

**MSWAC Advisory Committee Meeting**

April 14, 2023 - 11:15 a.m. to 1:15 p.m.

Virtual Meeting (Zoom)

<b><u>MSWAC Members</u></b>	
Joan Nelson	Auburn
Jon Gire	Bellevue
Emily Warnock	Bothell
Robin Tischmak	Burien
Chris Searcy	Enumclaw
Steve Friedman	Clyde Hill
Rob Van Orsow	Federal Way
Colleen Minion	Federal Way
Mike Mactutis	Kent
Jenna McInnis	Kirkland
Penny Sweet, Chair	Kirkland
Phillippa Kassover, Vice Chair	Lake Forest Park
Jeff Brauns	Newcastle
Robert Clark	Newcastle
Micah Bonkowski	Redmond
Linda Knight, Vice Chair	Renton
Amy Lam	Sammamish
Genevieve Rubinelli	Sammamish
Mason Giem	SeaTac
Sarah Bruemmer	Shoreline

<b><u>King County Staff</u></b>
Joy Carpine-Cazzanti, King County Hazardous Waste staff
Kinley Deller, SWD staff
Brian Halverson, SWD staff
Pat McLaughlin, SWD Director
Kathleen Petrie, SWD staff
Terra Rose, King County Council staff
Hannah Scholes, SWD staff
Andy Smith, SWD staff
Isabelle Trujillo, SWD staff
Dorian Waller, SWD staff
John Walsh, SWD staff
<b><u>Guests</u></b>
Lacie Adkins
Joe Camero, Waste Management
Elizabeth Court, Washington State Dept. of Ecology
Erin Gagnon, Ridwell
Jeanette Jurgensen, Epicenter Services
Han Kirkland, Waste Management
Laura Moser, Waste Management
Doug van Gelder
Wendy Weiker, Republic Services

**Call to Order and Introductions**

Chair Sweet called the meeting to order at 11:20 a.m.

**Meeting Minutes**

Agenda approved unanimously. Knight moved to approve the March meeting minutes. Searcy seconded. The meeting minutes passed unanimously.

**Public Comment**

No public comment.

**SWD Updates**

McLaughlin provided the SWD update.

**Residual materials ILA**

SWD and the City of Seattle have reached an agreement and are in the process of executing an interlocal agreement (ILA) concerning the disposition of residual materials sorted from source-separated recyclables from King County’s Solid Waste jurisdiction and processed at Material Recovery Facilities (MRF) within the City of Seattle. Both King County and the City of Seattle believe this agreement will benefit both parties and their ratepayers. The agreement will also

preserve space the King County Cedar Hills Regional Landfill. Per the agreement, none of the residuals from the MRF will come to Cedar Hills but we will be compensated per ton. This agreement also takes the haulers out of the middle.

It must be approved by both the King County Council and City of Seattle Council. Once the ILA is signed, the City of Seattle will also dismiss the lawsuit it filed in King County Superior Court against King County regarding the final disposal of residuals from recycled materials.

Knight wanted clarification that the agreement was a 50/50 split of residuals between the City of Seattle and King County. McLaughlin clarified that originally, we only wanted the waste originated in King County to come back to King County. With the new agreement, the City of Seattle will keep all the waste originated from King County that ends up at the MRF, but they will give King County about \$30 a ton. This will be enacted when it is passed by both councils.

Bonkowski asked if this only impacts MRFs in Seattle. McLaughlin responded that it only impacts Seattle MRFs specifically, Republic and Recology. The residuals from the Woodinville MRF will continue to come to Cedar Hills.

### **Re+ City Grant Program**

We are excited to launch the new Re+ City Grants program, a competitive funding opportunity to support cities in delivering projects that further Re+ and create a more circular economy. There is a total of \$300k available for this cycle. The application window for the 2023-24 cycle is from April 23-June 1. We anticipate awards will be announced in July. Cities that will have signed the Re+ Pledge by June 30, 2023, will be eligible to apply. Cities can apply before they sign the pledge, but it will not be considered if the Re+ Pledge has not been signed by June 30. We encourage cities to collaborate and submit joint proposals. SWD engaged city staff at the December Recycling Coordinators meeting on the grant design. In February, SWD also held a focus group of city staff that provided feedback on the draft grant guidelines and supporting materials. This feedback helped shape the design of this grant opportunity. Please contact [circulargrants@kingcounty.gov](mailto:circulargrants@kingcounty.gov) with any questions.

SWD is nearing the Re+ City Grant program launch. This is the schedule:

- Application period: April 25-June 1
- Evaluation panel review and award recommendations: June
- Award notifications: July
- Contract negotiation: July

### **Kenworth EV Tractor**

The tractor has begun running from Enumclaw Transfer Station to Cedar Hills Regional Landfill hauling yard waste. The Electric Vehicle (EV) tractor runs four trips a day. To accomplish the daily trips, it needs to be charged multiple times during the day.

Sweet asked if the material is mostly yard waste. McLaughlin responded that he is not sure. Waller added that he will check if it is mostly yard waste or not. McLaughlin followed up stating that if it is yard waste, it will go to Cedar Grove instead of Cedar Hills.

Kassover commented that Lake Forest Park approved the Re+ pledge last night.

Searcy wanted to know if they can get a quick demo on the truck in operation. McLaughlin replied that we are happy to provide that.

Gire was curious if the MRF residue money is going back into the solid waste fund to help the rate increases. McLaughlin responded that this money would help soften any future rate increases.

Sweet suggested that the demo of the EV truck be sent out to everyone.

Pat added in the chat that SWD's All Electric Truck is hauling both yard waste and garbage out of Enumclaw, with four loads a day.

### **SWAC Update**

Sweet and Kassover both commented that SWAC was identical to MSWAC.

### **2023 Legislative Updates**

Scholes provided the 2023 legislative update.

There is one week left in the legislative session. The last day is April 23. This week is the cutoff for bills to pass out of the opposite house. Since last month, the Right to Repair bill did not make it past the cutoff to move out of the policy committee. We are hearing that the main opponent to that bill are the big tech companies that don't want to disclose their information about phones and other electronics.

SB 5144 EPR for Batteries is still alive. This bill would establish a Battery Stewardship Program for batteries that requires battery producers to fund and organize the collection and recycling of batteries in Washington. It passed out of the house and both chambers. They are waiting to see that is congruent in both chambers and will then go to the Governor's desk.

Another bill we are still tracking is HB 1033 Work Group on Compostable Products. It would establish a stakeholder committee force to make recommendations on the development of standards for managing compostable (plastic) products by organic management facilities. This bill passed hours before the cutoff time, and it was unanimous throughout the House.

HB 1085 on Plastic Pollution Reduction is also still alive. This bill would require refill stations wherever drinking fountains are required in new buildings, phase out mini toiletries at hotels, and ban foam-filled docks and floats. It passed both chambers and was signed by the House Speaker and the Senate President. It has now been delivered to the Governor.

Lastly, SB 5287 concerning the study in the recycling of wind turbine blades passed out of both houses unanimously.

The newest bill that we are following is SB 5187/HB 1140 – Operating budget provisions. This bill would require Ecology to conduct activities that would inform the design and implementation of a producer responsibility program for consumer packaging and paper products. This would include conducting a recycling, reuse, and source reduction target study; and carry out community engagement about the state's recycling system. The file budget is being negotiated and we expect to see it sometime mid-late next week.

Knight had two questions. One, if the goal is to get the support of information to reintroduce something like the WRAP Act. Two, if there are efforts to address the opposition to the WRAP Act. Scholes replied that we will come back to the committees and debrief what the interim will look like. There is support from the Bill sponsors to not lose momentum, especially regarding the community engagement piece and gathering more data to move forward. If the WRAP Act had passed, a provision like this would have been one of the first steps.

Kassover commented that she would also appreciate a debrief on the Right to Repair Act. Scholes responded that a debrief for that will also be provided but both debriefs will probably come in June rather than in May.

### **Green Building Practices**

Petrie and Deller presented this section.

We currently enforce the 2018 Washington Building Code (commercial & multifamily buildings) and Residential Code (single family, duplex and townhomes) and will start enforcing the 2021 codes in July 2023. There are two key priorities with green building practice – Construction & Demolition (C&D) Management and Electric Vehicles. Permitting departments across the state are currently working on local amendments. The Strategic Climate Action Plan (SCAP) guides the green building work being pursued by staff in SWD. To achieve the target goal of 85% C&D diversion rates across the county by 2025, the four SCAP directives SWD is following are:

- Propose strong green building codes in unincorporated King County
- Partner with King County cities on C&D recovery and reuse
- Propose strong C&D recycling codes
- Support the transition to a reusable wood market

Petrie facilitates a group called the Regional Code Collaboration (RCC) where jurisdictions across the Puget Sound Region work together to share resources and expertise to develop codes, policies, and tools supporting sustainable building practices that can be adopted/utilized locally. If interested in participating, contact [kpetrie@kingcounty.gov](mailto:kpetrie@kingcounty.gov).

Codes developed by the RCC associated with C&D material management will be in the 2021 Washington Building and Residential Codes. These codes and appendices include:

- Building Code Appendix P & Residential Code Appendix Y – requires the submittal of a salvage assessment and waste diversion report for projects meeting certain conditions (Appendices must be adopted by ordinance)
  - Applies to any permitted project with a 750+ square foot work area of \$75,000 construction work value
  - Alterations or demolitions need a completed and submitted Salvage Assessment prior to permit issuance
  - All projects are required to submit a waste diversion report prior to the project being finalized
- Residential Code Appendix Z – applies to single family buildings, duplexes or townhouses that are 750+ in square feet, 90 years or older and require a demolition permit
  - The requirement is that the building must be deconstructed in lieu of demolition
- Salvaged wood may be reused without the cost of grading if you assume certain design strengths (no need to adopt separately – this is an outright allowance)
  - If there's no grade stamp, salvaged dimensional lumber in good condition may be reused assuming the following species/grades
    - 2x6 or less = spruce-pine-fir stud grade
    - 2x8+, 4x+ = hem-fir No. 2 grade

These codes and appendices are optional for jurisdictions to adopt.

We are currently working the King County permitting department on figuring out what the exact process flow will be for them. It will be a little different for each permitting jurisdiction, but we are figuring out what all the steps are so we can help all the jurisdictions. Now is the time to encourage your jurisdictions to attach these appendices to the adoption of the 2021 codes.

One of the big pieces for getting all the C&D ordinances in place is working with Green Halo (GH), an online cloud-based C&D reporting system. King County has contracted with GH to develop online forms and city specific portals. The County will pay the first year's GH registration for all the jurisdictions and the jurisdictions will work with GF to set up permitting software interface. GH has experience working with many of the platforms that jurisdictions use today. An applicant will register their project with GH and then fill out the documents online. King County will develop an online coaching tool which will be available to all the jurisdictions. When a company fills out where their materials will be going, GH will give them a carbon footprint for getting that material to its destination, provide distances, and the diversion percentage for that facility. SWD will be working with GH to update all the information online.

For the Waste Division Report Submittal, companies will have to record the weight/volume of the material, if the material was disposed or diverted, who the hauler was, what the receiving facility/location is, and the date of the

diversion/disposal. We are working with facilities to see if we can get the automatic documentation as materials are brought to facilities.

King County has developed a multifamily onsite recycling waste collection code that provides guidance around receptable areas. The existing space allocation code requirement in UKC is insufficient for current and future needs, including the addition of organics. Currently, three jurisdictions have the multifamily onsite code – Seattle, Federal Way and Renton. This code supports King County Re+ effort. In 2016, King County had a consultant conduct an analysis on the solid waste collection area of high-diversion multifamily buildings. The consultant analyzed 22 buildings, with nine buildings having onsite organics. The findings showed:

- Average storage space allocated for recycling = 3.2 square feet (sf) per unit
- Average total solid waste storage space = 5.8 sf per unit
- Average total solid waste storage space for properties with organics collection = 6.6. sf per unit
- Among high-diversion properties, more than half (55%) of all solid waste collection capacity was dedicated to diversion

The proposed King County Zoning Code requirements specify that the storage space must have space for recyclables, compost, garbage, and other source-separated waste with 50% of that for recyclables. It must comply with this table requiring a minimum storage area based on number of units:

Land Use	Minimum Storage Space
Residential – multiple dwelling units	
2-8 dwelling units	84 sf
9-15 dwelling units	150 sf
16-25 dwelling units	225 sf
26-50 dwelling units	375 sf
51-100 dwelling units	375 sf + 4 sf for each additional unit above 50
More than 100 dwelling units	575 sf + sf for each additional unit above 100

These apply to mixed-use developments, and other highlights include:

- Collection point for every 30 units
  - If more than one building → collection points dispersed across the property
- Buildings with more than 30 units and more than two floors must have interior collection points on each floor
- Collection points located in/outside separate buildings shall be more than 200 feet from the residential common entrance
- Collection points to be identified by signs not exceeding six sf
- Outdoor collection points need to be enclosed by a six-foot wall/fence and have gate openings of at least 12 feet wide for haulers
  - If there’s two containers side-by-side in a container, the collection point shall have opening of 18 feet in width
- The opening to collection points must have a vertical clearance of at least 12 feet
- The enclosure gates may not obstruct pedestrian/vehicle traffic or access to parking and must be designed so that the gate(s) swing or hauling vehicle do not project into the right-of-way
- Recyclables, garbage and other source-separated waste materials need to be protected by weather-proof containers or a roof over the storage area

This code will be updated and distributed to jurisdictions interested in local adoption (this code would reside in the local zoning code). Please contact Kinley Deller at [Kinley.deller@kingcounty.gov](mailto:Kinley.deller@kingcounty.gov) and Kathleen Petrie at [kpetrie@kingcounty.gov](mailto:kpetrie@kingcounty.gov) to answer any questions associated with this work and will meet with staff in aid in local adoption.

McInnis added in chat that Kirkland is discussing these codes now and would love to have a meeting with Petrie and Deller. She requested they reach out to her to schedule time.

Bruemmer said in chat that Shoreline is specifically interested in multifamily codes and provided a Shoreline contact – Cameron Reed at [creed@shorelinewa.gov](mailto:creed@shorelinewa.gov).

Knight stated that the City of Renton is interested in the updated code and said to contact Meara Heubach at [mheubach@rentonwa.gov](mailto:mheubach@rentonwa.gov).

Van Orsow commented that the City of Federal Way will be interested in learning more about GH and hopes that their code is ok as it was amended in 2017.

Bonkowski said that Redmond has a multifamily code update for solid waste space requirements and are going through the updating process now. He added that it would be great to compare findings/ideas, and to contact Micah Bonkowski at [mbonkowski@redmond.gov](mailto:mbonkowski@redmond.gov).

Mactutis said in the chat to contact Tony Donati in Kent at [tdonati@kentwa.gov](mailto:tdonati@kentwa.gov).

Kassover commented that she is an elected official and does not know which staff to recommend to Petrie and Deller. She wanted to know if the presentations will be for city staff or for council's because codes typically must be added by council actions. Petrie replied that it depends on a city's council actions. Staff would typically determine how this will move through council and then SWD can present to council.

Knight asked for clarification on if the code will need to address adequate storage space needed to comply to the needs that occur when businesses/multifamily adopt compost ordinances. Petrie responded that we need to work on that.

Knight added that for government presentations, acronyms are often used, and it is important to fully present what we are referencing for the public viewing any of these documents. Words matter and we should lessen the use of acronyms.

### **Discussion: Rate Restructure**

Halverson led this discussion.

We have a quarterly hauler forum and some of that time was spent talking about the rate restructure. There was also a group meeting of cities organized by the cities that we were invited to participate in regarding the rate restructure. From these meetings, we heard that cities and haulers are expressing concern that negotiations are not moving fast enough and information is slow in moving back and forth. For any things that the County is involved in, we will do our best to move things forward as quickly as we can. People are also telling us that there is more complexity in the rate restructure than expected, and we clarified that we aren't changing the Fixed Annual Charge (FAC), so we are trying to shift the focus to what those implementation challenges are and help to overcome those challenges. We recognize that there could be a different look and feel as different cities and haulers pass the FAC through their contracts.

SeaTac is contracted with Recology, and Recology prefers a volume-based allocation for dividing the FAC across their customers based on the amount of volume in each container. Redmond is contracted with Waste Management (WM) and is a city that worked with the consultant. WM is planning to use the Compound Commercial Rate (CCR) which divides and recombines the new, lower tipping fee and the FAC into an old version of the basic fee. This would have their contracts handle the pass through as if the FAC didn't exist. Kent is the city that we worked with for Republic, and they are still exploring a couple of options for how to allocate that FAC out to their customer base.

Some cities have made progress in implementation. Bonkowski agreed to give a quick update and other cities were invited to speak.

Bonkowski said that they have received direction from Redmond's leadership and have worked with WM on moving forward with the CCR. Redmond will take the FAC amount and the amount that Redmond owes the County and convert it back into the tipping fee that would be added back into the newer, lower tipping fee so that it fits into Redmond's current rate structure the same. There are a couple things from this approach that make it easier for Redmond to implement and will not require as complicated of a contract amendment. Redmond is still looking into the legal side if a contract amendment is required, and they are still working with WM in figuring out the smaller details of implementation. There will be no reconciliation at the end of each year to determine if the FAC was over/under collected before it is sent to the County, so the hauler takes on the risk of over/under collection. Redmond is moving forward with this and is not sure when they will take this to council.

Friedman wanted to know what is making things complex. To Friedman it seems that an equivalent of the fixed rate can be precalculated by combining the categories that make the new rate, reconcile at the end of the year, update the fixed rate, and then charge it back to the customers. Halverson replied that some of the existing true up methodology that is being discussed can be complicated and require additional administrative work.

Friedman followed up stating this is the revenue needed to survive, and it should be incumbent on the County to remove the complexity and deliver something that everyone can use easily and bill. If not the County, whoever is calculating and deciding the fee that is passed on to the residents through the hauler billing. This should be simplified so that the cities get this work done and the revenue is allocated to the correct places. McLaughlin responded that the billing agencies, typically the haulers but not always, determine how the costs are allocated to their customers. Even with today's model, the County does not dictate how the tipping fee is distributed amongst the rate payers. This decision is incumbent on the billing agencies and is why the County is not in a position to dictate that. This is best handled like what happens when rates go up or fees are imposed.

Friedman asked if the County is assuming that the billing agencies information accounts for the volume needs that are needed to create the new billing amount. Halverson answered that it is essentially how it is divided out now in the current system. Most contracts assume that a container of a certain size will have a certain amount of waste in it over the year and will allocate a certain amount of cost to them. There is even cross subsidization that occurs in some cases. The risk of over/under collection already exists and always has. At the beginning of a contract, the container weights are often close to what is assumed but as the years go on, there is always a risk that more/less tonnage will end up in the containers. Haulers are still collecting that same disposal amount, but they only must pay based on the actual tonnage collected. The FAC reduces this risk a little because the variable rate that is being paid on each ton is lower than the fixed amount and we can't really tell folks how to do this. The CCR seems like it may be an easier approach and there may be a possibility that an agreement can be made that would not require a contract amendment.

Friedman noted that this complication is slowing the process up.

Mactutis added that one of the complications for Kent was the timing of getting the data and applying it to the rate for the next year. There is the solid waste percentage total and the fixed charge that is applied which is also applied to the next year. In Kent, they have been watching the system grow every year in terms of tonnage and this gets applied to the next year. Once the data is received, it is applied to the next year and as they go through the next year, the following year is set up too and how that will be adjusted. There is about three years in play for every year and the challenge is how correcting the previous years at the same time as the next year is being set up. There are also the complications that arise as a contract end nears. As Halverson mentioned, Kent is still evaluating alternatives and they are looking at how past changes in the city's percentage total might play into the risk of the city having customers over charged versus other agencies county-wide.

Giem stated that SeaTac is looking at this as King County has a certain amount of money needed and they are going to split it up volume between commercial and residential haulers; and allow Recology to collected about 1% more near the end of the year. If they've under collected, this will help even things out and if they've over collected, this will roll over into the

next year for a reduced amount paid by the rate payers. By having it separate on the bill, they can show rate payers what they're being charged, anything that King County is charging them, and this way the fees are not hidden. Giem believes that he can use the FAC and the set up as incentive for SeaTac's council to say that a reduction of garbage can led to less payment than the overall amount. As of now, Recology is putting together draft language and their lawyers are looking at it. From there it will be sent to the City of SeaTac whose legal team will look at it and then move forward with it. Either way, King County will need to be paid.

Halverson added that there was a recommendation that cities who share a hauler should meet and talk about their preferred allocation method in the city/hauler contract. This could potentially speed things up.

Weiker added in the chat that Republic Services is recommending the CCR approach.

During the meeting with the cities, the question how the true up was removed from the SWD restructure was brought up. As a reminder and for those who are new to the committee, in 2021 there used to be an idea of a true up, and we were going to base the FAC on the current data. This became a point of contention during the meeting, so we went back to see how the true up was proposed in 2021.

The Oct. 2021 minutes state that "Halverson said the fixed charge option for the rate restructure was popular with both advisory committees. **SWD staff are working with cities and haulers about their concerns. He described the two options for the true-up process in briefing paper. Another new option avoids the true-up process altogether, wherein, city shares of the fixed-annual charge would be based on most recent year of complete data. So, the 2023 fixed charge rate would be based on the 2021 shares of tonnage.**

The 2023 Fixed Charge Rate would be based on tonnage from 2021 because the rates are set during 2022 and we can't use 2022 tons since we don't have the full year's tonnage yet. With the delay, 2022 tons will inform the 2024 split, making a true up unnecessary. There was support for the FAC in general but there were still issues to resolve in the true up process. We changed the language in the ordinance to represent this methodology. Since the true up was so universally not liked, we did not think a vote was needed to remove the true up process from the proposed legislation prior to submission in Nov. 2021.

As you may know, SWD has volunteered to develop language for a bill insert which will explain county changes. We are adding language specific to how it will be handled in different divisions. SWD will need collaboration from cities/haulers to help us draft how this FAC is being distributed to their customers. There should be at least three different versions of the piece and will be reaching out to haulers and cities for this.

Walsh added in chat that this was a true up on King County's side, not a true up on the city-hauler side.

On Friday, April 7, Waller sent out the FAC allocation data. This has information including instructions. If you have specific questions about your tonnage numbers, please send them.

The first tab of this document (FAC allocation tab) shows that we split up the FAC by billing entity. Whoever the County bills for tonnage is considered the billing entity. This is based on who comes across the scales. Next, we further subdivide them into service areas, often a city or unincorporated areas based on hauler splits. Next, we further subdivide them into service areas, often a city or unincorporated areas based on hauler splits. Since each hauler uses the same methodology for all of their cities, how the splits are worked out should be uniform across the cities that hauler serves. We are going with the County data for the first split because we weighed them from our scales and some of the hauler data is extrapolated. When there are mixed city routes, there are ways of spreading out the differences and accounting for that separately.

Next, we will be reaching out to haulers to gather their reported data as this is the best source of information about how these tonnages should be allocated to each jurisdiction. The third step is where SWD will publish this for the cities and



haulers to review. We are looking into how to deal with the open market tons from WM and will work to set a meeting with WM and cities served by WM to determine how their open market tons should apply to the FAC shares. We are hoping to get feedback on this by May, and then finalize and publish the final FAC splits for the coming year in June.

McInnis wanted clarification on open market ton material going to the King County system and what the open market tons are that are not seen in the WM data. Halverson replied that there is some data with those tons and most of them are C&D tons, or non-contract tons. For example, a homeowner will ask for a roll-off to be dropped off at their home. But there could be other material too. When we look at splits with and without open market tons, some of the tons come to us and some do not. If it is a C&D load, it should go to a C&D facility and not King County. The market tab on the document itemizes tonnage by city, and we want to meet with WM cities and find the best way to split them up. We need to figure out what the most equitable way is to split up the tons.

McInnis stated that there seems to be extra that does not apply to the FAC. Halverson responded that this is one of the questions SWD is trying to figure out – the question on whether we should include it in the FAC split out. The intention is to host a meeting to come to an equitable split.

Van Orsow asked if King County can commit to a thorough revisit of the system tonnage and revenue date in 2026 to see if the restructure was equitable, as well as look for other feasible options. Halverson replied that we can always commit to reviewing our data and working with the haulers. He was unsure of the answer to this question, but King County can commit to having a conversation about this.

#### **Member Comment**

Knight thanked King County for following up on the rate restructure and diving back into the minutes to review with MSWAC the decisions that the group made with the rate restructure. It is helpful for the group to review how they came to this point. Most of these problems are solvable on the city side of things and resolving how cities allocate the FAC cost for the rate payers.

Sweet thanked the group of cities that came together to create a document that demonstrated how deeply they have been working this issue. It was helpful.

#### **Adjourn**

Meeting adjourned at 12:34 p.m.