

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING - revised 1/22/99
DATE: January 28, 1999
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. EXECUTIVE OFFICER COMMUNICATIONS

4. AUDITOR COMMUNICATIONS

5. MPAC COMMUNICATIONS

6. CONSENT AGENDA

6.1 Consideration of Minutes for the January 21, 1999 Metro Council Regular Meeting.

7. ORDINANCES - FIRST READING

7.1 **Ordinance No. 99-795**, For the Purpose of Adopting a Code of Ethics for Metro Officials and requiring registration of lobbyists.

8. ORDINANCES - SECOND READING

8.1 **Ordinance No. 99-792**, Amending the FY 1998-99 Budget and Appropriations Schedule in the Support Services Fund by Transferring \$270,000 from Contingency to Materials and Services and Capital Outlay in the Administrative Services Department for Unanticipated Expenditures in Information Management Services; and increasing the Total FTE in the Administrative Services Department by 1.0 FTE System Analyst; and Declaring an Emergency.

9. RESOLUTIONS

- 9.1 **Resolution No. 99-2740**, For the Purpose of Authorizing the Executive Officer to execute a Programmatic 4(f) Statement and Negotiate a right-of-way agreement with Clackamas County Department of Transportation and Metro property. Atherton
- 9.2 **Resolution No. 99-2747**, For the Purpose of Authorizing Request for Proposals for an Exhibit Fabricator at Oregon Zoo. Kvistad
- 9.3 **Resolution No. 99-2750**, For the Purpose of Approving an Intergovernmental Agreement with the City of Portland for Reforestation on Metro Open Spaces Property. Washington
- 9.4 **Resolution No. 99-2751A**, For the Purpose of Appointing Nominee Ted Kyle to the Metro Committee for Citizen Involvement (MCCI). Atherton

10. CONTRACT REVIEW BOARD

- 10.1 **Resolution No. 99-2738**, For the Purpose of Authorizing an Amendment to Contract 920909 with Natural Data for a Database Administrator.

11. COUNCILOR COMMUNICATION

ADJOURN

CABLE VIEWERS: Council Meetings, the second and fourth Thursdays of the month are shown on City Net 30 (Paragon and TCI Cablevision) the first Sunday after the meeting at 8:30 p.m. The entire meeting is also shown again on the second Monday after the meeting at 2:00 p.m. on City Net 30. The meeting is also shown on Channel 11 (Community Access Network) the first Monday after the meeting at 4:00 p.m. The first and third Thursdays of the month are shown on Channel 11 the Friday after the meeting at 2:00 p.m. and the first Sunday and Wednesday after the meeting on Channels 21 & 30 at 7:00 p.m.

PUBLIC HEARINGS: Public Hearings are held on all Ordinances second read and on Resolutions upon request of the public. Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 6.1

Consideration of the January 21, 1999 Metro Council Meeting minutes.

Metro Council Meeting
Thursday, January 28, 1999
Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

January 21, 1999

Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:04 p.m.

1. INTRODUCTIONS

None.

2. CITIZEN COMMUNICATION

Mayor Gene Grant, City of Happy Valley, 11311 SE Ct., Clackamas, Oregon, 97015 introduced himself to the Council. He read into the record a letter he had sent to the Council yesterday concerning Ordinance No. 99-794. (A copy of which may be found in the permanent record of this meeting). He added that Councilor Atherton called him and said that he was in agreement to meet with the Happy Valley Council concerning this matter before further action of the Metro Council was taken. He felt that this was resolved. He asked for questions and comments.

Councilor McLain said she appreciated the letter. She thought that the comments that he had made were extremely appropriate. When Mr. Atherton brought this proposal to the Council at the beginning of the year, she and the Presiding Officer wanted to make sure that they allowed all councilors to bring forward any issues or ideas that they felt were important. By putting it on an agenda and having the Presiding Officer send it to a committee, they were simply trying to make sure this process for discussion could be started. She did not believe that there was anyone on the Growth Committee or anyone she had talked to that felt that this was a short term turn around vote. This was an issue that a councilor was interested in and they wanted to make sure he had a forum to discuss it. She appreciated Mayor Grant coming before the council and felt it cemented what the council had tried to do.

Mayor Grant said when he wrote the letter he did not understand the process. His first incorrect assumption was that this ordinance was on for a vote.

Presiding Officer Monroe thanked Mayor Grant for his input and indicated that the ordinance he had been concerned about would be referred to the Growth Management Committee. Councilor McLain, Chair of the Growth Management Committee and Councilor Atherton would be discussing when and if it was appropriate to hold public hearings on the ordinance. The mayor would be notified well in advance of hearings being held so that he and others who were effected would have plenty of opportunity for input.

The Presiding Officer noted for the record that all councilors were present for the meeting.

Art Lewellan, LOTI, 3205 SE 8th #9 Portland, OR said he had been doing presentations before Metro concerning his ideas on light rail for the past several years. He noted the first map he had brought before council concerning leaving the South North light rail on the east side of the river. He said he felt that we should try again on the South North light rail. Seattle had voted their light rail proposal down in 1995 and then reintroduced their light rail plan within the space of one year and it passed. He thought that the alignment had to be changed, this was the only way he felt that there might still be a chance for South North. He suggested the ideas of an electric bus system in the downtown transit mall area. He noted his streetcar designs and ideas. This year he had introduced a comparison of east and west bank alignments and the central city streetcar. He felt that the east bank alignment had one junction that made it a very efficient design, providing faster service. He had also presented his expanded streetcar and electric bus system to Lloyd Center, PSU and into the west side. He shared his latest design which combined light rail, streetcar and electric bus. He shared his approach to the regional transit system which included a light rail to the airport and light rail across the Glen Jackson Bridge to Vancouver Mall. He concluded by saying that he did not support the currently proposed South North light rail alignment.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

Alexis Dow, Metro Auditor, said the Metro Charter mandated that she performed continuous investigation of Metro's operations including both financial and operational audits. State law required that financial audits be performed by an outside independent public accounting firm. To that extent she had contracted with Deloitte and Touche, and international public accounting firm to perform the financial audit of Metro's financial statements.

She introduced Mr. Don Riggs, partner in Deloitte and Touche and the individual who oversaw Metro's financial audit.

Don Riggs, Deloitte and Touche, said this was Deloitte and Touche's first year audit of Metro. He said the audit had gone fairly well. In addition to the audit of financial statements, in June 1998, Ms. Dow had contracted with his group as part of the internal control to take a look at the financial modules of People Soft that had been implemented to date. Their firm issued a report July 1st with some observations related to those financial modules which had been put in place. The financial statements were included in the comprehensive financial report. He said in addition to the financial statements, even though they were not responsible for the bulk of the report, as a matter of course, they did read everything that went into the CAFR and make sure it was consistent with their financial statements. There was no problems with this. Their audit opinion, date December 9, 1998, was conducted in accordance with generally accepted auditing standards as well as government auditing standards because of the federal financial funding that Metro received. In addition to the financial statement reports, their firm had issued a report related to OMB circular A133, the Federal Financial Assistance Reports. He pointed out that this was a qualified opinion due to the year 2000 issue. The standard setting body for governmental entities issued a pronouncement last year requiring governmental entities to put in their footnotes where they stood on the Y2K issue to date. He said that footnote was unauditible. In addition his firm

had issued a management letter as well as a letter on the Y2K issue that said even though they had issued an opinion on the financial issues their opinion did not give any kind of assurance related to Y2K. He said there were no difficulties in completing the audit. He pointed out two areas which required a lot of judgment: the self insurance reserves and the post closure liability for the landfill.

Councilor McLain felt it was important for the public to understand what he meant when he said the Y2K was not auditable and why he was qualifying his comments in that area.

Mr. Riggs responded that the Governmental Accounting Standards Board issued a technical bulletin which was effective for any audit report issued after October 31, 1998, which required Metro to record in the footnotes to its financial statements the discussion of the Y2K issue. He said there was really no way to actually know how the Y2K issue would be known until the year 2000.

Councilor McLain said on the Metro investments being brought up to market value, she asked him to summarize the reasoning in his report.

Mr. Riggs said there was another pronouncement issued effective for Metro this year that said investments should be marked at market value.

5. MPAC COMMUNICATION

Councilor McLain said there were five councilors at MPAC. They worked together on the prioritized list of the work plan, especially in the areas of financing and Regional Framework Plan and Functional Plan compliance areas. They would be talking more about that with their partners in the next two weeks and carry forward that discussion at the Growth Committee the first week of February.

6. CONSENT AGENDA

6.1 Consideration meeting minutes of the December 17, 1998 and January 7, 1999 Regular Council Meetings.

Motion: **Councilor McLain** moved to adopt the meeting minutes of December 17, 1998 and January 7, 1999 Regular Council Meetings.

Seconded: **Councilor Park** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

7. ORDINANCES - FIRST READING

7.1 **Ordinance No. 99-792**, Amending the FY 1998-99 Budget and Appropriations Schedule in the Support Services Fund by Transferring \$270,000 from contingency to Materials and Services and Capital Outlay in the Administrative Services Department for Unanticipated Expenditures in Information Management Services; and increasing the total FTE in the Administrative Services Department by 1.0 FTE System Analyst; and Declaring an Emergency.

Presiding Officer Monroe assigned Ordinance No. 99-792 to Council for January 28, 1999. He noted that this ordinance would be on the agenda for the informal meeting council had with the Executive Officer next week.

7.2 **Ordinance No. 99-794, For the Purpose of Repealing Ordinance No. 98-786C** which added the Urban Reserve Areas 14 and 15 to the Urban Growth Boundary.

Presiding Officer Monroe assigned Ordinance No. 99-794 to Growth Management Committee.

8. **EXECUTIVE SESSION, Held pursuant to ORS 192.660 (1)(h), to consult with legal counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.**

Members Present: members of the media, Larry Shaw, Dan Cooper

9. **COUNCILOR COMMUNICATION**

Councilor Kvistad acknowledge that his sister, Kristi, had been selected for the Seattle Symphony Choir.

Councilor McLain wondered when would be the appropriate time for conversation or direction from the Executive Session.

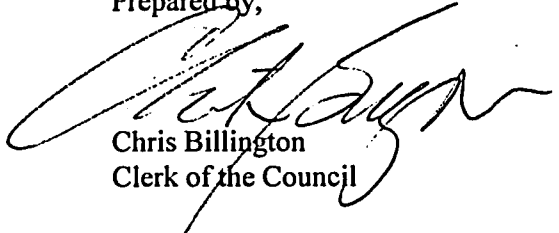
Mr. Cooper said he believed they had been given direction. Councilor McLain said she would check with him later for same.

Councilor Washington asked which councilors would be at the evening public hearing in Clackamas County. Councilors Monroe, Atherton, Park, Bragdon and Kvistad responded that they would be present.

10. **ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at 3:00 p.m.

Prepared by,



Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
012199c-01	1/20/99	Faxed letter concerning Urban Reserves 14 and 15	TO: Council FROM: Mayor Grant, City of Happy Valley	Ord No. 99-794

Agenda Item Number 7.1

Ordinance No. 99-795, For the purpose of Adopting a Code of Ethics for Metro Officials and requiring registration of lobbyists.

First Reading

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING A CODE) ORDINANCE No. 99-795
OF ETHICS FOR METRO OFFICIALS AND) Introduced by Councilors McLain
REQUIRING REGISTRATION OF LOBBYISTS) Monroe

The Metro Council ordains as follows:

SECTION 1.

Chapter 2.17, Code of Ethics and Requirements for Lobbyists, is added to and made a part of Metro Code Title II, to be numbered, titled, and to read as follows:

Chapter 2.17

Code of Ethics and Requirements for Lobbyists

Code Section 2.17.010 Purpose and Policy.

(a) The Metro Council hereby declares that the purpose of this Chapter is to ensure that Metro serves the public and informs the public fully concerning its decision making. In accordance with such purposes, this Chapter establishes a Code of Ethics for Metro and requirements for lobbyists appearing before Metro.

(b) In adopting this Chapter, the Metro Council intends:

(1) to be consistent with and to add to current public policy established by the Oregon Legislative Assembly;

(2) to require Metro officials and Metro employees to operate under high ethical standards;

(3) to require Metro officials and Metro employees to treat their offices and positions as a public trust whose powers and resources are to be used for the benefit of the public and not for any personal benefit; and

(4) to require individuals and entities appearing before Metro to identify themselves and the interests they represent.

Code Section 2.17.020 Definitions.

For the purposes of this Chapter, unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain.

(b) "Business with which the Metro official is associated" means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year, but excluding any income-producing not-for-profit corporation that is tax exempt under Section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity.

(c) "Consideration" includes a gift, payment, distribution, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable.

(d) "Department director" means any person employed by Metro in a position on a permanent basis which is subject to appointment by the executive officer and confirmation by the Metro council.

(e) "Doing business" means entering into a direct contractual relationship with a business with which the Metro official is associated.

(f) "Elected official" means any person elected or appointed as a member of the Metro council, the executive officer, or the auditor.

(g) "Ethics" means positive principles of conduct, some of which are also enforced by federal, state or other local law.

(h) "Exercise of official authority" means: Metro elected officials and the General Counsel have authority to exercise official responsibility over any Metro matter. Appointed commissioners have authority over any matter over which the relevant commission has jurisdiction. Department directors have authority over any matter related to the department they administer. Metro employees have authority over matters as assigned to them by their supervisors.

(i) "Gift" means "Gift" as defined in ORS 244.020(8). However, for the purpose of this chapter, "Gift" does not include plaques, mementos or similar items with little or no intrinsic value that cost less than \$25.00 to produce.

(j) "Legislative action" means introduction, sponsorship, testimony, debate, voting or any other official action on any ordinance, resolution, amendment, nomination, appointment or report, or any matter which may be the subject of action by the Metro Council or any committee thereof.

(k) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a Metro official or Metro employee.

(l) "Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with Metro officials, solicitation of others to influence or attempt to influence legislative action or attempting to obtain the good will of Metro Councilors.

(m) "Lobbyist" means: (a) Any individual who agrees to provide personal services for money or any other consideration for the purpose of lobbying; and (b) Any employee of a business, not-for-profit corporation, association, organization or other group, who engages in lobbying.

(n) "Metro" means all of Metro including any department or branch of Metro including any Metro commission.

(o) "Metro commissioner" means any person appointed to a position on a commission created pursuant to an ordinance adopted by the Metro council whose appointment is subject to confirmation by the Metro council.

(p) "Metro employee" means any person other than a Metro official who receives wages or salary from Metro.

(q) "Metro facilities" means meeting rooms, meeting areas or other Metro property generally available to the public.

(r) "Metro official" means any department director, elected official or Metro commissioner.

(s) "Person" means any individual, business, association, corporation, organization or other group.

(t) "Public agency" means any governmental body, including but not limited to the Federal Government, the State of Oregon, any other state of the United States of America, or any public agency or municipal corporation thereof.

(u) "Public official" means any member or member-elect of any public agency and any member of the staff or an employee thereof.

(v) "Whistleblowing" means disclosing information pursuant to the protective provision of The Oregon Whistleblower Law (ORS 659.505 through 659.545). In addition, whistleblowing shall include disclosing information regarding the violation of any provision of the Metro Charter or Metro Code.

Code Section 2.17.030 Giving and Receiving Gifts Prohibited.

(a) All Metro officials, Metro employees and persons with a legislative or administrative interest shall comply strictly with the following requirements:

(1) No Metro official or Metro employee shall solicit or receive, whether directly or indirectly, a gift from any source who could reasonably be known to have a legislative or administrative interest in Metro over which the Metro official or Metro employee exercises any official authority.

(2) No person shall offer any gift to any Metro official or Metro employee if the person has a legislative or administrative interest in Metro over which the Metro official or Metro employee exercises any official authority.

(b) Ceremonial gifts received by Metro officials on behalf of Metro from foreign delegations or similar visitors to the region are Metro property.

Code Section 2.17.040 Whistleblowing.

(a) The Council specifically recognizes the provisions of The Oregon Whistleblowing Law (ORS 659.505 through ORS 659.545). The Council directs the Executive Officer, pursuant to ORS 659.540(b), to establish for Metro the specific regulations and procedures to implement the Oregon Whistleblowing Law.

(b) Metro officials shall recognize whistle-blowing as appropriate. However, this provision shall not preclude taking disciplinary action against any Metro employee when it is appropriate to do so for independent reasons.

Code Section 2.17.050 Financial Reporting Requirements.

(a) Elected officials shall comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the council clerk at the time of filing with the appropriate state agency.

(b) All department directors and Metro commissioners shall file annually with the council clerk a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.

Code Section 2.17.060 Restrictions on Meals and Entertainment.

(a) No Metro official shall solicit or receive entertainment from any person who has a legislative or administrative interest in Metro if the Metro official exercises any authority over the legislative or administrative interest of the person.

(b) No person who has a legislative or administrative interest in Metro shall furnish to a Metro official admission to entertainment if the Metro official exercises any authority over the legislative or administrative interest of the person.

(c) However, subject to the limits of ORS Chapter 244 Metro officials may accept admission to entertainment at events held at Metro owned or operated facilities if the cost of admission is born by the facility or a non-profit tax exempt corporation that is the producer of the event held at the Metro owned or operated facility.

(d) Metro officials shall not solicit or receive meals from any person who has a legislative or administrative interest in Metro if the Metro official exercises any authority over the legislative or administrative interest of the person if the cost of the meal exceeds the amount allowed by the United States Internal Revenue Service as a deductible business travel expense.

(e) No person who has a legislative or administrative interest in Metro shall furnish a Metro official meals if the Metro official exercises any authority over the legislative or administrative interest of the person if the cost of the meal exceeds the amount allowed by the United States Internal Revenue Service as a deductible business travel expense.

Code Section 2.17.070 Reimbursement for Attendance at Events.

Metro officials may not accept food, lodging and travel from any person with a legislative or administrative interest in Metro when participating in an event which bears a relationship to the Metro officials' office when appearing in their official capacities unless the cost of the food, lodging, or travel would have been eligible for payment as a Metro expense and the incurrence of the expense with Metro funds has been approved prior to the event by the appropriate authority.

Code Section 2.17.080 Abuse of Public Office.

(a) No Metro official or Metro employee shall use Metro furnished offices, equipment, or Metro facilities for personal gain or to avoid the occurrence of personal expense.

(b) Metro officials and Metro employees shall not remove Metro equipment from Metro facilities or enter or remain at their place of work at other than normal work hours except when specifically authorized to do so.

Code Section 2.17.090 Prohibition Against Doing Business With Certain Former Metro Officials.

(a) Except as provided for in subsection (e), Metro may not do business with any Metro official while the official is in office or within one year after the Metro official ceases

to be a Metro official if the official had authority to exercise official responsibility in the matter. Any contract entered into in violation of this provision is void.

(b) Upon the request of the executive officer or a Metro commission, the council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

(1) It is in the best interests of Metro to do business with the Metro official.

(2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism.

(3) Other factors exist which are explicitly found by the council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.

(c) This section applies only to Metro officials who first take office or are re-elected or re-appointed to an office after September 7, 1995. This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

Code Section 2.17.100 Council Employees.

(a) In addition to the requirements of this Chapter, all employees of the Metro Council shall comply strictly with the following requirements:

(1) In the event that the financial or personal interest of any employee of the Metro Council is specifically affected by a resolution or Chapter before the Council, that individual shall provide written notice of such interest affected to the Presiding Officer of the Council. A copy of the notice should be placed on file with the Office of General Counsel. For purposes of this subsection, "personal interest" means an interest evidenced by an affiliation with an advocacy organization outside of Metro which may create the perception of bias.

(2) Employees of the Metro Council shall avoid the appearance of bias or favoritism and shall respect cultural differences.

Code Section 2.17.110 Registration of Lobbyists.

(a) Within three working days after exceeding the limit of time specified in Code Section 2.17.120 (a)(5), each lobbyist shall register with the Chief of Staff of the Council by filing with the Chief of Staff a statement containing the following information:

(1) The name and address of the lobbyist.

(2) The name and address of each person or agency by whom the lobbyist is employed or in whose interest the lobbyist appears or works, a description of the trade, business, profession or area of endeavor of that person or agency, and a designation by each such person or agency that the lobbyist is officially authorized to lobby for that person or agency.

(3) The name of any member of the Metro Council who is in any way employed by the lobbyist employer designated in paragraph (b) of this subsection or who is employed by the lobbyist or whether the lobbyist and member are associated with the same business. Ownership of stock in a publicly traded corporation in which a member of the Metro Council also owns stock is not a relationship which need be stated.

(4) The general subject or subjects of the legislative interest of the lobbyist.

(b) The designation of official authorization to lobby shall be signed by an officer of each such corporation, association, organization or other group or by each individual by whom the lobbyist is employed or in whose interest the lobbyist appears or works.

(c) A lobbyist must revise the statements required by subsection (a) of this section, if any of the information contained therein changes within 30 days of the change.

(d) A lobbyist registration expires two years after the date of filing or refiling and must be renewed by application accompanied by the fees described in Code Section 2.17.130.

Code Section 2.17.120 Exemptions to lobbyist registration requirements.

(a) The requirements of Code Section 2.17.110 through Code Section 2.17.130 do not apply to the following:

(1) News media or their employees or agents, who in the ordinary course of business publish or broadcast news items, editorials or other comments or paid advertisements which directly or indirectly urge legislative action if such persons engage in no other activities in connection with such legislative action.

(2) Any Metro Official acting in an official capacity.

(3) Public Officials acting in their official capacity as a member or employee of a public agency.

(4) Any individual who receives no additional consideration for lobbying and who limits lobbying activities solely to formal appearances to give testimony before Metro Council or any of its committees, and who, if the individual testifies, registers an appearance in the records of the Council or its committees.

(5) Any person who spends not more than 5 hours during any calendar quarter lobbying, excluding travel time.

Code Section 2.17.140 Verification of Reports, Registrations and Statements.

(a) Each report, registration or statement required by this Chapter shall contain or be verified by a written declaration that it is made under the penalties of false swearing.

(b) No person shall willfully make and subscribe any document which contains or is verified by a written declaration for false swearing which the person does not believe to be true and correct to every matter.

Code Section 2.17.150 Public Nature of Reports, Registrations and Statements.

All information submitted to the Executive Officer or Council Clerk in any report, registration or statement required by this Chapter is a public record.

Code Section 2.17.160 Sanctions for Violations.

Notwithstanding any other provision of the Metro Code, a person who violates any provision of this Chapter or fails to file any report, registration or statement or to furnish any information required by this Chapter shall be subject to a civil penalty in an amount not greater than \$500.

SECTION 2

Metro Code Sections 2.02.240 and 2.04.032 are repealed.

ADOPTED by the Metro Council this ____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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01/20/99

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 99-795, FOR THE PURPOSE OF ADOPTING A CODE OF ETHICS FOR METRO OFFICIALS AND REQUIRING REGISTRATION OF LOBBYISTS.

Date: January 27, 1999

Prepared by: Michael Morrissey

Proposed Action: Ordinance 99-795 modifies existing Metro code by consolidating and adding to the current language creating a more comprehensive, agency-wide code of ethics. This new language is compiled in a discrete chapter within Title II, Administration and Procedures of the Metro Code.

Factual Background and Analysis:

Existing Metro Ethics Requirements:

I. Metro Code, Title II Administration and Procedures:

A. Current code 2.02.240 in Chapter 2.02 Personnel Rules. "Ethical requirements for Employees, Officers, Elected and Appointed Officials." This section prescribes a code of behavior consistent with state law pertaining to soliciting or accepting gifts, conflict of interest and filing statements of economic interest. This section was revised in 1995.

B. Current code 2.04.032 in Chapter 2.04, Metro Contract Policies. "Prohibition Against Doing Business with Certain Former Metro Officials." This section was revised in 1997. This section limits the ability of Metro to do business with current Metro Officials or within one year after leaving office.

These current code provisions are repealed upon adoption of Ordinance 99-795. They are however substantially folded in to the new code.

II. Executive Directives

The Executive Officer, Presiding Officer and Metro Auditor have separately enacted a "code of ethics", separate from the above listed Metro code provisions. This "code of ethics" covers all Metro officials (except the Metro Council), staff, commissioners and certain volunteers. It consists of statements of ethical principles, such as Trust, and Accountability that serve as guideposts for Metro officials.

Ordinance 99-795 provides a more detailed approach to ethical behavior, does not comment on these executive directives, and could co-exist with them.

Application of Ethics Requirements in Ordinance 99-795 to Metro Officials and Employees.

	<u>Elected Official</u> Council, Executive Auditor	<u>Metro Official</u> Elected Official, Dept. Dirs., MERC Commissioners	<u>Metro Employees</u>	<u>Council Staff</u>
Giving and Receiving Gifts Prohibited	X	X	X	X
Whistleblowing		Shall recognize as (an) appropriate (activity)		
Financial Reporting Requirement	X	Similar requirement as for elected officials		
Restrictions on meals and entertainment	X	X		
Reimbursement for Attendance at events	Same as Metro Official	Highly conditional when accepting from person with legislative or administrative interest in Metro		
Abuse of Public Office	X	X		
Prohibition against doing business with certain former Metro Officials	X	X	X	X
Council Employees				Provide written notice of financial or personal interests in certain circumstances Avoid perception of bias Respect cultural differences
Registration of lobbyists				Chief of staff registers

Summary of select revisions to Metro Code as exhibited in Ordinance 99-795

2.17.020 Definitions

- Metro Commissioner—as a Metro Official currently means only a MERC commissioner. These code revisions are silent as to other Metro commission members and volunteers.
- Metro Officials—includes elected officials, department directors and MERC commissioners.

2.17.030 Giving and Receiving Gifts Prohibited

- Complies, and in some instances exceeds state law
- Prohibits receiving gifts, including gifts under \$100.
- “Gift” is used as per definition in ORS 244.020(8).
- Exclusion for under \$25.00 ceremonial gift is new to Metro code.
- Applies to all Metro officials and employees.

2.17.040 Whistleblowing

- New to Metro code
- Directs Executive Officer to Pursue regulations and implementation
- Reflects provisions in state law

2.17.050 Financial Reporting Requirements

- Carried over (similar to) current code
- Complies with state law
- Applies to Metro Officials
- Conflict of interest no longer specified in Metro code, but still applicable under state law

2.17.060 Restrictions on Meals and Entertainment

- Applies to Metro Officials
- Certain entertainment exceptions for non-profit sponsored events
- Meals subject to IRS allowance (Currently \$38.00/day, if in Portland—otherwise within range of \$28-\$56 depending on where in US meal is taken. Also limitations per meal, i.e. \$19.00 for dinner), if received from person with legislative & administrative interest in Metro, and Metro official exercises authority over that interest.
- New to Metro code, but consistent with state law.

2.17.070 Reimbursement for Attendance at Events

- New to Metro code.
- A prohibition against Metro officials going on expense paid trips in their official capacity is new to Metro code. An exception is allowed when the expense would otherwise have been allowable & paid for with Metro funds.

2.17.080 Abuse of Public Office

- New to Metro code.
- Parallels state law.

2.17.090 Prohibition Against Doing Business with Certain Former Metro Officials.

- Same as current code
- Also prohibits Metro from doing business with current Metro officials.

2.17.100 Council Employees

- New to Metro code

2.17.110-2.17.140 Related to Lobbying

- State law does not require at local level.
- New to Metro code.
- Includes only paid lobbyists.

2.17.160 Sanctions for Violations

Applies to entire chapter 2.17.

Subject to civil penalty up to \$500.

Silent as to enforcement process.

Agenda Item Number 8.1

Ordinance No. 99-792, Amending the FY 1998-99 Budget and Appropriations Schedule in the Support Services Fund by Transferring \$270,000 from Contingency to Materials and Services and Capital Outlay in the Administrative Services Department for Unanticipated Expenditures in Information Management Services; and increasing the total FTE in the Administrative Services Department by 1.0 FTE System Analyst; and Declaring an Emergency.

Second Reading

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1998-99)	ORDINANCE NO. 99-792
BUDGET AND APPROPRIATIONS)	
SCHEDULE IN THE SUPPORT SERVICES)	
FUND BY TRANSFERRING \$270,000 FROM)	
CONTINGENCY TO MATERIALS AND)	
SERVICES AND CAPITAL OUTLAY IN THE)	Introduced by Mike Burton,
ADMINISTRATIVE SERVICES DEPARTMENT)	Executive Officer
FOR UNANTICIPATED EXPENDITURES IN)	
INFORMATION MANAGEMENT SERVICES;)	
AND INCREASING TOTAL FTE IN)	
ADMINISTRATIVE SERVICES DEPARTMENT)	
BY 1.0 FTE SYSTEM SPECIALIST; AND)	
DECLARING AN EMERGENCY)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1998-99 Budget; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1998-99 Budget and Schedule of Appropriations for the Support Services Fund are hereby amended as shown in the column entitled "Revision" of Exhibit A to this Ordinance for the purpose of transferring \$270,000 from Contingency to Materials and Services and Capital Outlay in the Administrative Services Department for unanticipated expenditures in Information Management Services.

2. That the total full-time-equivalents (FTE) in the Administrative Services Department be increased by 1.0 FTE System Specialist.

3. That the Executive Officer is authorized to execute contracts related to this ordinance in accordance with Metro Code 2.04

4. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

Exhibit A
Ordinance No. 99-792
FY 1998-99 SCHEDULE OF APPROPRIATIONS

	Current Budget	Revision	Proposed Budget
Support Services Fund			
Administrative Services/Human Resources			
Personal Services	\$4,395,358	0	\$4,395,358
Materials & Services	1,289,406	258,000	1,547,406
Debt Services	128,979	0	128,979
Capital Outlay	412,779	12,000	424,779
Subtotal	6,226,522	270,000	6,496,522
Office of General Counsel			
Operating Expenses (PS and M&S)	755,526	0	755,526
Subtotal	755,526	0	755,526
Office of Citizen Involvement			
Operating Expenses (PS and M&S)	67,320	0	67,320
Subtotal	67,320	0	67,320
Office of the Auditor			
Operating Expenses (PS and M&S)	617,578	0	617,578
Subtotal	617,578	0	617,578
General Expenses			
Interfund Transfers	1,099,398	0	1,099,398
Contingency	357,448	(270,000)	87,448
Subtotal	1,456,846	(270,000)	1,186,846
Unappropriated Balance	358,003	0	358,003
Total Fund Requirements	\$9,481,795	\$0	\$9,481,795

ALL OTHER APPROPRIATIONS REMAIN AS PREVIOUSLY ADOPTED

STAFF REPORT

CONSIDERATION OF ORDINANCE 99-792 AMENDING THE FY 1998-99 BUDGET AND APPROPRIATIONS SCHEDULE IN THE SUPPORT SERVICES FUND BY TRANSFERRING \$270,000 FROM CONTINGENCY TO MATERIALS AND SERVICES AND CAPITAL OUTLAY IN THE ADMINISTRATIVE SERVICES DEPARTMENT FOR UNANTICIPATED EXPENDITURES IN INFORMATION MANAGEMENT SERVICES; AND INCREASING THE TOTAL FTE IN THE ADMINISTRATIVE SERVICES DEPARTMENT BY 1.0 FTE SYSTEM SPECIALIST; AND DECLARING AN EMERGENCY.

Date: January 4, 1998

Presented by: Jennifer Sims

FACTUAL BACKGROUND AND ANALYSIS

Through the end of March 1998, the core PeopleSoft financial applications have been implemented. These financial applications include: General Ledger, Purchasing, Accounts Payable, Human Resources, Benefits, and Payroll. These implementations have resulted in several successes including a significant enhancement of information processing and retrieval capabilities for Metro's key financial operations and the year 2000 (Y2K) compliance for these functions.

The implementation of the Accounts Receivable and Billing modules has been delayed due to problems with the software as originally received from PeopleSoft, but it is now imperative that these modules be installed within the next few months. In addition, several needs have emerged for which adequate resources are not available. Additional funding is needed to address these issues:

- The already-installed PeopleSoft financial modules must be upgraded to the next release (version 6.0) by midyear 1999 since the current version 5.1 is now unsupported by PeopleSoft. In addition, the PeopleSoft Accounts Receivable and Billing modules require version 6.
- In order for the full benefits of PeopleSoft to be realized throughout Metro, an in-house training program for non-technical users must be established. This need is confirmed by the recent InfoLink audit. Also, several key technical and functional staff who had extensive experience and knowledge in PeopleSoft have left Metro for other opportunities. Recruitment for qualified technical replacements has been difficult due to significantly higher salaries in the private sector and competition for highly qualified PeopleSoft technical staff. New IMS hires do not have technical training in the systems currently in place at Metro. It is critical that IMS provide new staff a baseline of substantive technical training.
- IMS has had three in-house Database Administrators (DBA) since April 1997. The most current incumbent resigned in July of 1998. IMS has tried several times to recruit for a DBA, but has not been able to offer salaries commensurate with the private sector. Finally, after issuing an RFP in September 1998, Metro was able to locate a highly skilled DBA

consultant through Natural Data. IMS has determined that a current IMS employee will be trained to assume the duties of the DBA by mid-1999. In the interim, IMS is proposing an extension of the current DBA consultant on a half-time basis through the end of FY 1998-99.

- IMS is requesting an additional 1.0 FTE Systems Specialist position that would be assigned to ongoing PeopleSoft technical support to work closely with functional users. The December 1998 audit recommended additional staffing based on a survey of support typically required for PeopleSoft applications. The budget review committee also supported this recommendation of additional staffing for Administrative Services.

Listed below are areas requiring funding to complete ongoing support for Metro's PeopleSoft application in FY 1998-99:

1. **PeopleSoft Financials Version 6 Upgrade** - Funds would support the acquisition of external technical and functional consulting services to enhance ASD technical and functional staff. **Cost: \$130,000**
2. **Training in report writing and Query for PeopleSoft functional users, and technical training for IMS staff** - Funds would provide instructional support equipment for IMS' in-house training for functional users of PeopleSoft. Funds would also be used to ensure IMS technical staff develops and maintains critical technical skills. **Cost: \$33,000**
3. **Database Administrator Consultant** - Funds would support the continuation of the current DBA consultant through the end of FY 1998-99 to ensure optimum data integrity for our PeopleSoft upgrades. **Cost: \$110,000**
4. **New Systems Specialist position to begin April 1, 1999** - Funds would support the hiring of one additional FTE to support PeopleSoft. **Cost: \$17,000**

ASD has identified savings of \$20,000 that can be applied to meet the above. Also, due to IMS vacancies, adequate Personal Services appropriation exists to cover the proposed new FTE. The remaining amount of \$270,000 must come from Contingency in the Support Services Fund.

Total Required funding	\$290,000
Identified Savings in Administrative Services	<u>(20,000)</u>
Requested Budget Adjustment	\$270,000

BUDGET IMPACT

The general contingency in the Support Services Fund is currently budgeted at \$357,448. This proposed action would transfer appropriations from Contingency to the following areas:

Budget Classification	Amount
Materials and Services	\$258,000
Capital Outlay	12,000
Total	\$270,000

After the transfer, the amount remaining in the Support Service Fund Contingency will be \$87,448.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 99-792.

CY:rs

\\budget\FY98-99\BudOrd\staff report

Agenda Item Number 9.1

Resolution No. 99-2740, For the Purpose of Authorizing the Executive Officer to Execute a Programmatic 4(f) Statement and Negotiate a right-of-way agreement with Clackamas County Department of Transportation and Metro property.

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT OF WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY) RESOLUTION NO 99-2740) Introduced by Mike Burton, Executive Officer)

WHEREAS, Metro and North Clackamas Park and Recreation District ("NCPRD") jointly own 106 acres of regionally significant natural area on Mt. Talbert (the "Mt. Talbert Property") with frontage on Sunnyside Road, purchased with Ballot Measure 26-26 bond funds; and

WHEREAS, the Clackamas County Department of Transportation ("CDOT") and the Oregon Department of Transportation ("ODOT") are developing the Sunnyside Road Improvement Project (hereafter, "Project"), identified in Metro's Regional Transportation Plan; and

WHEREAS, the Project requires the acquisition for right-of-way purposes of 3,000 square feet of the Mt. Talbert Property, comprising 150 feet of Sunnyside Road frontage, and will eliminate Metro's Sunnyside Road curb-cut, the regionally significant natural area's sole current access to a major arterial; and

WHEREAS, the Mt. Scott Trail, a regional trail system identified in the Metro Greenspaces Master Plan, is planned for the Mt. Scott Creek corridor, connecting the Metro/NCPRD property to other greenspaces along Mt. Scott Creek; and

WHEREAS, the Project requires that a new Mt. Scott Creek crossing be built for the improved Sunnyside Road, and a culvert crossing would pre-empt the ability to engineer a Sunnyside Road underpass along Mt. Scott Creek for the Mt. Scott Creek Trail; and

WHEREAS, to fulfill federal funding requirements, CDOT and ODOT must obtain from Metro and NCPRD a Programmatic 4(F) Statement, acknowledging the Project's impacts to park property and agreeing to the mitigation proposed; and

WHEREAS, the Metro Parks and Greenspaces Easement Policy requires formal review of all right-of-way requests by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Metro Council; and

WHEREAS, the Metro Parks and Greenspaces Department has determined that this right-of-way request can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management, as long as certain additional conditions are met; therefore,

BE IT RESOLVED,

- 1) That the Metro Council approves and authorizes Metro's Executive Officer to execute the Sunnyside Road Project Programmatic 4(f) Statement on Metro's behalf, agreeing that the proposed ROW acquisition of a portion of the Mt. Talbert Property will result in no significant impairment of the use of the remaining Mt. Talbert greenspace land for its intended purpose, with the following findings and mitigation conditions:
 - a) The taking of 3,000 square feet of land fronting Sunnyside Road for right-of-way purposes can be accommodated without significant impact to the natural resources, cultural resources, recreational facilities, recreational opportunities or the operations and management of the Mt. Talbert Property.
 - b) The taking of the Mt. Talbert Property's Sunnyside Road curb-cut can be accommodated without significant impact to the Mt. Talbert Property's natural resources and cultural resources. However, unless Metro approved comparable access to the Mt. Talbert Property is guaranteed by a realignment of the 117th Avenue and Sunnyside Road intersection, the loss of curb-cut vehicular access to the Mt. Talbert Property from Sunnyside Road will significantly impact current and future recreational opportunities on the site, the Mt. Talbert Property's potential as a recreation facility, and its operations and management.
 - c) Comparable vehicular access from Sunnyside Road to the Mt. Talbert property must be guaranteed via conversion and realignment of the Sunnyside Road and 117th Avenue intersection to a four-way, signaled connection to the Mt. Talbert property.
 - d) A bridge, instead of a culvert, must be constructed over Mt. Scott Creek at the Sunnyside Road/Mt. Scott Creek juncture to enhance passage for resident and anadromous fish in Mt. Scott Creek, which flows through the Mt. Talbert Property; and to insure continuity and safe access under the improved Sunnyside Road for the Mt. Scott Creek regional bicycle and pedestrian trail system. Unless a bridge is built, the Sunnyside Road Improvement Project will significantly impact the recreational

opportunities on the Mt. Talbert Property provided by safe bicycle and pedestrian access to a regional trail system.

- 2) That the Metro Council authorizes the executive officer to negotiate the sale of approximately 3,000 sq. ft of the Mt. Talbert Property to CDOT/ODOT for the fair market value of the property, as confirmed by Metro's review appraiser upon issuance of the Project's build-decision so long as the conditions noted in item "c" and "d" above are met.

ADOPTED by the Metro Council this _____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
DIRECTOR

August 28, 1998

Charles Ciecko, Director
Regional Parks and Greenspaces
Metro
600 NE Grand Ave.
Portland, OR 97232-2736

SUBJECT: 4(f) approval for the Sunnyside Road Project

Dear Mr. Ciecko:

In seeking approval of our 4(f) statement we are submitting the first part of our application under Metro's Acquisition Procedure as established by Resolution 97-2539B. It is premature for us to actually begin acquisition because we do not yet have a Build Decision on the Sunnyside Road Project. However, we cannot get to the point of a Build Decision without a completed 4(f) statement.

Normally 4(f) statements are completed by staff, but since you feel this needs Council involvement, we will begin by addressing the first portion of Metro's Acquisition Procedure as we agreed on the phone. We will address the points in Exhibit A of Resolution 97-2539B 13 a-c before the Build Decision to obtain a signed 4(f) statement. We will complete 13 d-g as we approach acquisition after the Build Decision. This would be done sometime in 1999.

A programmatic 4(f) statement is enclosed for your signature.

As a matter of background, the Sunnyside Road Project is included in the Regional Transportation Plan. Project Development has been underway for the last three years. Last January Metro, with the North Clackamas Parks and Recreation District, purchased a property for the Mt. Talbert Greenspaces Park, having frontage along Sunnyside Road. Because the property is in public ownership, is open to the public and is to be used for recreation, the rules of section 4(f) of DOT Act 49 Section 771.135 U.S.C. apply.

If you have any further questions on this matter please contact me. Also, I'd like to set up a meeting to discuss this matter and make sure the way we addressed these issues meets your needs.

Dick Van Ingen
Dick Van Ingen, Planner
650-3315

Enclosures

Application for Acquiring Right-of-Way on Metro Greenspaces Property, Sections a-c.

Programmatic 4(f) statement

Map detailing the area of Mt. Talbert Park impacts

cc.

Ron Weinman, Clackamas County

Leslie Howell, CH2M-Hill

**Application for Acquiring Right-of-Way on Metro Greenspaces Property
Sections a-c.**

Because Metro has not developed an application form, we will use the language of policy 13 a through c to structure the information to obtain a signed Programmatic 4(f) statement. It is premature to seek acquisition at this stage; however, the programmatic 4(f) deals with issues that must precede project approval, and project approval must precede acquisition activities.

13) Provide for a timely review and analysis of proposals for non-park uses by adhering to the following process:

a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to:

Purpose

The proposed project was conceived as a means of alleviating congestion on Sunnyside Road between I-205 and SE 172nd Avenue, which operates at or near capacity in most areas along the corridor. In addition, this section of roadway fails to meet design standards of the American Association of State Highway and Transportation Officials (AASHTO) and Clackamas County in the following ways:

Driveways entering Sunnyside Road are numerous and are frequently located too close together and too close to intersections, resulting in conflicts between main line and driveway traffic. Desirable spacing of driveways and intersections is at least 183 meters (600 feet).

Horizontal curves at several locations have radii lengths less than the minimum 210 meters (690 feet) with a 4 percent superelevation required by AASHTO, resulting in unsafe conditions.

Vertical curves at several locations have rates of change that do not meet AASHTO-accepted minimums. These deficiencies result in limited sight distance.

Limited intersection sight distance caused by sharp horizontal and vertical curves, as well as physical obstructions, create problems for vehicles entering the roadway.

Existing lane widths vary from 3 meters to 3.7 meters (10 feet to 12 feet); the minimum desirable lane width is 3.4 meters (11 feet).

Bicycle / shoulder lanes between I-205 and SE 132nd Avenue are intermittent and, in some areas, narrower than the desirable 1.8-meter (6-foot) width; the remainder of the project area has no shoulders or shoulders of less than 1.2 meters (4 feet).

Pedestrian sidewalks are located along Sunnyside Road west of SE 122nd Avenue but are intermittent beyond that point. Sidewalks between I-205 and SE 105th Avenue, a segment designated a "Regional Boulevard" by Metro, are less than the 2.4-meter (8-foot) width prescribed under that concept and require 2.4-meter (8-foot)-wide planter separations.

Some illumination exists west of SE 105th Avenue, but elsewhere it is sparse, and it is absent at some intersections.

Anticipated increases in daily traffic and the desire to bring the roadway into compliance with current standards necessitate improvements to the corridor. The Sunnyside Improvement Project aims to relieve existing congestion, improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address existing safety concerns, and enhance the overall visual image of the corridor.

Size

The area needed for right-of-way is estimated to be 3000 square feet. The dimensions would be about 20 feet deep along 150 feet of frontage. This determination is based on preliminary engineering. Upon project approval, design engineering would begin. The greater level of detail that would result is as likely to diminish as increase the amount of the right-of-way needed. Design engineering would be completed before we approach Metro to acquire the property.

The total Mt. Scott Property is 66.77 acres. The Sunnyside Road Improvement Project would need 1/10th of 1% of the total.

Components

The plant community in the area needed for right-of-way consists of upland shrubland. The most plentiful species are Scot's broom, and Himalayan blackberry, both invasive exotic species.

Location

The needed right-of-way is at the end of the panhandle where the Mt. Talbert property touches Sunnyside Road.

Existing Conditions

The property is undeveloped. The area needed for right-of-way is well above Mt. Scott Creek. The property now slopes gently away from Sunnyside Road. No recreational facilities have been developed on the site.

Proposed Project Schedule and Phasing

The first phase from I-205 to SE 122nd Avenue, is shown in the Statewide Transportation Improvement Program (1998-2001). Construction is scheduled to begin in Year 2000. Construction of the remainder of the project is unscheduled at this time, depending on the availability of funding.

Analysis of Alternatives which avoid the Metro Owned or Managed Regional Park

The project is developed with one Build Alternative, with impacts to the Mt. Talbert Property as described above. That alternative includes two options for crossing Mt. Scott Creek: 1) with a bridge, or 2) with a replaced or extended culvert.

A No-Build Alternative is presented as a comparison. It would require no right-of-way from the Mt. Talbert parcel.

An Environmental Assessment is to be released on September 11th, 1998. It describes the impacts of the Build and No-Build Alternatives in detail. Metro has been sent a draft, on which comments were solicited and received. The close of the official comment period for the EA to be released will be stamped inside on an introductory letter from ODOT. We encourage Metro's comment.

The Environmental Assessment contains a section titled "Alternatives Considered But Not Carried Forward". That section contains the following discussion for Segment 2 – Sunnybrook Road to SE 122nd Avenue (relevant to the Mt. Talbert Property):

"The five lane alternatives were not carried forward, primarily because they would not provide adequate future capacity. Of the remaining seven-lane alternatives, widenings to the north or to the south were rejected because they would result in greater land use impacts than widening symmetrically from the centerline."

Although the above statement is true generally for segment 2, the project maps near the Mt. Talbert property show that the centerline does shift slightly to the north, with 20 feet needing to be acquired from the south and approximately 50 feet from the north. More may be needed for a slope easement to the north beyond that.

A primary issue in this area is the creek crossing. The Environmental Assessment contains a detailed evaluation of the bridge and culvert options. Shifting the alignment a considerable amount may cause impacts to the creek not anticipated in the analysis of the Build Alternative.

The Build Alternative was designed (at a preliminary engineering level) as a least impact alternative. Public comment will be sought at the hearing and it is possible that changes could be made when new information becomes available.

b) Are Proposed Uses Consistent With the Master Plan?

At this time we are told that there is no Master Plan for the property. The proposed Sunnyside Road Improvement Project complies with the Clackamas County Comprehensive Plan.

c) Are Alternative Alignments located outside of the Metro Owned or Managed Regional Park Feasible?

A wide variety of alternatives were examined and, based on what we know about environmental impacts in this area (the aquatic and riparian habitats, and endangered Steelhead potential habitat), the Build Alternative is designed to be the least disruptive. The Environmental Assessment gives a full discussion of all alternatives.

OREGON FHWA DIVISION OFFICE

NATIONWIDE 4(f) EVALUATION FOR MINOR TAKES OF PUBLIC PARKS, RECREATION LANDS AND WILDLIFE AND WATERFOWL REFUGES

Project # ODOT Key # 07051

Description The Sunnyside Road project proposes to improve Sunnyside Road from I-205 to SE 172nd Avenue in Clackamas County, Oregon. This project would serve to relieve existing and future congestion, improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address safety concerns, and improve overall visual image of the corridor. The Build Alternative, between Sunnybrook Road and SE 122nd Avenue, would be a 7 lane divided highway including bike lanes and sidewalks adjacent to the park property. Right-of-way needs from the park property would be approximately 46 meters (150 feet) of frontage and 5 to 7 meters (17.5 to 23.5 feet) of depth for roadway widening.

	Yes	No
1. Is the Improvement part of an adopted master plan? Clackamas County Comprehensive Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Is the proposed improvement an existing unimproved path? Not Applicable	<input type="checkbox"/>	<input type="checkbox"/>
3. Is the 4(f) resource adjacent to the existing highway or trail?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Is the existing trail/bike path within the 4(f) resource? Not Applicable	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the amount and location of the taking result in no impairment of the use of the remaining 4(f) land for its intended purpose?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Minor taking of the 4(f) resource;		
a) If the total 4(f) resource is less than 10 acres, is the taking less than 10% of the total acreage?	<input type="checkbox"/>	<input type="checkbox"/>
b) If the total 4(f) resource is from 10 - 100 acres, is the taking less than 1 acre?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) If the total 4(f) resource is greater than 100 acres, is the taking less than 1% of the resource?	<input type="checkbox"/>	<input type="checkbox"/>

- 7. Are there no proximity impacts which would impair the use of the 4(f) lands for their intended purpose?
- 8. Have the officials with jurisdiction over the property agreed in writing with the assessment of impacts and proposed mitigation?
- 9. Have no Federal funds (Land, Water, and Conservation Funds) been used in the acquisition of improvements of the 4(f) resource?
- If no, was the land conversion/ transfer coordinated with the appropriate Federal agency, and are they in agreement?

SUMMARY AND APPROVAL

The project meets all criteria included in the programmatic 4(f) evaluation approved on December 23, 1986.

All required alternatives have been evaluated and the findings made are clearly applicable to this project.

The project includes all possible planning to minimize harm and that there are assurances that the measures to minimize harm will be incorporated in the project.

Date

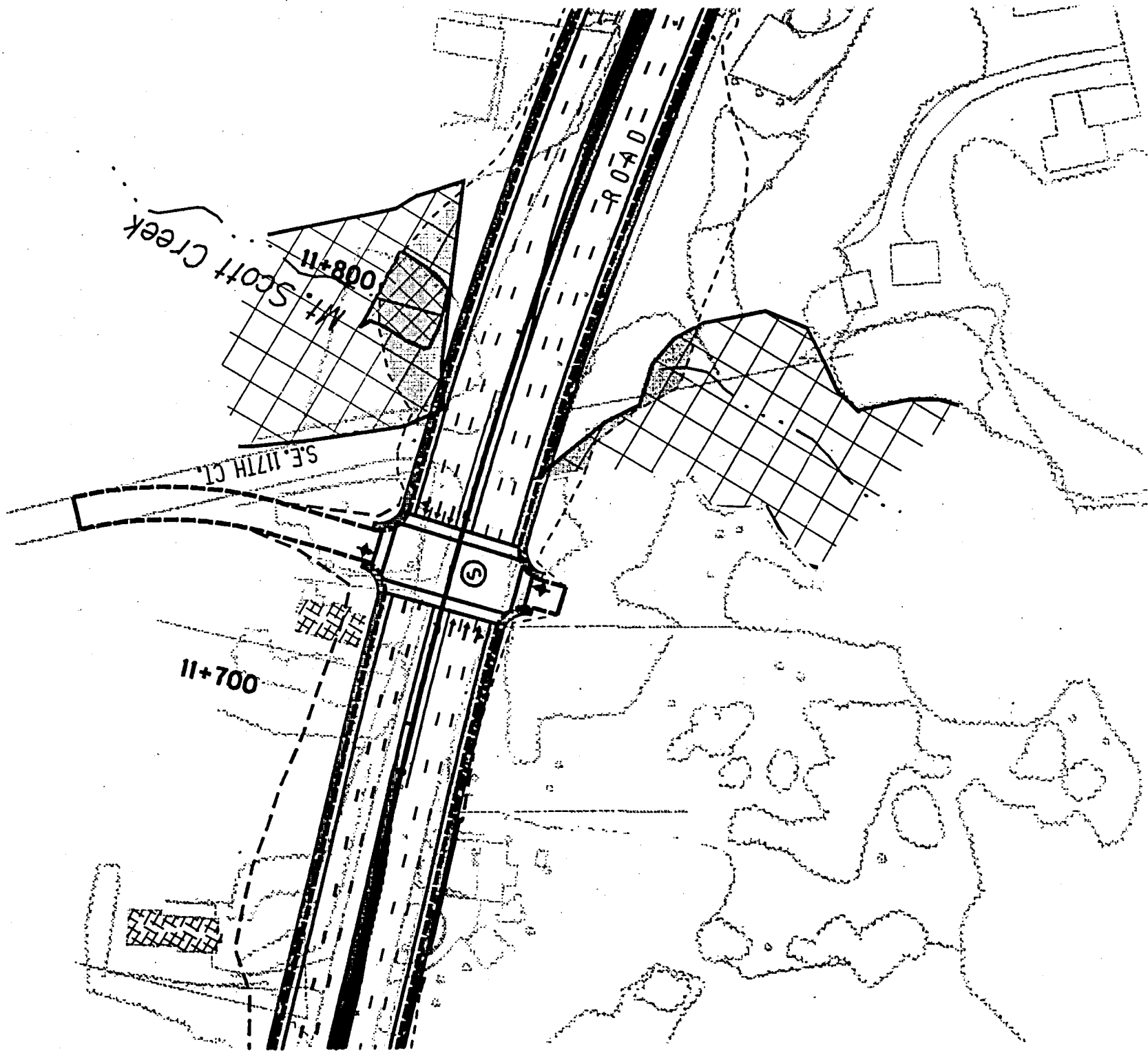
Certified _____
Responsible Official (City, County, Parks, etc.)

Date

Approved _____
ODOT Official

Date

Approved _____
FHWA Division Administrator



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 99-2740 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT OF WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY

Date: December 16, 1998

Presented by: Charles Ciecko

PROPOSED ACTION

Resolution No. 99-2740 requests authority for the Executive Officer to execute a Programmatic 4(F) Statement, acknowledging that the acquisition for right-of-way purposes of lands held by Metro for open space will not impair the use of the remaining open space lands, and negotiate a right-of-way agreement with Clackamas County Department of Transportation over Metro property.

BACKGROUND AND ANALYSIS

Metro and North Clackamas Parks and Recreation District (NCPRD) jointly own 106 acres of regionally significant natural area on Mt. Talbert, located south of Sunnyside Road west of I-205, including a panhandle or flag lot that extends to the edge of Sunnyside Road near SE 117th Avenue (hereafter the "Mt. Talbert Property").

The Sunnyside Road Improvement Project (hereafter the "Project") aims to relieve congestion, address safety concerns, provide for transit and other modal access, and enhance the overall visual image of the Sunnyside Road Corridor between I-205 and SE 172nd Avenue. A federally-funded project managed by Oregon Department of Transportation (ODOT) and Clackamas County Department of Transportation (CDOT), the Project is currently in its environmental assessment review period on the preferred alternative, with the build-decision on the first phase of the Project scheduled for early 1999. The Project's preferred alternative requires a right-of-way (ROW) purchase from Metro and NCPRD on the panhandle portion of the Mt. Talbert Property. The area needed for the ROW is estimated to be 3000 square feet, being 20 feet deep along Metro's 150 feet of Sunnyside Road frontage. Additionally, the project will eliminate curb-cut access for properties on Sunnyside Road, including the Mt. Talbert Property land, to improve traffic safety and reduce traffic conflicts and accidents.

Because the Sunnyside Road Project is federally-funded, CDOT must obtain a Programmatic 4(f) Statement from Metro and NCPRD which addresses the resource impacts of the acquisition of public open space for ROW purposes and consents to CDOT's proposed mitigation. The project will not move forward to a build-decision until CDOT receives the Programmatic 4(f) Statement from Metro and NCPRD.

METRO PARKS AND GREENSPACES EASEMENT POLICY

CDOT's request for ROW relating to a road improvement project is a proposed non-park use of a regionally significant natural area under the Metro Parks and Greenspaces Easement Policy. Therefore, the application for right-of-way acquisition and Programmatic 4(f) Statement was submitted and evaluated under the policy contained in Resolution No. 97-2539B, adopted by the Metro Council on November 6, 1997.

The applicant's proposed right-of-way acquisition presents the following potentially significant impacts:

1. Impacts to the natural resource values;
2. Impacts to recreational opportunities, the recreational facility itself and impacts to operations and management due to the loss of curb-cut vehicular access to the Mt. Talbert Property; and
3. Impacts to multi-modal trail and bicycle connectivity, potentially resulting in the loss of recreational opportunity represented by safe trail access under Sunnyside Road to the future Mt. Scott trail system, which connects to and provides access to the Mt. Talbert Property.

Upon consideration of the above potential impacts, in light of the materials submitted by applicant and a site visit by Metro personnel, the Department has determined that the application for right-of-way acquisition can be accommodated without significant impact to park resources, facilities, or their operation and management, as long as key conditions are fulfilled. The analysis of the impacts and related required mitigation is set forth below. The Regional Parks and Greenspaces Advisory Committee was presented with these findings and recommendations on October 6, 1998. The RPGAC is recommending approval of the Programmatic 4(f) with conditions and the ROW acquisition.

FINDINGS

Natural Resource Values

Metro agrees with the EA finding that the loss of vegetation, habitat, and recreational use caused by the taking of 3,000 square feet of the Mt. Talbert Property for ROW purposes will result in no significant impact to the property's natural resource values. The area requested by CDOT has limited habitat value due to its proximity to Sunnyside Road and the influence of traffic on noise and air quality. The habitat value is also limited by exotic vegetation on this portion of the site that consists mostly of blackberry and a few native cottonwood and hawthorn trees. There are no known listed threatened and endangered animal or plant species on the parcel sought for the ROW.

Site Access

The Project's preferred alternative would eliminate the Mt. Talbert Property's Sunnyside Road curb cut and consequently future access potential. Preserving the Mt. Talbert Property's public access to a major arterial is essential to protect the viability of the Mt. Talbert property as a regionally significant natural area. future public access to the Mt. Talbert property. Consequently, the loss of the curb cut due to the right-of-way acquisition will have a significant impact unless mitigated through the provision of acceptable and comparable access to Sunnyside Road.

Comparable access to Sunnyside Road may be provided through the realignment of the 117th Avenue intersection, the installation of a traffic light at this location and a right-turn entry onto the Mt. Talbert Property. The exact location for the realignment of the intersection and southern extension of 117th avenue is yet to be determined. Possible scenarios include having the realigned intersection terminate on the adjacent property immediately to the east of the Mt. Talbert Property, or having the intersection and southern extension of 117th Avenue terminate on the eastern border of Metro's property. The Department's staff preference is that the location of the realignment and southern extension for 117th Avenue would terminate on the eastern border of Metro's property.

Safe Trail Access

The proposed Mt. Scott regional trail system will accommodate bicyclists and pedestrians and provide connectivity along Mt. Scott Creek between current and future parks within the Sunnyside corridor, including the Mt. Talbert Property. This trail system will serve local and regional needs and is identified in the NCPRD Master Plan, the Clackamas County Comprehensive Plan Open Space Network and Recreation Needs Map and the Metro Greenspaces Master Plan.

Ensuring safe access and modality for pedestrians and bikes along the future Mt. Scott creek regional trail system is important. Construction of a bridge instead of a culvert at the Sunnyside Road/Mt. Scott Creek Crossing allows for a trail underpass, ensuring safe crossing under Sunnyside road for trail users. Department staff and NCPRD prefer the bridge option be chosen as the preferred alternative design to ensure modality and safe access and travel for people using the future trail system. Additionally, a bridge will minimize environmental impacts to Mt. Scott Creek and enhance passage for resident and anadromous fish.

BUDGET IMPACT

No budget impact is expected.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 99-2740.

BEFORE THE METRO COUNCIL

I HEREBY CERTIFY THAT THE FOREGOING IS A COMPLETE AND EXACT COPY OF THE ORIGINAL THEREOF.

Rebecca V. Shoemaker, Clerk
Clerk of the Metro Council

FOR THE PURPOSE OF APPROVING GENERAL)
POLICIES RELATED TO THE REVIEW OF)
EASEMENTS, RIGHT OF WAYS, AND LEASES)
FOR NON-PARK USES THROUGH PROPERTIES)
MANAGED BY THE REGIONAL PARKS AND)
GREENSPACES DEPARTMENT.)

RESOLUTION NO. 97-2539B

ATTACHMENT '1'

Introduced by
Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

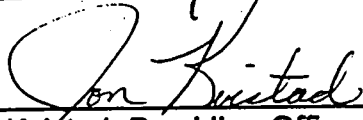
WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

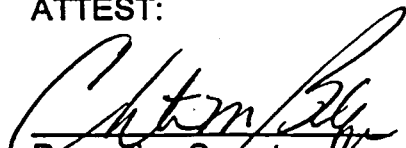
BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this 6th day of November, 1997.



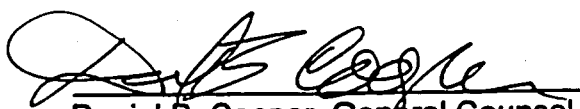
Jon Kvistad, Presiding Officer

ATTEST:



Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

Exhibit "A"

METRO POLICY RELATED TO THE REVIEW OF EASEMENTS, RIGHT OF WAYS, AND LEASES FOR NON-PARK USES

Metro owns and manages , either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquisition by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.
- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.
- 7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.
- 8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.
- 9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.
- 10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.
- 11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.
- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.
- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:
 - a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

b) Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

c) Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro owned or managed regional park, natural area, or recreational facility are feasible.

d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

f) Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

g.) Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state or local jurisdiction requirements.

PROJECT REPORT

Attachment #2

To: Charles Ciecko, Heather Nelson Kent, Jim Desmond
Submitted by: Easement and Right of Way Policy Review Team (Julie Weatherby, William Eadie, Emily Roth, Pam Novitsky, and Joel Morton)
Regards: Mt. Talbert Property – Sunnyside Road Expansion and Programmatic 4(f)
Date: December 10, 1998

Project Background/Description

The Sunnyside Road Improvement Project aims to relieve congestion on Sunnyside Road between I-205 and SE 172nd Avenue, which operates at or near capacity in most areas along the corridor. The Sunnyside road improvement project will also improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address existing safety concerns and enhance the overall visual image of the corridor. The first phase, from I-205 to SE 122nd Avenue is scheduled for construction to begin in 2000.

The project is currently in its Environmental Assessment review period on the preferred alternative. Public comment period closed October 20, 1998. The build decision on the project is scheduled for early 1999. The roadway project is being managed by Oregon Department of Transportation and Clackamas County Department of Transportation and is a federally funded project.

Impact and Requested Use of Project

Metro and North Clackamas Parks and Recreation District (NCPRD) jointly own 106 acres on Mt. Talbert, which sits to the south of Sunnyside Road between I-205 on the west and 122nd Avenue on the east. The location of our property is primarily on the north and northeast slopes of Mt. Talbert, with a panhandle or flag lot that extends to the border of Sunnyside Road near SE 117th Avenue. Mt. Scott Creek crosses under Sunnyside Road and runs through the panhandle portion of our property.

Clackamas County DOT has submitted a Programmatic 4(f) document to Metro for review and approval for the Sunnyside Road Project. The Programmatic 4(f) is a requirement when federally funded road projects impact natural resource lands. The Programmatic 4(f) document identifies or determines whether any significant impact to the natural resource lands will occur from the project and identifies mitigation if required. The project will not move forward to a build decision until the Programmatic 4(f) document is submitted to CDOT.

The Sunnyside Road improvement project between Sunnybrook Road and SE 122nd Avenue will require a right-of-way (ROW) purchase from Metro and NCPRD on the panhandle portion of the Mt. Talbert property to achieve project objectives. Additionally, curb access for residences on Sunnyside Road is being eliminated in this stretch of the

road to improve traffic safety and reduce traffic conflicts and accidents. The improvement project is required to provide alternative access to all property owners in this stretch, including Metro and NCPRD.

The area needed for the ROW is estimated to be 3000 square feet. The dimensions are about 20 feet deep along the 150 feet of roadway frontage. The determination is based on preliminary engineering by CDOT. Upon project approval, design engineering would begin. Design engineering would be completed before CDOT approaches Metro to acquire the property.

Project Issues

Clackamas County DOT's request for right-of-way is for the widening of a regional transportation corridor, a non-park use under the Metro Parks and Greenspaces Easement Policy. CDOT's right-of-way application and accompanying Environmental Assessment and 4(f) statement must be submitted to the RPGAC, the RFC and the full Metro Council for approval after evaluation by the Parks and Greenspaces Department. No Master Plan yet exists for the Mt. Talbert property, and the Department has determined that no Master Plan is required prior to further review and analysis of CDOT's application. The application for right-of-way acquisition was thus evaluated for consistency with the Greenspaces Master Plan. The Department's easement committee finds that the application can be made consistent with the Greenspaces Master Plan, as long as certain conditions are met. These conditions are set forth in the findings and recommendations section.

Upon consideration of the applicant's environmental assessment and application, the committee is in agreement with applicant's assessment that no alternative alignment or site located outside of the Mt. Talbert property is feasible. Finally, upon consideration of all materials submitted by applicant and a site visit by Metro personnel, the committee has determined that the application for right-of-way acquisition can be accommodated without significant impact to park resources, facilities, or their operation and management, as long as key conditions are fulfilled. The committee's analysis of the impacts to the site's natural resources, cultural resources, recreational facilities, recreational opportunities, and operation and management, and related required mitigation is set forth below.

The applicant's proposed right-of-way acquisition presents the following potential significant impacts:

1. Impacts to the natural resource values;
2. Impacts to recreational opportunities, the recreational facility itself and impacts to operations and management due to the loss of curb-cut vehicular access to Mt. Talbert property; and
3. Impacts to multi-modal trail and bicycle connectivity, potentially resulting in the loss of recreational opportunity represented by safe trail access under Sunnyside Road to

the future Mt. Scott trail system, which connects to and provides access to the Mt. Talbert property.

These issues will be discussed independently below.

Natural Resource Values

The road-widening project will remove about 3,000 square feet from the panhandle portion of the Mt. Talbert property for right-of-way purposes. Metro and NCPRD agree with the EA finding that the loss of vegetation, habitat, and recreational use directly resulting from the taking of 3,000 square feet of the Mt. Talbert property for ROW purposes will result in no significant impact to the property's natural resource values. The ROW portion that will be impacted by this proposed project is flat. At approximately 100-120 feet from Sunnyside Road the land begins to slope towards the creek.

The site has limited habitat value due to its proximity to Sunnyside Road and the influence of traffic on noise and air quality. The habitat value is also limited by the exotic vegetation community makeup of the site. The plant communities in the potential impact area consist mainly of turf grass, Himalayan blackberry (*Rubus discolor*) and a scattering of red alder (*Alnus rubra*), Holly (*Ilex* sp.) and common hawthorn (*Crataegus monogyna*). Starting six feet back from the road, the Himalayan blackberry runs the entire length of the parcel to Mt. Scott Creek. It is 8-10 feet tall and impenetrable. The largest tree is a red alder with a DBH of 5". The other scattering of trees are saplings with a DBH of less than 3". At approximately 50-75 feet from the road (outside the ROW impact area), begins a mature canopy of black cottonwood (*Populus trichocarpa*) and an established thicket of red alder. There are no known listed threatened and endangered animal or plant species on this parcel subject to ROW.

Site Access

The proposed build alternative alignment would eliminate the property's curb cut from Sunnyside Road in an effort to direct vehicular access through signaled intersections on this stretch of Sunnyside Road. Preserving the Mt. Talbert property's public access to a major arterial is essential to protect the viability of the Mt. Talbert property as a regionally significant greenspace. The current curb cut allows access for both east and westbound traffic. Unless mitigated, the loss of the curb cut would significantly impact the Mt. Talbert property by depriving it of an essential means of public access for recreation, as well as access for operations and management. Consequently, the loss of the curb cut due to the right-of-way acquisition must be mitigated through the provision of comparable access to and from Sunnyside Road.

Metro and NCPRD anticipate that the panhandle-shaped property adjacent to Sunnyside road will provide, at a minimum, a trailhead parking lot and pedestrian access to the future Mt. Talbert regional park. Currently, there is no master plan in place or land use approval for a park on Mt. Talbert because acquisition of desired properties is not complete. Because we are in the early stages of assembling land for the park, future

options for vehicular, trail, bicycle and pedestrian access to the site from Sunnyside Road must be preserved.

One proposal for alternative access is through the realignment of 117th Avenue intersection, installation of a traffic light at this location and creating right- turn entry onto the Mt. Talbert property. As was discussed in the October 6, 1998 meeting between Metro, NCPRD and CDOT, the exact location for the realignment of the intersection and southern extension of 117th avenue is yet to be determined. The scenarios discussed included having the realigned intersection terminate on the adjacent property immediately to the east of the Mt. Talbert property, or have the intersection and southern extension of 117th Avenue terminate on the eastern border of our property. Our preference is that the location of the realignment and southern extension for 117th Avenue would terminate on the eastern border of our property.

Safe Trail Access

A future regional trail system will be developed along Mt. Scott Creek, which runs past the northern base of Mt. Talbert. The proposed Mt. Scott regional trail system will accommodate bicyclists and pedestrians and provide connectivity between current and future parks within the Sunnyside corridor. This trail system will serve local and regional needs and is identified in the NCPRD Master Plan, the Clackamas County Comprehensive Plan Open Space Network and Recreation Needs map and the Metro Greenspaces Master Plan.

Ensuring safe access and modality for pedestrians and bikes along the future Mt. Scott creek regional trail system is important. The build alternative calls for either a culvert or bridge to cross Mt. Scott Creek at Sunnyside Road, which lies just east of the Mt. Talbert panhandle property. A bridge option at Mt. Scott Creek would make an underpass possible as part of the future regional trail system and allow pedestrians to pass under Sunnyside road. Metro and NCPRD prefer the bridge option be chosen as the preferred alternative design to ensure modality and safe access and travel for people using the future trail system. The culvert option would eliminate the possibility of trail continuity.

Findings & Recommendations

The Regional Parks and Greenspaces Advisory Committee was presented with the following findings and recommendations on October 6, 1998. The RPGAC recommended approval of the Programmatic 4(f) and the ROW acquisition under the conditions outlined below.

Findings

- 1) Loss of vegetation, habitat and recreational use resulting from the acquisition for ROW purposes of 3,000 square feet on the panhandle portion of the Mt. Talbert property, bordering Sunnyside Road, will have no significant impact on the natural resource values of the site.

- 2) If comparable access to the Mt. Talbert property is guaranteed via the realignment of the 117th Avenue and Sunnyside Road intersection, the loss of curb-cut vehicular access directly off Sunnyside Road will result in no significant impact to park resources, facilities, or their operation and management.
- 3) Comparable access to the site from Sunnyside Road can be accomplished via the realignment of 117th Avenue at Sunnyside Road, extending 117th Avenue south to serve the Metro and NCPRD property, and converting this intersection to a four-way, signaled intersection.
- 4) Propose a bridge option as the alternative design option at Mt. Scott Creek to allow for a "below grade" crossing of Sunnyside Road as part of the future regional trail system to ensure modality and safe access and travel for people using the future trail system.



Recommendations

- 1) Recommend that the Metro Council authorize the Executive Officer to execute the Programmatic 4(f) Statement on Metro's behalf, agreeing that the proposed acquisition of a portion of the Mt. Talbert property for ROW purposes will result in no impairment of the use of the remaining Mt. Talbert greenspace land for its intended purpose, with the following statements and conditions:
 - a) The taking of 3,000 square feet of frontage along Sunnyside Road for right-of-way purposes will have no significant impact to the natural resource value of the Mt. Talbert property.
 - b) The loss of curb-cut vehicular access directly from Sunnyside Road will result in no significant impact to park resources, facilities or their operation and management *only if* comparable access to the Mt. Talbert property is guaranteed via realignment of the 117th Avenue and Sunnyside Road intersection.
 - c) Comparable vehicular access from Sunnyside Road will be provided to the Mt. Talbert property via realignment of 117th Avenue, extending 117th Avenue south to serve the Metro and NCPRD property, and converting this intersection to a four-way, signaled intersection.
 - d) A bridge option must be chosen at Mt. Scott Creek to ensure safe access and modality for the future trail system.
- 2) Authorize the executive officer to negotiate with CDOT and ODOT for the sale of approximately 3,000 square feet of the subject property for not less than fair market value once the project's build decision has been made.

R L I S
REGIONAL LAND INFORMATION SYSTEM

Open Spaces, Parks & Streams

East Buttes/Boring Lava Domes

-  Bond Measure Acquisitions
-  Parks and Open Space

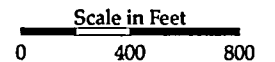
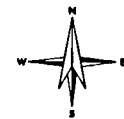
SOURCES:

TAX LOT MAP
County Assessment and Taxation offices, 1998. Data collection scale is 1"=100' in urban areas and 1"=200' or 1"=400' in rural areas. Horizontal accuracy is plus or minus five feet or better in Beaverton, Milwaukie, Oregon City, Tigard and urban Multnomah County. Other areas are plus or minus ten feet.

TOPOGRAPHIC DATA
United States Geological Survey, ~1975 depending on quad. Registers to USGS 7.5 minute quad sheets.

AERIAL PHOTOGRAPHY
Aerial photography by Walker & Associates, Seattle, WA September 1997.
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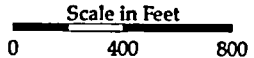
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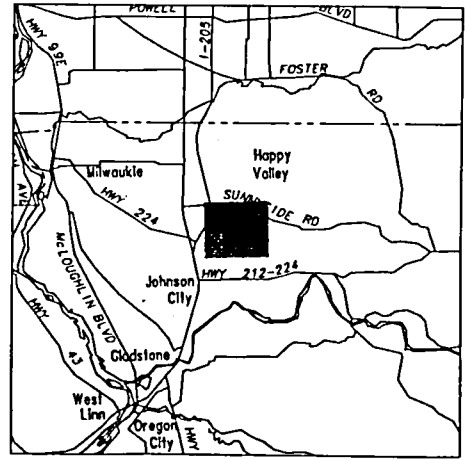
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Location map

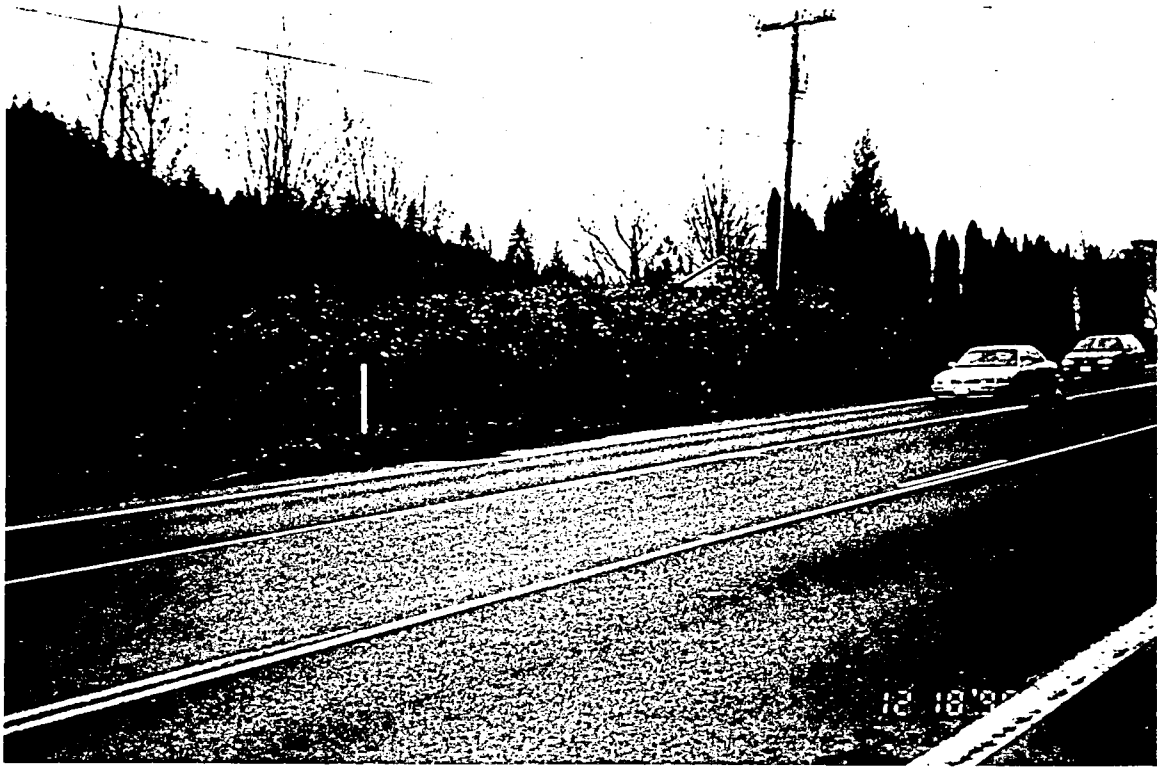


Photo 1 Mt. Talbert property as it borders Sunnyside Road. Blackberries cover the entire frontage of subject property.



Photo 2 Eastern border of Metro property as it fronts Sunnyside Road. Red flag at curb marks border. Woman standing at the 20 foot setback for ROW .



Photo 3 Western border of Metro property as it fronts Sunnyside Road. Red flag at curb marks border. Woman standing at the 20-foot setback for requested ROW.



Photo 4 View of Metro property near Sunnyside Road. Site covered in blackberries from Sunnyside Road to Mt. Scott Creek. View looking due east.



Photo 5 View of Metro property near Sunnyside Road looking southeast. Site begins to slope to Mt. Scott Creek about 200 feet from Sunnyside road.



Photo 6 View of Mt. Scott Creek from the south side of Sunnyside road. The creek is on the adjacent landowner's property, which lies east of Metro's property.

Agenda Item Number 9.2

**Resolution No. 99-2747, For the Purpose of Authorizing Request for Proposals for an Exhibit Fabricator
at Oregon Zoo.**

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 99-2747
REQUEST FOR PROPOSALS FOR AN) Introduction by Mike Burton
EXHIBIT FABRICATOR AT OREGON ZOO) Executive Officer

WHEREAS, \$1.2 million of the Oregon project budget has been earmarked in the Capital Fund for the interpretive portion of the exhibit; and

WHEREAS, the Council has designated this project having significant impact on Metro; and

WHEREAS, the purpose of exhibitry is to provide an educational message to visitors through the creative development of signs, interpretative panels, and interactive visitor experiences, known as interpretative exhibitry; and

WHEREAS, the Steller Cove exhibit is slated to open in Summer of 2000, and the interpretative exhibitry for this phase of the project is estimated at \$250,000; and

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to issue request for proposals and execute a contract for exhibit fabricator services with the selected proposer.

ADOPTED by the Metro Council this ____ day of January, 1999.

Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

STAFF REPORT

FOR THE PURPOSE OF AUTHORIZING REQUEST FOR PROPOSALS FOR AN EXHIBIT FABRICATOR AT OREGON ZOO.

Date: January, 1999

Presented by: Kathy Kiaunis

FACTUAL BACKGROUND AND ANALYSIS

In September, 1996, voters approved the Oregon project bond measure and the Metro Council authorized the construction of the Great Northwest project at Metro Washington Park Zoo. In March, 1998, Council approved a design/build contract for interpretives for the first phase of the Great Northwest project. At that time, Council passed Ordinance 98-768 which allows projects such as these to be based on proposals. Construction is now underway for Steller Cove, the coastal portion of the Great Northwest exhibit.

The interpretives contract for Steller Cove is included in the FY1998-99 budget on the contract list at \$250,000. It was deemed a significant impact contract and requires Council approval to proceed to issue request for proposals.

An important part of the overall experience provided by the Great Northwest project will be the interpretive elements, which are part of the animal exhibits. The exhibit interpretives help create the themed environment which reinforces the unique educational messages for visitors. This includes signage, audio-visual elements, and tactile learning opportunities. These interpretives are usually unique and specialized in fabrication for the message they intend to convey. Most zoos and museums use a design/build contract to develop interpretives as the most cost effective method.

Development of interpretives is unlike other capital improvements because the construction methods, materials, and delivery techniques may vary widely to achieve the desired effect. Material used in the design and assembly methods requires special skills, knowledge, and creativity in the final installation.

The specialization of this kind of work and the coordination required from inception to placement in the zoo exhibit makes the design/build method of contracting the most cost effective.

BUDGET IMPACT

\$250,000 has been set aside in the Great Northwest project budget for the interpretives for Steller Cove. This includes liaison with artists working with the Percent for Arts program.

EXECUTIVE OFFICE RECOMMENDATIONS

The Executive Officer recommends adoption of Ordinance No. 99-2747.

TOO LARGE TO COPY, COPIES
AVAILABLE BY CONTACTING
THE OREGON ZOO

RECEIVED

JAN 04 1999

PROJECT MANUAL

RISK & CONTRACT
MANAGEMENT DIVISION

FINAL DESIGN, FABRICATION & INSTALLATION OF WATERS /STELLER COVE ECOSYSTEM INTERPRETIVE EXHIBITS

AND
COORDINATION WITH ARTISTS
FOR INSTALLATION OF COMMISSIONED ART WORK

...

OREGON ZOO

...

THE PORTICO GROUP
ARCHITECTS, LANDSCAPE ARCHITECTS & EXHIBIT DESIGNERS
217 Pine Street
Seattle, Washington 98101
(206) 621-2196

SUBCONSULTANTS TO
ANKROM MOISAN ASSOCIATED ARCHITECTS
Portland, Oregon

...

OCTOBER 1998

Agenda Item Number 9.3

Resolution No. 99-2750, For the Purpose of Approving an Intergovernmental Agreement with the City of Portland for Reforestation on Metro Open Spaces Property.

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN)
INTERGOVERNMENTAL AGREEMENT)
WITH THE CITY OF PORTLAND FOR)
REFORESTATION ON METRO OPEN)
SPACES PROPERTIES)

RESOLUTION 99-2750

Introduced by Mike Burton
Executive Officer

WHEREAS, Metro's Open Spaces Parks and Streams bond measure (Measure 26-26) was approved by the voters of the region in May 1995; and

WHEREAS, using proceeds from the bonds, approximately 4,000 acres of open space have been acquired to date, most of which is or was once forestland; and

WHEREAS, reforestation is required by law on portions of those lands and is the optimum management option on others; and

WHEREAS, the City of Portland Bureau of Environmental Services (BES) Watershed Re-Vegetation Program is a qualified, experienced reforestation program; and

WHEREAS, Metro entering into an intergovernmental agreement utilizing the BES Watershed Re-Vegetation Program enables both the City of Portland and Metro to enhance the cost-effective management of their reforestation efforts; and

WHEREAS, the BES Watershed Re-Vegetation Program will provide at market cost plant material needed by Metro and solely-available through their program; now therefore

BE IT RESOLVED,

That the Metro Council approves and authorizes the Executive Officer to execute the intergovernmental agreement with the City of Portland BES, attached hereto as Exhibit A, for reforestation on Metro properties.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

INTERGOVERNMENTAL AGREEMENT

METRO
and
CITY OF PORTLAND
BUREAU OF ENVIRONMENTAL SERVICES

Reforestation on Metro Open Spaces Properties

This Intergovernmental Agreement ("Agreement") dated this _____ day of _____, 1999, is by and between Metro, located at 600 Northeast Grand Avenue, Portland, Oregon 97232-2736, and City of Portland, by and through the Bureau of Environmental Services, located at 1220 Southwest Fifth Avenue, Portland, Oregon 97204 ("City").

RECITALS:

WHEREAS, on May 16, 1995, voters approved Ballot Measure 26-26 authorizing Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, to issue up to \$135.6 million in general obligation bonds for the protection of open spaces, parks and streams; and,

WHEREAS, the ballot measure identified a goal of acquiring forest lands throughout the metropolitan region; and,

WHEREAS, approximately 4,000 acres of land have been purchased to date, most of which is or was former forested land; and,

WHEREAS, reforestation is required on portions of these forest lands, both under the Oregon Forest Practices Act and as the preferred long-term, most cost-effective management option; and,

WHEREAS, the City of Portland Bureau of Environmental Services Re-Vegetation Program ("BES Watershed Re-Vegetation Program") staff have the qualifications and experience of reforestation for the purpose of establishing diverse, native forests; and,

WHEREAS, combining Metro's reforestation efforts with those of BES Watershed Re-Vegetation Program, and contracting with BES Watershed Re-Vegetation Program to supervise the reforestation efforts on Metro properties, will be more cost-efficient due the larger economy-of-scale when purchasing plant material and contracting labor; and,

WHEREAS, specific plant material appropriate for Metro's reforestation sites is available solely through the BES Watershed Re-Vegetation Program; and,

WHEREAS, staff of the BES Watershed Re-Vegetation Program are familiar with Metro's forest lands acquired with open spaces bond proceeds and share the same goal of establishing a diverse, native forest system; and,

WHEREAS, the BES Watershed Re-Vegetation Program estimates that the cost of supervising reforestation efforts on Metro newly-acquired properties requiring reforestation should not exceed \$25,000; and,

WHEREAS, Metro and the City acknowledge that they have authority to enter into this Agreement pursuant to the powers contained in their respective charters and in ORS 190.010;

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

Section A. Project Declaration The activities described in this Agreement are for the supervision and implementation of reforestation efforts on portions of land purchased by Metro using proceeds from general obligation bonds for the protection of open spaces, parks and streams, as provided for in Measure 26-26 Open Spaces, Parks, and Streams Bond Measure.

Section B. Specific Work Tasks

1. Vegetation Surveys

Each reforestation site identified by Metro will be initially assessed by the BES Watershed Re-Vegetation Program staff for number, species, and condition of trees per acre. Attention will be given to pest control, both vegetation and animal, needed to insure tree seedlings reach the "free-to-grow" stage in approximately five years. "Free-to-grow" stage is the height, age, and condition at which tree seedlings will be able to grow toward maturity without further maintenance despite competition from other plants. Brief prescriptions for each site will be written by the BES Re-Vegetation staff outlining results of the survey and recommendations for insuring seedlings reach the "free-to-grow" stage, which will be subject to Metro's review and approval. Prescriptions will include specific actions required for the site to grow into an established, diverse forest and to comply with Oregon Forest Practices Act, if applicable.

Survey estimated 620 acres over 12 sites 140 hours @ \$40/hr. = \$5,600

2. Contract Development

Contracted labor is needed for site preparation, planting, brush cutting, and herbicide application. The City will prepare, advertise, and award public contracts, following the public bid and selection process, to accomplish the recommendations set forth in the vegetation surveys. Metro must review and approve all service contracts documents prior to their award, both contracts jointly

funded by the City and Metro and those solely funded by Metro. Metro will contract directly with labor contractors and BES Watershed Re-Vegetation Program staff will supervise contract implementation.

Develop, advertise, and award contracts, one contract for each of the following tasks: planting, brush cutting, and herbicide application

3 contracts x \$320/contract = \$960

3. Consolidate Purchase of Plant Material

Because of cost savings realized by combining purchase of plant materials and due to the availability of specific tree seedlings solely through BES Watershed Re-Vegetation Program, the City and Metro agree to combine efforts in purchasing plant material. Tree seedlings purchased from growers directly by the City will be sold to Metro at wholesale cost plus 7% of cost to cover administration costs. BES Watershed Re-Vegetation Program will arrange storage and delivery of tree seedlings. Metro will purchase the amount and species of tree seedlings from the City specified in the prescription as approved by Metro. Metro and BES Watershed Re-Vegetation Program agree to share costs of plants/material storage and deliveries in proportion to plants/materials purchased by each entity.

Cost of plant material to Metro=wholesale cost (estimated \$7,000-\$10,000) + 7%

Estimated cost to Metro for storage = \$1,500

Estimated cost to Metro for delivery = \$1,200

4. Supervision of Initial Planting

On Metro-owned sites where tree seedlings are being planted for the first time, as determined by Metro and as set forth in the vegetation survey, BES Watershed Re-Vegetation Program staff will supervise the delivery and handling of tree seedlings obtained as described in Section B(3) above and supervise the planting of those seedlings by labor contracted by Metro through the process described in Section B(2) above. Planting will follow specifications outlined the prescription developed from the vegetation surveys and as written in the labor contracts approved by Metro.

40 acres (8 sites) 50 hours @ \$40/hr. = \$2,000

5. Supervision of Interplanting

For those sites where existing tree stock is inadequate or partially-stocked according to the Metro-approved vegetation survey, BES Re-Vegetation staff will supervise the delivery and handling of tree seedlings obtained as described in Section B(3) above and supervise the interplanting of those seedlings by labor contracted by Metro through the process described in Section B(2) above. Interplanting of additional trees will follow specifications outlined the prescription developed from the vegetation surveys and as written in the labor contracts approved by Metro.

100 acres (4 sites) 50 hours @ \$40/hr. = \$2,000

6. Supervision of Manual/Mechanical Release

To release trees from competitive vegetation on sites (i.e. blackberry, Scotch broom), BES Re-Vegetation staff will supervise the cutting of brush, either by hand or with machinery, by labor contracted by Metro as described in Section B(2) above.

340 acres (3 sites) 50 hours @ \$40/hr. = \$2,000

7. Supervision of Herbicidal Release

On sites that require the use of herbicides to suppress competitive vegetation, BES Re-Vegetation staff will oversee herbicide applications in a manner that complies with Metro's integrated pest management (IPM) approach.

540 acres (11 sites) 85 hours @ \$40/hr. = \$3,400

8. Assessment of First Year Planting

A follow-up survey of each planting site will be conducted by the City to assess health of tree stock and status of potential pest plants and animals.

Survey estimated 620 acres over 12 sites 105 hours @ \$40/hr. = \$4,200

Sub-Total Assessment/Supervision Cost \$20,160

Due to the uncertainties of the total area requiring reforestation, the estimated time required for assessment and supervision described above may vary. Reforestation assessment or supervision on additional acreage requested by Metro will be billed at the same hourly rate detailed above, \$40/hour. In no event shall Metro pay more than \$25,000 for the reforestation assessment and supervision costs set forth herein.

Section C. Project Management

1. BES Re-Vegetation staff shall be responsible for managing reforestation activities on Metro properties designated by Metro as needing reforestation.
2. BES Re-Vegetation staff shall advertise for bid proposals and select prospective contractors in accordance with the City's public contract process, all public bidding laws including but not limited to ORS 279, and the provisions set forth in Section B(2) above. Selected bidders will contract directly with Metro as set forth in Section B(2) above and BES Re-Vegetation staff will supervise the implementation of the reforestation contracts on site.
3. All notifications made related to this Agreement shall be made in writing to the respective Project Managers listed below:

Metro
Jim Morgan
Metro Regional Parks and Greenspaces
600 N.E. Grand Ave.
Portland, OR 97232-2736

City
George Kral
Portland Bureau of Env. Services
1120 S.W. Fifth Ave., Rm. 400
Portland, OR 97204

Section D. Payment and Schedule

1. The City will invoice Metro for services as they are provided at a frequency no greater than once a month.
2. Billable rates for supervision of reforestation activities will not exceed those listed in Section B above. No additional overhead or administration cost associated with personnel hours will be charged to Metro. The City staff hours expended for supervision of reforestation activities estimated in Section B may vary, depending on the number of acres and sites where reforestation is required, but in no event shall the amounts owed or paid by Metro exceed those set forth herein.
3. The maximum amount that the City shall invoice Metro for reforestation activities under this Agreement shall not exceed \$25,000.
4. The effective date of this Agreement is December 1, 1998 to November 30, 1999. All work tasks, including surveys, contract bid and award, plantings, cuttings, herbicide applications as set forth herein shall be completed by November 30, 1999.

Section E. General Obligations

1. **Indemnification.** The City shall defend, indemnify and hold harmless Metro and its officers, agents and employees, for, from, and against any and all loss, damages, injury, property damage, expenses, judgments, claims, penalties, fines, actions, or liability, whether arising in tort, contract or by operation of any statute or common law, arising out of or in any way connected to the wrongful acts of the City's officers, agents and employees acting within the scope of employment or duties in performance of this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act ORS Chapter 30.

Metro shall defend, indemnify and hold harmless the City and its officers, agents and employees, for, from, and against any and all loss, damages, injury, property damage, expenses, judgments, claims, penalties, fines, actions, or liability, whether arising in tort, contract or by operation of any statute or common law, arising out of or in any way connected to the wrongful acts of Metro's officers, agents and employees acting within the scope of employment or duties in performance of this Agreement, subject to the limitations and conditions of the Oregon Tort Claims Act ORS Chapter 30

2. **Oregon Constitution and Tax Exempt Bond Covenants.** The source of Metro funds for this project is from the sale of voter-approved general obligation bonds that are to be paid from ad valorem property taxes exempt from the limitations of Article XI, section 11(b), 11(c), 11(d), and 11(e) of the Oregon Constitution, and that the interest paid by Metro to bond holders is currently exempt from federal and Oregon income taxes. The City covenants that it will take no actions that would cause Metro to be unable to maintain the current status of the real property taxes as exempt from Oregon's constitutional limitations or the income tax exempt status of the bond interest. In the event the City breaches this covenant, Metro shall be entitled to what ever remedies are

available to either cure the default or to compensate Metro for any loss it may suffer as a result thereof.

3. **Law of Oregon.** This Agreement shall be governed by the laws of the state of Oregon, and the parties agree to submit to the jurisdiction of the court of the state of Oregon. All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon. are hereby incorporated as if such provisions were a part of this Agreement including but not limited to ORS 279.015 to 279.320.

Specifically, it is a condition of this Agreement that Metro, the City and all employers working under this Agreement are subject employers that will comply with ORS 656.017 as required by Oregon Laws 1989, chapter 684.

4. **Assignment.** Neither party shall assign any of its responsibilities under this Agreement without prior written consent from the other party, except that both Metro and the City may subcontract for performance their respective responsibilities under this Agreement only as set forth herein.

5. **Severability.** If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation, or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this Agreement.

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties regarding the subject matter set forth herein, and supersedes any prior oral or written agreements or representations. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year set forth above.

CITY OF PORTLAND

METRO

By: _____
Title: _____
Date: _____

By: _____
Mike Burton, Executive Officer
Date: _____

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

By: _____
Title: _____
Date: _____

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2750 FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR REFORESTATION ON METRO OPEN SPACES PROPERTIES

Date: January 7, 1999

Presented by:

**Charles Ciecko
Jim Desmond**

FACTUAL BACKGROUND and PROPOSED ACTION

Metro has purchased 4,000 acres of open space with funds made available from general obligations bonds, which were approved by voters through Open Spaces, Parks and Streams ballot measure (26-26) in 1995. Most of the land purchased is or was forestland. Metro is currently conducting reforestation on portions of these properties because it is either (1) required under the Oregon Forest Practices Act, or (2) best stabilized and more cost-effectively managed if reforested. Metro Regional Parks and Greenspaces staff has managed reforestation efforts to date on the new acquisitions.

As more forestland is acquired in the Open Spaces Program, the need for reforestation management accumulates, since trees planted in the first year of the program still require on-going maintenance until they are about five years old.

The City of Portland Bureau of Environmental Services (BES) embarked on a reforestation program in 1995, focusing primarily on the Columbia Slough watershed. Since that time, the BES Watershed Re-Vegetation Program has developed into a program compatible with Metro's Open Spaces reforestation goals and scale.

Working in the same region and with similar goals, the two programs will benefit significantly by combining efforts when procuring plant material and labor for similar reforestation efforts through the economy of scale. Approval of Resolution No. 99-2750 will allow Metro to enter into an intergovernmental agreement (IGA) that combines the procurement efforts of the two programs.

The resolution will also enlist the services of the BES Watershed Re-Vegetation Program staff to supervise Metro's reforestation efforts for one year. The BES program staff has the reforestation qualifications and experience in establishing diverse, native forests. The BES Watershed Re-Vegetation Program shares Metro's focus on habitat enhancement and water quality improvement, unlike the forestry industry which has a different orientation than Metro Open Spaces in establishing a forest system. BES is willing to make available its qualified personnel and knowledge in forest ecosystems.

The BES Watershed Re-Vegetation Program has secured and grown native plant material most appropriate for Metro sites which are not otherwise market available. These plant materials will be made available to Metro at cost plus 7%, which is a reasonable handling/brokerage charge.

BUDGET IMPACT

This IGA will reduce Metro's bond money stabilization cost by purchasing plant material for reforestation at cost plus 7% (instead of retail price), cooperatively purchasing reforestation labor, and providing BES staff supervision of Metro's reforestation efforts for one year. The IGA total cost is not to exceed \$25,000 and shall be funded from the Metro Open Spaces bond measure funds.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 99-2750.

Agenda Item Number 9.4

**Resolution No. 99-2751A, For the Purpose of Appointing Nominee Ted Kyle to the Metro Committee
for Citizen Involvement (MCCI)..**

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPOINTING) RESOLUTION NO. 99-2751 A
NOMINEE TED KYLE TO THE METRO)
COMMITTEE FOR CITIZEN) Introduced by Councilor Susan McLain
INVOLVEMENT (MCCI))

WHEREAS, the Metro Council adopted the Regional Urban Growth Goals and Objectives (RUGGOs) on September 26, 1991 by Ordinance 91-418B; and

WHEREAS, Citizen Participation is included in the RUGGOs as the first objective under Goal 1, The Regional Planning Process; and

WHEREAS, Objective 1.1 states that Metro shall establish a Regional Citizen Involvement Coordinating Committee (RCICC) to assist with the development, implementation and evaluation of its citizen involvement program; and

WHEREAS, these Bylaws identify the committee as the Metro Committee for Citizen Involvement (MCCI); and

WHEREAS, the Bylaws have been adopted by the Metro Council by Resolution No. 92-1580A on May 28, 1992; and subsequently revised four times, most recently by Resolution No. 98-2645 on May 14, 1998; and

WHEREAS, the Metro Charter called for the creation of an Office of Citizen Involvement, and the establishment of a citizens committee therein; and

WHEREAS, the Metro Council created said Office and established the MCCI as the citizen committee within that Office, by adopted Ordinance No. 93-0479A; and

WHEREAS, the Metro Council accepted the initial membership of the MCCI by Resolution No. 92-1666 on August 27, 1992 with subsequent rounds of applicants approved by Resolution No. 92-1702 on October 20, 1992; Resolution No. 93-1763A on February 25, 1993;

Resolution No. 93-1859 on October 15, 1993; Resolution No. 93-1882 on December 23, 1993;
 Resolution No. 94-1899 on February 24, 1994; Resolution No. 94-1945 on April 28, 1994;
 Resolution No. 94-2048 on November 10, 1994; Resolution No. 95-2071A on January 12, 1995;
 Resolution No. 95-2080A on January 26, 1995; Resolution No. 95-2181 on July 27, 1995;
 Resolution No. 96-2264 on January 18, 1996, Resolution No. 96-2363 on July 25, 1996;
 Resolution No. 96-2432 on January 23, 1997; Resolution No. 97-2489 on May 1, 1997;
 Resolution No. 97-2520 on July 17, 1997, Resolution No. 97-2581A on December 11, 1997,
 Resolution No. 98-2597 on January 22, 1998, Resolution No. 98-2616 on March 12, 1998,
 Resolution No. 98-2631 on May 14, 1998, Resolution No. 98-2667 on July 2, 1998 and
 Resolution 98-2700 on September 17, 1998; and

WHEREAS, this portion of the selection process for nomination to MCCI has been initiated, resulting in the nomination of the following citizens:

Ted Kyle	2465 Randall Street West Linn, OR 97068	District 2, Position 4
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BE IT RESOLVED that the Metro Council accepts the above citizens for membership on the Metro Committee for Citizen Involvement (MCCI).

ADOPTED BY THE METRO COUNCIL this ____ day of _____, 1999.

 Rod Monroe, Presiding Officer

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2751A FOR THE PURPOSE OF ACCEPTING NOMINEE TED KYLE TO THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT (MCCI).

JANUARY 19, 1999

KAREN WITHROW (x1539)

BACKGROUND

Following the most recent meeting of the MCCI nominating committee we are able to send a new nominee for your review and approval.

We had a vacancy in District 2 due to a member resigning as a result of family health concerns and have found a replacement. The nominating committee has selected Mr. Ted Kyle for this position. He has been involved with several projects in his county, Clackamas, and we believe he will be an excellent member. Ted has already attended a meeting for the purpose of getting to know our committee.

MCCI thanks you for your consideration and asks that you approve these nominees for full Metro Council approval.

Application for Citizen Involvement

Name Theodore S. Kyle Council district/County Clackamas / Dist 2
 Address 2465 Randall St. West Linn State/ZIP OR 97068
 Phone: Home 657 6785 Work 823 5563 FAX 655 6854 e-mail T.Kyle@MSN.com
 Occupation/place of employment _____

Education, work or volunteer experience _____

~~I hold a Bachelors of Science in Civil Engineering. I currently work for the City of Portland's Bureau of Environmental Services as a Capital Improvement Program Manager. I am responsible for all of the wastewater projects in the Columbia Slough drainage, including the Combined Sewer Overflow projects in North Portland and all of the projects at the City's treatment plants and pump stations. My responsibilities include project planning, design management, and construction management for over \$200 million in projects to be completed over the next five years. I served on the West Side Light Rail design team for three years. I have coordinated many municipal projects with transportation facilities over my 20 years of work in the municipal engineering field.~~

List and describe any involvement you have had with groups, boards, organizations, etc.
 I currently serve as chair elect for the Bolton Neighborhood Association in West Linn

Past service includes:
 City Councilor for the City of West Linn from October 1995 through January 1997
 Planning Commissioner from December 1994 to October 1995.
 Board member Clackamas County Board of Ratio Review 1995 and 1996,
 Tri-City Service District budget committee member 1996, 1997,
 South Fork Water Board Member 1996.
 As a Major in Civil Air Patrol I am trained in aircraft search and rescue, and I am a pilot.

Name the committee(s) you are interested in and explain why you think the committee issues are important _____

I am interested in serving on the Regional Transportation Plan Citizen Advisory Committee.

Our transportation system connects our community together. It allows us to meet for work or play, It defines our cities and it makes it possible for us to interact face to face. Our transportation system is critical to our region's vitality. If we cannot move throughout our community, we will not get to work or enjoy time with our family or friends. Our transportation system makes it possible for each of us to pursue our goals and aspirations. If we can get to where we want to go easily, we can accomplish our business and enjoy its fruits. However, if we are grid locked, we will spend more time just getting to where we need to be. Transportation systems also take space, and their presence effects our lives and our environment. I know most people will say we need more transportation facilities, but not in my back yard. As a former City Councilor, I have heard citizens concerned with street changes next to their homes and I have experienced growth next to mine. But, as a community, we will have to face many transportation related issues. We will have to look past the individual and special interests to the good of the region as a whole.

METRO ADVISORY COMMITTEES



Regional Transportation Plan Citizens Advisory Committee

Supplemental Questions

Name Theodore S. Kyle

Do you have any experience in transportation related issues or activities? Please list dates served (month/year).

As a city councilor, I have faced the tough decisions relating to transportation systems. In West Linn, I have sponsored planning code amendment to improve our transportation system. These issues include street width standards, pedestrian facility requirements, sidewalk standards, and other issues that relate to our quality of life. I participated in prioritizing all of the capital needs for West Linn including transportation facilities. I worked to support a project for improving Highway 43 in my neighborhood as both a City Councilor and neighborhood association member and officer.

How do you hope the transportation system will change over the next twenty years?

I hope the transportation system will continue to meet the demands of growth. As our region grows, we must maintain our ability to move throughout the region and connect with the rest of the country. I have no preconceived ideas about how to increase our system's capacity. It will need to include many transportation modes, from private vehicles and mass transit, to bicycle and pedestrian. We will need to blend high capacity facilities like light rail and possibly freeways with a well-connected network of local street, sidewalks, and pedestrian paths. We will also need facilities for freight, including shipping port, rail, motor freight and airport facilities. We will need to face issues of noise, air and water pollution that transportation creates. Outlining a plan for siting, and funding our facilities will be a continuing challenge.

Do you represent a particular interest group(s)? Which one(s)?

Currently, I am serving as the Chair elect of the Bolton Neighborhood Association in the City of West Linn. As such I can represent the interests of citizens in the Cities of Clackamas County.



How will you maintain two-way communication between that group and the committee throughout your involvement?

I will be happy to brief the City Councils in Clackamas county of our work. I can also make presentations to other neighborhood association and interest groups within the various cities of Clackamas county.

Please submit these supplemental questions with your completed Metro Advisory Committee application by November 15, 1996. to: Barbara Hergel, Metro, 600 NE Grand Ave., Portland, OR 97232-2736, FAX: (503) 797-1799, phone: (503) 797-1539 or T.D.D. (503) 797-1804.

Regional Transportation Plan Citizens Advisory Committee

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Please submit these supplemental questions with your completed Metro Advisory Committee application by November 15, 1996. to: Barbara Hergel, Metro, 600 NE Grand Ave. Portland, OR 97232-2736. FAX: (503) 797 1799, phone: (503) 797 1539 or T.D.D. (503) 797-1804.

THEODORE S. KYLE, P.E.

2465 Randall St.
West Linn. OR 97068
(503) 657-6785

REGISTRATION: Oregon Civil and Environmental Engineer No. 10698 Date: July 18, 1980
Arizona Civil Engineer No. 18401 Date: April, 1985

EDUCATION: B.S. Civil Engineering, Oregon State University
Graduated: September, 1976

EXPERIENCE:

Employers: City of Portland, Bureau of Environmental Services *Period: Oct 1996 - Present*
Sverdrup Civil, Inc. *Period: March 1995 - Oct. 1996*

Position: Asst. Deputy CSO Program Manager

Major Project: City of Portland Combined Sewer Overflow Program

Project Duties: Responsible for implementing the Columbia Slough CSO consolidation projects. These four projects have a combined budget of \$164 million and have a stipulation and final order completion date of December 1, 2000. Schedule, budget and project quality are key responsibilities. Manage the five design teams and City Bureau of Environmental Services personnel while integrating the interests expressed through many community groups and stakeholders. The projects include a 18,000 foot long 8 to 12 foot diameter conduit, 75 MDG influent pump station, wet weather additions to the existing 300 MGD wastewater treatment plant, and a new 12,000 foot long outfall line and diffuser in the Columbia River.

Employer: CH2M-Hill, Inc.

Position: Staffing Manager - Water Business Line

Period: February, 1992 - March 1995

General Duties:

Coordinated the workload for the 35 engineers, scientists, and technicians assigned to the water business line engineering group in the Portland office. Conducted performance evaluations and interviews. Developed and implemented performance improvement plans where needed. Interviewed candidates for hire and assessed staffing needs. Served as project manager on multiple concurrent projects. Served as expert witness on utility rate hearings and performed allocations as part of cost of service studies.

Position:

Project Manager

Period: December, 1991 - February 1992

Major Project:

West Side Light Rail

Project Duties:

Responsible for coordinating utility service and relocation for the \$700 million project. Coordinated utility relocation designs with 19 separate utility companies and agencies, analyzed utility upgrades, and prepared detailed designs for water and sewer relocation along 6 miles of track including sections in downtown Portland and Beaverton.

Employers: CH2M-Hill, Inc. and

Dillingham Construction, N.A., Inc

Position:

Program Manager

Period: January, 1986 - December, 1991

Major Project:

Tri-City Service District - Sewerage Facility Construction Program

Project Duties:

Responsible for \$70 million construction program of an 11 MGD sewage treatment facility, 4 sewage pump stations, 2 miles of related force mains, 12 miles of interceptor sewers, and lateral sewer improvements. Reported to and advised Director of Utilities on engineer selection and engineering contract negotiation. Reviewed plans and specifications prepared by 12 engineering firms for design consistency, bidability, constructability, and conformance with EPA grant requirements. Prepared EPA grant applications and coordinated construction bidding. Established documentation systems and procedures to prevent and defend claims. Monitored 25 construction sites for progress and timely resolution of disputes or problems.

- Employer:** Dillingham Construction, N.A., Inc.
Title: Project Engineer *Period:* January, 1984 - December, 1985
Major Project: City of Phoenix - Union Hills Water Treatment Plant
Project Duties: Responsible for the 1400 activity CPM schedule and insuring progress on the \$42 million water filtration plant. Conducted safety program and coordinated contact with OSHA officials. Supervised the instrumentation, electrical, and architectural subcontractors, including scheduling, progress payments, field conflicts, subcontract administration, and coordination with the City of Phoenix on changes.
- Title:** Project Engineer *Period:* December, 1981 - December, 1983
Major Project: Tri-City Service District - Sewerage Facility Construction Program
Project Duties: Completed cost estimates for the district's transmission system and pump stations and prepared schedules and project control procedures during the planning phase. Supervised coordination of designs with Clackamas County Department of Utilities, Department of Transportation and Development, Oregon Department of Transportation, City of West Linn, City of Oregon City, City of Gladstone, Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and various utility companies.
- Employer:** Robert E. Meyer Consultants, Inc.
Title: Project Engineer *Period:* April, 1979 - November, 1981
Projects: City of Klamath Falls Sewer System Evaluation Survey
City of Klamath Falls Sanitary Sewer Master Plan
City of Klamath Falls Industrial Pretreatment Program
City of Redmond Sewer System Construction Project
City of Prineville Lagoon Study
City of Prineville Laughlin Sewer Grant Audit
Duties: Completed engineering studies and reports for various municipal clients.
- Employer:** Unified Sewerage Agency of Washington County, Oregon
Titles: Acting Construction Division Engineer *Period:* September, 1976 - March, 1979
Design Engineer
Projects: Rock Creek Advanced Wastewater Treatment Facility
Durham Advanced Wastewater Treatment Facility
Forest Grove Treatment Facility
Upper Tualatin Interceptor
Bronson Creek Interceptor
Rock Creek Interceptor
Duties: As acting Construction Division Engineer, monitored consultants' activities during the start-up phase of the Rock Creek Facility
As design engineer, coordinated consulting engineers' activities on the interceptor sewers project; prepared grant applications, and negotiated easements with property owners.

Employer: Dillingham Construction, N.A., Inc
Title: Project Engineer *Period:* January, 1984 - December, 1985
Major Project: City of Phoenix - Union Hills Water Treatment Plant
Project Duties: Responsible for the 1400 activity CPM schedule and insuring progress on the \$42 million water filtration plant. Conducted safety program and coordinated contact with OSHA officials. Supervised the instrumentation, electrical, and architectural subcontractors, including scheduling, progress payments, field conflicts, subcontract administration, and coordination with the City of Phoenix on changes.

Title: Project Engineer *Period:* December, 1981 - December, 1983
Major Project: Tri-City Service District - Sewerage Facility Construction Program
Project Duties: Completed cost estimates for the district's transmission system and pump stations and prepared schedules and project control procedures during the planning phase. Supervised coordination of designs with Clackamas County Department of Utilities, Department of Transportation and Development, Oregon Department of Transportation, City of West Linn, City of Oregon City, City of Gladstone, Oregon Department of Environmental Quality, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, and various utility companies

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RELATED VOLUNTEER ACTIVITIES:

- Activity:** West Linn City Councilor
Period: October, 1994 - Present
Responsibilities: Set city policy; adopt code or ordinance changes to implement that policy; set utility rates; act on other matters requiring council approval for general city business. Act as a liaison between the Council and the Public Works and Library departments. Participate in the budget committee and adopt the city budget. Represent the city on intergovernmental committees.
- Activity:** Clackamas County Board of Ratio Review Member
Period: June, 1995 - Present
Responsibilities: Reviews the county assessors annual ratio study. This study sets the annual adjustments to property values so that they represent real market value for the 300,000 people in Clackamas County. The board also decides appeals for reduction of property values brought by citizens.
- Activity:** Clackamas County, Tri-City Service District Budget Committee Chair
Period: April, 1996 - Present
Responsibilities: Review and approves the annual operating and capital budgets for the regional sewer agency. The service district provides treatment interceptor sewer service to Oregon City, West Linn, and Gladstone, which have combined population of 45,000.
- Activity:** South Fork Water Board Member
Period: September, 1996 - Present
Responsibilities: The board set policy and acts as the governing body for this regional water agency. The board supplies water to the cities of Oregon City and West Linn with a combines population of 35,000. The board also has a contract to provide water to the Clackamas River Water District.
- Activity:** West Linn Planning Commissioner
Period: January, 1994 - September, 1994
Responsibilities: Review, make findings, and act on development applications for zone change, subdivisions, planned unit developments, conditional use, concurrent design review, and other land use issues. Make recommendations to the City council on code and comprehensive plan amendments. Participate in joint work sessions with the council on planning policies.
- Activity:** Civil Air Patrol Wing Deputy Commander for Education and Training
Period: August, 1994 - August 1995
Responsibilities: Oversee and direct the education and training program for over 1000 Civil Air Patrol Senior and Cadet members throughout the state of Oregon. Develop new programs to develop leadership skills, improve understanding of aerospace issues, and prepare our members for emergency response.
- Activity:** Civil Air Patrol Squadron Commander
Period: March, 1991 - August, 1994
Responsibilities: Lead a squadron of 30 cadet and senior members. Manage the use and upkeep of a \$120,000 aircraft. Prepare and maintain the trained personnel and equipment to respond to search and rescue emergency and disaster relief (such as the Klamath fall and Los Angeles earthquakes) and downed aircraft. Train cadets (ages 13 through 21) in both aerospace knowledge and leadership skills. Conduct a region level week long Cadet Leadership School

CONTINUING EDUCATION

Course	Sponsor	Date
US Air Force Squadron Officers School	Air University	October 1994
Pacific Region Staff College	Pacific Region, Civil Air Patrol	July 1992
Able Toastmaster Award	Toastmasters International	June 1993
Competent Toastmaster Award	Toastmasters International	July 1988
Completed the Construction phase training seminar	CH2M HILL	May 1989
Allowability of Change Order and Claim Costs in EPA Funded Projects	University of Michigan	April 1986
Computer Aided Design (CAD) for Managers seminar	CH2M HILL	April 1994

PRESENTATIONS, PAPERS AND PROGRAMS

Presentation Title	Presented to:	Date
Project Management Basic Skills	City of Portland Bureau of Environmental Services project managers	November 1995
Project Monitoring and Controlling	Consulting Engineers Council	March 1996
Project Management	American Public Works Association and Oregon Department of Transportation training program	March 1996, May 1996
Construction Related Issues	American Water Works Association Pacific NW Conference	April 1991
Surviving Treatment Plant Construction	Oregon Wastewater Short School Clackamas Community College	March 1988
A Hitchhiker's Guide to the Universe of Wastewater Treatment Plant Construction	Pacific Northwest Pollution Control Association	October 1989
Treatment Plant Automation Using Windows	Pacific Northwest Pollution Control Association	October 1990
Director of the Pacific Region Cadet Leadership School	Pacific Region, Civil Air Patrol	July 1993
Commandant of Cadets for the Spring Encampment	Oregon Wing, Civil Air Patrol	March 1991, 1992, 1993, 1994
Space Shuttle Flight Planning and Launch Classroom Simulation	Oregon Aerospace Education Association	October 1991

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Course	Sponsor	Date
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Agenda Item Number 10.1

**Resolution No. 99-2738, For the Purpose of Authorizing an Amendment to Contract 920909 with
Natural Data for a Database Administrator.**

Contract Review Board

**Metro Council Meeting
Thursday, January 28, 1999
Council Chamber**

BEFORE THE CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING) RESOLUTION NO. 99-2738
AN AMENDMENT TO CONTRACT)
920909 WITH NATURAL DATA FOR A) Introduced by Mike Burton
DATABASE ADMINISTRATOR) Executive Officer

WHEREAS, the Metro Council, acting as the Contract Review Board, must approve personal service contract amendments over \$25,000; and

WHEREAS, Metro selected a Database Administrator (DBA) contractor through a lengthy competitive process and now the DBA is experienced with Metro's computer hardware and software; and

WHEREAS, Metro recruitment efforts to employ a DBA have been unsuccessful and DBA duties are required to be performed in order to maintain operations; now, therefore,

BE IT RESOLVED:

That Metro's Executive Officer is authorized to execute an amendment to Contract No. 920909 for the amount of \$60,000 with Natural Data to continue as Database Administrator.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

STAFF REPORT

FOR THE PURPOSE OF AUTHORIZING AN AMENDMENT TO CONTRACT
920909 WITH NATURAL DATA FOR A DATABASE ADMINISTRATOR

Date: January, 1999

Presented by: Jennifer Sims, Director, ASD

PROPOSED ACTION

Adopt Resolution No. 99-2738 authorizing a contract amendment with Natural Data in the amount of \$60,000 for a database administrator.

FACTUAL BACKGROUND AND ANALYSIS

Database Administration (DBA)

A database administrator has the complex responsibility of operating and managing four extremely difficult and complex tasks:

- Manage the hardware and components on a HP 9000 mid-size computer.
- Manage the operating system software - in this case it is called Unix.
- Manage the database software - in this case it is called Informix.
- Manage the software that runs on the operating system (Unix) and database (Informix).

Database administration requires excessive working hours (often nights and weekends) when other employees are not using computers. It requires advanced training in hardware and software applications – DBA's are typically the highest trained computer staff in any organization. A DBA is a required position in a client-server environment such as Metro utilizes.

DBA's are also well paid throughout the technology industry with salaries starting in the \$80,000 to \$90,000 range.

Metro's Past DBA's

Metro's first DBA resigned in April 1997 citing excessive working hours and low pay. His in house replacement resigned in July 1998 again citing long working hours and low pay. The position pays up to \$51,710 per year.

STAFF REPORT FOR THE PURPOSE OF AUTHORIZING AN AMENDMENT
TO CONTRACT 920909 WITH NATURAL DATA FOR A DATABASE
ADMINISTRATOR

Page 2

Unsuccessful Recruitment

Metro has tried several recruitments for this position since July of 1997 with no success. Advertising in conventional and high tech venues has lead to receiving only two responses, neither of which have the necessary qualifications.

Difficult to Obtain Consultants

Because this is a required function, Metro performed a significant nationwide outreach program to try to obtain a consultant to perform DBA duties. Several times, staff was lead to believe a DBA had been found only to find out later that they were not really available or under qualified. After searching for several months, a formal RFP process, a DBA was located and a contract was signed with Natural Data.

Future Metro DBA

Because of continued unsuccessful recruitments, management has determined the best alternative is to train in-house staff in DBA duties. This training is expected to take six months working with an experienced DBA. Natural Data is willing to provide a DBA to work half time for the next six months working as a DBA and mentoring a member of Metro's staff.

The DBA position will be filled with a system specialist position that will take over duties of the person training to be the DBA.

BUDGET IMPACT

The contract provides for the DBA consultant to be paid a rate of \$100 per hour, which is a reasonable rate for this service. The original contract was for \$25,000 and amended to \$50,000 in hopes of a successful recruitment.

The proposed amendment increases the contract by an additional \$60,000, allowing for a half time contracted DBA for six months while in-house staff is being trained. The contract total becomes \$110,000.

Funds to pay for the position will be in accordance with Ordinance Number 99-792.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 99-2738.

STAFF REPORT FOR THE PURPOSE OF AUTHORIZING AN AMENDMENT
TO CONTRACT 920909 WITH NATURAL DATA FOR A DATABASE
ADMINISTRATOR
Page 3

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**ATHERTON AMENDMENTS TO
RESOLUTION NO. 99-2740**

1. Under the Be it Resolved, number 1) section (a) and (b) substitute the word "sale" for the word "taking".
2. Under the Be it Resolved, number 1) section(d) add after the word "system" the following: costs of the bridge will be included in the cost of the project.



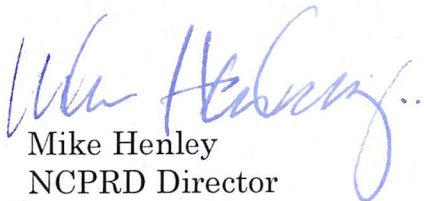
January 26, 1999

Mr. Ron Monroe, Presiding Officer
Metro
600 NE Grand Ave.
Portland, OR 97232

Dear Councilor Monroe:

The North Clackamas Parks and Recreation District (NCPRD) supports the resolution authorizing the executive officer to execute a programmatic 4(F) statement and negotiate a right of way agreement on the Mt. Talbert property with Clackamas County. NCPRD and Metro have collaborated on this process and on the Mt. Talbert land acquisitions. Our agencies have worked cooperatively together to enhance the livability of the North Clackamas area and look forward to continuing this effort.

Sincerely,



Mike Henley
NCPRD Director

Cc: Metro Councilors
Charles Ciecko, Regional Parks and Greenspaces

METRO OPERATIONS COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99-2750, FOR THE PURPOSE OF APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND FOR REFORESTATION ON METRO OPEN SPACES PROPERTY.

Date: January 28, 1999

Presented by: Councilor Washington

Committee Action: At its January 20, 1999 meeting, the Metro Operations Committee voted 3-0 to recommend Council adoption of Resolution No. 99-2750. Voting in favor: Councilors Atherton, Monroe and Washington.

Council Issues/Discussion: Charles Ciecko, director of the Regional Parks and Greenspaces Department, gave the staff presentation. This Intergovernmental Agreement (IGA) allows Metro and the City of Portland's Bureau of Environmental Services (BES), to reforest several parcels of Open Spaces acquisitions. Some reforestation of sites is required by the Oregon Forest Practices Act, other reforestation is consistent with Metro's land stabilization practices.

BES has established a watershed revegetation program, and this IGA allows Metro to have access to resources under that program. Program activities could take place at a range of sites, even outside the city of Portland. Examples given were Forest Park, Cooper Mountain and areas along the Clackamas River. Of particular note is that BES has expanded its philosophy in matters such as this, from mere tree planting to a habitat-oriented approach.

Our Parks and Greenspaces department has explored other options to achieve needed reforestation. This option is less costly than purchasing similar services on the open market, and also less expensive than hiring new department staff. The budget impact is not to exceed \$25,000, funded with Metro Open Space bond measure proceeds.

Councilors Washington and Atherton expressed interest in involving students in these projects, and staff indicated that students were, in fact, involved with these projects.

From: Liz Callison <callison@mail.teleport.com>
To: MetCen.GWIA("georgek@BES.ci.portland..or.us")
Date: Thu, Jan 28, 1999 11:21 AM
Subject: Metro Res. No. 2750

Notice to Metro Council re Res. No. 99-2750

To: George Kraal, City of Portland, Bur. of Environmental Services
From: E. Callison, citizen and resident of Metro District 7
Date: Jan. 28, 1999

This letter is written to George Kraal, City of Portland staff in charge of the BES Re-vegetation Program, and will be presented at Metro Council's meeting today. It is in opposition to Metro Resolution No. 99-2750 on today's Council Agenda.

I ask that Mr. Kraal and the Greenspaces Department withdraw their contract request as outlined in Res. No. 99-2750, which will be brought forward by Councilor Washington. There are a number of concerns which the Metro Greenspaces staff have created in setting up the proposed Intergovernmental Agreement. Resolution No. 99-2750 would Approve an Intergovernmental Agreement with the City of Portland for Reforestation of Metro Open Spaces Property.

It was inappropriate for Metro staff to bring the City of Portland employee of the Re-Vegetation Program to Council today to lobby for his program. It adds a unnecessary political dimension to these dealings.

Members of the public have only three minutes to discuss this Resolution, but you allow staff and the potential contractor a much longer time to sell you on their idea.

Ironically, Metro's new Code of Ethics will have its first reading today, and in that Code there are certain restrictions on potential contractors who lobby Metro for their contracts. Additionally, the quality of this BES Re-vegetation Program is not really the issue, and should not be the issue.

The issue is whether or not Metro should sign an agreement giving one city's sewer bureau, key management responsibilities for Metro's greenspaces throughout the entire three-county region. There are 26 cities and counties contained in Metro's service district. Metro is the owner of 4,000 acres of new greenspaces throughout the Metro region. Metro should be accountable directly to local jurisdictions for management.

Jurisdictions in Clackamas, West Multnomah, and Washington County should not be dependent on a program of a City of Portland utility. What staff is suggesting is that there be two bureaucracies for our local groups to deal with--not only the Metro's greenspaces bureaucracy, but additionally, the City of Portland's sewer bureau (BES). There is a potential problem with duplication of effort and from a citizen's point of view, this increases the potential for red tape. Metro staff say that there is a great opportunity for "economies of scale," that is, that plant purchases from local nurseries could be done at volume--and perhaps there are savings in that area.

But I ask you to look at it from an experienced community activist's point of view: As a volunteer, I recently coordinated a streambank project on a Metro regional property, in cooperation with Metro, Oregon Fish and Wildlife, Portland City Parks and BES. We submitted our

plans to all these agencies for their approval. We raised our own funding outside of Metro, we hired students in the Native American Salmon Corps. We hired a hydrologist we particularly respected, as well as our choice of landscape designer to work with the specialized features of that site. We raised our own funding to pay for plants, design and student training--and we did all this coordination as volunteers. We used alternative community services workers through Multnomah County Correctional Department to do hundreds of hours of site cleanup and dig up himalayan blackberry, and 12 dumptruck loads of old tires and scrap metal.

The only credit we got was the satisfaction of a park we could enjoy and be proud of. We felt our project was part of the landscape history of that park and the larger picture of the Tryon Creek stream system. We were very aware that the BES practice of routing all stormwater in to our creek system, via drainage pipes, and the BES practice of earlier trenching the stream bank for a sometimes leaky sewer main, made it difficult to do permanent restoration of this trout stream.

But, what was most important to me, was that our volunteers learned how to organize a stream revegetation and enhancement project. This was valuable experience--not only so we could become better stewards of our own stream properties, but also we learned how to organize community volunteers, and what native plant species were local to that area. We had a crash course in area hydrology and stream dynamics from the various experts we hired to guide us through the intensive two year project work. The project manager and landscape designer we hired had special duties--they also helped train community members who worked in the successive plantings we did. That knowlege later became of value to me personally when I was hired to assist in teaching a graduate level class in watershed problem-solving at a local university. Study of books can enhance a student's knowlege of this subject, but it is no match for practical experience.

If the BES Re-vegetation Project had been responsible for this streambank restoration, most of us would not have enjoyed this incredible learning experience--most of which occured because we were under the pressure of a real life project in all phases. Dealing with agency funding red tape, coordinating the schedules of various work groups, managing our budget, doing all the p.r., and producing a short video, and training well-meaning neighborhood and middle school volunteers.

I would suggest that Metro enhance its inhouse staff to include a Greenspaces reforestation program, and that even before doing that, staff should have an open discussion of just how much reforestation is necessary. I don't think Council should feel stampeded into making an emergency decision today. Metro has gotten along managing its 4,000 acres of new greenspaces for the past several years since the bond measure passed.

And please don't just pass most of the management responsibilities over to another big government bureaucracy. You would be robbing our local residents of an opportunity to get really valuable experience in helping to manage their own neighborhood and community greenspaces.

As one neighbor of our project in Southwest Portland told me, it's really the neighbors who are the main advocates and caretakers of these properties. They look out for vandals, they often clean up the litter left by visitors, they call the proper agencies when the sewer overflows into the creek. No matter how well meant are the functions and programs of our bureaucracies, they can't replace our residents' feeling of ownership of these greenspaces. And that feeling of ownership only occurs when residents have invested their own time and work, and held real responsibilities.

To summarize, I strongly urge you to request a withdrawal of this Resolution, Councilor Washington, in order to allow further discussion between your staff, Council, and interested community members. This would also be an opportunity to look into what help the Greenspaces Department might need in order to manage the reforestation work through Metro itself, as most citizens expect it should do.

This contract would set a precedent, but it is only fair that residents of the Metro service district should have an opportunity to provide input before you make your decision.

CC: MetCen.MRC-PO(billingtonc)

From: Christina Billington
To: Bill Atherton, David Bragdon, Ed Washington, Jo...
Date: Wed, Jan 27, 1999 2:16 PM
Subject: Resolution No. 99-2751A & 99-2750

Mr. Chuck Fall, 2713 SE Salmon, Portland, OR 97214 called Wednesday, January 27th and said that he objected to Resolution No. 99-2751A due to the lack of public announcement and to Resolution No. 99-2750 because it doesn't not seem necessary when Metro has all of the resources it needs to do the job itself. This resolution seems inefficient.

From: Christina Billington
To: Councilors
Subject: Comments on Res No. 99-2570 and 99-2571A

Dorothy Gage called and registered her objection to Resolution No. 99-2750 indicating that it was not necessary for BES to receive a contract, she felt Metro had its own open spaces program and had more than adequate staff to do its own reforestation.

She also objected to Resolution No. 99-2571A, the appointment of Ted Kyle to MCCI. She felt that Mr. Kyle's involvement with South North Light Rail was a conflict of interest and that Clackamas County needed a broader based citizen with less government relationships. There was a need for a more grass roots citizen.

She urged the council to table these resolutions or vote no.

From: Christina Billington
To: Councilors
Date: Thu, Jan 28, 1999 1:05 PM
Subject: Resolution No 99-2750 and 99-2751A

Nancy Kelly from southwest Portland called. She asked that the council vote no or withdraw the above mentioned resolutions.

From: Christina Billington
To: Councilors
Subject: Citizen input on Res No. 99-2750 & 99-2751A

The following messages were left last night (1/27/99):

5:15pm Mr. Para Fadrey left a messages for all councilors asking that Resolution No 99-2750 and 99-2751A be removed from the Council agenda of 1/28/99.

5:30pm Ms. Corinne Weber left a message for all councilors, particularly Presiding Officer Monroe that Resolution No. 99-2751A and 99-2750 be removed from the 1/28/99 council agenda. There had not been adequate citizen input on either resolution.

5:45pm Ms. Deedee Kerbaugh - District 7, 653-8015 left a message indicating that the Reforestation contract resolution should allow local places rather than Metro to carry the whole. She recommended pulling Resolution No. 99-2750. Further she indicated that the nominee for MCCI membership (Resolution No 99-2751A) was an insider, not a true citizen, a person who had been involved in light rail. Since District 2 voted light rail down, he should not represent that area. She recommended pulling that resolution as well.

January 27, 1999

PHONE MESSAGE

FOR: Rod Monroe and Jon Kvistad
FROM: Mary Rigg
245-4714

RE: Resolutions 99-2750 and 99-2751A.

She asks that both of these resolutions be set aside or voted down because they are conflicts of interest. She feels it is an easy, slipshod way out

and

if you would like someone to help find a citizen candidate (No. 99-2751A) without conflicting interests, she would be willing to help do that.

Her second point was that "by allowing plants from only one source we are only setting ourselves up to lose everything through one weather, disease or other event due to the lack of diversity of the plant stock.

She would like to talk to someone about these resolutions and her concerns. :)

CG

Post-it® Fax Note	7671	Date	1-26-99	# of pages	1
To	METRO COUNCIL	From	Lewis Marcus		
Co./Dept.		Co.			
Phone #		Phone #	285-2850		
Fax #	797-1793	Fax #	285-2001		

MY DEAR METRO COUNCILORS,

I ENCOURAGE YOU TO NOT CONFIRM THE APPOINTMENT OF MR. KYLE TO THE CITIZEN INVOLVEMENT COMMITTEE.

I UNDERSTAND THAT HIS APPLICATION WAS THE ONLY ONE RECEIVED FOR THE ENTIRE METRO DISTRICT.

THERE NEEDS TO BE GREATER OUTREACH AND A COMPETITIVE PROCESS.

YOURS TRULY,



LEWIS MARCUS

M E M O R A N D U M

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1540 | FAX 503 797 1793



METRO

TO: Metro Council
FROM: Suzanne Myers, Council Assistant
DATE: January 27, 1999
SUBJECT: Resolution No. 99-2738: Ted Kyle's nomination to MCCI

Sally McLarty of West Linn called to express her concern about Ted Kyle's nomination to MCCI, which will come before the Council on Thursday, January 28, 1999.

She said is a member of the Bolten Neighborhood Association, of which Mr. Kyle is president, and she said citizen involvement is not one of Mr. Kyle's strengths, and they feel very unheard.

She asked me to pass her concerns onto the Council, but did not leave a number at which she could be reached.