



**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

April 1, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

**First Reading of Ordinance No. \_\_\_\_\_ Amending Chapter 10.03,  
Determination of Waste Management Fees**

<b>Purpose/Outcomes</b>	Amend County Code Chapter 10.03 regarding determination of waste management fees.
<b>Dollar Amount and Fiscal Impact</b>	There are limited direct financial implications as a result of adopting or rejecting the proposed code amendment as presented in the Ordinance. If adopted, there would be staff time related to outreach when the fees are adjusted under the Ordinance, and costs related to using the contracted accounting firm to review the fee reduction at implementation.
<b>Funding Source</b>	Additional costs would be funded by solid waste franchise fees. No general funds would be used for these costs.
<b>Duration</b>	Indefinitely
<b>Previous Board Action/Review</b>	Issues Session: February 23, 2021 Policy Session: March 9, 2021
<b>Strategic Plan Alignment</b>	<ol style="list-style-type: none"> <li><i>How does this item align with your Department's Strategic Business Plan goals?</i> A core purpose in the Sustainability &amp; Solid Waste Program is oversight of the garbage and recycling system to ensure franchisees can provide safe, efficient and timely services.</li> <li><i>How does this item align with the County's Performance Clackamas goals?</i> Access to safe, convenient garbage and recycling services helps promote community health, livability, and responsible stewardship of natural resources. Fee reviews provide assurance that customers are provided fair value and charged a fair fee for the services they receive.</li> </ol>
<b>Counsel Review</b>	Reviewed and approved by Counsel 3-22-21 NB
<b>Contact Person</b>	Rick Winterhalter, DTD Sustainability & Solid Waste 503-742-4466

## **EXECUTIVE SUMMARY:**

On Tuesday February 22, 2021 Mr. John DiLorenzo made a presentation to the Board of Commissioners proposing an Ordinance amending County Code Chapter 10.03, Determination of Waste Management Fees. In response to Mr. DiLorenzo's presentation, the Board posed several questions and requested that staff convene the Solid Waste Commission for them to review and comment on the proposed Ordinance.

On February 25th, Mr. DiLorenzo sent a revised version of the proposed Ordinance. This version was submitted to the Solid Waste Commission for consideration on March 1, 2021, and is the code language under consideration in this first reading (Attachment 1). The Solid Waste Commission recommendation, and answers to the Board's questions were presented in a Policy Session on March 9, 2021. In the Policy Session the Board posed additional questions to staff, and moved to hold a first reading of the proposed Ordinance.

## **Background**

### *Current Fee Review Process*

The Sustainability & Solid Waste Program of the Department of Transportation and Development (DTD) is responsible for managing the County's Integrated Solid Waste Collection System. This includes an annual review of the production records of the County's nine franchised solid waste collection companies. The purpose of the review is to ensure that solid waste collection services are provided to residents and businesses safely, cost-effectively, efficiently, and in a manner that supports the benefits of recovering materials from the system. The review is used to establish the fees charged for the variety of services required by the County, to ensure a fair return to the collectors, and to ensure reasonable collection rates for the residents of Clackamas County. The review process is assisted by a contracted certified public accountant who reviews franchisee financial records, creates summaries, and provides analysis.

The County undertakes an annual fee review, coupled with annual adjustments as necessary, to keep fees and real costs aligned. The adjustments may come in the form of fee increases, maintaining or lowering fees, adding additional collection services, or a combination of these options. In this process if there is a decrease in disposal costs (which account for approximately 20% of the cost of collection) the decrease is included and considered alongside other known and measurable increases in costs (e.g.: labor, equipment, trucks). Using this model these decreases have served to offset other cost increases that would have resulted in a rate increase, and accounts for how cost decreases are passed along to customers. Using the annual review model also prevents large and unexpected increases that can result from a less frequent review.

### *Proposed Ordinance*

The Ordinance proposed by Mr. DiLorenzo would require the Board to directly reduce its garbage and recycling collection fees to reflect, commensurately, any reduction in Metro's tip fee, if reduced by Metro or required by a court. If a reduction is ordered by a court, the ordinance requires the Board to bypass the regular fee review process, implementing the reduction as soon as reasonably practicable. If a reduction is initiated by Metro or for other reasons, the ordinance would allow the reduction to be incorporated in the regular, annual fee review process and would allow the Board to use that reduction to offset other increased costs,

in a way that ensures that the full benefit of the reduction inures to the benefit of the customers. This adjustment does not go into effect for increases in Metro's tip fees. A reduction triggered by a court order would not be as expansive as the annual rate review process which considers other elements such as the cost of labor, equipment, fuel, new services, or rate of return to collectors (allowing for rate smoothing). Under this ordinance, the annual fee review process would continue. The proposed ordinance includes an emergency clause making it effective upon adoption.

## **Clarifying Questions**

In the February 22, 2021 Issues presentation and the March 9, 2021 Policy Session the Board asked some clarifying questions. Some were answered directly by Counsel, or by Mr. DiLorenzo. Other questions, and answers from staff, are provided below.

### **Question: Has the Ordinance been discussed with the franchise holders?**

**Staff response:** The collectors have representation on the Solid Waste Commission, and they were present at the March 1, 2021 Solid Waste Commission meeting. Staff also notified the collectors, who will have an opportunity to provide public comment during Ordinance first and second readings.

### **Questions: Does this duplicate the existing annual review process? How will approving the Ordinance affect the Board's ability to review fees?**

**Staff response:** Under the ordinance if a court orders Metro to enact a reduction in the tip fee, the Board will be required to immediately adjust fees to reflect the reduction. The annual fee review, as outlined above, will continue under this ordinance, and will include, for the Board's consideration, any mid-cycle reduction implemented resulting from a court ordered reduction in Metro fees.

### **Question: What is the Solid Waste Commission's view of the proposed Ordinance?**

**Staff response:** In response to this question being raised at the February 22nd Issues session, the Solid Waste Commission was convened on March 1, 2021. The staff report for the meeting is provide as Attachment 3. The Board's discussion in its Issues session was included for the Solid Waste Commissioners to observe. Additionally, in the meeting both Mr. DiLorenzo, and Shane Abma, Senior Attorney for Metro, were in the audience and were provided the opportunity to comment. In public testimony one member of the audience provided comment via chat on Zoom.

After deliberation, the Solid Waste Commission voted unanimously 6-0-1 (with one abstention) not to recommend adoption of the Ordinance. In their deliberation, the Solid Waste Commission expressed a general consensus that:

- The County's code currently provides the Board full authority and discretion to increase or decrease fees and pass on reductions or increased costs.
- The County's fee review process is extensive, and per code it considers and passes on the benefits of reductions in costs, to customers.

### **Question: Has the County ever enacted a rate reduction?**

**Staff response:** Following the annual fee review process, which considers the full costs and saving within the system, the Board has held fees flat when Metro has decreased fees. In 2017 Metro reduced tip fees by \$1.30. In 2014 Metro reduced the tip fee by \$1.00. These reductions

were considered by the Board along with other increasing expenses. In each case the Board held the fee at previously approved levels.

**Question: Does this code amendment force the Board to respond solely to a court ordered Metro fee reduction?**

**Staff response:** The proposed amendment requires the Board to respond to any reduction in Metro's tipping fee, but treats a court-ordered reduction differently than other reductions. If a court orders a reduction in Metro's fees, the Board is required to change the Waste Management Fee Schedule. The amount of the change shall be commensurate to the court ordered reduction in Metro's fees, as soon as reasonably practicable, "...without the need to pass through the process for Determination of Waste Management Fees set forth in Clackamas County Code Section 10.03.340." Alternatively, if a reduction is initiated by Metro or for reasons other than a court order, the ordinance would allow the reduction to be incorporated into garbage and recycling fees in the regular, annual fee review process and would allow the Board to use that reduction to offset other increased costs, in a way that ensures that the reduction inures to the benefit of the customers.

**Question: Does this code amendment reduce the Board's discretion to smooth fees?**

**Staff response:** Yes. In the case of a court ordered reduction in Metro fees the Board must lower fees commensurate to the court ordered reduction. If other costs for garbage and recycling are increasing concurrently with a reduction from Metro, this amendment would increase the likelihood that a rate increase will be required in the months after a reduction. Smoothing to prevent large, unexpected, or more frequent increases is part of the existing fee review process.

**Question: The March 9 staff report and the attached letter from Metro's Counsel appear to address two different subjects. Provide a bridge between the two documents.**

**Staff response:** Mr. Abma's letter and the March 9, 2021 Policy Session worksheet address two different aspects of this proposed amendment. The Policy Session worksheet provides background and information on the content and effect of the proposed amendment to the County Code, including the Solid Waste Commission's recommendation. Mr. Abma's letter discusses some of the legal background related to the proposed Ordinance.

Additionally, clarity was requested on which transfer stations collectors can use (as noted in Mr. Abma's correspondence). Collectors are not bound to use public transfer stations. Collectors use the facility that provides the most efficient and cost effective routing. Some of the private facilities available for a select number of franchisees have higher fees than Metro. The County's collection fee uses the lower public transfer station's fee to calculate the disposal component of the residential collection fee.

**Question: If the Board rewords the proposed code amendment to allow the Board discretion (smoothing) does it negate the effort to hold Metro accountable if there is a subsidy in their disposal fee?**

**Staff response provided by County Counsel:** The Board's discretion related to establishing waste management fees appears to be a central issue in terms of whether private parties have standing to sue Metro directly. Presumably then, any revision to the code language that alters the Board's discretion over establishing waste management fees could impact related lawsuits involving these types of disputes.

This question was also addressed by Metro, including the subject of whether a subsidy is present. Metro Counsel's response is provided as Attachment 2.

**RECOMMENDATION:**

This staff report is provided as background and supplementary information as requested by the Board, based upon the February 22, 2021 direction by the Board to hold this first reading and public hearing in consideration of the proposed amendment, and a second reading scheduled for April 15, 2021.

Respectfully Submitted,

*Cheryl Bell*

Cheryl Bell, Assistant Director  
Department of Transportation and Development

Attachments:

1. Ordinance No. \_\_\_\_\_, an Ordinance Amending Clackamas County Code Chapter 10.03, *Solid Waste and Wastes Management*, and Declaring an Emergency
2. March 14, 2021 Response from Metro Attorney Addressing a Commissioner Question
3. Staff report for March 1, 2021 Solid Waste Commission Meeting

**Attachment 1: Ordinance No. \_\_\_\_\_,  
an Ordinance Amending Clackamas County Code Chapter 10.03,  
*Solid Waste and Wastes Management*, and Declaring an Emergency**

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending  
Clackamas County Code Chapter 10.03, *Solid Waste and Wastes  
Management*, and Declaring an Emergency**

WHEREAS, Clackamas County is responsible for governing the collection, storage, transportation, and disposal of all solid waste and wastes with unincorporated Clackamas County and, with intergovernmental agreements, select cities; and

WHEREAS, Clackamas County grants franchises to Collection Service Franchisees granting the right and responsibility to provide Collection Services (including the collection, transportation, storage, or disposal, of solid waste or wastes for compensation), and Collection Service Franchisees provide Collection Services to consumers in Clackamas County; and

WHEREAS, the Board of County Commissioners for Clackamas County establishes the Waste Management Fees (WMF) that Collection Service Franchisees may charge to consumers in Clackamas County for Collection Services; and

WHEREAS, Clackamas County Code Section 10.03.340 requires the Board of County Commissioners for Clackamas County to give due consideration to a variety of factors, including the cost of disposal, when determining the WMF Collection Service Franchisees may charge to consumers in Clackamas County for Collection Services; and

WHEREAS, Clackamas County Code Section 10.03.340 further requires the Board of County Commissioners for Clackamas County, in considering WMF increases or decreases, to find that the WMF will be just, fair, reasonable, and sufficient to provide required service to the public; and

WHEREAS, Metropolitan Service District (Metro) operates two waste transfer stations within Metro's jurisdiction, including one in Clackamas County, at which Metro charges a per ton solid waste rate or "tip fee" for the transfer of solid waste at its transfer facilities; and

WHEREAS, Collection Service Franchisees utilize one or more Metro transfer facilities for the disposal of waste collected in Clackamas County in the course of providing Collection Services to consumers in Clackamas County, where Collection Service Franchisees pay Metro's per ton solid waste rate or "tip fee"; and

**Attachment 1: Ordinance No. \_\_\_\_\_,  
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Solid Waste and Wastes Management, and Declaring an Emergency**

WHEREAS, the Metro per ton solid waste rate or “tip fee” Collection Service Franchisees pay to Metro in the course of providing Collection Services to consumers in Clackamas County is a significant factor in determining the WMF Collection Service Franchisees may charge for Collection Services, and

WHEREAS, the Board of County Commissioners for Clackamas County finds that a just, fair, reasonable, and sufficient WMF requires that consumers in Clackamas County directly receive the benefit of any reduction in the per ton solid waste rate or “tip fee” Metro is permitted to charge to Collection Service Franchisees,

Now, therefore, the Board of Commissioners of Clackamas County ordains as follows:

**Section 1:** Chapter 10.03 of the Clackamas County Code is hereby amended by adding the following:

A. Notwithstanding any other provision of the Clackamas County Code, in the event that Metro reduces or is required by a court or otherwise to reduce its per ton solid waste rate, “tip fee,” or any similar charge charged by Metro on a per ton basis and paid by any Collection Service Franchisee providing Collection Services to consumers in Clackamas County, the Waste Management Fee for Collection Services set by the Board shall be reduced commensurately so that one hundred percent of the reduction in fees paid to Metro as a result of Metro’s reduction inures to the benefit of residents paying for Collection Services in the form of a reduced Waste Management Fee paid by those residents.

B. The requirements of Section A apply to any reduction of Metro’s fees described therein that will last more than 30 days in duration. If the reduction of Metro’s fees described in Section A is the result of a court order, the commensurate reduction in the Waste Management Fee for Collection Services a Collection Service Franchisee may charge to residents described in Section A shall be implemented as soon as reasonably practicable without the need to pass through the process for Determination of Waste Management Fees set forth in Clackamas County Code Section 10.03.340. Otherwise, the process for Determination of Waste Management Fees set forth in Clackamas County Code Section 10.03.340 shall apply to the implementation of the requirements of Section A, provided, however, that the Board shall complete its process for Determination of Waste Management Fees as soon as reasonably practicable after receiving notice of any reduction in Metro’s fees and that if, in setting the new Waste Management Fee, the Board finds that the Waste Management Fee must cover any unrelated increase in costs, the Board may implement the reduction in the Waste Management Fee required under Section A as an offset to those unrelated increases in costs and that offset shall be deemed to inure to the

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benefit of residents paying for Collection Services as an effective reduction of the Waste Management Fee those residents otherwise would be paying.

**Section 2:** Emergency Clause. The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate effect of the ordinance is necessary to ease the economic impact on residents of Clackamas County of the cost of solid waste Collection Services should a reduction in the per ton solid waste rate, "tip fee," or any similar charge charged by Metro on a per ton basis occur. Accordingly, this Ordinance shall be effective upon its adoption.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2021.

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary



## Winterhalter, Rick

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**From:** Shane Abma <Shane.Abma@oregonmetro.gov>  
**Sent:** Sunday, March 14, 2021 4:13 PM  
**To:** Winterhalter, Rick  
**Subject:** Re: [External sender]Question: Clackamas Board

Warning: External email. Be cautious opening attachments and links.

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Rick,

Here is Commissioner Savas' question as you described (and which I agree with based on video):

*Comm Savas (55:34) "If we put discretion thing in there (relating to his earlier comments about "smoothing") does it negate the effort to hold Metro accountable if there is a subsidy between dry and wet waste so that one industry is not favored to the detriment of our rate payers."*

As you know, plaintiffs have alleged in the lawsuit that Metro uses "wet" waste to subsidize "dry" waste costs. Metro disagrees with this assertion. There is no "subsidy" between dry and wet waste disposal. Thus, it's a little difficult for Metro to answer this question if the underlying premise is that there is a subsidy between waste streams. As I've mentioned earlier, Metro believes that it is complying with its charter regarding rate setting. Metro further believes that its actions can be challenged in court. In the current lawsuit, the court ruled only that *these particular plaintiffs* did not have standing to challenge Metro's rates because they don't pay them directly (the haulers do), and there was no guarantee that if Metro lowered its rate as a result of the lawsuit that these plaintiffs would have lower garbage bills. It was too speculative.

Accordingly, Mr. DiLorenzo's proposed ordinance is mostly about finding a way to allow his two clients (plaintiffs) to again sue Metro at some future date. Mr. DiLorenzo believes that if the County is **required** to lower its garbage rates if Metro lowers its disposal fees, then a court might find that plaintiffs have standing to sue Metro in the future. (In other words, a court may find that plaintiffs' garbage bills would automatically decrease if Metro is required to split its fees into wet and dry waste disposal).

It's my understanding that the Board currently has **full discretion** to lower rates as it sees fit, and to do so at any time it sees fit. This would include lowering garbage rates if Metro lowers its disposal fees. However, this ordinance proposes to take away the Board's discretion and **require** the Board to act if Metro's disposal rate is ever lowered (by Metro or by court order). As you are aware, Metro has in fact lowered its disposal fee twice in the last few years, and neither time did Clackamas County reduce residential garbage rates. Because the Board has full discretion on rates, it can use savings from a lower Metro disposal fee to enhance or expand other services, or it can use the savings to help offset other rising costs (fuel, health care, recycling, wages, etc) in order to keep garbage rates fairly steady.

Finally, I would note that if a court did order Metro to charge separate wet and dry waste disposal fees (instead of just a "garbage" disposal fee), this would likely **increase** costs for many Metro customers, including Clackamas County self-haul customers. It would also reduce recycling opportunities. Plaintiffs have only characterized this as a cost-saving lawsuit for residential garbage payers. **But others would pay more.** If

Metro is required by a court to split its “garbage” rate into two separate rates, then it is likely (though not guaranteed) that “dry” waste disposal costs would increase and “wet” waste disposal costs would decrease. Plaintiffs only speak of one half of that equation.

- Increased “dry” waste costs could increase fees on the hundreds of thousands of self-haul customers that come to Metro South and Metro Central every year. Self-haul customers generally bring “dry” waste in for disposal (think home remodels, cleaning out the attic or garage, etc). It’s my understanding that only one other private transfer station in the region offers self-haul services, so these customers do not have many options.
- Increased “dry” waste costs could affect large droboxes used by home remodelers, commercial builders and residential builders. This could potentially lead to increased construction and remodeling costs.
- If Metro has a separate and more expensive “dry waste disposal” cost, this may encourage other dry waste facilities in the region to increase their rates as well, thus increasing dry waste disposal costs region-wide. At least one dry waste facility has indicated that it keeps its rates low to better “compete” with Metro’s rate, but that facility will raise its rates if Metro is required to establish a more expensive “dry” waste disposal fee.
- Splitting rates will actually increase some operational costs at Metro South because “spotters” would be required to determine if a load is wet or dry. Those costs will likely be added to the disposal fee.
- Recycling opportunities could be reduced. Having two rates would create an incentive for someone to take a “dry” waste load (that costs more) and contaminate it with some “wet” waste to make it a “wet” waste load (which could cost less). This may make the load no longer viable for recycling opportunities, thus sending more waste to the landfills.

In short, Metro has charged a single “garbage” disposal rate since it first opened Metro South in the early 1980s and long before it even had a charter. It does so for environmental and public policy reasons. Metro does not distinguish between a “wet” and “dry” waste load. Plaintiffs conflate how Metro *manages* waste after it is received with the *service* Metro provides at the front door to its customers, and Metro is confident a court would agree.

Please let me know if you have further questions or follow up.

Best,

Shane

**Shane Abma**  
**Senior Attorney**  
**Metro Regional Government**  
*he/him/his*

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**From:** "Winterhalter, Rick" <rickw@clackamas.us>  
**Date:** Friday, March 12, 2021 at 1:16 PM  
**To:** Shane Abma <Shane.Abma@oregonmetro.gov>  
**Subject:** [External sender]Question: Clackamas Board

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Shane:

We were hoping you could answer the question Commissioner Savas asked at the end of the Policy Session this past Tuesday. I believe I've captured the gist of the question on the attached file. I know you've listened to the recording and if you believe I've missed something critical in the question please bring it to my attention so I can make necessary changes in my report.

Have a great weekend,  
rick

“Sometimes, carrying on, just carrying on, is the superhuman achievement.”  
- Albert Camus, writer, philosopher

***Oregon's 2050 Vision:***

*Oregonians in 2050 produce and use materials responsibly  
conserving resources •protecting the environment •living well*

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**DAN JOHNSON**  
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
DEVELOPMENT SERVICES BUILDING  
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

March 1, 2021

Solid Waste Commissioners Clackamas County

Members of the Commission:

**EXECUTIVE SUMMARY:**

On Tuesday February 22<sup>nd</sup> Mr. John DiLorenzo made a presentation to the County's Board of Commissioners proposing an Ordinance to amend County Code Chapter 10.03. Specifically the ordinance will affect Chapter 10.03.340, *Determination of Waste Management Fees*. The presentation can be viewed here (beginning at 35:35).

<https://www.youtube.com/watch?v=EF590fqSNIs&feature=youtu.be>

On February 25<sup>th</sup> Mr. DiLorenzo sent an amended version of the proposed Ordinance. Both versions of the proposed Ordinance are included with this staff report.

The Board has set a policy session for Tuesday, March 9th to review the proposed Ordinance. In advanced of the policy session, the Board requested the Commission review the ordinance and provide their recommendation.

The purpose of today's meeting is to review the code amendment proposed in the Ordinance in the context of the affect it would have on the County's management of the solid waste collection system.

**BACKGROUND:**

*Current Fee Review Process*

The Sustainability & Solid Waste Program of the Department of Transportation and Development (DTD) is responsible for managing the County's Integrated Solid Waste Collection System. This includes an annual review of the production records of the County's nine franchised solid waste collection companies. The purpose of the review is to ensure that solid waste collection services are provided to residents and businesses safely, cost-effectively, efficiently, and in a manner that supports the benefits of recovering materials from the system. The review is used to establish the fees charged for the variety of services required by the County, and to ensure a fair return to the collectors. The review process is assisted by a contracted certified public accountant who reviews franchisee financial records, create summaries, and provide analysis.

Historically the County has undertaken an annual review, coupled with annual adjustments as necessary to keep fees and real costs aligned. The adjustments may come in the form of fee increases, maintaining or lowering fees, adding additional collection services, or a combination of these options. In this process if there is a decrease in disposal costs (which account for approximately 20% of the cost of collection) the decrease can be used to offset other known and

measurable increases in costs (e.g.: labor, equipment, trucks). This review model prevents large and unexpected increases that can result from a less frequent review.

The Solid Waste Commission last recommended increasing fees in 2020. The Clackamas County Board of Commissioners adopted and made effective new fees on July 1, 2020. Based upon this fee increase the adjusted returns to revenue for franchise holders in the Urban zone fell within the established range of 8-12%. The combined Rural zone returns were below the lower limit of the range, and the total County composite returns also fell below the range.

#### *Proposed Ordinance*

In the February 22nd Issues session with the Board, Mr. DiLorenzo presented to the Board an Ordinance which makes amendments to County Code Chapter 10.03.340, *Determination of Waste Management Fees*. To provide the Commission with full context of this session the link to the meeting is provided above.

The amendment requires the Board to directly adjust fees to reflect any Metro proposed, or a court required, reduction in Metro's tip fee. This adjustment does not go into effect for increases in Metro's tip fees, and would not be as expansive as the annual rate review process which considers other elements like increased costs, adding new services or rate of return to collectors.

In response to the presentation, the Board asked some clarifying questions. These questions, and the answers from staff, are provided below.

#### **Question: Have you discussed this with the franchise holders?**

**Staff response:** *Staff was made aware of the proposed Ordinance in the February 22<sup>nd</sup> Issues meeting and then took action to notify the collectors. Additionally, collectors have representation on the Solid Waste Commission.*

#### **Questions: Does this duplicate the fee review process? How will approving the Ordinance effect the Board's ability to review rates?**

**Staff response:** *Under the ordinance if Metro enacts any reduction in the tip fee, the Board would be required to directly adjust fees to reflect the reduction. This reduction would occur at the time the tip fee is reduced. The annual fee review, as outlined above, would continue under this ordinance, and would also include consideration of the mid-cycle reduction when looking at the fee model.*

#### **Question: What is the Solid Waste Commission's view of the proposed Ordinance?**

**Staff response:** *This meeting has been called to provide this feedback to the Board of County Commissioners.*

#### **Question: Has the County ever enacted a rate reduction?**

**Staff response:** *Following the annual fee review process, which considers the full costs and saving within the system, the Board has held fees flat when Metro has decreased fees. In 2017 Metro reduced tip fees by \$1.30. In 2014 Metro reduced the tip fee by \$1.00. These reductions were considered by the Board along with other increasing expenses. In each case the Board held the fee at previously approved levels.*

**FINANCIAL IMPLICATIONS:**

There are limited direct financial implications as a result of adopting or rejecting the proposed code amendment as presented in the Ordinance. If adopted, there would be staff time related to outreach when the fees are adjusted under the Ordinance, and costs related to using the contracted accounting firm to review the fee reduction at implementation.

**LEGAL/POLICY REQUIREMENTS:**

ORS 459 and 459A authorize the County to franchise solid waste collection services. County Code Chapter 10.03 requires a review of the solid waste collection system to ensure the public receives the services required, and the County's franchisees are able to provide those services safely, efficiently, and with a reasonable return.

**STAFF PARTICIPATION:**

Staff has assembled Commission packets and scheduled this meeting.

**OPTIONS:**

1. Recommend approval of the amendment as written within the proposed Ordinance.
2. Recommend approval of the amendment as written within the proposed Ordinance with revisions as determined in this meeting.
3. Do not recommend approval of the amendment as written within the proposed Ordinance.

**RECOMMENDATION:**

Staff respectfully requests the Solid Waste Commission to consider this report and submit its recommendation to the Board of County Commissioners for their consideration.

Respectfully submitted,

*Rick Winterhalter*

Senior Sustainability Analyst  
Department of Transportation and Development