solid Waste Revenue Fund Budget to authorize the hiring of 13 additional employees to meet additional program needs, primarily in the area of household hazardous wastes (HHW). He said the HHW Program had received waste from approximately 200 customers per week rather than the 50 customers per week estimated in original staff projections. He said the increase in customers had

increased the volume of HHW material to be processed. He said Sam Chandler, Solid Waste Operations Manager, said the Solid Waste Department reviewed two methods to meet increased needs: 1) Utilizing the services of the existing disposal contractor to handle the increased waste; or 2) Hiring additional employees to provide services. He said staff concluded the second option was more cost-effective and would save \$732,000 over the course of one year.

Presiding Officer Wyers opened the public hearing. No citizens appeared to testify and the public hearing was closed.

Councilor McLain noted the Solid Waste Committee report printed in the public was specific as to why additional full-time employees had to be hired and said the hires would fulfill a public need.

Councilor Hansen asked if surveys were still being held on the source of HHW. She asked Mr. Chandler if the FTEs funded could also be used at Metro Central Station, or if additional FTEs would be requested next year. Presiding Officer Wyers said the FTEs funded should take care of all current and future needs. She noted data had been gathered on HHW users via their zip codes. Mr. Chandler said staff would develop and distribute a map in February based on where users originated from. Councilor McLain noted staff was also developing data on the different types of HHW disposed of. Councilor Gardner said there was a great deal of demand for these services despite HHW days sponsored by Metro in the past. He asked if staff projected demand for HHW disposal services would decrease. Mr. Chandler said the solid waste system had to provide ancillary services and provide data on alternative products. He said the education component would create lesser demand in the future. He said there was a great deal of HHW material in the region that had to be disposed of and did not anticipate the demand for HHW disposal would dwindle soon.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Ordinance No. 93-474 was adopted.

6. RESOLUTIONS

6.1 Resolution No. 93-1731, For the Purpose of Endorsing the Region's Priority Congestion Mitigation/Air Quality Program Projects and Amending the RTP and FY 93 TIP for Inclusion of These Projects and the Transportation Enhancement Projects

Main Motion: Councilor Gates moved, seconded by Councilor Kvistad, for adoption of Resolution No. 93-1731A.

Councilor Gates gave the Planning Committee's report and recommendations. He explained the resolution would endorse the region's priority congestion mitigation/air quality program projects and amend the Regional Transportation Plan (RTP) and the FY 1993 Transportation Improvement Plan (TIP) for inclusion of those projects and the Transportation Enhancement Projects. He said the two new categories added through the Intermodal Surface Transportation Efficiency Act (ISTEA) were: 1) Congestion Mitigation/Air Quality (CMAQ) funds for projects to reduce vehicle emissions through transit improvement projects, ride-share, park-and-ride, bicycle lanes and pedestrian paths; and 2) Transportation Enhancement Funds for projects that make the transportation system a "better neighborhood." He said such projects would act to mitigate the impact of the transportation system on the surrounding area rather than address capacity or operation. He said projects could include landscaping, environmental assistance, wetland damaged projects, and restoration of historic aspects of projects. He said over the last six months, Metro's Planning Department and the Oregon Department of Transportation (ODOT) had used the process to define projects criteria and solicit applications for regional projects and that ODOT had done the same state-wide. He said the bill under which the funds were provided would last for six years. He said the list of projects before the Council for consideration was for three years and that the second three-year portion would be completed next year.

Councilor Gates said information published in the packet included information on criteria, how projects were placed on the priority ranking, and information about the costs of, and information about, the projects themselves.

Councilor Gates noted the "A" draft before the Council included language on the Americans with Disabilities (ADA) Act.

Councilor Moore expressed concern because of the list of projects to be funded by the CMAQ funds and said her main concerns centered on design. She said one project in particular in Washington County would cost \$250,000 and wanted to ensure the design did create an actual reduction in congestion.

Motion to Amend: Councilor Moore moved to amend Resolution No. 93-1731, seconded by Councilor Devlin, with additional language: 1) Adding an eighth Whereas clause; "Whereas, the design of such projects is crucial to their success and must respond to the American's with Disabilities Act (ADA) and other similar standards for safe, usable, and attractive pedestrian and bicycle traffic"; adding Be it Resolved Section No. 7; "That all projects for construction of pedestrian or bicycle facilities shall conform to the standards established in the federal ADA Access Guidelines and with the performance standards found in the State of Oregon's "Best Management Practices" for the Goal 12 Transportation Planning Rule." and to renumber Section No. 8 as Section No. 9 and Section No. 9 as Section No. 10.

Councilor Moore said ADA and the Best Management Practices were selected because ADA mandated certain procedures and the Best Management Practices, while only it was only a guideline and not regulatory in nature, provided room to respond to local needs. She said the new language was not intended to be prescriptive, but to provide some guidance on the kind of projects the Council would like to see designed.

Councilor Van Bergen said the amendments could be acceptable at this time, but requested Resolution No. 93-1731A be referred back to the Planning Committee for further review.

Councilor Devlin asked staff what deadline Metro had to meet when adopting the resolution.

Mike Hoglund, Transportation Planning Supervisor, said the Transportation Enhancement Projects had already been approved and the CMAQ projects were scheduled to go before the OTC on February 17 or the following month dependent on ODOT staff's time line. He said there was adequate time if the "A" version was referred back to Committee for further work at this time.

Councilor Devlin did not believe the amendments would unduly concern JPACT, but believed if the resolution went back to Committee, it should also go back to JPACT and asked if there was sufficient time for that to occur.

Andy Cotugno, Director of Planning, said JPACT could review the amended resolution on February 11 and the resolution could be scheduled for consideration at the February 25 Council meeting. Mr. Hoglund said the OTC could review the list before or after

adoption of the resolution and said the amendment did not materially alter the project list.

Councilor Kvistad said he had no objections to amendment and adoption at this time.

Mr. Cotugno said amendments dealing with the TIP should be referred back to JPACT and be returned with the changes incorporated. Councilor Van Bergen asked if the amendment language altered the TIP. Councilor Gardner said the amendments did not alter the TIP or the list of projects.

Councilor Gates suggested adoption of the original resolution now and then referral to JPACT with recommended amendments.

The Council discussed timing and procedural issues further. Councilor Devlin did not anticipate JPACT objecting to the amendments as proposed. Mr. Cotugno said the amendment would not alter the TIP. Councilor McLain said it was appropriate for the Council to make its own amendments and did not think the amendment presented procedural difficulties. Councilor Monroe supported the amendment, but believed amendments should be made at Committee. Councilor Buchanan supported the motion to amend also. Presiding Officer Wyers said it was convenient to have the opportunity to amend legislation at the Council level if necessary.

Vote on Motion to Amend: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1731 was amended.

Councilor Moore briefly discussed the list of projects and noted the new Exhibit C before the Council for inclusion with the resolution. She discussed one project's inappropriateness for inclusion and asked if the Council wished to delete it. Councilor McLain said the Council was not always provided with comprehensive information or analysis on projects provided at the Committee level and that more should be provided in the future to assist the Council in decision-making.

Vote on Main Motion as Amended: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1731A.

6.2 Resolution No. 93-1738, For the Purpose of Amending the FY 93 Unified Work Program and Authorizing Contracts with ODOT and 1000 Friends of Oregon for the LUTRAQ Project

Motion: Councilor Devlin moved, seconded by Councilor Buchanan, for adoption of Resolution No. 93-1738.

Councilor Devlin gave the Planning Committee's report and recommendations. He explained the resolution would amend the FY 1993 Unified Work Plan (UWP) and authorize contracts with ODOT and 1000 Friends of Oregon. He said Metro was acting in its capacity as a metropolitan planning organization (MPO) to pass through funds from the Federal Highway Administration (FHWA) for the Land Use, Transportation and Air Quality (LUTRAQ) project. He said Mr. Cotugno stated the LUTRAQ study had two aspects: 1) The research and development aspect on modelling requirements; and 2) The production of an alternative that was included in the Western Bypass study in December 1992. He said that alternative had become one of ODOT's alternatives and would be examined by ODOT. He said this resolution would fund the remainder of the research and development aspect of the LUTRAQ Project. He said the results of the study would assist Metro's 2040 project and how to comply with LCDC's Rule 12 and Metro's Regional Urban Growth Goals and Objectives (RUGGOS). He said Councilor Kvistad stated concern about the resolution at Committee, stating it was inappropriate not to fund the project at this point, but did express concern about Metro passing through funds to an entity that could have interest in a potential action by Metro.

Councilor Kvistad stated his objections to the process. He said passing public funds through an agency to any entity that had direct involvement in the project being funded and was advocating a direct alternative whether on it was on one side or the other side, was not appropriate public policy. He said the study's benefits were positive for Metro, but said he could not support the resolution because of his concern about the process used and related issues.

Councilor Gardner concurred with Councilor Devlin's comment on the project's benefits to Metro because of the enhanced modelling capability gained. He said Metro made grants or passed through funds to many private groups/entities and cited the 1% for Recycling Program as an example. He said those parties could come back to Metro in the future after having received Metro funds raised from solid waste rate revenues and advocate a project and/or a policy. He said if Metro did not endorse the funds, it would not get the funds at all and miss the opportunities offered by the LUTRAQ project. He said Metro's role was to serve as the middle man.

Councilor McLain concurred with Councilor Gardner and said counties and cities could be regarded as special interest groups. She noted citizens formed groups which in turn became special interest groups.

Vote: Councilors Devlin, Gardner, Gates, Hansen, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilor Kvistad voted nay. Councilor Buchanan was absent. The vote was 11-1 in favor and Resolution No. 93-1738 was adopted.

6.3 Resolution No. 93-1739A, For the Purpose of Adopting a Policy on Plastics Recycling in the Metro Region

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1739A.

Councilor McLain gave the Solid Waste Committee's report and recommendations and noted a fax received from Estle Harlan, Tri-County Council, dated January 28, 1993. She said Ms. Harlan indicated the hauling industry's support of the resolution as amended, provided that Metro would not support the use of tip fees or other public sources of funding to improve plastic recycling infrastructures or to cover promotional efforts that should be made by the plastics industry.

The Council briefly discussed the resolution further.

Vote: Councilors Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilors Buchanan and Van Bergen were absent. The vote was unanimous and Resolution No. 93-1739A was adopted.

6.4 Resolution No. 93-1747A, For the Purpose of Establishing the 1993 Metro Legislative Task Force

Motion: Councilor Gardner moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1747A.

Councilor Gardner gave the Governmental Affairs Committee's report and recommendations. He explained in the past, resolutions appointing committee chairs to the Legislative Task Force had listed those persons by name, and explained Resolution No. 93-1747A appointed committee chairs to the Task Force generically to avoid redundancy in the future. He said resolution would also give further detail on what the Legislative Task Force's role would be and how the Council would adopt

positions on State legislation. He said after discussion, it was decided that the Governmental Affairs Committee would be the conduit to make recommendations on state legislation to the full Council for consideration.

Councilor Van Bergen believed the Task Force only should be the venue in which to process legislation and did not approve of using the Governmental Affairs Committee for the same purpose. Councilor Gardner clarified that the Governmental Affairs Committee had been selected for logistical purposes only as a central clearing place to process recommendations on state legislation. He said it was clear that committee chairs were expected to schedule legislative items before their committee for discussion. Councilor McLain explained the Governmental Affairs Committee had shared Councilor Van Bergen's goals and wanted to ensure the Council shared the same knowledge on legislative issues and said Exhibit A as amended should address Councilor Van Bergen's concerns.

Councilor Devlin said the Governmental Affairs Committee should have a legislative package developed by its second meeting in February for the full Council to support. Councilor Van Bergen again expressed his objections to the resolution because of failures in past years with regard to the process. Councilor McLain said the Council's standing committee structure should be fully utilized. Councilor Gardner noted Western Advocates would brief the Council/Committees on legislative issues on a regular basis. The Council briefly discussed the issues further. Councilor Moore explained it was clear that speakers would give the State Legislature the Metro Council's recommendations as made and that the need for the Task Force was in case there was an extremely short time line in which to make recommendations to the Legislature.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilor Van Bergen voted nay. The vote was 12-1 in favor and Resolution No. 93-1747A was adopted.

7. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Noel Kline, Western Advocates, briefed the Council on legislative activities to-date and the Council discussed the same.

Councilor McFarland announced with regret that Rosie, Metro Washington Park Zoo's first elephant, had been euthanized the date of this meeting due to ill health.

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All business having been attended to, Presiding Officer Wyers
adjourned the meeting at 5:40 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paulette Allen", written in dark ink.

Paulette Allen
Clerk of the Council

MINUTES OF THE METRO COUNCIL

February 11, 1993

Council Chamber

Councilors Present: Presiding Officer Judy Wyers, Deputy Presiding Officer Roger Buchanan, Richard Devlin, Jim Gardner, Mike Gates, Sandi Hansen, Jon Kvistad, Ruth McFarland, Susan McLain, Rod Monroe, Terry Moore, George Van Bergen and Ed Washington

Councilors Absent: None.

Presiding Officer Wyers called the regular meeting to order at 4:04 p.m. Presiding Officer Wyers announced Agenda Item No. 7.5, Resolution No. 93-1756, originally scheduled for this agenda, had been accidentally omitted due to clerical error and had been reinstated.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATIONS TO THE COUNCIL ON NON-AGENDA ITEMS

None.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. CONSENT AGENDA

4.1 Minutes of January 4 and 14, 1993

REFERRED FROM THE FINANCE COMMITTEE

4.2 Resolution No. 93-1478, For the Purpose of Confirming the Appointment of William E. Peressini to the Investment Advisory Board

Councilor Moore noted the January 14, 1993, minutes contained an error in the first paragraph on page 11 which read: "She (Councilor McLain) noted similar projects had been successful in California, Idaho, Hawaii and other states," and asked if those states were the locations where successful congestion pricing programs had been carried out. Councilor McLain said the record should read "California, Oklahoma, Hong Kong and Singapore."

Motion to Correct: Councilor Devlin moved, seconded by Councilor Buchanan, to correct the minutes as stated above.

Vote on Motion to Correct: Councilors Buchanan, Devlin, Gardner, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gates and Hansen were absent. The vote was unanimous and the January 14 minutes were corrected.

Motion: Councilor Kvistad moved, seconded by Councilor Washington, to adopt the Consent Agenda as corrected.

Vote: Councilors Buchanan, Devlin, Gardner, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilors Gates and Hansen were absent. The vote was unanimous and the Consent Agenda was adopted as corrected.

5. ORDINANCES, FIRST READINGS

5.1 Ordinance No. 93-483, For the Purpose of Amending Metro Code Section 5.05.030 to Modify the Designated Facility Status of Columbia Ridge Landfill, Hillsboro Landfill and Lakeside Reclamation for Purposes of Flow Control, to Add Roosevelt Regional Landfill and Finley Buttes Landfill to the List of Designated Facilities, and Declaring an Emergency

The Clerk read the ordinance for a first time by title only.

Presiding Officer Wyers referred Ordinance No. 93-483 to the Solid Waste Committee for consideration.

Councilor Buchanan noted objections to the first reading of the ordinance registered by Delyn Kies, Washington County Solid Waste Management Coordinator, and Estle Harlan, Tri-County Council, because they believed the ordinance should not be considered until after the first meeting of the newly-reformed Solid Waste Advisory Committee (SWAC). He said reading the ordinance for a first time did not predetermine the Council's decision.

Presiding Officer Wyers noted the Council's rules stated that an ordinance filed in a timely manner must be placed on the next possible Council agenda.

6. ORDINANCES, SECOND READINGS

6.1 Ordinance No. 93-482, For the Purpose of Amending Metro Code Chapter 5.02, Metro Solid Waste Disposal Charges and User Fees at Metro Facilities

The Clerk read the ordinance for a second time by title only.

Presiding Officer Wyers announced Ordinance No. 93-482 was first read on January 28, 1993, and referred to the Solid Waste Committee for consideration. She said the Solid Waste Committee considered the ordinance on February 2 and recommended it to the full Council for adoption.

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Ordinance No. 93-482.

Councilor McLain gave the Solid Waste Committee's report and recommendations. She said the ordinance created a new fee on Household Hazardous Waste (HHW) to help defray the costs of Metro's HHW program. She said a typical user would pay \$5.00 per load and users with special loads would pay \$10.00 per load.

Presiding Officer Wyers opened the public hearing.

No persons appeared to testify and the public hearing was closed.

Councilor Moore asked if the fee was small enough so that customers would not be discouraged from disposing of hazardous waste at Metro facilities. Councilor McLain said no study had been performed, but that Metro had to be able to pay for an expensive service offered for the public's benefit. Councilor Moore said educational cards could be distributed at the gate to educate the public on the cost of disposing of hazardous waste. Councilor Devlin said a small brochure could be developed on alternative products that did not require hazardous waste disposal. Presiding Officer Wyers said she believed such a brochure had been developed or would be.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Ordinance No. 93-482 was adopted.

7. RESOLUTIONS

7.1 Resolution No. 93-1742A, For the Purpose of Confirming Citizen Member Appointees to the Metro Policy Advisory Committee (MPAC)

Motion: Councilor Hansen moved, seconded by Councilor Gardner, for adoption of Resolution NO. 93-1742A.

Councilor Hansen gave the Governmental Affairs Committee's report and recommendations. She explained the resolution approved James Zehren and Arnold Polk for appointment to the Metropolitan Policy Advisory Committee (MPAC) and that Sandra Suran would be appointed via resolution later due to logistical difficulties. Councilor Hansen introduced Mr. Zehren and Mr. Polk to the Council. She noted MPAC had its first meeting on February 10 in conjunction with the Regional Policy Advisory Committee (RPAC).

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1742A was adopted.

7.2 Resolution No. 93-1479A, For the Purpose of Establishing a New Metro Solid Waste Advisory Committee

Motion: Councilor McFarland moved, seconded by Councilor Devlin, for adoption of Resolution No. 93-1479A.

Councilor McFarland gave the Solid Waste Committee's report and recommendations. She explained both the Solid Waste Policy Advisory Committee (SWPAC) and Solid Waste Technical Advisory Committee's (SWTAC) work had merged over the years and the newly formed Solid Waste Advisory Committee (SWAC) would provide recommendations on the solid waste planning process, provide recommendations on compliance with regional solid waste management planning, provide recommendations on alternative solid waste policies and practices, and recommend opportunities for citizen involvement and achieve regional consensus on said policies. She explained the SWAC's membership composition and said that Councilor Buchanan would serve as chair and she would serve as vice chair. She said three citizens would serve on the committee and explained non-voting members included the Director of Metro's Solid Waste Department.

Vote: Councilors Buchanan, Devlin, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilor Gardner was absent. The vote was unanimous and Resolution No. 93-1479A was adopted.

Presiding Officer Wyers recessed the Metro Council and convened the Metro Contract Review Board to consider Agenda Item Nos. 7.3 and 7.4.

7.3 Resolution No. 93-1750, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.060, Personal Services Contracts Selection Process, and Authorizing a Sole-Source Contract with Stop Oregon Litter and Vandalism (SOLV) for Sponsorship of the Annual "SOLV-IT" Cleanup Event on Saturday, April 17, 1993

Motion: Councilor Gates moved, seconded by Councilor McFarland, for adoption of Resolution No. 93-1750.

Councilor Gates gave the Solid Waste Committee's report and recommendations. He explained the resolution would authorize a sole-source contract with SOLV to coordinate the fourth annual "SOLV-IT" clean-up event scheduled for Saturday, April 17. He said this would be the fourth time Metro had been a primary sponsor of the event and that \$30,000 had been budgeted over last year's allocated amount of \$20,000 for this year's event because of increasing costs.

Jack McGowan, SOLV president, introduced Ann Marie Massano, KINK Radio, and gave a video presentation on SOLV activities.

The Council briefly discussed the event and related activities with Mr. McGowan.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Washington and Wyers voted aye. Councilor Van Bergen was absent. The vote was unanimous and Resolution No. 93-1750 was adopted.

7.4 Resolution No. 93-1752, For the Purpose of Authorizing an Exemption to Metro Code Chapter 2.04.060 Personal Services Contracts Selection Process, and Authorizing a Sole Source Contract with the Portland Art Museum for Sponsorship of a One-Day Event to Emphasize Waste Reduction and Recycling in the Museum Family Sunday Series, Sunday, March 14, 1993

Motion: Councilor McLain moved, seconded by Councilor Hansen, for adoption of Resolution No. 93-1752.

Councilor McLain gave the Solid Waste Committee's report and recommendations. She said the contract represented a new educational endeavor for Metro and said it was sole source because only one provider, the Art Museum, could provide this type of experience or educational offering. She said the Museum had five family Sunday events scheduled, had requested \$5,000 in financial assistance and requested technical assistance as well. She said the \$5,000 was not budgeted, but funds were available in the Waste Reduction Division's budget. She said Metro as a sponsor would be listed in 7 print advertisements and 30 radio spots. She said the Art Museum had also offered the loan of art work for display in the lobby of Metro's new Regional Center.

Vote: Councilors Buchanan, Devlin, Gardner, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. Councilor Gates was absent. The vote was unanimous and Resolution No. 93-1752 was adopted.

Presiding Officer Wyers adjourned the Metro Contract Review Board and reconvened the Metro Council.

7.5 Resolution No. 93-1756, For the Purpose of Amending the FY 93 Unified Work Program and Endorsing the Use of Surface Transportation Program Funds for Regional Transportation Planning

Councilor Moore noted Agenda Item No. 7.5 had been added to the agenda after it was printed and asked if any Councilor wished to have it removed from the agenda. Councilor Van Bergen noted the resolution was originally scheduled for consideration on this agenda and had been omitted inadvertently.

Motion: Councilor Moore moved, seconded by Councilor Devlin, for adoption of Resolution No. 93-1756.

Councilor Moore gave the Planning Committee's report and recommendations. She explained the resolution called for the allocation of \$1.75 million of the \$59 million discretionary to

the region from federal Surface Transportation Program (STP) funds. She said the funds were allocated for a six-year time period. She said \$585,000 of the allocation had been approved by the Planning Committee and previously by the Joint Policy Advisory Committee on Transportation (JPACT). She said Planning Committee discussion centered on when and how JPACT should be briefed on Planning Committee discussion and review. Councilor Moore expressed concern that funding was being approved for projects without review because they were part of bigger FAU projects that had already been reviewed and approved. She said Planning Department staff said they would return to Committee with further information on those projects and determine a way to keep the Planning Committee informed on overall projects.

Vote: Councilors Buchanan, Devlin, Gardner, Gates, Hansen, Kvistad, McFarland, McLain, Monroe, Moore, Van Bergen, Washington and Wyers voted aye. The vote was unanimous and Resolution No. 93-1756 was adopted.

7. COUNCILOR COMMUNICATIONS AND COMMITTEE REPORTS

Councilor Hansen noted a recent article in The Oregonian's Metro section on housing goals and the North Portland Enhancement Committee's (NPEC) Home Loan Grant Program. She noted staff had logged over 200 phone calls since the article was published.

The Council briefly discussed the pending Global Warming conference.

Councilor Moore noted she had been asked to present testimony to the City of Portland's Planning Commission on east buttes and upland areas as they related to Metro's Greenspaces Program.

Councilor Washington noted when individual Councilors spoke in another Councilor's district, it would be a courtesy to let that District's Councilor know in advance.

The Council discussed Multnomah County's proposal to transfer its parks and cemeteries to Metro. Presiding Officer Wyers noted her memorandum dated February 11 creating a Council Greenspaces Task Force comprised of Councilors Devlin, McFarland, Monroe, Moore and herself. She said the Task Force would work on Multnomah County and other parks issues.

Councilor McLain said the Council should discuss designated facilities issues at length before the Council voted on Ordinance No. 93-483.

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Councilor Monroe distributed the Budget Committee meeting schedule and discussed same.

Councilor Monroe said the Council Task Force on Expenses would require at least two meetings before it developed recommendations for Governmental Affairs Committee consideration.

Councilor Gardner noted discussion at the February 10 joint MPAC/RPAC meeting on governmental dues.

Councilor Gates noted he attended a special districts meeting held in Washington County and said Metro had been asked to take a leadership role in providing a forum for emergency management services.

Councilor McLain asked about the legal ramifications of MPAC becoming an employer and employing staff outside of regular Metro staff.

The Council as a whole discussed the possibility of having a Councilor conference room in the tower portion of Metro Regional Center.

Presiding Officer Wyers asked the Council for consensus on a slide show on Metro for community presentations. The Council discussed same and agreed the slide show could be produced in-house rather than being contracted out. Presiding Officer Wyers referred discussion on the slide show to the Governmental Affairs Committee for consideration.

Presiding Officer Wyers noted she had asked the Public Affairs Department to begin coordinated efforts to use Councilors when Metro received requests for speakers in the community and noted she would issue weekly memos to the Council to let them know the status of Public Affairs Department projects and her activities.

All business having been attended to, Presiding Officer Wyers adjourned the meeting at 6:30 p.m.

Respectfully submitted,



Paulette Allen
Clerk of the Council

Meeting Date: March 11, 1993
Agenda Item No. 5.1

ORDINANCE NO. 93-486

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-486 FOR THE PURPOSE OF CREATING METRO CODE CHAPTER 2.13, TAX STUDY COMMITTEE.

DATE: March 3, 1993

Presented by: Craig Prosser

PROPOSED ACTION

Amend Metro Code to create Chapter 2.13, Tax Study Committee.

FACTUAL BACKGROUND AND ANALYSIS

The 1992 Metro Charter requires consultation with a tax study committee prior to the imposition of any new tax by Metro, which does not require prior voter approval. The Finance and Management Information Department is beginning a project to examine and identify possible new funding sources for Metro, and it is necessary to establish a procedure to create a tax study committee to help in this process. The Charter does not specify the make-up of the committee (beyond certain broad categories of interests) nor does it specify how appointments will be made nor for what term. This ordinance creates procedures for the appointment of the committee.

Under the terms of this proposed code section, a tax study committee will consist of eleven members, broadly representative of the population, public bodies, and other interests within Metro, plus the Executive Officer and the Presiding Officer as ex official non-voting members. Members of the committee will be appointed by the Executive Officer for specified terms and confirmed by the Council. The proposed Code language allows the Executive Officer to extend terms for a period not to exceed one year, which will allow the committee to remain in existence for a short period of time if its work is not complete at the time terms expire. Any such extension must be promptly reported to the Council. The Code language also requires the Executive Officer and the chair of the committee to make a final report to the Council on the activities and recommendations of the committee.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 93-486.

CP:rs

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE METRO)	ORDINANCE NO. 93-486
CODE, SECTION 2, AND CREATING A)	
TAX STUDY COMMITTEE, AND A)	Introduced by Rena Cusma,
CITIZEN INVOLVEMENT PROCESS;)	Executive Officer
AND DECLARING AN EMERGENCY	

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amending the Metro Code. Section 2 of this Ordinance amends the Metro Code.

Section 2. Adding Chapter 2.13. The following chapter is added to the Metro Code.

CHAPTER 2.13

TAX STUDY COMMITTEE

2.13.010 Creation and Purpose: There is hereby created a Tax Study Committee. The purpose of the Tax Study Committee is to consult with and advise the Executive Officer and Council regarding possible adoption of taxes that are not subject to prior voter approval under the Charter.

2.13.020 Committee Composition and Size: The Committee shall consist of eleven appointed members, plus the Executive Officer and the Presiding Officer as ex officio non-voting members. The membership of the Committee shall be representative of the general population, and from any businesses and the governments of cities and counties, special districts and school districts within the District. The Executive Officer shall designate the chair and vice-chair of the Committee.

2.13.030 Appointments, Terms: The Executive Officer shall appoint members for specific terms, subject to confirmation by the Council. Unless otherwise specified at the time of appointment and confirmation, members shall serve a term of one year from the date of confirmation. If the Executive Officer finds a need, the Executive Officer may extend the term of any Committee member for a period not to exceed one year. Any such extensions shall be promptly reported to the Council.

Section 2.13.040 Meetings: The Committee shall meet to consider any tax proposal referred to it by the Executive Officer or the Council.

Section 2.13.050 Final Report: Upon completion of the Committee's review of any tax proposal, the Executive Officer and the chair of the Committee shall prepare a report to the Council on the activities and recommendations of the Committee.

Section 3. Effective Date. This Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the Metro Charter took effect January 1, 1993, and it is necessary that this Committee be created immediately to begin work to develop funding sources for new Charter-mandated responsibilities, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

Meeting Date: March 11, 1993
Agenda Item No. 5.2

ORDINANCE NO. 93-487

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-487 ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 1993-94, MAKING APPROPRIATIONS AND LEVYING AD VALOREM TAXES; AND DECLARING AN EMERGENCY

Date: March 2, 1993

Presented by: Rena Cusma
Executive Officer

FACTUAL BACKGROUND AND ANALYSIS

I am forwarding to the Council for consideration and approval my proposed budget for Fiscal Year 1993-94.

Council action, through Ordinance No. 93-487, is the first step in the process for the adoption of the District's operating financial plan for the forthcoming fiscal year. Final action by the Council to adopt this plan is scheduled for June 24, 1993.

Oregon Revised Statutes 294.635, Oregon Budget Law, requires that Metro prepare and submit the District's approved budget to the Tax Supervising and Conservation Commission by May 15, 1993. The Commission will conduct a hearing during June 1993 for the purpose of receiving information from the public regarding the Council's approved budget. Following the hearing, the Commission will certify the budget to the Council for adoption and may provide recommendations to the Council regarding any aspect of the budget.

Once the budget plan for Fiscal Year 1993-94 is adopted by the Council, the number of funds and their total dollar amount and the maximum tax levy cannot be amended without review and certification by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of that fund in the period between approval, scheduled for May 6, 1993, and adoption.

Exhibits B and C of the Ordinance will be available at the public hearing on March 11, 1993.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends that the Council conduct a public hearing on Ordinance No. 93-487. The Executive Officer recommends that the Council schedule consideration of the proposed budget and necessary actions to meet the key dates as set out in Oregon Budget Law described above.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 1993-94, MAKING APPROPRIATIONS AND LEVYING AD VALOREM TAXES; AND DECLARING AN EMERGENCY)))))	ORDINANCE NO. 93-487 Introduced by Rena Cusma, Executive Officer
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WHEREAS, The Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 1993, and ending June 30, 1994; and

WHEREAS, Recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit A and made a part of the Ordinance) and considered; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The "Fiscal Year 1993-94 Metro Budget," attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Ordinance, for a total amount of ELEVEN MILLION ONE HUNDRED THIRTY ONE THOUSAND EIGHT HUNDRED NINETEEN (\$11,131,819) DOLLARS to be levied upon taxable properties within the Metro District as of 1:00 a.m., July 1, 1993.

SIX MILLION SEVENTY FOUR THOUSAND ONE HUNDRED EIGHTY TWO (\$6,074,182) DOLLARS shall be for the Zoo Operating Fund, said amount authorized in a tax base, said tax base approved by the voters of the Metro District at a general election held May 15, 1990.

FIVE MILLION FIFTY SEVEN THOUSAND SIX HUNDRED THIRTY SEVEN (\$5,057,637) DOLLARS shall be for the Convention Center Project Debt Service Fund, said levy needed to repay a portion of the proceeds of General Obligation bonds as

approved by the voters of the Metro District at a general election held November 4, 1986.

3. Pursuant to Metro code Section 7.01.020(b) pertaining to the Metro Excise Tax, the Council hereby establishes the rate of tax for the period commencing July 1, 1993, to and including June 30, 1994, to be seven and six tenths percent (7.6%).

4. The Recreation Fund is hereby created for the purpose of operating the Regional Parks, Exposition Center, and Greenspaces Planning functions. Sources of revenue shall be reimbursements, enterprise revenue, commissions, interest, user fees and other revenues attributable to the operations of the facilities or functions. In the event of elimination of this fund, disposition of any funds remaining will be in accordance with the Memorandum of Understanding with Multnomah County.

5. The Oregon Convention Center Renewal & Replacement Fund is hereby created for the purposes of extraordinary repairs or capital replacement to the Oregon Convention Center. Sources of revenue shall include deposits from the Oregon Convention Center operating fund. In the event of elimination of this fund, any funds remaining will be returned to the Operations of the Convention Center.

6. The Metro ERC Pool Fund is hereby renamed the Metro ERC Administration Fund. The purpose of the fund remains the same.

7. In accordance with Section 2.02.125 of the Metro Code, the Metro Council hereby authorizes personnel positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Ordinance, and hereby appropriates funds for the fiscal year beginning July 1, 1993, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

8. The Executive Officer shall make the following filings as provided by ORS 294.555 and ORS 310.060:

- a. **Multnomah County Assessor**
 - 1) An original and one copy of the Notice of Levy marked Exhibit D, attached hereto and made a part of this Ordinance.
 - 2) Two copies of the budget document adopted by Section 2 of this Ordinance.
 - 3) A copy of the Notice of Publication required by ORS 294.421.
 - 4) Two copies of this Ordinance.
- b. **Clackamas and Washington County Assessor and Clerk**
 - 1) A copy of the Notice of Levy marked Exhibit D.
 - 2) A copy of the budget document adopted by Section 2 of this Ordinance.
 - 3) A copy of this Ordinance.
 - 4) A copy of the Notice of Publication required by ORS 294.421.

9. This ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins July 1, 1993, and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, an emergency is declared to exist and the Ordinance takes effect upon passage.

ADOPTED by the Metro Council this 24th day of June, 1993.

Judy Wyers, Presiding Officer

Attest:

Clerk of the Council

Meeting Date: March 11, 1993
Agenda Item No. 6.1

ORDINANCE NO. 93-483A

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 93-483A, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 5.05.030 TO MODIFY THE DESIGNATED FACILITY STATUS OF COLUMBIA RIDGE LANDFILL, HILLSBORO LANDFILL AND LAKESIDE RECLAMATION FOR PURPOSES OF FLOW CONTROL, TO ADD ROOSEVELT REGIONAL LANDFILL AND FINLEY BUTTES REGIONAL LANDFILL TO THE LIST OF DESIGNATED FACILITIES AND DECLARING AND EMERGENCY

Date: March 3, 1993

Presented by: Councilor Buchanan

Committee Recommendation: At the March 2 meeting, the Committee unanimously to recommend Council adoption of Ordinance No. 93-483A. Voting in favor: Councilors Buchanan, McLain, McFarland, Washington and Wyers.

Committee Issues/Discussion: The issue of modifying and expanding the list of solid waste designated facilities has been before the Solid Waste Committee since last September. In November, the Council approved Ordinance No. 93-471C, which outlines the criteria that must be addressed in considering any new facility for designation. The history of the committee's consideration of the designated facility issue prior to the approval of this ordinance is summarized in the committee report. (Note: this ordinance and the staff report are attached).

At the time of the adoption of Ordinance No. 93-471C, applications seeking new designated facility status were pending from the Finley Buttes Regional Landfill near Boardman and the Roosevelt Regional Landfill in Klickitat County in eastern Washington. In addition, legal staff had recommended that material formerly covered under a non-system license for the Columbia Ridge Landfill be addressed in a new designated facility agreement and that the existing agreements with Hillsboro Landfill and Lakeside Reclamation Landfill be updated.

Department staff analyzed each of these facilities in accordance with the nine criteria in Ordinance No. 94-471C and prepared a summary staff report on the cumulative effect of designating all of these facilities (see attached). Reports on individual facilities also were prepared (see attached). These reports and the proposed ordinance were considered at two joint meetings of the Solid Waste Policy and Technical Advisory Committees. The committees, in a joint vote of members present, approved the ordinance by a 6-4 vote.

Committee discussion related to the designated facilities issue focused on the addition of the Roosevelt Regional Landfill and the Finley Buttes Regional Landfill to the list of approved facilities. Regional Disposal Company, the operator of the Roosevelt Regional Landfill, is seeking designated facility status for the principal purpose of marketing its disposal services to larger industrial special waste generators and generators of construction demolition

debris, petroleum contaminated soils and asbestos. Many of these materials are not acceptable for disposal at Metro's transfer facilities. Columbia Resources Inc, the operator of the Finley Buttes Regional Landfill, is seeking designated facility status primarily to allow residue from its Wastech facility to be sent to Finley Buttes.

The following is a discussion of the major issues related to the designation of these facilities.

Metro's ability to police and regulate these facilities which are located 200 miles from the Portland metropolitan area. Since these facilities would be authorized to receive only certain types of waste, some have expressed concern that Metro would be unable to adequately police what is actually disposed of at the facilities. Staff indicated that the facilities would be subject to the same inspection, reporting and auditing requirements as franchised facilities and expressed confidence in Metro's ability to regulate them. The facility operators noted that the potential loss of business that would be caused by losing their designated facility status would make it clearly in their own best interest to tightly self-regulate the materials that they receive from the Metro region. In addition, Regional Disposal Company offered to pay for an annual independent audit of the Roosevelt Landfill. This option is included in the proposed agreement between Metro and the facility.

The impact on Metro's recycling and waste reduction efforts. Some expressed concern that material sent to these facilities, particularly construction demolition debris, would not be recycled prior to being landfilled. The facility operators agreed that any material capable of being recycled would have to go through a processing facility prior to being sent to either of the landfills.

The effect on Metro's revenues. The Tier One User Fee would be collected on materials disposed of at Roosevelt or Finley Buttes. Department staff has concluded that the net revenue effect of designating these facilities would be neutral. Positive revenue impacts would include receiving fees for some material that is now illegal dumped or disposed of or placed in industrial monofills and the diversion of petroleum contaminated soils from processors to a landfill. Negative impacts would include any material shifted from a Metro transfer facility where the entire disposal fee is paid to a facility at which only the Tier One fee is paid.

Consistency with existing contractual obligations. Metro's legal staff and attorneys representing Oregon Waste Systems disagree over the effect of the designation of additional general purpose landfills on the contract to dispose 90 percent of certain regional wastes at the Columbia Ridge Landfill. Metro believes there is no effect will OWS believes that such an action could be interpreted as a violation of the contract. OWS has agreed to work with Metro to resolve these differences in interpretation.

The need for additional system capacity and the effect on existing designated facilities. Existing facility operators, particularly the Hillsboro Landfill and East County Recycling, have expressed concern about the negative economic impact of additional designated facilities. They contend that there is adequate system capacity to handle the types of waste that would be sent to the new facilities.

Representatives of the Roosevelt and Finley Buttes Landfills contend that keeping them from accepting material from the Metro region would only be anti-competitive and protect the limited number of facilities that now accept this material. They note that additional competition would drive down disposal for many industrial special waste generators.

Flow Control. In light of several recent court decisions, staff has expressed concern that a failure to designate the new facilities would risk a challenge to Metro's flow control authority. Loss of this authority would jeopardize Metro's ability to direct material to particular facilities and threaten our ability to collect revenues and issue bonds.

The need to revise existing agreements with the Hillsboro Landfill and Lakeside Reclamation is supported by department and legal staff. They contend the current agreements are limited in scope, contain unclear provisions and are outdated. The new agreements generally reflect Metro's current working relationship with these facilities.

The committee adopted minor amendments to identify the Finley Buttes Landfill as a regional landfill and correctly identify the ownership of the facility.



METRO

2000 SW First Ave.
Portland, OR 97201-5398
(503) 221-1646

Memorandum

DATE: March 4, 1993

TO: Metro Council
Executive Officer
Interested Parties

FROM: Paulette Allen, Clerk of the Council *PA*

RE: AGENDA ITEM NO. 6.1; ORDINANCE NO. 93-483A

The Solid Waste Committee received numerous pieces of written testimony at its March 2 meeting on Ordinance No. 93-483A. All correspondence received on the ordinance has not been published in this agenda packet due to its volume. Contact the Clerk of the Council at ext. 206 to view or get copies of the correspondence supplemental packet. Limited copies will be available at the Council meeting.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 93-483 <u>A</u>
METRO CODE SECTION 5.05.030 TO MODIFY)	
THE DESIGNATED FACILITY STATUS OF)	
COLUMBIA RIDGE LANDFILL, HILLSBORO)	Introduced by Rena Cusma,
LANDFILL AND LAKESIDE RECLAMATION)	Executive Officer
FOR PURPOSES OF FLOW CONTROL, TO)	
ADD ROOSEVELT REGIONAL LANDFILL AND)	
FINLEY BUTTES <u>REGIONAL</u> LANDFILL TO THE)	
LIST OF DESIGNATED FACILITIES, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, Columbia Ridge Landfill is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Columbia Ridge is currently allowed to accept solid waste as specified in its existing contract with Metro, and pursuant to duly issued non-system licenses; and

WHEREAS, Oregon Waste Systems (OWS), the owner of Columbia Ridge, was issued a non-system license on May 23, 1991, allowing it to accept special waste from the Metro area under certain conditions; and

WHEREAS, It is more appropriate, under the solid waste flow control chapter of the Metro Code, to "designate" facilities located outside of the District that are appropriate to receive waste from the Metro service area; and

WHEREAS, Hillsboro Landfill is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Hillsboro Landfill is now owned and operated by Hillsboro Landfill, Inc., an Oregon corporation which is a wholly owned subsidiary of Sanifill, Inc., located at 300 Drakes Landing, Suite 155, Greenbrae, California 94904 ~~with its home office located at 1225 N. Loop West, Suite 550, Houston, Texas 77008~~; and

WHEREAS, Hillsboro Landfill is currently allowed to accept solid waste

generated within Metro boundaries as specified in its existing agreement with Metro; and

WHEREAS, increased complexity of the solid waste disposal and recycling system has resulted in the need for a comprehensive revision of the existing agreement with Hillsboro Landfill; and

WHEREAS, revision of the agreement with Hillsboro Landfill, Inc. requires amendment of the designated facility status of Hillsboro Landfill under the Metro Code, because the existing code language references the earlier agreement; and

WHEREAS, Lakeside Reclamation, owned and operated by Grabhorn, Inc., with its home office address of Route 1, Box 849, Beaverton, Oregon 97005, is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Lakeside Reclamation is currently allowed to accept solid waste as specified in its existing agreement with Metro; and

WHEREAS, increased complexity of the solid waste disposal and recycling system has resulted in the need for a comprehensive revision of the existing agreement with Lakeside Reclamation; and

WHEREAS, revision of the agreement for Lakeside Reclamation requires amendment of the designated facility status of Lakeside Reclamation under the Metro Code, because the existing code language references the earlier agreement; and

WHEREAS, Regional Disposal Company (RDC), a Washington joint venture, with its home office at 4730 32nd Avenue South, Seattle, Washington 98118, owns and operates the Roosevelt Regional Landfill located in Klickitat County, Washington; and

~~WHEREAS, Columbia Resource Company (CRC), whose parent company is Tidewater Barge Lines, Inc., with its home office at 6 S. E. Beach Drive, Vancouver, Washington 98661, owns and operates Finley Buttes Landfill located in Morrow County, Oregon; and~~

WHEREAS, Finley Buttes Landfill Company (FBLC) with its home office at 611 S. E. Kaiser Avenue, Vancouver, Washington 98661, owns and operates Finley Buttes

Regional Landfill located in Morrow County, Oregon; and

WHEREAS, OWS, RDC and FBLC ~~ERC~~ have requested from Metro authority to accept special waste generated within the Metro service area; and

WHEREAS, Hillsboro Landfill, Inc. ~~Sanifill Inc.~~ and Grabhorn Inc. have requested continued designated facility status for Hillsboro Landfill and Lakeside Reclamation respectively, and are willing to enter into a new agreement with Metro; and

WHEREAS, Based on information contained in the staff report accompanying this Ordinance and additional information provided during the hearing on this Ordinance, the Council has determined that it is appropriate to designate the Columbia Ridge Landfill, Roosevelt Regional Landfill and Finley Buttes Regional Landfill for receipt of special waste from the District; and

WHEREAS, Based on information contained in the staff report accompanying this Ordinance and additional information provided during the hearing on this Ordinance, the Council has determined that it is appropriate to continue the designated facility status of Hillsboro Landfill and Lakeside Reclamation as amended to reference new agreements; and

WHEREAS, OWS, RDC and FBLC ~~ERC~~ are willing to enter into agreements with Metro establishing the terms under which each of their named facilities may receive special waste from the Metro region, and Sanifill Inc. and Grabhorn Inc. are willing to enter into new agreements establishing the terms under which each of their named facilities may receive solid waste from the District, now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the

designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) MSW (Municipal Solid Waste) Compost Facility. The MSW Compost Facility located at 5611 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.
- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, ~~subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.~~ subject to the terms of an agreement between Metro and Grabhorn, Inc. authorizing receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, ~~subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste~~

~~generated within the service area. subject to the terms of an agreement between Metro and Hillsboro Landfill, Inc.~~

~~Sanifill, Inc. authorizing receipt of solid waste generated within the service area.~~

- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; ~~provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility.~~ In addition, Columbia Ridge Landfill may accept special waste generated within the service area:

(A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

- (9) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, owned and operated by Regional Disposal Company of Seattle and located in Klickitat County,

Washington. Roosevelt Regional Landfill may accept special waste generated within the service area only as follows:

(A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

(10) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill owned and operated by Finley Buttes Landfill Company ~~Columbia Resource Company~~ of Vancouver, Washington and located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept special waste generated within the service area only as follows:

(A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company ~~Columbia Resource Company~~ authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly

enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
 - (2) The record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;
 - (3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
 - (4) The adequacy of operational practices and management controls at the facility;
 - (5) The expected impact on the region's recycling and waste reduction efforts;
 - (6) The expected impact on Metro's revenue;
 - (7) The consistency of the designation with Metro's existing contractual arrangements;
 - (8) The need for additional disposal capacity and the effect on existing designated facilities; and
 - (9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.
- (c) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro

Council prior to execution by the Executive Officer.

- (d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.
- (e) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage. Immediate action is warranted in this instance to offset long delays in establishing appropriate regulatory arrangements for receipt of waste from within Metro boundaries by the facilities named herein.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

PN:clk
(c:\franch\desigfac.ord) (3/3/93)

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE)	ORDINANCE NO. 92-471C
METRO CODE TO ESTABLISH CRITERIA)	
TO CONSIDER IN DESIGNATING)	Introduced by Rena Cusma,
DISPOSAL FACILITIES, AND DECLARING)	Executive Officer
AN EMERGENCY)	

WHEREAS, Certain solid waste disposal facilities located outside of District boundaries have requested authority to receive wastes generated within District boundaries; and

WHEREAS, Pursuant to Chapter 5.05 of the Metro Code regarding solid waste flow control, it is proper for the Metro Council to "designate" facilities that are appropriate to receive solid waste generated within District boundaries; and

WHEREAS, In order to determine whether a requesting facility is appropriate to receive waste from the service area, it is necessary to establish criteria for consideration by the Council; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

(a) Designated Facilities. The following described facilities shall constitute the designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) ~~Metro-Riedel MSW (Municipal Solid Waste)~~ Compost Facility. The ~~Metro-Riedel MSW~~ Compost Facility located at 5437 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.

- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.
- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to ~~or delete a facility from the list of designated facilities~~ ~~one or more additional facility.~~ In deciding whether to designate ~~an additional facility, or amend or delete an existing designation,~~ the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;
- (3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
- (4) The adequacy of operational practices and management controls at the facility;
- (5) The expected impact on the region's recycling and waste reduction efforts;
- (6) The expected impact on Metro's revenue;
- (7) The consistency of the designation with Metro's existing contractual arrangements;
- (8) The need for additional disposal capacity and the effect on existing designated facilities; and
- (9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

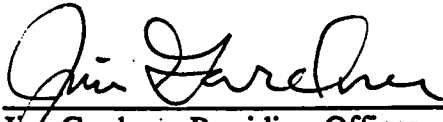
(c) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the Executive Officer.

(d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(e)(e) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Council of the Metropolitan Service District this 24th day of November, 1992.


Jim Gardner, Presiding Officer

ATTEST:


Clerk of the Council

1103c

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 92-471B, FOR THE PURPOSE OF AMENDING THE METRO CODE TO ESTABLISH CRITERIA TO CONSIDER IN DESIGNATING DISPOSAL FACILITIES AND DECLARING AN EMERGENCY

Date: November 18, 1992

Presented by: Councilor Wyers

Committee Recommendation: At the November 17 meeting, the Committee voted unanimously to recommend Council adoption of Ordinance No. 92-471B. Voting in favor: Councilors Buchanan, Hansen, McFarland, Van Bergen and Wyers.

Committee Issues/Discussion: The Committee held three hearings on the proposed ordinance. The ordinance was initially presented at the September 1 meeting. Metro Code Section 5.05.030 currently lists "designated" facilities to which Metro may direct waste. The list includes existing Metro transfer stations, the Composter, all franchised facilities, Lakeside Reclamation (Grabhorn), Hillsboro Landfill, and Columbia Ridge Landfill. The Code also provides that the Council may add or remove facilities from the list of designated facilities.

Phil North, Solid Waste Staff, provided the committee with a brief history of the development of the ordinance. He noted that, in addition to its designated facility status, the Columbia Ridge Landfill also has a non-system license. Under this license, the facility receives a variety of special wastes. When this license came up for renewal in the spring of 1992, the Office of General Counsel advised that it would be more appropriate to "designate" the facility to receive this material under Section 5.05.030. Counsel staff noted that non-system licenses were intended for generators and haulers and not landfill operators.

Upon learning that Columbia Ridge might receive designated status to accept special wastes, representatives of Regional Disposal Company approached Metro staff to obtain a similar designation for the Roosevelt Landfill which they operate in Klickitat County in eastern Washington. Since other facilities also were likely to request designation, solid waste staff determined that it should recommend that the code be amended to provide criteria that could be used by staff and the Council in determining whether individual facilities should receive "designated" status.

As a result, Ordinance 92-471 was drafted. The original ordinance identified four criteria that were to be used in determining whether a facility should be designated. These were: 1) future risk of environmental contamination, 2) the record of regulatory compliance, 3) compliance with Metro ordinances or assistance in Metro ordinance enforcement and 4) adequacy of operational practices and management controls. The original ordinance also provided for the designation of the Columbia Ridge and Roosevelt Landfills to receive certain special wastes as specified in draft

agreements presented to the committee.

The committee heard testimony from several landfill operators with an interest in receiving "designated" status. Representatives of Regional Disposal Company spoke in favor of the ordinance. They argued that competition in a field of special waste disposal would keep industrial and commercial generator costs down. In addition, they noted the environmental soundness of their facility and expressed a willingness to adequately police the material received from the Metro area. They also contended that the designation of additional facilities would allow Metro to better track material that is now "leaking" out of the system and allow Metro to receive its Tier One user fees for this material. Representatives of Sanifill (operator of the Northern Wasco Landfill) and the operator of the Finley Butte Landfill in eastern Oregon (near Boardman) also expressed interest in receiving designation and asked that their requests be considered at the same time as other potential applicants.

Oregon Waste Systems (operators of the Columbia Ridge Landfill) expressed concern that designation of the Roosevelt Landfill and other facilities would be in violation of the existing contract to send 90% of the region's waste to Columbia Ridge. Todd Sadlo, Office of General Counsel, indicated that he had met with legal representatives of Oregon Waste Systems and that they were in disagreement concerning the effect of designating additional facilities on the Columbia Ridge Contract.

Numerous issues emerged during the hearing and the Committee and staff agreed that staff needed to review these concerns and respond at a future hearing. The issue generally related to: 1) the need and effect of competition in the special waste disposal marketplace and Metro's role in this marketplace, 2) the effect of lower cost disposal options on the recycling of certain special wastes, 3) the effect of additional facilities on existing in-region special waste disposal facilities, 4) Metro's ability to police newly designated facilities and the cost of such policing, 5) the effect of designating facilities on Metro's efforts to control "leakage" of waste from the region, and 6) the effect of the ordinance on the Columbia Ridge contract with Oregon Waste Systems.

Following the hearing, the chair and the department agreed to separate the issue of developing facility designation evaluation criteria from the actual designation of specific facilities. At the November 3 meeting, staff presented Ordinance 92-471A. The amended ordinance eliminated all language relating to the designation of the Roosevelt and Columbia Ridge Landfills. In addition, the evaluation criteria were expanded to include: 1) the impact of a designation on the region's recycling and waste reduction efforts, 2) impact on Metro's revenues, 3) consistency with existing contractual obligations and 4) other benefits.

Bob Martin reviewed the department's intent concerning the revised ordinance. He noted that the ordinance would not affect existing

designated facilities. He observed that the criteria in the ordinance are simply factors that must be addressed by staff and the Council in determining whether to designate a particular facility. They are not rigid standards and give staff and the Council needed flexibility in examining issues concerning each individual facility. He noted that if the staff were given authority to designate facilities, he would request more rigid standards.

The committee received limited testimony due to the need to adjourn the meeting by a specific time. Representatives from Regional Disposal reiterated their position that approving the ordinance would establish a more competitive marketplace, allow Metro to capture its fees on material that is now escaping the system, and that they would institute strict policing procedures at their landfill. Mike Sandberg, representing Hillsboro Landfill expressed concern that smaller facilities like Hillsboro could not compete with larger regional landfills like Roosevelt, Columbia Ridge and Finley Butte.

Representatives of Oregon Waste Systems continued to express concern that the designation of additional facilities would violate their Columbia Ridge agreement with Metro. They also argued that designating additional facilities could disrupt Metro's disposal system planning efforts. In addition, they contended that a lack of specific evaluation criteria could cause legal and enforcement problems.

Councilor Wyers offered two potential amendments. These were: 1) adding language that would require Council approval of any agreements between Metro and a designated facility, and 2) requiring that such agreements include language outlining the types of waste that can be accepted at each designated facility. A "B" version of the ordinance was drafted that included these amendments. In addition, a third amendment was included in the "B" version which provides that the Council must consider the need for additional disposal capacity and the effect of any new designations on existing designated facilities.

The "B" version of the ordinance was considered at the November 17 meeting. Representatives from Regional Disposal Company reiterated their earlier position. They also noted that they believe that existing in-region landfill and recycling operators will be cost-competitive with them. They also offered to pay for an independent annual audit of the operation of the Roosevelt Landfill as it relates to the acceptance of waste from the Metro region. Representatives of the Finley Butte Landfill also expressed support for the ordinance. Peter Cramer, representing Schnitzer Steel Products, testified in favor of the ordinance, noting that increased competition for special waste disposal would reduce costs and make firms like his more competitive.

Each of those who testified expressed concern about the addition of the "need" criteria, noting that it could be used to restrict

competition. Councilor Van Bergen indicated that, while he would vote for the amended ordinance, if the "need" criteria were used to eliminate competition, he would act to have that criteria removed.

Bob Martin indicated his support of the proposed amendments. He also noted that he would be developing a budgetary proposal related to the need for policing and auditing any new designated facilities. He expressed optimism that additional revenue received from newly designated facilities could potentially cover the cost of additional policing. Councilor Wyers expressed support for the idea that designated facilities could pay for an independent audit.

Todd Sadlo, Office of General Counsel indicated that, while he and legal representatives of Oregon Waste Systems have not been able to agree on the effect of the ordinance on the Columbia Ridge agreement, he felt the committee could take action of the ordinance.




METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: January 26, 1993

TO: Metro Council

FROM:  Bob Martin, Solid Waste Director

Re: Designated Facilities

The attached Ordinance No. 93-483, will amend the Metro Code to modify the designated facility status of Columbia Ridge Landfill, Hillsboro Landfill and Lakeside Reclamation for purposes of flow control and will add the Roosevelt Regional Landfill and Finley Buttes Landfill to the list of designated facilities.

The staff report accompanying the ordinance concludes that:

- Given the proposed restrictions on the type of waste that will be allowed to go to designated facilities and the proposed enforcement procedures, there is not likely to be any negative impact on the region's recycling.
- In a "worst case" scenario, the proposed facilities are expected to have a neutral impact on Metro's revenues and rates.
- If new facilities are able to capture "new" waste through better disposal service and more aggressive marketing there could be major benefits in terms of reducing illegal disposal and increasing Metro revenues. Because of competition, designated facilities will need to aggressively market their facilities and track and report to Metro when they lose business due to illegal disposal activities. This will help supplement Metro's enforcement efforts and may result in significant quantities of waste now escaping the system being recaptured.
- While disposal capacity at existing landfills is currently adequate, there is a need for additional capacity in terms of: (1) encouraging price competition among landfills to the benefit of the region's rate payers, (2) improving Metro's ability to enforce flow control by entering into formal agreements with out-of-region landfills, and (3) providing alternative disposal options in case of unexpected loss of capacity at existing landfills.
- Local governments that assess fees at in-region landfills could lose revenue when waste shifts to new out-of-region landfills. However, local governments are also "generators" of special waste and would benefit from lower cost disposal caused by greater competition among landfills.

- All of the proposed facilities are in compliance with environmental and regulatory requirements.

Based on these conclusions, I recommend that Metro enter into designated facility agreements with the following landfills: Columbia Ridge Landfill, Hillsboro Landfill, Lakeside Landfill, Roosevelt Landfill, and Finley Buttes Landfill. Draft agreements with these facilities are attached to Resolution No. 93-1754 which will be presented for hearing along with Ordinance No. 93-483.

Draft agreements with these facilities are also attached. Key components of these agreements are:

- The Metro Council may modify, suspend or terminate the agreement upon passage of a resolution specifying the action taken and the effective date.
- The facility shall maintain complete and accurate records regarding all solid waste transported, treated, disposed of, or otherwise processed and shall make such records available to Metro. Further, each facility is required at Metro's option to have an independent audit conducted by a firm acceptable to Metro once each year at the facility's expense.
- The facility may accept only certain types of wastes generated within Metro boundaries to include residue from the processing of construction, demolition, and land clearing waste received from a Metro franchised facility and/or other wastes not suitable for going through a regular transfer station.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-483, FOR THE PURPOSE OF AMENDING THE METRO CODE TO MODIFY THE DESIGNATED FACILITY STATUS OF COLUMBIA RIDGE LANDFILL, LAKESIDE RECLAMATION LANDFILL AND HILLSBORO LANDFILL; AND TO ADD ROOSEVELT REGIONAL LANDFILL AND FINLEY BUTTES LANDFILL TO THE LIST OF DESIGNATED FACILITIES, AND DECLARING AN EMERGENCY

Date: January 26, 1993

**Presented by: Roosevelt Carter
Terry Petersen**

FACTUAL BACKGROUND AND ANALYSIS

Comment on format

This staff report is comprised of six distinct sections, the first of which is an overview of the Metro "system". Following that will be five separate subsections which will address the following specific facilities:

1. Columbia Ridge Landfill;
2. Roosevelt Regional Landfill;
3. Finley Buttes Landfill;
4. Hillsboro Landfill; and,
5. Lakeside Reclamation Landfill.

Each subsection describes the facility, provides a history and examines the nine criteria as required by Ordinance 92-471C. This ordinance amended Metro Code Section 5.05.030 regarding the addition of facilities to the list of "Designated Facilities" under Metro's flow control ordinance.

With respect to Columbia Ridge Landfill, Hillsboro Landfill and Lakeside Reclamation Landfill, the reports address modification of their existing facility designation status. With respect to

Roosevelt Regional Landfill and Finley Buttes Landfill, the focus is upon designation of these facilities as new additions to the list of designated facilities.

The agreements proposed for each facility are attached to Resolution 93-1754, which will be presented for hearing along with Ordinance 93-483.

System Overview

The Metro system is the collection of disposal and processing facilities, that provide opportunities for recycling, processing and disposal. These facilities serve the residents of the greater Portland metropolitan region, and rural Multnomah, Clackamas and Washington counties. Included in the system are other facilities that are neither Metro owned nor franchised such as recycling drop centers, yard debris processors and source separated recyclable processors.

The focus of this report is the facilities owned or franchised by Metro, or which Metro has otherwise designated to receive waste from within Metro boundaries. Excluded from discussion are non-franchised facilities, inactive franchises, reload facilities, recycling drop centers, source separated recyclable processors and buyback centers.

For ease of reference, a map of the current system facilities (as defined above) accompanies this report as ATTACHMENT No. 1. ATTACHMENT No. 2 is the system of facilities as it will exist if all amended facility designations and the two proposed new designated facilities are added.

METRO SYSTEM FACILITIES (franchised or otherwise designated)

Columbia Ridge Landfill

Columbia Ridge Landfill is currently listed as a designated facility under Metro's flow control ordinance. The ordinance pending before the Council will amend this facility's designation. Details of this proposal will be addressed in the subsection on Columbia Ridge following the System Overview.

This is a modern landfill located near the City of Arlington, Oregon. Encompassing an area of 2000 acres (700 acres of active landfill), it is owned by Waste Management Disposal Services of Oregon, Inc. dba Oregon Waste Systems, Inc., (OWS). OWS has a twenty year contract with Metro. Waste shipments commenced in January, 1990. This contract calls for Metro to deliver to the Columbia Ridge Landfill, "ninety percent (90%) of the total tons of Acceptable Waste (other than ash) which Metro delivers to any general purpose landfill(s) during that calendar year." (Acceptable Waste as defined in the contract with OWS.)

In 1992 this facility received 661,011 tons of solid waste from Metro's transfer stations and 6,000 tons of direct haul waste under a Non-system license. The direct haul waste was primarily petroleum contaminated soil, asbestos and industrial process waste.

Metro Central Station

Metro Central Station is currently listed as a designated facility under Metro's flow control ordinance.

Located on a 10.5 acre site at 6161 NW 61st Avenue in Portland, Metro Central is the largest and newest of the two transfer stations owned by Metro. Encompassing a 170,000 square foot shell structure, the facility opened for business in 1991. The facility is operated by Trans Industries under an operations contract with Metro. This contract will be in effect until October 1994 with Metro having the option of rebidding the contract at that time or retaining the present contractor for an additional two years.

Metro Central has the capacity to transfer/process in excess of 500,000 tons per year. The facility handled approximately 325,000 tons in 1992. This is one of Metro's two transshipment points for solid waste being transported to the Columbia Ridge Landfill at Arlington, Oregon.

Metro South Station

Metro South Station is currently listed as a designated facility under Metro's flow control ordinance.

This transfer station, the older of two transfer stations owned by Metro, began operations in 1983. Located at 2001 Washington Street in Oregon City, Oregon this facility is on an 11.5 acres site adjacent to the old Rossman's Landfill. It is operated under a contract from Metro by Waste Management of Oregon (WMO), a subsidiary of Waste Management of North America, Inc. This contract, which commenced January 1, 1990 will be in effect until December 31, 1994. This facility received 357,451 tons of solid waste in 1992.

This facility was originally built as a transshipment point for commercial haulers and the public. The solid waste was dumped into a pit, then loaded into transfer trailers for transport to St. Johns Landfill for disposal. With the closure of St. Johns Landfill and the beginning of transport of Metro's solid waste to Columbia Ridge Landfill, modifications were necessary at Metro South. The principal changes were the addition of two waste compactors to create efficient loads for transfer trailers and a staging yard for the transfer trailers.

In conjunction with Metro South Station, Metro has established a state-of-the-art household hazardous waste facility located on the station grounds. This heavily patronized facility has been successful in diverting substantial volumes of harmful material from the landfill.

Hillsboro Landfill

Hillsboro Landfill is an existing designated facility under Metro's flow control ordinance. The pending ordinance before the Council will amend the facility designation for this facility. Details regarding this proposal will be found in the subsection on Hillsboro Landfill that follows the System Overview.

This limited-purpose landfill is privately owned and operated by Sanifill, Inc. Previously owned and operated by Mr. Gary Clapshaw, the facility was acquired by Sanifill as of December 31, 1992. The facility is located at 3205 SE Minter Bridge Road south of the City of Hillsboro.

Located just outside of the Metro boundary, this facility received over 200,000 tons of solid waste in 1992. This waste received by Hillsboro Landfill is direct hauled by commercial and private parties. The waste accepted by the facility is comprised of construction and demolition debris, yard debris, stumps and land clearing debris and miscellaneous non-hazardous, non-putrescible household waste. The facility also is permitted by DEQ to receive some special wastes such as asbestos and petroleum contaminated soil.

Lakeside Reclamation Landfill

Lakeside Reclamation landfill is currently listed as a designated facility under Metro's flow control ordinance. The pending ordinance before the Council will amend this facility's designation. Details on this amendment are in the subsection for this facility following the System Overview.

Lakeside Reclamation Landfill, often referred to as the Grabhorn Landfill, is a long-standing construction debris and demolition landfill which also does recycling. Owned by Howard and Debbie Grabhorn, the facility is located at 15000 Vandermost Road a few miles southwest of the City of Beaverton.

This facility received 76,398 tons of solid waste in 1992. It accepts mostly construction and demolition debris as well as land clearing debris. An unlined facility, it is more restricted than the Hillsboro Landfill as to the types of materials that it is authorized by the DEQ to receive. For example, Lakeside reclamation may not accept any special wastes such as asbestos and petroleum contaminated soils that are permitted to be taken to Hillsboro Landfill.

Forest Grove Transfer Station

Forest Grove Transfer Station (FGTS) is currently listed as a designated facility under Metro's flow control ordinance. Privately owned and operated by Mr. Ambrose Calcagno under the corporate name of A. C. Trucking, this facility is located at 1525 B Street in the City of Forest Grove, Oregon.

This transfer station accepts mixed solid waste. It is open both to commercial haulers and the general public. The facility is authorized under its franchise to accept up to 70,000 tons per year of putrescible and non-putrescible waste. The facility services generally the cities of Forest Grove, Cornelius and surrounding area, with small amounts of solid waste being received from areas outside the Metro boundaries.

FGTS has historically disposed of its waste at the Riverbend Landfill in Yamhill County and currently does so under a Non-system license. No amendment to FGTS's facility designation is

being proposed at this time. However, please note that a separately pending resolution and facility agreement is being proposed for the Riverbend Landfill.

Wastech

Wastech, Inc. is a presently designated facility under Metro's flow control ordinance. No current modification is proposed to the existing franchise which Wastech has with Metro.

This facility, privately owned and operated by Columbia Resource Company, does waste processing of "high grade waste" for materials recovery. It is located at 701 Hunt St. (just East of I-5 and just North of Columbia Blvd.) in the City of Portland. Wastech's Metro franchise was amended in 1989 to authorize the facility to expand to a capacity of 100,000 tons per year. Facility expansion has not yet occurred.

In 1992 this facility processed 5,804 tons of material, primarily recyclable paper products. Recycling is done by a combination of mechanical and manual methods. Residue is disposed off premises pursuant to a Non-System License under Metro's flow control ordinance.

East County Recycling

Located at 1209 NE San Rafael St. at 122 Avenue in the City of Portland, East County Recycling (ECR) is a privately owned and operated materials processing facility. The owner, Mr. Ralph Gilbert, holds a Metro franchise. ECR is presently a designated facility under Metro's flow control ordinance. No current amendment to its facility designation is under consideration.

ECR is authorized to accept various types of mixed waste for processing. The materials accepted are primarily mixed commercial waste, demolition debris, yard debris and other mixed non-putrescible solid waste. Under a 1991 amendment to its franchise, ECR was authorized to accept up to 60,000 tons per year of solid waste, provided that the residue generated for disposal does not exceed 25,000 tons per year. This facility received 38,467 tons of waste in 1992, and generated 22,179 tons of residue.

Processing at ECR relies heavily upon hand picking for the first sort of materials. Corrugated cardboard is compacted, appliances and metal are hand sorted and/or disassembled. Scrap aluminum is melted into ingots in a "sweat furnace". Yard debris and wood are processed in a high volume heavy duty chipper which produces chipped wood for hog fuel. Residue is disposed off premises at the Northern Wasco County Landfill near The Dalles, pursuant to a Non-System license issued under the flow control ordinance.

ECR is operated on the site of a former gravel pit. The facility also accepts inert materials which remain on the site. Disposal of inert materials are not regulated by Metro.

Marine Dropbox

Marine Dropbox is a privately owned and operated materials processor and recycling company which holds a Metro Franchise. It is a designated facility under the franchise section of Metro's flow control ordinance. The owner-operator is Paul Pietrzyk. No amendments to its franchise are recommended at the present time.

This facility services marine accounts and recovers material; primarily wood and metals from the shipping business. Examples are pallets, wood packing material, metal banding and other metals. Its recovery rate is high as there is little non-recoverable content in the material it receives. Its recovery rates are in the range of 95-97%. Material processing is primarily a hand picking operation with some assist with small power equipment. In the second quarter of 1992 Marine Dropbox recovered 5,960 tons of material for a 97% recovery rate.

K. B. Recycling

K. B. Recycling is a designated facility under the franchise section of the flow control ordinance which collectively designates Metro franchises. No amendment to its franchise or facility designation is presently under consideration.

This Metro franchised recycling drop and buy back center is privately owned and operated by Mr. Fred Kahut. This facility is located at 8277 SE Deer Creek Lane in the City of Milwaukie, Oregon near the junction of Highways 224 and I-205.

While not presently engaged in processing activities under its franchise, this facility is authorized to process limited amounts of mixed high grade waste (primarily paper and corrugated). While markets have not been sufficient to justify the operation of this element of the facility capacity, the authorized limit is 18,000 tons per year.

Marion County Energy Recovery Facility

The Marion County Energy Facility is a waste-to-energy facility owned and operated by the Ogden Martin Corporation. Ogden Martin has a contract with Marion County for disposal of solid waste for the county.

This facility is not a designated facility under Metro's ordinance nor is it under consideration for such designation. It is noted in the context of our System facilities because Metro has an agreement with Marion County wherein Metro has agreed to supply solid waste to this facility on an as needed basis up to 40,000 tons per fiscal year. By mutual agreement, this amount can be exceeded, however, historically this facility has taken less than 20,000 tons per year from Metro. Tonnage which is sent to alternative technology facilities such as this are exempt from Metro's disposal contract with Oregon Waste Systems.

This facility also receives small amounts of direct haul tonnage from hauling routes on the southern boundary of Metro which mix waste from in and out of the district. Marion County accounts for and remits user fees and excise taxes on this tonnage. The 1992 tonnage for direct haul was 6,371 tons.

Oregon Hydrocarbon, Inc.

This facility is a Metro franchise devoted solely to the processing of petroleum contaminated soils (PCS). The processing method is by thermodestruction (high heat with no flames). Essentially, soil is sterilized by the process and then may be recycled for non-food chain uses. As a franchise it is a designated facility under Metro's flow control ordinance. No amendment to the facility franchise is under consideration at this time.

Oregon Hydrocarbon, Inc. is located at 9333 North Harborage Street in Portland, Oregon. This is in the Rivergate industrial area of North Portland. It is owned and operated by TPST Soil Recyclers of Oregon, Inc. This is a subsidiary of TPS Technologies, which is in turn owned by Thermo Electron Corporation of Boston, Massachusetts, a Fortune 500 firm. This is a recent acquisition by Thermo Electron and franchise transition is in process.

No specific processing limit has been placed on the operating capacity of this facility. Metro has sought to encourage processing of PCS as preferable to landfilling. No Metro user fees are presently assessed for PCS processors. User fees are assessed for landfilled PCS. Equipment limitations are in the 100,000 tons + category. In operation since Spring 1992, this facility has processed approximately 41,000 tons of PCS to date.

PEMCO Inc.

Like Oregon Hydrocarbon, Inc., this Metro franchise is solely devoted to processing of PCS. Like Oregon Hydrocarbon, it too, sterilizes soil by thermodestruction. It too, is a designated facility under Metro's flow control ordinance. There is no consideration at present to amend or modify its designated facility status.

Owned and operated by PEMCO, Inc., the company business address is 437 N. Columbia Blvd. in the City of Portland. The principal difference between PEMCO and Oregon Hydrocarbon is that PEMCO utilizes a mobile unit. Its franchise is not subject to a preset limit on volumes of soil that it may process. The capacity of its mobile unit is approximately 15-20 tons per hour. The exemption from user fees from soil processing applies to PEMCO. PEMCO processed a total of 19,450 tons of PCS in 1992.

EVALUATION OF CRITERIA

The following section will address Ordinance 92-471C, criteria numbers: 5, 6, 7, 8 and 9. The analysis of these criteria are considered common to all of the facilities under consideration for new designated facility status or for amended designated facility status.

REVIEW OF DESIGNATED FACILITY CRITERIA NUMBERS 5, 6, 7, 8, AND 9 FOR:

Columbia Ridge Landfill;

Roosevelt Regional Landfill;

Finley Buttes Landfill;

Hillsboro Landfill; and,

Lakeside Reclamation Landfill.

Staff analysis has indicated that with respect to these criteria relating primarily to waste reduction and revenue issues that they should be treated in the same fashion for all of the following facilities: Columbia Ridge Landfill, Roosevelt Regional Landfill, Finley Buttes Landfill, Hillsboro Landfill and, Lakeside Reclamation Landfill. In order to avoid replication of information, please refer to the following criteria analyses for each facility. Criteria No's 1, 2, 3 and 4 will be referred to and analyzed in each facility subsection. Criteria No. 7 relates to an Office of General Counsel Memorandum regarding consistency of the designation with Metro's existing contractual arrangements. This memorandum is included as Attachment No. 3 following review of Criterion No. 9.

Criteria No. 5. The expected impact on the region's recycling and waste reduction efforts

Staff has concluded that if, through a designated facility agreement, certain restrictions are placed on the types of waste transported to the new designated facilities, the potential impacts on the region's recycling will be minimal.

The following table summarizes expected changes in tonnages currently recovered at existing facilities (including Petroleum Contaminated Soils (PCS) facilities) if: (1) no restrictions are placed on construction and demolition debris and post-industrial waste allowed to go to the new facilities, and (2) construction and demolition debris is restricted to residue from recovery facilities and industrial waste is restricted to loads without significant quantities of recoverable material (as described below in the proposed definitions of acceptable waste).

	Current Recovery (tons/year)	Change In Current Recovery	
		No Restrictions	Restrictions
Metro Facilities	10,900	(2,900)	0
Non-Metro Facilities	2,200	(600)	0
Existing PCS Processors	68,000	(27,200)	(27,200)
Total	81,100	(30,700)	(27,200)

The restrictions on acceptable waste and reporting requirements described below are intended to eliminate negative impact on waste reduction. However, not every load will be inspected by Metro to determine waste composition. Therefore, even with these procedures in place, some waste with high recovery potential may eventually be transported to the designated facilities. The tons listed in the above table with and without restrictions should be viewed as upper and lower bounds on the potential negative impacts of new designated facilities on the region's waste recovery efforts.

The upper bound would occur if restrictions on acceptable waste were totally ineffective and the new designated facilities were an option for all construction and demolition debris and industrial waste regardless of recovery potential. The lower bound of no impact (excluding PCS) would occur if restrictions were exactly enforced and diversion from existing recovery facilities was not an option open to generators and haulers of mixed waste currently going to recovery facilities.

Currently, about 600,000 tons of material (excluding PCS) are recycled each year by the Metro region and 1,000,000 tons are disposed. A maximum loss of 3,500 tons, therefore, would represent a decline of 0.2% in the regional recycling rate of 38%.

Staff proposals concerning the type of waste that may be accepted at new designated facilities are:

1. Residue from the processing of construction, demolition, and land clearing waste received from a Metro franchised facility.
2. Non-hazardous industrial dust.
3. Asbestos (special requirements for packaging and unloading would apply).
4. Contaminated soil and other non-putrescible debris from cleanup of petroleum or other non-hazardous chemical spills.

5. Special waste as defined in section 5.02.01(s) of the Metro Code.
6. Outdated or defective non-putrescible commercial or industrial raw materials not suited for market conditions or consumer use.
7. Other waste as described in any future addendum to this agreement or as authorized by Metro in a non-system license.

The list of waste types in Metro agreements with each facility will be consistent with the types of wastes authorized by the DEQ Solid Waste Disposal Permits issued (where applicable) to each facility and existing Metro disposal contracts.

To ensure that acceptable waste standards are enforced, designated facility agreements should contain adequate requirements for record keeping, auditing, and reports. Proposed wording for such requirements is as follows:

1. Company shall maintain complete and accurate records regarding all solid waste transported, treated, disposed of, or otherwise processed pursuant to this Agreement, and shall make such records available to, or send copies to, the Metro Solid Waste Department or its duly designated agents for inspection, auditing and copying upon not less than seven days written notice from Metro. Pre-numbered tickets shall be used for all transactions, in numerical sequence, and voided or canceled tickets shall be retained.
2. At Metro's option, Company shall have an independent audit conducted by a firm acceptable to Metro, no more than once each year, at Company's expense. The audit report provided to Metro following an independent audit shall address matters reasonably related to this Agreement, as specified in an audit program approved by Metro and provided to Company prior to the audit.
3. Company shall report in writing to the Metro Solid Waste Department no later than the 10th day of each month, for the duration of this Agreement, the number of tons of solid waste transported, disposed of or otherwise processed pursuant to this Agreement during the preceding month. The reports shall provide sufficient detail to adequately identify the waste profile of the various materials transported, treated, and disposed of, and include the names of persons or entities generating and delivering waste to the Facility, and the types and quantities of waste generated or delivered by such persons or entities. To the extent such information is available in electronic form, Company shall make such information available to Metro on computer disk. Metro shall maintain the confidentiality of all records submitted by Company to the extent public disclosure is not required by ORS Chapter 192, and otherwise in conformance with section 12 of this Agreement.

4. Company shall complete a cumulative status review of the waste types and profiles covering each six months of operations under this Agreement and shall provide such report to Metro within 45 days of the expiration of the six-month period covered by the report. The first report shall cover the period of operations from the date of execution of this Agreement through December 31, 1993.
5. Company shall provide to Metro copies of all permits covering the Facility or operations at the Facility. Copies of revisions to existing permits and newly issued permits shall be provided to Metro within seven business days of receipt. Company shall also provide, within ten business days, a copy of any official enforcement action regarding the Facility or its operation, including but not limited to, a notice of violation or non-compliance with a statute, regulation, or permit condition.

While most of the "waste reduction" impact is likely to be petroleum-contaminated soils (PCS), it should be noted that PCS is not considered as a "recyclable" in regional or state recycling and waste reduction goals. Also, Metro does not currently place any restrictions on the ability of Hillsboro Landfill or other existing designated facilities to compete with PCS processors by offering lower disposal fees if they choose to do so.

Higher disposal costs encourage investment in new recycling technology. If Metro policies concerning designated facilities result in lower disposal costs, the incentive to develop innovative recycling options for waste listed as "acceptable" in the agreements would be reduced. However, total disposal costs (including transport and user fees) at new designated facilities are not expected to be significantly lower than existing in-region disposal options at other designated facilities. Therefore, the risk of future "lost opportunities" concerning new recycling would appear to be minimal.

Criteria No. 6. The expected impact on Metro's revenue

Given the current Metro rate structure, Metro staff estimates the *net* impact of these tonnage shifts would be approximately revenue neutral. There would be a slight increase in revenue collected through the Tier 1 User Fee at non-Metro facilities and a slight decrease in revenue collected at Metro facilities.

One way to evaluate revenue impacts is to compare what the current fees would be with and without the new designated facilities given the current revenue levels. Such a comparison is estimated as follows:

	Current Rates	With New Facilities
Regional User Fee (Tier 1)	\$19.00	\$18.53
Total Metro Fee	\$75.00	\$75.06
Average Disposal Cost for "acceptable" waste	\$64.28	\$60.72

As described below, the Tier 1 User Fee would be collected on more tons while the full \$75.00 would be collected on more tons at Metro facilities. Given the current spending levels and rate structure, this would result in a decrease in the Tier 1 fee and a negligible increase (\$0.06) in the fee charged at Metro facilities.

As suggested above, adding the new facilities to the existing system is expected to have a combination of neutral, positive, and negative impacts on Metro's revenue. The expected revenue impacts can be summarized as follows:

Tonnage shifts that will have neutral revenue impacts. Acceptable waste could shift from existing non-Metro facilities that pay the Metro Tier 1 User Fee (currently \$19.00) to designated facilities that would also pay the same Metro fee. This represents a neutral impact on Metro revenues. Among existing designated facilities, Hillsboro Landfill will likely experience the greatest diversion of waste. Large industrial users of Hillsboro Landfill may be able to negotiate lower disposal costs with new designated facilities. Metro staff estimate that a maximum of 6,600 tons of special waste, 4,800 tons of PCS, 9,700 tons of industrial waste, and 7,300 tons of construction/demolition debris could eventually shift from Hillsboro Landfill to the designated facilities. Lakeside Landfill and other facilities are receiving much smaller quantities of waste that would be acceptable at new designated facilities.

Tonnage shifts that will have negative revenue impacts. Metro's current rate structure is not "revenue neutral". Waste that shifts from Metro facilities that pay all Metro fees to non-Metro facilities that pay only the Metro Tier 1 User Fee represent a loss in revenue that is not entirely balanced by avoided costs. Given the proposed restrictions on the types of waste the facilities will be allowed to accept, Metro staff estimate that 26,000 tons of waste currently being delivered to Metro transfer stations could eventually shift to designated facilities. We emphasize that these are wastes that can currently be disposed of at the Hillsboro landfill.

Tonnage shifts that will have positive revenue impacts. By offering lower disposal costs or other desirable services, designated facilities could potentially capture waste from four sources that are not currently paying Metro fees: (1) illegal dumping, (2) illegal disposal, (3) industrial "mono-fills", and (4) PCS diverted from existing processing facilities. It is difficult to estimate what the total available tonnage might be from these sources.

Because staff wanted to estimate the "worst case" revenue impacts, the analysis described in this report did not assume that any new revenue would be obtained from the first three sources.

Staff concludes that no single facility considered for designation under Ordinance 93-483, nor all of the facilities together, will impact the gross revenues generated by the Metro System in a manner that would impede Metro's ability to meet its bond financing obligations under the Solid Waste Master Ordinance. The anticipated impact on Metro revenue is not significant.

Criteria No. 7: The consistency of the designation with Metro's existing contractual arrangements.

Office of General Counsel Memorandum dated January 26, 1993, is shown as Attachment No. 3. In order to present the waste reduction commentary for criteria no's 5, 6, 8 and 9, as a contiguous piece, the Office of General Counsel Memorandum will be found immediately following commentary for Criteria No. 9.

Criteria No. 8. The need for additional disposal capacity and the effect on existing designated facilities

Most of the special waste under discussion is currently either being disposed of at Hillsboro Landfill, Lakeside Landfill, processed by franchised PCS facilities, or illegally transported outside Metro's system. Hillsboro Landfill and PCS facilities have the capacity to handle the current quantities of special waste being generated in the region.

Hillsboro Landfill has been issued a DEQ solid waste disposal permit that expires October 31, 1994. While Metro is assuming that Hillsboro Landfill will continue operation past this date, it is dependent on obtaining proper permits. If Hillsboro Landfill was required to close or significantly reduce tonnages, it would be necessary for the region to develop alternative disposal options. The need for additional disposal capacity should consider the value to the region of

having alternative disposal options for the kinds of waste being considered for new designated facilities, even if capacity is not currently needed. New designated facilities included in the proposed agreements would help ensure that the region has adequate disposal capacity for the types of waste proposed above.

The expected effects of the proposed agreements in terms of tonnages are summarized below. These tonnages are only the types of waste listed above as being acceptable for new designated facilities. They do not include all waste delivered to a facility. Two key assumptions were made in these estimates: (1) total disposal cost (transport plus tipping fee) will be \$50 per ton at new designated facilities, and (2) tonnage will shift to lower cost options at the rate of 0.8% for every 1.0% difference in cost. This response is consistent with historical data in the Metro region. The exact disposal cost that new facilities might negotiate with waste generators is unknown. If they offer disposal at more than \$50 per ton, less waste would be expected to shift from existing facilities.

Lower disposal costs at designated facilities could encourage new recovery operations that could eventually compete with existing facilities. Metro would need to evaluate these potential impacts at the time applications are made for any new recovery facilities.

	Current Quantity of Special Waste (tons/year)	Expected Change Due To New Designated Facilities (tons/year)
Forest Grove Transfer Station	7,400	(2,000)
Hillsboro Landfill (excludes Tualatin Valley Recovery Co.)	121,000	(28,400)
Lakeside Reclamation Landfill (Grabhorn)	51,100	(5,400)
East County Recycling	4,800	(1,300)
Wastech (OPRC)	700	(100)
Metro Central	54,700	(14,600)
Metro South	41,700	(11,200)
Columbia Ridge Landfill	11,200	0
PCS Processors	68,000	(27,200)
TOTAL	360,600	(90,200)

Criteria No. 9. Other benefits or detriments accruing to residents of the region from Council action in designating a facility

Other potential benefits include:

1. There are significant potential benefits to certain groups of rate payers within the region. Industries, local governments, and others that generate special waste are currently restricted to relatively few disposal options. Existing facilities negotiate disposal rates with these generators with minimal competition. Several public and private generators of large quantities of non-recyclable special waste have stated that they expect competition among new and existing designated facilities to lower their disposal costs. Metro staff have estimated that the average disposal cost for acceptable waste (including PCS) would decrease from \$64.28 to \$60.72 per ton. This represents a significant economic benefit to certain residents of the region.
2. The analysis in this report did not assume that designated facilities would capture any "new" waste that is not currently part of the fee-paying system. If new facilities are able to capture waste through better disposal service and more aggressive marketing, as they have stated, there could be benefits in terms of reducing illegal disposal and increasing Metro revenues.

Other potential detriments include:

1. Some local governments assess fees on waste delivered to facilities within their boundaries. For example, Washington County's solid waste program is supported by fees assessed at Hillsboro Landfill. Given this fee collection system, new designated facilities that divert waste from local facilities would cause a loss in revenue for some local government programs.
2. The analysis in this report assumed that existing non-Metro facilities would not increase rates as a result of new designated facilities. If rates are increased as a consequence of reduced tonnage, there could be negative economic impacts on those users who must continue to deliver waste to the existing facilities.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 93-483.

COLUMBIA RIDGE LANDFILL

Designated Facility Criteria Review (Criteria Numbers 1, 2, 3 and 4)

COLUMBIA RIDGE LANDFILL

A Non-System License (since expired) was previously issued to the Columbia Ridge Landfill under Metro's Flow Control Ordinance, Chapter 5.05 of the Metro Code. This license authorized various special wastes to be transported and disposed at the facility. This request for Designated Facility status for the Columbia Ridge Landfill is being processed given the determination that it is more appropriate that Non-System Licenses be issued only to waste generators or haulers and that a landfill desiring authority to receive certain types of waste be established as a designated facility under the Flow Control Ordinance. Columbia Ridge has already been designated to receive waste under its contract with Metro. Modification of the designation will allow the facility to continue to receive the same materials that the facility was allowed to receive under the Non-System License.

In deciding whether to amend the designated facility status of Columbia Ridge Landfill to accept special waste from private generators and haulers in the region, the Council should consider the following:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination.**

Metro has on file copies of the following permits and/or evaluations pertaining to the Columbia Ridge Landfill:

- < Oregon Department of Environmental Quality Permit Evaluation Report dated January 21, 1988.
- < Conditional Use Permit, Order Nos. 87-1 and 87-2, dated June 8, 1987 by Gilliam County, Oregon.
- < Oregon Department of Environmental Quality Solid Waste Disposal Facility Permit dated May 18, 1988.

The above Solid Waste Disposal Facility Permit specifies the types of waste that may be received at the facility and the conditions under which they may be received. The Columbia Ridge Landfill's Conditional Use Agreement with Gilliam County requires a weight control system that "... ensure(s) that there is proper accounting for all waste disposed of at the landfill." Further, the agreement requires the landfill to "... keep daily records, including video taped records of the weight and volume of the waste received at the landfill and the number and type of vehicles transporting waste to the landfill." The County also maintains the right to inspect the landfill records insofar as they pertain to the weight and volume of the waste received at the landfill or vehicles transporting waste to the landfill.

Conditions contained in the landfill's Solid Waste Disposal Facility Permit along with the above positive controls outlined in the Conditional Use Permit minimize Metro's risks in allowing the District's Special Wastes to be deposited in this landfill.

(2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements.

Metro has received no notice/s of violations of any regulatory requirements. Regulatory compliance by the facility has been characterized as excellent by the Gilliam County Planning Department and by the Eastern Region office of the DEQ. Metro has not had any compliance problems with CRL with respect to Metro ordinance enforcement or with other regulatory requirements of Metro.

(3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement.

Under separate agreement, Metro has shipped 90 percent of the region's general purpose waste to the Columbia Ridge Landfill via Jack Gray Trucking since January 1990. To date, Oregon Waste Systems has fully complied with all Metro ordinances and agreements and provided assistance as requested.

(4) The adequacy of operational practices and management controls at the facility.

Staff has visited the facility on numerous occasions and inspected its operational and management practices. Given Metro's contractual relationship with the landfill, reports are reviewed on a routine basis. To date all aspects of the landfill's operational practices and management controls are satisfactory.

(5) The expected impact on the region's recycling and waste reduction efforts.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual background.

(6) The expected impact on Metro's revenue.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(7) The consistency of the designation with Metro's existing contractual arrangements.

This item has been researched by the Office of General Counsel and the analysis is contained in a separate memorandum as noted on page 13 of the Staff Report. OWS believes that it is already entitled to receive 90% of all special waste generated in the region that is disposed of in a general purpose landfill, without entering into a designated facility agreement.

(8) The need for additional disposal capacity and the effect on existing designated facilities.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

ROOSEVELT REGIONAL LANDFILL

Designated Facility Criteria Review (Criteria Numbers 1, 2, 3 and 4)

ROOSEVELT REGIONAL LANDFILL

Metro has also received a request from the Regional Disposal Company with its home office at 4730 32nd Avenue South, Seattle, Washington that it be permitted to receive certain types of special waste from the District to be disposed at its Roosevelt Regional Landfill located in Klickitat County, Washington.

Criteria to be reviewed pursuant to Council requirements are:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination.**

Regional Disposal Company (RDC) has submitted copies of the following permits and certifications as a part of its application for designated facility status:

- < Conditional Use Permit No. CU-89-13, dated January 22, 1990 from the Klickitat County, Washington Board of Adjustment and subsequent Conditional Use Permit No. CU-92-14, dated September 8, 1992 for modification and expansion of the landfill.
- < Solid Waste Handling Facility (Operating) Permit No. 20-001, issued by the Southwest Washington Health District, Division of Environmental Health dated June 1, 1990 with annual renewals through March 1, 1993.
- < ORDER No. DE 90-C153 (Air Quality Permit) from the Washington State Department of Ecology dated April 5, 1990.
- < RDC has also submitted a copy of its Final Supplemental Environmental Impact Statement containing the landfill's Operations Plan which sets out general operating procedures dated August 1992.

Additionally, Solid Waste staff visited the Roosevelt Regional Landfill on August 25, 1992 to view firsthand its control and operational practices.

The degree to which prior users of the facility and waste types accepted at the facility are known is very high given the short operating history of the landfill and the positive control procedures contained in the landfill's operations plan. The facility design criteria contained in the aforementioned permits, particularly regarding either meeting or exceeding Subtitle D federal regulations minimizes Metro's risk of allowing waste from the District to be deposited in the Roosevelt Regional Landfill.

(2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements.

RDC has submitted its certification (dated November 24, 1992) that the Roosevelt Regional Landfill is a fully permitted facility which meets all State of Washington Minimal Functional Standards and Federal Subtitle D requirements and that there have been no regulatory enforcement actions and none are pending.

(3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement.

The Roosevelt Regional Landfill does not have a formal relationship with Metro given its short operating history and the fact that it is located outside Metro's jurisdictional boundaries. RDC has reported to Metro that the landfill received petroleum contaminated soils (PCS) from the Metro District as a result of its contracts with national petroleum marketing companies and prior to its knowledge of Metro's flow control requirements. RDC has submitted payment of applicable Metro fees on this material and has stated, in writing, that it will submit any future payments should its audits reveal further receipt of material from the Metro District. Other payments considered due by Metro will be billed appropriately.

Metro is undertaking a separate review of DEQ permits for excavation and disposal of PCS from the District to verify RDC's reported figures.

(4) The adequacy of operational practices and management controls at the facility.

The Roosevelt Regional Landfill's operations plan provides for positive monitoring and control of wastes being deposited. The plan provides for weighing and recording of the weight, waste type and waste source. The plan also provides for special handling of materials such as; asbestos, excavated soils, dredge spoils, construction and demolition debris and sewage sludges. The plan further provides for screening and management of unacceptable wastes.

(5) The expected impact on the region's recycling and waste reduction efforts.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(6) The expected impact on Metro's revenue.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(7) The consistency of the designation with Metro's existing contractual arrangements.

This item has been researched by the Office of General Counsel and the analysis is contained in a separate memorandum as noted on page 13 of the Staff Report. OWS believes that it is already entitled to receive 90% of all special waste generated in the region that is disposed of in a general purpose landfill, without entering into a designated facility agreement.

(8) The need for additional disposal capacity and the effect on existing designated facilities.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

FINLEY BUTTES LANDFILL

Designated Facility Criteria Review (Criteria Numbers 1, 2, 3 and 4)

FINLEY BUTTES LANDFILL

Finley Buttes Landfill requested that it be granted Designated Facility status under Metro's flow control ordinance. Finley Buttes Landfill (FBL) is a subsidiary of Columbia Resource Company. Columbia Resource Company, an affiliate of Tidewater Barge Company, owns and operates Wastech as well as FBL. FBL received Permit Number 394 from the Oregon DEQ in February 1989. FBL is located off Bombing Range Road, approximately 10 miles south of the Port of Morrow in Morrow County, Oregon. The facility is approximately 180 miles East of Portland.

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination.**

FBL began receiving waste November 1, 1990. The facility design meets or exceeds all Federal Subtitle D requirements. Complete records have been maintained since the opening of the facility. Standard operating procedure is that all materials received are logged in by customer, origin and material type. Additionally, the daily fill area is logged to provide location information if there should be future questions as to the location of material.

- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements.**

FBL received Notice of Non-Compliance from the DEQ in early 1990, 1991 and early 1992. These notices involved an on-site sewage disposal system permit, failure to collect groundwater and failure to submit detailed engineering plans prior to construction activities, leachate monitoring, the fill plan, O & M manual and other conditions.

Contact with DEQ officials and documentation provided by DEQ confirmed that FBL also received a Notices of Violation and Intent to Assess Civil Penalty relative to the groundwater monitoring notice referred to above. A subsequent comprehensive compliance inspection was conducted in November 1992 and FBL was found to be in full compliance with its operating permit at that time according to DEQ.

- (3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement.**

There is no record of noncompliance by FBL with Metro's ordinances and agreements. FBL has been cooperative in providing information and has responded in a timely manner to any requests that Metro has submitted for information or for opportunities to visit and inspect its facility.

FBL's owner/operator, Columbia Resources Company, runs a transfer station in Orchards, Washington that was used illegally by waste haulers from the Metro area in 1991. Metro eventually collected past due user fees, penalties and interest from one such hauler in the amount of \$75,572.00. In October of 1991, the Office of General Counsel wrote to Gail Mathers of CRC

and requested detailed assistance from Mr. Mathers in identifying persons who might be violating the Metro Code by using the Orchards facility, and the letter was ignored. CRC subsequently answered questions by phone regarding use of the facility by one other commercial hauler from Oregon, but chose not to identify the hauler, and still did not agree to provide any of the assistance requested in the earlier letter. The Office of General Counsel considers the assistance provided by CRC in enforcing the Metro Code in this stated incident to have been wholly inadequate. Reasonable assistance by CRC may have confirmed significant lost district revenue due to numerous individuals hauling waste from the district, to the Orchards facility.

(4) The adequacy of operational practices and management controls at the facility.

A personal inspection and tour of the FBL facility was conducted by Metro staff in September 1992. Physical inspection revealed a well run operation with no evidence of inappropriate waste handling or operation. Photos were taken and are part of the facility file. Further, FBL has subsequently provided Metro with a copy of its OPERATION AND MAINTENANCE MANUAL, VOL. 1 AND II. The manuals provide detailed information on facility procedures to ensure safe and efficient operation of the facility and to ensure the physical integrity of the landfill, its equipment and buildings.

(5) The expected impact on the region's recycling and waste reduction efforts.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(6) The expected impact on Metro's revenue.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(7) The consistency of the designation with Metro's existing contractual arrangements.

This item has been researched by the Office of General Counsel and the analysis is contained in a separate memorandum as noted on page 13 of the Staff Report. OWS believes that Metro cannot allow significant quantities of special waste to be delivered to FBL by private individuals because it is a general purpose landfill.

(8) The need for additional disposal capacity and the effect on existing designated facilities.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

- (9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.**

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

HILLSBORO LANDFILL

Designated Facility Criteria Review (Criteria Numbers 1, 2, 3 and 4)

HILLSBORO LANDFILL

Hillsboro Landfill (HL) is a long-standing limited purpose landfill located in south central Washington County, Oregon off Minterbridge Road, south of the City of Hillsboro. It is an existing designated facility under Metro's flow control ordinance. This facility has recently changed ownership, having been purchased by Sanifill, Inc. as of December 31, 1992. Prior to this transfer Metro has been in the process of revising its agreement with this facility. The existing 1984 agreement is inadequate to address the current relationship between Metro and HL in the context of the waste disposal/recycling system now in existence.

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination.**

This facility was originally established in the 1960's as a "demolition waste landfill" and was issued its first DEQ solid waste permit in 1972. The prior owner, (until 12-31-92), Mr. Gary Clapshaw, acquired the facility in 1983. For the eleven years prior to Mr. Clapshaw's ownership the facility was operated as a "modified landfill for demolition and construction debris, rubbish and similar nonputrescible waste" (DEQ Permit and conceptual Plan Review Report, 8-22-89). The current HL Solid Waste Disposal Permit Number 112 was issued October 19, 1989. The expiration date is October 31, 1994. No comprehensive record of materials disposed nor comprehensive list of prior users is known for this facility. However, with respect to the operational practices of the last ten years, the DEQ has rated the facilities environmental compliance as "good" (see #2 below) and the DEQ had issued a series of short term disposal permits to the prior owner from 1972 through 1982. Nevertheless, Metro does have exposure to future risk of environmental contamination, though there is no way to quantify the degree of risk.

- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements.**

Under its permit, HL is permitted to receive "...only landclearing debris (tree stumps, branches and brush), building construction and demolition debris (concrete rubble, asphaltic concrete, asphalt shingles, tar paper, bricks, plaster, linoleum, carpeting, glass, ceramic tile, timbers, lumber, gypsum board, piping, plumbing fixtures, electrical wiring, and similar building material) and inert material (soil, rocks and gravel)."

HL is prohibited under its permit from accepting "... food wastes, garbage, dead animals, sewage sludges, septic tank pumpings, chemical or vault toilet pumpings and other putrescible wastes, automobile bodies, infectious wastes, oil, chemicals, bulk quantities of liquid wastes, explosives and soils contaminated by hazardous materials." Exceptions must be "approved in writing by the Department prior to acceptance of the wastes by the permittee."

DEQ's Plan Review Report indicated that Mr. Clapshaw's environmental compliance record from 1983 to 8-22-89 (the date of the report) had been "good". Also, Permit Number 112 required the installation of leachate collection, groundwater monitoring and other environmental compliance requirements. Contact with a representative of the new owner, Sanifill, Inc., confirms that leachate collection is in place for the new cell and that "toe drains were installed for the original cell(s)". All leachate is pumped to the United Sewage Agency facility for treatment. Metro has documentation that in the past three years, there have been three Notices of Non-compliance issued to Hillsboro Landfill; January 1990, June 1990 and December 1991. These notices were in regard to a compliance schedule for submission of a groundwater monitoring plan and engineering plan; acceptance of tires; and failure to remit the DEQ \$.50 cent-per-ton surcharge on solid wastes in a timely manner. Records indicate that these matters appear to have been resolved satisfactorily.

(3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement.

There have been two compliance audits of the HL facility since 1989, the most recent having been completed in the latter half of 1992. Both audits revealed areas of Metro concern over proper reporting of categories of materials that are received by the facility. The issues raised have not been as to the acceptability of the waste at the facility, but rather as to whether certain materials should have been subject to Metro User Fees and excise taxes. Underlying these issues are issues of appropriate internal controls to ensure the accuracy of the data being used to generate the User Fee and excise tax reports.

The financial issues from the 1989 audit and a subsequent issue over the inauguration of scale weights being used for charge calculations relative to petroleum contaminated soils have been satisfactorily addressed. The financial issues from the 1992 audit have not yet been resolved. The new owner, Sanifill, Inc. was aware of the pending financial issues during its acquisition process and has pledged full cooperation in bringing the matter to a mutually satisfactory conclusion.

The financial concerns that recurred with HL underscored the need to replace the existing HL agreement with a more comprehensive agreement for that landfill. This coupled with the increased complexity of the waste disposal/recycling system over the past several years made it imperative that an up to date agreement be put in place. The new agreement will establish the new relationship between Metro and the new owner in proper context with other regional facilities.

(4) The adequacy of operational practices and management controls at the facility.

This criteria was to some degree addressed in the discussion of Criterion Number 3. There have been various issues raised by Metro as to internal control practices at HL related to proper characterization of materials being received at the facility. The issues have not been environmental (see discussion of Criterion 1), but rather, financial. The new owner, Sanifill Inc., is also the owner of Riverbend Landfill and Northern Wasco County Landfill. Metro has had an

acceptable relationship with Sanifill in the past and fully expects to receive the same level of cooperation in inaugurating the new agreement with Hillsboro Landfill under Sanifill's ownership.

(5) The expected impact on the region's recycling and waste reduction efforts.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(6) The expected impact on Metro's revenue.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(7) The consistency of the designation with Metro's existing contractual arrangements.

This item has been researched by the Office of General Counsel and the analysis is contained in a separate memorandum as noted on page 13 of the Staff Report. Because it is a limited purpose landfill, there has never been a claim that disposal of waste at the Hillsboro Landfill conflicts with existing contractual arrangements.

(8) The need for additional disposal capacity and the effect on existing designated facilities.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

LAKESIDE RECLAMATION

Designated Facility Criteria Review (Criteria Numbers 1, 2, 3 and 4)

LAKESIDE RECLAMATION

Lakeside Reclamation (LR) is a limited purpose landfill located Southwest of the City of Beaverton off Beef Bend Road, North of and adjacent to the Tualatin River to the South. This landfill has been in operation for over thirty years and is owned and operated by Howard and Debbie Grabhorn. It operates under DEQ Solid Waste Disposal Permit Number 214 issued July 8, 1982 with an expiration date of 2-28-92. Though past the expiration date, an application for renewal was filed prior to expiration. Under DEQ rules, the old permit continues to operate during the review period for the new application.

LR's Solid Waste Disposal Permit authorizes the permittee to accept "...only building and construction debris, rubbish, land clearing debris, wood products, metals, chipped tires; and similar nonputrescible material.. No other wastes shall be accepted unless specifically authorized in writing by the Department supplementary to this permit." Further, the permittee is prohibited "... from allowing use of the facility by individual , private citizens delivering their own household wastes." LR is prohibited also from accepting any hazardous wastes.

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination.**

This facility is open only to commercial accounts only. The public may not use this facility in the fashion that is authorized for Hillsboro Landfill. This has been the operational standard for many years. To this extent, the customers of the facility are known, however, a detailed listing of the specific waste delivered by the customers is unknown. This facility presents some unique considerations since it is not a lined facility. The risk, therefore, of contamination in the event of inappropriate disposal of materials at this facility is greater than at those facilities incorporating advanced landfill technology including liners and leachate collection systems. At the present time, there is no quantifiable risk of future contamination by the wastes accepted at the facility to-date is unacceptable. DEQ has indicated that LR's permit review is continuing and did not indicate substantial risk of non-renewal. Metro would nonetheless have some risk of exposure.

- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements.**

Metro has documentation that Lakeside Reclamation has one outstanding Notice of Noncompliance issued by the DEQ in November 1992. This notice is related to acceptance of prohibited materials, (household materials) surface water run-off, and proper cover over closed areas. This matter is currently under review and will be addressed during the permit renewal process. Since the facility is unlined, DEQ has taken the position that a more restrictive view as to acceptable materials for the facility must be considered. It should be stressed that this is a pending matter and that issuance of a Notice of Noncompliance is not conclusive as to the matters raised in the notice.

(3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement.

To date, Metro has made no determination that LR has ever been out of compliance with Metro ordinances or agreements. The facility has always made timely submission of its User Fee and excise tax reports and payments. Further, LR representatives have always cooperated in any requests that Metro has made for information or for opportunities to visit and inspect the facility.

(4) The adequacy of operational practices and management controls at the facility.

To the extent that the DEQ issues related to its Notice of Noncompliance are indicative of concerns over operational practices and management controls at the landfill, there is some concern as to the need to address modifications in these practices and controls. In general, however, the owners have a reputation for innovative waste recycling and recovery techniques, including the design and construction of specialized equipment designed to enhance and expand the facility's ability to recycle materials, notably large stumps and wood materials. Also, experiments with vegetation that draw large volumes of groundwater have been put into place to assist in environmental impact mitigation.

In the same fashion that concerns over the suitability of the Hillsboro agreement arose, so did concerns arise over the existing LR agreement. These are being addressed in the proposed new agreement that has been prepared for this facility. In like fashion with the new Hillsboro agreement, the new LR agreement should go a significant distance in providing a background for sound operational practices and management controls during the facilities future relationship with Metro.

(5) The expected impact on the region's recycling and waste reduction efforts.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(6) The expected impact on Metro's revenue.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(7) The consistency of the designation with Metro's existing contractual arrangements.

This item has been researched by the Office of General Counsel and the analysis is contained in a separate memorandum as noted on page 13 of the Staff Report. Because it is a limited purpose landfill, there has never been a claim that disposal of waste at the Lakeside Reclamation Landfill conflicts with existing contractual arrangements.

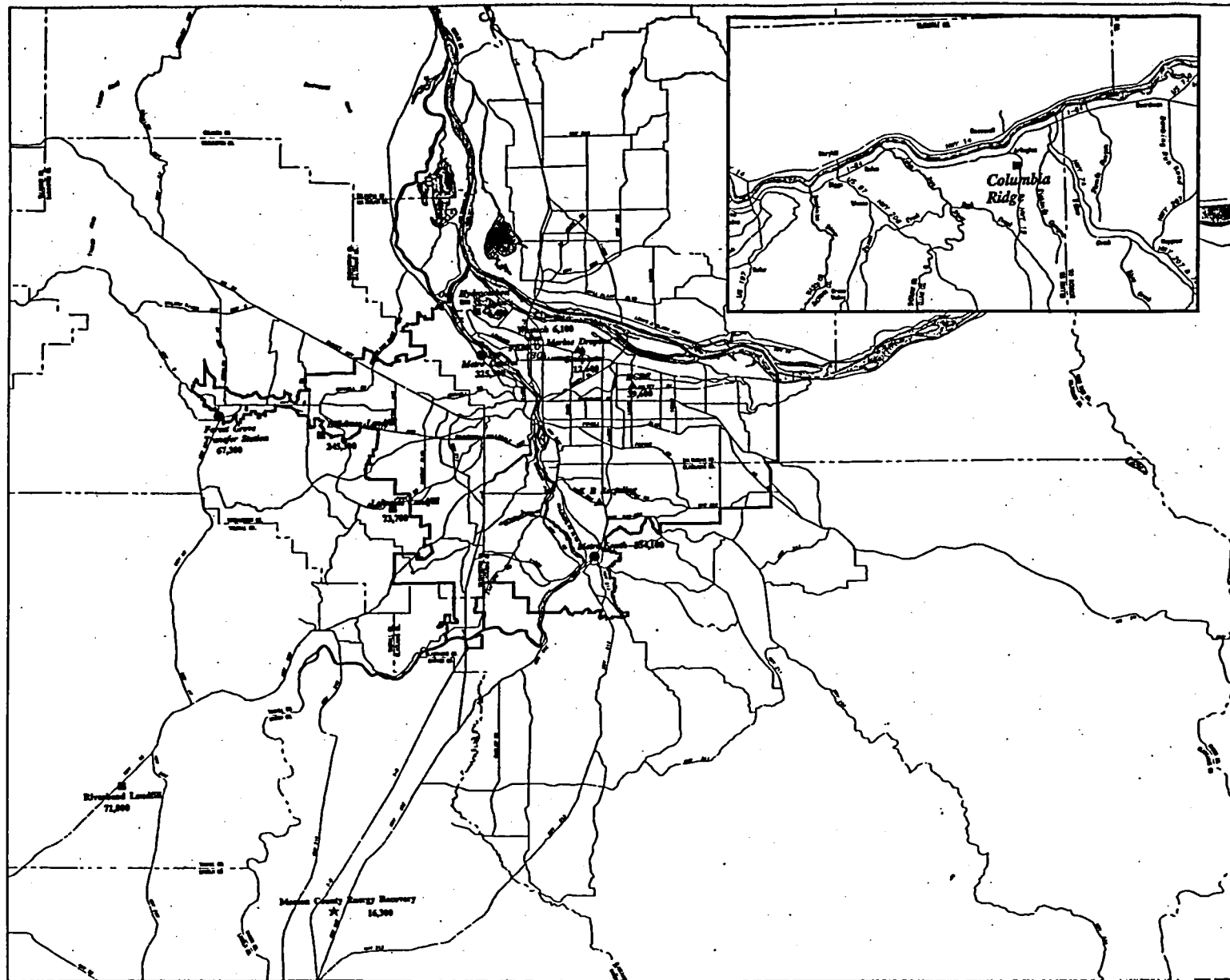
(8) The need for additional disposal capacity and the effect on existing designated facilities.

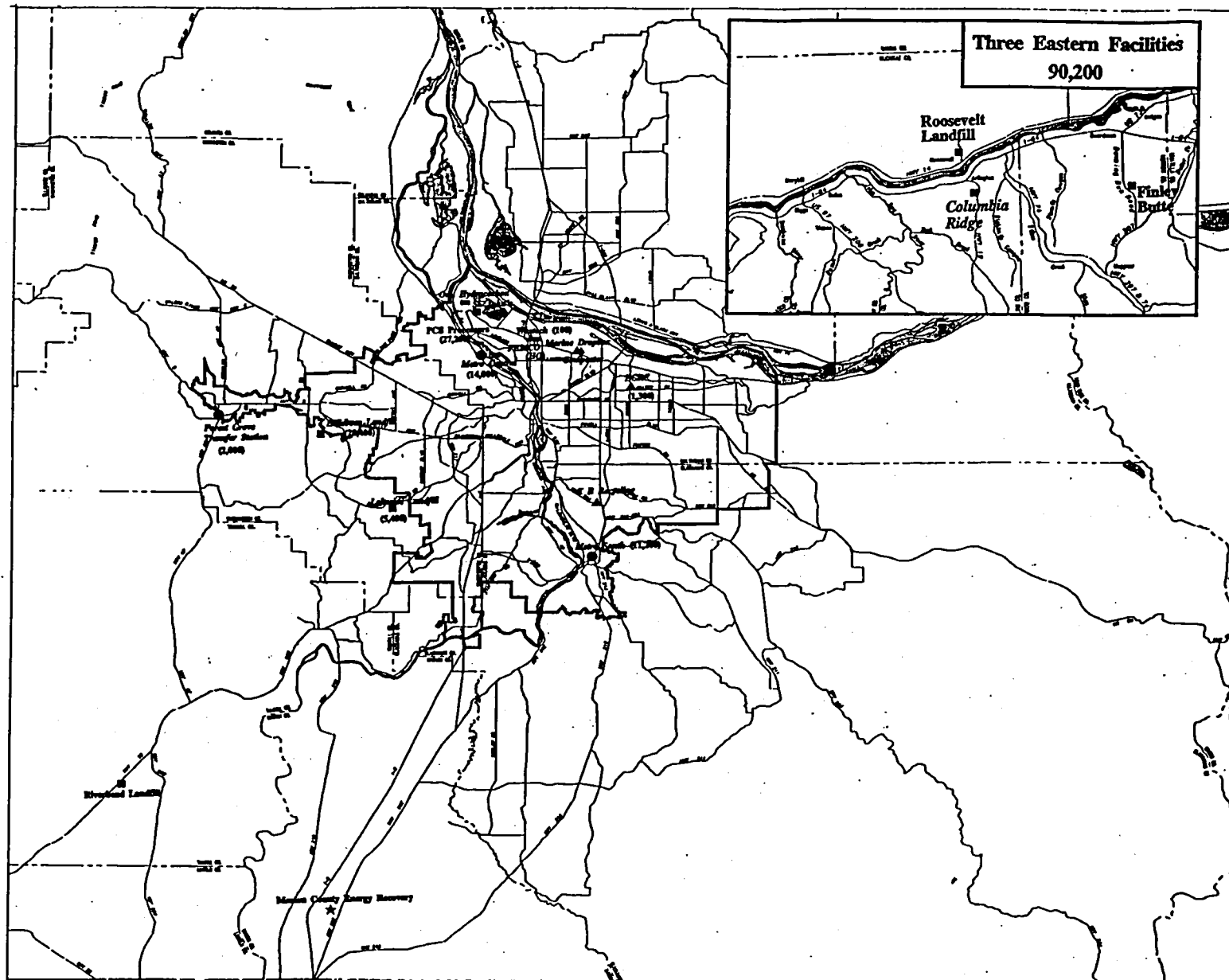
This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

(9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility.

This item has been researched by Metro staff and is included in the material in the system overview immediately preceding the factual subsection.

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Proposed System

Attachment 2

Facilities Projected To Receive Waste From Public or Metro

Type of Facility

- ▲ Reuse & Recycle
- ◆ Compost
- Transfer Station
- ★ Energy Recovery
- Landfills
- PCS Treatment
- ↘ Metro Boundary

Current Designated Facilities are in italics.

Change in annual tonnage is shown.

Source: Designated Facility Analysis (1/93).

Metro
2000 SW First Avenue
Portland, OR 97201-5396
(503) 221-1646

METRO

Plot date: January, 1993

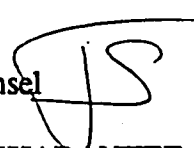


METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Attachment 3

Date: January 26, 1993
To: Metro Councilors
From: Todd Sadlo, Senior Assistant Counsel 
Regarding: ANNUAL WASTE DELIVERY GUARANTEE,
OREGON WASTE SYSTEMS CONTRACT
Our file: 9.§4.D

Oregon Waste Systems (OWS) has claimed that designation of general purpose landfills for receipt of "Special Wastes" from the service area may violate the Annual Waste Delivery Guarantee in Metro's contract with OWS. This memo discusses the issues raised by OWS and the contract provisions upon which they are based.

Conclusion

It is the conclusion of this Office that the Metro/OWS contract requires that Metro deliver to OWS 90 percent of the "Acceptable Waste" (generally mixed municipal solid waste) that Metro delivers to any general purpose landfill. Waste delivered from the Metro franchised transfer station in Forest Grove to Riverbend Landfill is included in this calculation, but no waste delivered by any other private entity, whether franchised or not, is included.

The 90 percent clause was intended to give OWS reasonable assurances that Metro would not procure capacity in another general purpose landfill for mixed, municipal solid waste received by Metro at its transfer stations. Neither the clause nor the contract as a whole can be interpreted to limit Metro's options for regulation of waste that does not enter Metro facilities. Metro retains the authority to establish a program of regulatory control over "special" and other "limited purpose" waste that does not include delivery of the waste to a Metro facility and subsequent delivery to OWS.

Contract Analysis

The OWS contract was entered into on April 11, 1988, based on a bid received on December 21, 1987. It is an agreement to purchase landfill capacity for 16,923,000 tons of mixed (residential, commercial, and industrial) solid waste.¹ The contract terminates once

¹Bid Schedule, p. 1; Invitation to Bid, p. 1; Spec., Section 1.

the stated capacity is reached, or on December 31, 2009, if the capacity is not reached. Metro can extend the term for an additional five-year period if the capacity has not been reached by 2009.² Section 1 of the Contract Specifications includes the following guarantee:

"Metro makes the following guarantee...: each calendar year Metro agrees to deliver to the Contractor's Disposal Site a minimum of ninety percent (90%) of the total tons of Acceptable Waste (other than ash) which Metro delivers to any general purpose landfill(s) during that calendar year."

This clause contains the following clauses that should be analyzed separately:

- "total tons of Acceptable Waste"
- "which Metro delivers"
- "to any general purpose landfill"

The issue of whether Metro would be 'delivering' waste to a general purpose landfill if it allows private individuals or franchisees to deliver such waste is the predominant issue, and will be discussed first. Each conclusion is numbered, underlined, and followed by a detailed explanation.

1. The Annual Guarantee only covers waste accepted at Metro facilities and delivered to a disposal facility by Metro. It does not cover waste delivered to a disposal facility by private individuals or franchisees even if Metro allows such deliveries through a grant of regulatory authority.

The Annual Guarantee requires Metro to deliver 90 percent of all Acceptable Waste "which Metro delivers" to any general purpose landfill. This portion of the 90 percent guarantee clause is, on its face, unambiguous.³ OWS has nevertheless indicated that the phrase "Metro delivers" has an exceedingly broad meaning, and should be interpreted as applying to "all Acceptable Waste generated in the Metro region and disposed in a general purpose landfill."⁴ This interpretation cannot be sustained.

²Bid submittal form, p. 2.

³See letter from J. Laurence Cable, Schwabe, Williamson, Wyatt, Moore & Roberts to Daniel B. Cooper, August 31, 1989, p. 1: " 'Delivery' is not an ambiguous term. It will be given its plain meaning in the context in which it is employed." See also, memo from James S. Kincaid to Laurence Cable, September 5, 1989, p. 3, also stating that the clause is unambiguous.

⁴Memo from James S. Kincaid, supra, p. 12.

In normal usage, the term "deliver" means "to take and hand over or leave for another."⁵ In the view of this Office, the term means just that; of all the waste that Metro takes physical possession of and delivers to a general purpose landfill, 90 percent shall be delivered to OWS. If Metro provides a regulatory framework in which private companies, even if they hold a regulatory franchise from Metro, are allowed to deliver waste to a general purpose landfill and not deliver it to Metro in the first place, the clause is not violated.

This position is supported by other language in the agreement suggesting that the only waste that would be "delivered" to the disposal site would be waste received at Metro's transfer stations. Article 1 E. of the General Conditions defines "disposal site" as a landfill "to which 'Acceptable Waste' is transferred and disposed." Payment is said to be based on the quantity of waste "actually transferred and disposed of."⁶ Coordination under the Specifications is oriented to coordination with "transfer vehicle operators."⁷ Under the Specifications, payment "will be made based on weighing tickets issued at Metro facilities," which shall "accompany each transfer vehicle."⁸ Indeed, if there is a payment discrepancy, OWS may request "recalibration of Metro scales," which is hardly a remedy if the waste was delivered by a franchised operator or private party. "Metro" is a defined term in the agreement, and does not include Metro franchisees or private generators in the Metro region. Furthermore, the only requirement for operating hours is that they "allow transfer vehicles to properly unload."⁹ The contractor is only required to coordinate the unloading of "transfer vehicles."¹⁰

In addition, the Specification for "Type of Wastes Accepted" states pointedly that "The Contractor shall accept and dispose of all Acceptable Waste which is delivered by Metro's Contractors to the disposal site."¹¹ This provision emphasizes exactly what is meant by

⁵Webster's Ninth New Collegiate Dictionary, 1990.

⁶Gen. Cond., Article 19A., paragraph 2. (Emphasis added.)

⁷Spec., Section 3.

⁸Spec., Section 5.

⁹Spec., Section 12.

¹⁰Spec., Section 13.

¹¹Spec., Section 14. (Emphasis added.)

"Metro delivers" in the 90 percent guarantee clause. Metro's contractors can hardly be expected to deliver something that Metro never takes possession of in the first place.

Finally, the "Unacceptable Waste" and "Special Waste" provisions in the contract¹², refer to Metro contracts for "transfer and transport" of waste. OWS was aware at the time of the bid that Metro does not make transport arrangements for privately-owned facilities operating under Metro franchise, or any other private entity.

The contract as a whole is designed to arrange for disposal of mixed municipal solid waste received by Metro at its transfer stations and delivered from there to the disposal site by Metro contractors. OWS has no reasonable expectation from reading the contract that it would be entitled to 90 percent of all waste, even if it is not mixed municipal waste, that is delivered by any entity in the region to a general purpose landfill.

This position is strongly supported by the history of adoption of the 90 percent guarantee. In late 1987, when Metro solicited bids for landfill capacity, it was in the process of configuring a system for disposing of the region's solid waste. St. Johns Landfill was scheduled to close no later than early 1991, and Metro South was receiving mixed municipal solid waste for transfer to St. Johns or its replacement.

The original bid documents contained no guarantees to the successful bidder that Metro would deliver any quantity of waste to the facility. Addendum No. 1 added a limited guarantee against waste flow fluctuations, but OWS was still concerned that it was unprotected. In a letter dated November 30, 1987, Jim Benedict, attorney for OWS, demanded that Metro provide a "meaningful guarantee of exclusiveness and a counterpart minimum flow," or OWS would not bid on the contract. Addendum No. 4 contained the 90 percent guarantee, which was as much of a guarantee as Metro was willing to provide. On its face it is clearly not a guarantee of exclusivity. It does not, as OWS would now have it, state that OWS is entitled to 90 percent of all waste generated in the region that is disposed of in a general purpose landfill.¹³ It is nevertheless a substantial guarantee that Metro will

¹²Spec., Section 14; detailed discussion below.

¹³James S. Kincaid memo, supra, p. 5. The contract does not expressly require Metro to impose flow control. If the intent of the parties was that Metro prevent private parties from delivering waste to other general purpose landfills, the absence of a mechanism to carry out such a requirement is conspicuous. Metro did not adopt flow control until 1989, as part of a pledge made for bonding purposes (Ord. No. 89-319).

not contract for delivery of waste from its own facilities to other general purpose landfills.¹⁴ By providing the guarantee, Metro established a commitment to deliver waste to the landfill, not to prevent other general purpose landfills from accepting waste from the Metro region.

OWS puts a great deal of emphasis on evidence in the record that the 10 percent "reserve" in the 90 percent guarantee includes waste being "delivered" to Riverbend Landfill from the A.C. Trucking Transfer Station in Forest Grove, a Metro franchised facility.¹⁵ OWS then infers that, under the contract, any waste that is delivered by any Metro franchised facility (or anyone else) has been "delivered" by Metro. From here OWS jumps to its ultimate conclusion that because Metro has regulatory authority over all waste in the region, any waste generated in the Metro region that ends up anywhere was "delivered" there by Metro.¹⁶

The record supports a conclusion that waste delivered from the region to Riverbend through the A.C. Trucking Transfer Station is part of the 10 percent reserve. Metro's relationship with both Riverbend and Forest Grove has historically been very close. The A.C. Trucking facility is currently Metro's only franchised facility accepting mixed municipal solid waste. Metro has had arrangements with Yamhill County to allow waste deliveries to extend the life

¹⁴Indeed, a statement by Richard Owings, Metro Solid Waste Director, that OWS claims supports its position makes clear that the annual waste guarantee is directed solely at procurement contracts entered into by Metro. "The vendors are also concerned that if they step up and bid and let the world know what they are willing to do this for, they don't think its fair for other private vendors to come in at a later date and say I'll provide it for \$2.00 less. Seems to be a fair argument. So what we've said is if Metro is going to contract for a general purpose landfill, it will be through this bid...." Statement to Metro Council, Dec. 11, 1987.

¹⁵Memo to Solid Waste Planning Technical Committee from Rich Owings, Solid Waste Director, November 13, 1987. Mr. Owings made clear in this memo and elsewhere that Riverbend was viewed at the time of the bid as an important part of Metro's mixed municipal waste disposal system. See also letter from Rich Owings to James E. Benedict, Dec. 3, 1987.

¹⁶James S. Kincaid memo, supra. See also, Draft Memo, James E. Benedict to Metro Council Solid Waste Committee, January 22, 1993. Although subject to modification prior to delivery to the Metro Solid Waste Committee, the referenced draft conspicuously ignores the presence of the word "delivers" in the 90-10 clause, and changes it to "disposes" in most references. Even as modified by OWS, the clause does not include the actions of private haulers choosing alternative facilities for wastes that Metro has not traditionally accepted for delivery at its facilities.

of St. Johns, and has been negotiating with Riverbend Landfill to establish a direct contractual relationship for delivery of waste from the Metro region.¹⁷

These facts do not support the very broad interpretation of "Metro delivers" suggested by OWS. To the contrary, this evidence shows only that the A.C. Trucking "deliveries" of mixed municipal waste to Riverbend are included in the 10 percent reserve due to an historical anomaly in existence at the time Metro entered into the contract with OWS. Metro's agreement that the mixed municipal solid waste transferred through the Forest Grove facility to Riverbend would be included in the 10 percent reserve limited the value of the reservation to Metro and is clearly to OWS's benefit. The clause cannot, however, be stretched to include all waste generated in the region that ends up in a general purpose landfill. There is nothing in the record to support a flow control commitment of this scope, no mechanism described in the agreement to carry out, and no pledge by the Metro Council to encumber its future legislative authority in such a manner.

2. The contract definition of "Acceptable Waste" specifically excludes many "Special Wastes." OWS is not entitled to any of the listed special wastes as part of the 90 percent guarantee.

If OWS were to prevail in its claim of entitlement to 90 percent of all Acceptable Waste generated in the region and delivered by anyone to a general purpose landfill, it faces a second hurdle in the contract definition of "Acceptable Waste." This second hurdle is important because the general purpose landfills requesting designated facility status are not requesting authority to receive all wastes, but only "special wastes" and other "limited purpose" wastes. Most of the wastes now being sought by such landfills are "special wastes" under the OWS contract, with the most notable exception being the residue from construction/demolition debris processing facilities, which is sometimes referred to as "limited purpose" waste, because it can be disposed of in a "limited purpose" landfill.

"Acceptable Waste" is defined in the contract as "any and all waste that is solid waste, as the latter term is defined in ORS 459.005(18) except Unacceptable Waste, as defined below." "Unacceptable Waste" is defined as "any and all waste that is...(3) special waste without an approved special waste permit." "Special Waste" is defined as:

"any waste, (even though it may be part of a delivered load of waste), which is:

¹⁷The agreement contemplated is for procurement of landfill capacity.

- (a) containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in (c)-(h) of this definition, below; or
- (b) waste transported in a bulk tanker; or
- (c) liquid waste; or
- (d) sludge waste; or
- (e) waste from an industrial process; or
- (f) waste from a pollution control process; or
- (g) residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in (a)-(f) or (h) of this definition; or
- (h) soil, water, residue, debris or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in (a)-(g) of this definition; or
- (i) residential wastes listed in (a)-(h) of this definition only if a change in law, statute, regulation, rule, code, ordinance, permit, or permit condition occurs after December 21, 1987, that requires special or additional management that differs from the requirements applicable on December 21, 1987."¹⁸

The contract also states that:

"Metro shall include, in all contracts by contract (sic) for the transfer or transport of waste for disposal to the disposal site a requirement that such transfer and transport contractors use all reasonable measures to prevent Unacceptable Waste from being delivered to the disposal site."¹⁹

In the next clause, the contract states:

"Metro shall include in all contracts for the transfer and transport of waste for disposal to the disposal site a requirement that such transfer and transport contractors use all reasonable measures necessary to exclude special waste from being delivered to the disposal site, unless Metro has issued a special

¹⁸Spec., Section 14.

¹⁹Id.

waste permit. Metro will consult with Contractor in developing a special waste permit program."²⁰

Read together, these clauses provide that the listed special wastes are not considered to be Acceptable Waste, and thus part of the 90 percent guarantee, unless they are approved by Metro under a special waste permit. Metro no longer has a special waste permit program, nor is it required to have such a program under the contract.²¹ Metro is required to consult with OWS regarding the development of a special waste permit program, but the consultation requirement cannot logically be interpreted to require Metro to accept special waste at its facilities for shipment to OWS in Jack Gray vehicles. Metro is entitled to do so, just as it is entitled to establish a policy for private disposal options at Metro-approved facilities. OWS therefore has no contractual claim to the wastes listed as special wastes in the contract.

Recently, OWS claimed that the definition of "Special Waste Permit" is ambiguous and should be construed against Metro.²² This argument appears in essence to be that "Special Waste Permit" should be construed to mean "Designated Facility Agreement" because Metro will permit such facilities to receive special waste under the agreements.

The designated facility agreements contemplated do not resemble the special waste permit program that Metro operated at St. Johns, nor the program advanced by OWS prior to bidding on the contract. The purpose of a special waste permit is, generally, to impose a testing and pre-approval regimen on the party delivering the waste, to ensure that the waste is not hazardous and to make arrangements for special handling. The designated facility agreements simply arrange for the collection of Metro fees on waste that Metro has never accepted at its transfer stations. Testing and pre-approval are not even discussed in the agreements, because Metro will play no role in deciding whether a particular waste may be landfilled, or the cost of disposal. There is no evidence that "Special Waste Permit" as used in the agreement was intended to refer to anything other than a program of the type Metro had in effect, or that OWS proposed, at the time of the bid. Again, "consultation" cannot be construed to require that Metro accept a program for receipt of special wastes at its facilities, imposed by OWS.

Because the definition of "Acceptable Waste" in the 90 percent clause is also unambiguous, it is unlikely that evidence regarding the intent of the parties in developing it would be relevant

²⁰Id.

²¹Metro's policy has never been to accept special wastes at its transfer stations. When Metro operated a permit program, it accepted such waste only at the St. Johns Landfill.

²²Draft Memo from James E. Benedict, supra, note 16.

to the decision of an arbitrator or judge as to whether Metro must provide 90 percent of such wastes to OWS. It is interesting to note, however, that provisions for exclusion of special wastes from the materials being shipped to the landfill were proposed by OWS prior to the bid date, in a letter from Jim Benedict, attorney for OWS, to Dennis O'Neil dated November 6, 1987. In that letter, OWS stated:

"A landfill operator needs assurances that hazardous and special wastes have been excluded from material that will arrive at the gate of the remote landfill. The remote landfill is not the place to attempt to exclude such wastes. These wastes are most effectively excluded at the source and at the transfer stations. Such wastes are difficult to detect or exclude at the landfill. To the extent they are detected at the landfill the costs of managing them at that point increases substantially."²³

An enclosure to the same letter also states that: "Waste Management will be willing to undertake (significant liabilities inherent in owning and operating a landfill) only if it is assured that unacceptable, hazardous and special wastes are excluded at the source."²⁴

During the bid process, OWS submitted a document entitled "Summary of Hazardous and Special Waste Program."²⁵ The document describes a detailed system for handling special wastes at Metro facilities that Metro has chosen not to implement. The list of special wastes in the contract was apparently taken from this document, and much larger portions of the document were not included. The document states that: "In general, the terms (sic) 'special waste' refers to wastes which may be hazardous wastes or having characteristics that could

²³Pp. 3-4. (Emphasis added.)

²⁴Enclosure "Waste Management's Comments and Requests for Clarification, Metro-Waste Disposal Services Contract Documents, November 6, 1986 (sic)," p. 3. (Emphasis added.) The enclosure also states: "Metro must provide assurances that Metro will implement a satisfactory waste hazardous (sic) and special waste exclusion program," and states that the contract should include a provision to the effect that "Metro warrants that it will implement for all waste sent to the landfill at the receiving stations for such waste a hazardous and special waste exclusion program that is acceptable to contractor. Metro will indemnify contractor for any damages attributable to Metro's failure to properly implement and perform the agreed upon exclusion program." *Id.* (Emphasis added.)

²⁵"Oregon Waste Systems' first supplemental comments and Request for Clarification of Metro Waste Disposal Services Contract Documents," November 30, 1987, Attachment A and Appendix 1.

create hazards to human health or the environment, if the waste is mismanaged."²⁶ It is reasonable to interpret the list of special wastes in the contract consistent with this definition, and thus to include only waste that requires special handling and additional testing prior to disposal at a Metro facility or at a landfill. Generally, such materials are not now delivered to Metro facilities.

At the request of OWS, Metro promised to implement a program for excluding "special wastes" from shipments to the disposal facility. Metro may still ship such wastes, if necessary, under a special waste permit program developed in consultation with OWS. "Special Wastes" are nevertheless excluded from the definition of "Acceptable Waste" for all purposes in the contract, including the Annual Guarantee. After demanding that such waste be excluded from delivery to its disposal facility, OWS cannot now demand that Metro somehow deliver to that facility 90 percent of such waste destined for a general purpose landfill.

3. Because the Annual Guarantee relates only to waste delivered "to any general purpose landfill(s)," OWS's interpretation of the clause does not provide any assurance that any "Special Waste" or "limited purpose" waste will be delivered to Columbia Ridge Landfill.

Metro and OWS appear to be in agreement that a general purpose landfill is one capable of accepting mixed municipal waste and other putrescible waste, along with a wide variety of special wastes. A limited purpose landfill is one that is constrained with regard to the types of wastes that it is allowed to accept. Even though a portion of Hillsboro Landfill is currently lined and has a leachate collection system, it is not allowed to receive putrescibles or other mixed municipal solid waste, and is therefore a "limited purpose landfill."

OWS claims that Metro cannot allow more than 10 percent of the region's "special wastes" and "limited purpose" wastes (construction/demolition debris) from going to general purpose landfills. OWS is apparently not concerned that Hillsboro Landfill (and perhaps other limited purpose facilities) can accept many types of wastes included in these categories. Furthermore, a general purpose landfill could conceivably establish a limited purpose cell on the site of its general purpose landfill and thereby be a limited purpose landfill for the purpose of this clause.

This demonstrates the absurdity of the approach being taken by OWS. The purpose of the clause was clearly to give OWS reasonable assurances that Metro would not purchase capacity in another general purpose landfill for more than 10 percent of the mixed municipal waste that Metro delivers to general purpose landfills. The designated facility proposal

²⁶Id., p. 1.

currently under consideration conforms to that basic purpose, and allows OWS to compete for the "special" waste in question. Even if OWS prevailed in asserting its interpretation of the contract, Metro could direct that all the wastes in question will be disposed of at Hillsboro Landfill or other "limited purpose" facilities.

4. The contract as a whole does not support OWS's claim that Metro promised to deliver to OWS 90 percent of all waste generated in the region that anyone delivers to a general purpose landfill.

In an earlier dispute, OWS simplified its argument as follows: Metro requested bids for a replacement for the St. Johns Landfill and based its flow estimates on St. Johns flow. The St. Johns Landfill was, other than Riverbend, the region's only general purpose landfill. Metro therefore promised not to allow any waste to go from the Metro region to any general purpose landfill other than Riverbend, and would only allow 10 percent to go there.²⁷

Fortunately for Metro, the contract does not say that, nor does the record. The contract says that Metro has reserved space in a general purpose landfill for 16,923,000 tons of mixed municipal solid waste, and that it may deliver that waste over a 25-year period. The record shows that Metro intended to retain maximum flexibility to establish sound, economical solid waste disposal policy for the region, and provided a set of limited waste delivery guarantees upon a request by OWS for an exclusive arrangement. The 90 percent clause, and the contract as a whole, function very well to ensure that Metro will not begin delivering waste from its facilities to a competing landfill to the detriment of OWS.

The contract also allows Metro to establish alternative management programs for wastes that Metro does not want delivered to its facilities. Metro South, the only Metro facility in operation at the time of the bid, was never suited to receive many of the special wastes being discussed, and did not traditionally receive such wastes. There are sound public policy reasons for excluding materials that require special handling, from transfer stations designed for mixed, municipal solid waste. Such materials often require testing and special handling, and cannot simply be tipped onto the floor and compacted into transport trailers designed to carry mixed municipal waste.

²⁷See James S. Kincaid memo, cited in footnote 3. The memo heavily emphasizes waste flow projections contained in the agreement that were based on waste deliveries to St. Johns Landfill. Section 1 of the Specifications states that the purpose of the projections is "...to aid the Contractor in scheduling. The flows are estimates only, and Metro reserves the right to vary the quantities without limit." (Emphasis added.)

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January 26, 1993

OWS cannot now rewrite the disposal services contract to apply to all waste generated in the region and disposed of in a general purpose landfill. Neither the contract language, the history of its adoption, nor the contract as a whole supports the broad interpretation now proffered by OWS.

dr
1180

cc: Daniel B. Cooper
Bob Martin
John Houser

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 93-483
METRO CODE SECTION 5.05.030 TO MODIFY)	
THE DESIGNATED FACILITY STATUS OF)	
COLUMBIA RIDGE LANDFILL, HILLSBORO)	Introduced by Rena Cusma,
LANDFILL AND LAKESIDE RECLAMATION)	Executive Officer
FOR PURPOSES OF FLOW CONTROL, TO)	
ADD ROOSEVELT REGIONAL LANDFILL AND)	
FINLEY BUTTES LANDFILL TO THE LIST)	
OF DESIGNATED FACILITIES, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, Columbia Ridge Landfill is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Columbia Ridge is currently allowed to accept solid waste as specified in its existing contract with Metro, and pursuant to duly issued non-system licenses; and

WHEREAS, Oregon Waste Systems (OWS), the owner of Columbia Ridge, was issued a non-system license on May 23, 1991, allowing it to accept special waste from the Metro area under certain conditions; and

WHEREAS, It is more appropriate, under the solid waste flow control chapter of the Metro Code, to "designate" facilities located outside of the District that are appropriate to receive waste from the Metro service area; and

WHEREAS, Hillsboro Landfill is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Hillsboro Landfill is now owned and operated by Sanifill, Inc., with its home office located at 1225 N. Loop West, Suite 550, Houston, Texas 77008; and

WHEREAS, Hillsboro Landfill is currently allowed to accept solid waste generated within Metro boundaries as specified in its existing agreement with Metro; and

WHEREAS, increased complexity of the solid waste disposal and recycling system

has resulted in the need for a comprehensive revision of the existing agreement with Hillsboro Landfill; and

WHEREAS, revision of the agreement with Hillsboro Landfill requires amendment of the designated facility status of Hillsboro Landfill under the Metro Code, because the existing code language references the earlier agreement; and

WHEREAS, Lakeside Reclamation, owned and operated by Grabhorn, Inc., with its home office address of Route 1, Box 849, Beaverton, Oregon 97005, is a "designated facility" for purposes of Metro solid waste flow control; and

WHEREAS, Lakeside Reclamation is currently allowed to accept solid waste as specified in its existing agreement with Metro; and

WHEREAS, increased complexity of the solid waste disposal and recycling system has resulted in the need for a comprehensive revision of the existing agreement with Lakeside Reclamation; and

WHEREAS, revision of the agreement for Lakeside Reclamation requires amendment of the designated facility status of Lakeside Reclamation under the Metro Code, because the existing code language references the earlier agreement; and

WHEREAS, Regional Disposal Company (RDC), a Washington joint venture, with its home office at 4730 32nd Avenue South, Seattle, Washington 98118, owns and operates the Roosevelt Regional Landfill located in Klickitat County, Washington; and

WHEREAS, Columbia Resource Company (CRC), whose parent company is Tidewater Barge Lines, Inc., with its home office at 6 S. E. Beach Drive, Vancouver, Washington 98661, owns and operates Finley Buttes Landfill located in Morrow County, Oregon; and

WHEREAS, OWS, RDC and CRC have requested from Metro authority to accept special waste generated within the Metro service area; and

WHEREAS, Sanifill Inc. and Grabhorn Inc. have requested continued designated facility status for Hillsboro Landfill and Lakeside Reclamation respectively, and are willing to enter into a new agreement with Metro; and

WHEREAS, Based on information contained in the staff report accompanying this Ordinance and additional information provided during the hearing on this Ordinance, the Council has determined that it is appropriate to designate the Columbia Ridge Landfill, Roosevelt Regional Landfill and Finley Buttes Landfill for receipt of special waste from the District; and

WHEREAS, Based on information contained in the staff report accompanying this Ordinance and additional information provided during the hearing on this Ordinance, the Council has determined that it is appropriate to continue the designated facility status of Hillsboro Landfill and Lakeside Reclamation as amended to reference new agreements; and

WHEREAS, OWS, RDC and CRC are willing to enter into agreements with Metro establishing the terms under which each of their named facilities may receive special waste from the Metro region, and Sanifill Inc. and Grabhorn Inc. are willing to enter into new agreements establishing the terms under which each of their named facilities may receive solid waste from the District, now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.05.030 is amended to read:

5.05.030 Use of Designated Facilities:

- (a) Designated Facilities. The following described facilities shall constitute the designated facilities to which Metro may direct solid waste pursuant to a Required Use Order:

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) MSW (Municipal Solid Waste) Compost Facility. The MSW Compost Facility located at 5611 N.E. Columbia Boulevard, Portland, Oregon 97217.
- (3) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.
- (4) St. Johns Landfill. The St. Johns Landfill located at 9363 N. Columbia Boulevard, Portland, Oregon 97203.
- (5) Franchise Facilities. All disposal sites, transfer stations, processing facilities and resource recovery facilities within the District which operate pursuant to a Metro franchise under Chapter 5.01 of the Metro Code.
- (6) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, ~~subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.~~ subject to the terms of an agreement between Metro and Grabhorn, Inc. authorizing receipt of solid waste generated within the service area.
- (7) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, ~~subject to the terms of the agreement in existence on November 14, 1989 authorizing the receipt of solid waste generated within the service area.~~ subject to the terms of an agreement between Metro and Sanifill, Inc. authorizing

receipt of solid waste generated within the service area.

- (8) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc.; ~~provided that except as otherwise provided pursuant to a duly issued non-system license, no waste hauler or other person (other than Jack Gray Transport, Inc. as provided in the aforementioned agreement) shall be permitted to transport solid waste generated within the service area directly to, or to otherwise dispose of such solid waste at, said Columbia Ridge Landfill unless such solid waste has first been processed at another designated facility.~~ In addition, Columbia Ridge Landfill may accept special waste generated within the service area:

(A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

- (9) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, owned and operated by Regional Disposal Company of Seattle and located in Klickitat County, Washington. Roosevelt Regional Landfill may accept special waste generated within the service area only as follows:

(A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

(10) Finley Buttes Landfill . The Finley Buttes Landfill owned and operated by Columbia Resource Company of Vancouver, Washington and located in Morrow County, Oregon. Finley Buttes Landfill may accept special waste generated within the service area only as follows:

(A) As specified in an agreement entered into between Metro and Columbia Resource Company authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility special waste not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of initial designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
 - (2) The record of regulatory compliance of the facility's owner and operator with federal, state, and local requirements;
 - (3) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;
 - (4) The adequacy of operational practices and management controls at the facility;
 - (5) The expected impact on the region's recycling and waste reduction efforts;
 - (6) The expected impact on Metro's revenue;
 - (7) The consistency of the designation with Metro's existing contractual arrangements;
 - (8) The need for additional disposal capacity and the effect on existing designated facilities; and
 - (9) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.
- (c) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the Executive Officer.
- (d) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

- (e) Use of Non-System Facilities Prohibited. Except to the extent that solid waste generated within the service area is transported, disposed of or otherwise processed in accordance with the terms and conditions of a non-system license issued pursuant to Metro Code Section 5.05.035, no waste hauler or other person shall transport solid waste generated within the service area to, or utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the service area, any non-system facility.

Section 2. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect upon passage. Immediate action is warranted in this instance to offset long delays in establishing appropriate regulatory arrangements for receipt of waste from within Metro boundaries by the facilities named herein.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

PN:clk
(cart\franch\desigfac.ord) (1/26/93)