

 **Metro** | *Meeting minutes*

Meeting: Solid Waste Alternatives Advisory Committee (SWAAC)
Date: December 9, 2015
Place: Metro Regional Center, Council Chambers

Attendees

Mike Leichner, Pride Disposal
Casey Camors, City of Milwaukie
Bruce Walker, City of Portland
Theresa Koppang, Washington County
Kathy Kaatz, City of Tualatin
Scott Keller, City of Beaverton
Alando Simpson, City of Roses Disposal & Recycling
Amy Roth, Association of Oregon Recyclers
Audrey O'Brien, Oregon Dept. of Environmental Quality
Keith Ristau, Far West Recycling
Paul Ehinger, Metro
Matt Korot, Metro

Absent

Amy Pepper, City of Troutdale

Presenters:

Tom Chaimov, Metro
Bryce Jacobson, Metro
Roy Brower, Metro
Warren Johnson, Metro
Dan Blue, Metro

1. CALL TO ORDER AND DECLARATION OF A QUORUM

Chair Matt Korot called the meeting to order and declared a quorum.

2. COMMENTS FROM THE CHAIR AND SWAAC MEMBERS

Chair Korot made comments regarding agenda item number 5, Commissioning of SWAAC subcommittees to consider regulatory changes. He stated that he would be asking the voting members of the SWAAC to vote and that there may be public comment. He asked SWAAC if they would like to hear the public comment before the vote or during the scheduled comment agenda item. SWAAC members indicated they would like to hear the public comment before the vote.

Chair Korot also stated that Metro staff was working on agenda items for 2016 and that the list of those items would be discussed at the January or February meeting. He also said that he would be soliciting input from SWAAC members on how they felt the committee has worked over this year.

Chair Korot stated that he had mentioned to members at the last meeting that terms are expiring and he would be soliciting re-nominations and new nominations. He stated that no action was required on the part of members at this time, but to look for something from him.

He then introduced Stacey Hopkins as assisting in the meeting today.

Chair Korot asked for SWAAC comments unrelated to the agenda. Mrs. Koppang asked for an update from any SWAAC members who attended the Regional Disaster Preparedness Organization (RDPO) workshop this week. Chair Korot asked Ms. Kaatz to summarize the work that was discussed at the RDPO workshop. Ms. Kaatz reported that she attended the workshop that discussed roles and responsibilities between cities, counties, DEQ and Metro in a disaster and debris management situation.

3. CONSIDERATION OF SWAAC MINUTES FOR NOVEMBER 19, 2015

The minutes of the November 19, 2015 SWAAC meeting were approved.

4. SOLID WASTE ROADMAP UPDATES

Mr. Chaimov said he would be sharing with the committee a couple of engagements Metro staff had with the Metro Policy Advisory Committee (MPAC) and then Mr. Jacobson would update the committee on the landfill capacity policy work.

Mr. Chaimov reported that he and Paul Slyman met twice with MPAC, in April and October. He said that the Metro Council asked that MPAC be looped in early in the Roadmap process, so that members would understand the types of changes under consideration. In April, Mr. Chaimov and Mr. Slyman gave MPAC a high level overview about the Roadmap, shared the six public benefits that encapsulate the guiding principles, and described the key questions that will hopefully be answered by the Roadmap projects. MPAC members expressed interest in learning more and asked for Mr. Chaimov and Mr. Slyman to return in October with a progress report.

At the October meeting, they shared the story of what disposal in the system might look like based on scenario-building work to date. Talked about how methane or compost could be made from food scraps if we get them out of the waste stream, and if we're successful at that, then the waste stream will be dryer so we may be able to do some advanced material recovery on what's left, and then look at the options for managing what remains. There was a fair amount of questions and answers by MPAC members, which was good. He said that the next time staff returns to MPAC it will be to take a more targeted discussion item, for example, a region-wide commercial food scraps program. Before taking anything to MPAC, which would likely be in about four to six months, staff would come to SWAAC first.

Chair Korot asked for questions or comments from the committee for Mr. Chaimov. There were none.

Mr. Jacobson then shared an update on the Landfill Capacity Policy Project. He stated that he would share the work plan as well as the outcomes of a recent engagement with the Metro Council. Mr. Jacobson told the committee that this project results from Council direction in December 2014 to develop a policy to keep Metro region waste from contributing to the expansion of any existing landfill or creation of any new landfills. That direction was translated into a project question: How should the capacity of landfills available to serve the region inform where Metro directs regional waste for landfill disposal? Mr. Jacobson explained the five step work plan for the project:

1. Develop the project scope
2. Identify an approach to capacity
3. Identify the impact of implementing a capacity approach
4. Public engagement
5. Policy and legislation

Mr. Jacobson then shared where the project is currently at in the work plan process. He stated that they have received approval on the work plan from the Metro Council, and then the staff began work on the first deliverable which is to identify an approach to determining capacity. The project staff discussed the approach with the Council on Nov. 24, 2015 and the majority of Councilors favored the staff-recommended approach of using amendments to DEQ-approved landfill site development plans as the measure of whether a landfill is expanding.

Next steps will be for staff to return to Council work session in late January 2016 to describe the potential impacts of this approach, which would most immediately affect the Riverbend Landfill in Yamhill County, as every other landfill has capacity for decades and wouldn't be expected to amend their respective site development plans for more capacity.

Mr. Leichner asked if one of the major landfills up the George decides to add an expansion potential to its site, does that exclude it, even though it may have 100 years left, but it want to go to, say, 130 years? Mr. Jacobson responded that is correct.

Mr. Jacobson finished by saying that public engagement on the policy would occur during late winter and spring of 2016. Following that, a draft policy and legislation would be brought to the Metro Council for consideration in May or June.

5. COMMISSIONING OF SWAAC SUBCOMMITTEES TO CONSIDER REGULATORY CHANGES

Roy Brower introduced the topic by reminding the group that since 2012 Metro has been working to update and modify the Title V of the Metro Code. He told the committee that he would give a little background on the process and then ask the committee for its approval to launch a subcommittee to work on some of these regulatory issues. He stated that the goal in updating the code is to satisfy the public interest, using the six public benefits that have been associated with the Solid Waste Roadmap as guides for regulatory development:

1. Protect people health
2. Protect the environment
3. Get good value for the public's money
4. Keep the commitment to the highest and best use of materials
5. Be adaptive and responsive in managing materials
6. Ensure services are available to all customers

Mr. Brower also stated that Metro is trying to: make the code more relevant, flexible and easier to use; create a level playing field amongst similarly situated types of facilities; and recognize factors such as new players, new technology and new practices. He said Metro is using DEQ's model of moving more of the details into administrative procedures rather than into code.

Mr. Brower stated that in response to stakeholder input, Metro has slowed the current code change process in order to provide more opportunity for feedback and to develop a more robust process for consideration of substantive changes to the code. These changes will now progress along three tracks:

1. General or "housekeeping" changes to update the code.
2. Regulation of material recovery and conversion technology facilities, which is the primary discussion for today and for which Metro would like SWAAC to establish a subcommittee.
3. Fee and tax exemptions, for which Metro would also like to establish a SWAAC subcommittee.

Mr. Brower asked the SWAAC if they had any questions. Ms. Koppang asked if staff were considering two subcommittees. Mr. Brower responded, two distinct subcommittees, one would start in January and the other would start in about, July.

Mr. Simpson asked if the two subcommittees would have the same members. Mr. Brower answered that there may be some overlap, but not a lot. He felt that the two subcommittees had different sets of interests and players.

Ms. O'Brien stated that DEQ's process includes public hearings as part of the public comment process and suggested that Metro consider having a similar process. Mr. Brower responded that for Metro the formal public hearing happens at the Council's first read of a proposed ordinance. We would also likely hold a separate and more informal public workshop.

Mr. Brower asked SWAAC for its input on three questions:

1. Does SWAAC have any comments on the proposed SWAAC subcommittee approach?

2. Does SWAAC have any suggestions on the scope, coverage or approach specifically on the MRF/conversion technologies subcommittee and the fee and tax exemption subcommittee?
3. Does SWAAC have any suggestions on the particular membership categories given in the memo?

Mr. Leichner asked if this was the appropriate time for public comment. Chair Korot responded that they would hear comment from SWAAC members and then hear public comment.

Mr. Leichner asked if the subcommittee and SWAAC would be making recommendations to Council or present options without giving recommendations. Mr. Brower responded that the subcommittee and SWAAC would be giving recommendations to Council. Mr. Leichner questioned the SWAAC's authority to give recommendations to Council, citing that in forming the current version Council said it was not to be a policy-recommending group. Chair Korot responded that the current SWAAC group still deals with policy and spoke to Council's desire for this new SWAAC vs. the old SWAC to have more discussion around alternatives than single recommendations. He added that what distinguishes this project from others is that the Council has specifically asked SWAAC to work on it and that the issue comes down to the options that Mr. Brower presented to regulate or not, with certain characteristics or not.

Mr. Leichner stated that he disagreed strongly with SWAAC's ability to make recommendations, based on the Council's charge for the committee. Michelle Bellia, Metro Senior Attorney, stated that the Council has the authority to task this group to make a recommendation, that its authority is clearly stated in the code and that there should be no concern with SWAAC's authority to proceed with this work. Mr. Leichner said that he was not necessarily accepting the explanation of the Committee's authority, but would move on. Chair Korot thanked him for his comments.

Chair Korot asked SWAAC for comments on the first question proposed by Mr. Brower. Ms. Koppang said that she supports the approach. Mr. Walker states that he supports the approach.

Mr. Simpson asked if, during the public forum on Title V earlier in the year, there were any suggestions made regarding the policy process and additional vetting. Mr. Brower responded that he didn't recall any recommendations. Mr. Johnson explained that there was discussion around whether the code work should be included in other Solid Waste Roadmap projects or as part of developing the Regional Solid Waste Management Plan. Metro staff felt that the code issues should be separate from these.

Mr. Brower asked SWAAC members if they had any suggestions on scope, coverage or approach, specifically on the MRF CT subcommittee, and any suggestions on the member categories. Mr. Brower read off the 12 suggested member categories from the Dec. 3, 2015 memo from Chair Korot.

Ms. Koppang asked to speak to the Washington County SWAC position. She said that she had suggested this representation because the County has a very robust advisory committee and the committee is extremely interested in the topic and well-versed in many of the issues being addressed by the Metro Council. The committee has a good pool of people from which to draw and she thinks it's important that some other voices be represented on the subcommittee.

Mr. Leichner said that he would like to see more than just one or two facility operators on the subcommittee since the industry would be the ones subject to regulation. He noted that some balance of the representatives won't actually be subject to the regulation, like AOR. Chair Korot responded by saying that as with SWAAC's environmental representative, the thought with the subcommittee was to have a representative from an organization whose whole mission is about recycling. Chair Korot also stated that part of the balance that Mr. Brower and staff are facing is having a manageably sized committee, while addressing the things that Mr. Leichner raised and ensuring the public interest is still the driving factor in deliberation. Mr. Brower reiterated staff's desire to strike the balance Chair Korot mentioned. Mr. Ristau suggested a representative from the Oregon Refuse & Recycling Association as a representative of recycling facilities.

Chair Korot asked for more comments or suggestions. Mr. Walker suggested keeping the subcommittee size manageable and allowing the public to attend and give input would be helpful. He stated that he felt this subcommittee membership was moving in the right direction. Ms. Koppang said that she echoed much of what Mr. Walker stated and felt that the number of the subcommittee was manageable. Ms. O'Brien suggested adding someone from the general public on the committee. Mr. Brower stated that the subcommittee meetings would be run much like the SWAAC meetings and open to the public.

Mr. Brower asked SWAAC members for comment on the third question involving fees and taxes. He reminded them that they would have further opportunity to provide more in depth comments. Mr. Brower then reviewed the member characteristics for the second subcommittee.

Ms. Camors asked if the utility rate making expert character would be similar to someone from Washington's Utilities and Transportation Commission. Mr. Brower responded yes. She also asked if representation from the private sector, such as certified public accountants that work on utility rates, would be considered. Mr. Brower responded that it could be someone that does that type of work. He said that they were open to it and that it would require more discussion. Ms. Camors asked if haulers would be considered for this subcommittee. Mr. Brower responded that they would consider that additional category. Mr. Walker asked if this would be set up mid next year. Mr. Brower responded yes.

Chair Korot asked for public comment. Mr. Dave White, regional representative for the Oregon Refuse & Recycling Association asked to speak. Mr. White referred to the written comments he had provided to Metro earlier in the day. He said that it is clear that Metro

wants to regulate the facilities and thankfully the process was slowed down. The process needs to consider whether regulation is a good idea and what is being proposed is a thumbs up or thumbs down on licensing these facilities. Under Title V, licensing allows Metro to tell facilities about performance and equipment standards, which is pretty involved. He then spoke to Mr. Leichner's comments about SWAAC's charge, reiterating that the current SWAAC should be speaking to a broad range of choices, not necessary just a "yes" or "no." He wants to see an informed discussion and proposed that the SWAAC subcommittee should receive factual data on the current function and performance of the region's material recovery facilities in order to determine what problems exist, their magnitude and whether regulation is the only way to address them. A range of options may exist and those should then be presented to the Council. He then stated that industry membership will only matter if industry members can vote. He made additional comments about factors related to the "dirty" MRF and Association of Oregon Recyclers membership positions.

Chair Korot asked Mr. Brower if during this process there would be a chance to discuss what does licensing mean in practice. Mr. Brower responded yes, that is correct. He said that part of this process is to come up with standards that are specifically tailored for this industry sector.

Chair Korot asked the SWAAC members for any additional questions or comments. Mr. Keller asked how the subcommittee would come to a consensus and if all members would be voting ones. Mr. Brower responded they would all be voting members. Mr. Simpson noted that the membership consists of an even number of people and an odd number might be more effective.

Chair Korot clarified that the subcommittee would not be reporting to Council, but would be reporting to SWAAC.

Ms. Koppang commented that SWAAC would not be the only source of input that Metro will receive on this issue and that there will be many other avenues where input can and will be received by Metro Council.

Chair Korot asked for a motion to commission a SWAAC subcommittee that would consider whether MRFs that process source separated recyclable materials and facilities that convert waste to energy or fuel should be subject to licensing requirements and, if so, to suggest which requirements may be appropriate for those facilities. Mr. Walker made the motion. It was seconded by Ms. Koppang. SWAAC members voted. The motion was passed and approved. Mr. Korot thanked all for the very robust discussion.

Mr. Blue then provided more detail on the process for forming the subcommittee. He stated that the positions will be filled through recommendations or nominations from SWAAC. He asked that nominations should come directly to him by Dec. 18, 2015. Chair Korot asked if nominations or self-nominations from non-SWAAC members could be submitted. Mr. Blue responded yes. Mr. Blue also stated that he hopes to convene the subcommittee towards the end of January.

Mr. Johnson reported to the committee on work on code changes unrelated to the focus of the two subcommittees. Staff would like to discuss these potential changes with SWAAC in January.

6. **CITIZEN COMMUNICATION TO SWAAC AGENDA ITEMS**

None.

7. **PREVIEW OF THE NEXT MEETING'S AGENDA AND FINAL COMMENTS**

Mr. Korot reiterated that the January meeting would include further discussions of the Title V work. It's still to be determined whether there will be other items on the agenda. He then adjourned the meeting.

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