

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING – revised 9/5/06
DATE: September 07, 2006
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. RISK MANAGEMENT PROGRAM CAN BE STRENGTHENED Dow

4. ENVIRONMENTAL PROTECTION AGENCY SCHOOL GRANT Quinn

5. CONSENT AGENDA

5.1 Consideration of Minutes for the August 17, 2006 Metro Council Regular Meeting.

5.2 **Resolution No. 06-3723**, For the Purpose of Confirming the Appointment of Theresa Koppang to the Regional Solid Waste Advisory Committee (SWAC).

5.3 **Resolution No. 06-3725**, For the Purpose of Confirming the Appointments of Hal Ballard, Mark Knudsen, and Gerritt Rosenthal to the Metro Committee for Citizen Involvement.

6. ORDINANCES - SECOND READING

6.1 **Ordinance No. 06-1126**, For the Purpose of Amending FY 2006-07 Budget and Appropriations Schedule to Provide Funding for Metro's Diversity Plan and Declaring an Emergency. McLain

6.2 **Ordinance No. 06-1125**, For the Purpose of Amending Metro Code Section 4.01.050 to Include a Conservation Surcharge with Regular Admission to the Oregon Zoo, Effective January 1, 2007. Newman

6.3 **Ordinance No. 06-1127**, For the Purpose of Amending Metro Code Section 7.01.050 to Exempt the Oregon Zoo Conservation Admission Surcharge from Metro Excise Tax, Effective January 1, 2007. Newman

7. **RESOLUTIONS**

7.1 **Resolution No. 06-3727**, For the Purpose of Establishing Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure. Park

8. **CHIEF OPERATING OFFICER COMMUNICATION**

9. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for September 7, 2006 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtv.org -- (503) 629-8534 2 p.m. Thursday, September 7 (live)	Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, September 10 2 p.m. Monday, September 11
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, September 11	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, September 9 11 p.m. Sunday, September 10 6 a.m. Tuesday, September 12 4 p.m. Wednesday, September 13
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Metro

Risk Management Program Can Be Strengthened

August 2006

A Report by the Office of the Auditor



METRO

PEOPLE PLACES

OPEN SPACES

Alexis Dow, CPA

Metro Auditor



METRO

OFFICE OF THE AUDITOR

August 30, 2006

To the Metro Council and Metro-area citizens:

As part of the Metro Auditor risk assessment and work plan, we studied how Metro manages its exposure to liability claims, worker injuries and property damage. Metro covers these risks through a combination of self-insurance and insurance purchased on the commercial market. This costs Metro approximately \$2.2 million annually. Metro also administers programs to educate employees about safety and to identify and eliminate potential safety and liability risks.

The audit found that, in a number of respects, Metro's exposure to loss is well managed and cost containment practices are in place. Even so, improvements in programs, practices and processes can be made. We recommend Metro make changes in five key areas:

1. Develop a plan to ensure the risk management fund is actuarially sound.
2. Update program guidance for the risk management and accident prevention programs.
3. Enhance the safety program organization-wide.
4. Establish and document procedures in three areas:
 - Develop procedural manuals for managing and processing claims.
 - Clearly define the types of claims to be paid out of the risk management fund.
 - Ensure that all records containing personal employee data is kept secure and is accessible only to authorized people.
5. Strengthen reporting of four types of information:
 - Risk-related information reported in the financial statements
 - Current risks and risk mitigation plans
 - Liability claims and trend analyses in quarterly workers' compensation reports
 - Safety efforts and accomplishments and action plans to address safety issues.

The detailed results and recommendations resulting from this review are described on the following pages. The last section of the report presents the written response of Metro's Chief Operating Officer, Michael Jordan, to each recommendation.

We very much appreciated the assistance provided by all risk management and other personnel involved in the review. We also wish to recognize the many people at Metro who are actively committed to improving the efficiency and effectiveness of Metro operations.

Yours very truly,

A handwritten signature in cursive script that reads "Alexis Dow".

Alexis Dow, CPA
Metro Auditor

Auditor: Debbie DeShais, CPA

Table of Contents

Executive Summary	1
Recommendations	2
Introduction	3
Exposure to loss is well managed in several respects	7
Program improvements are needed	10
Appendices	
A – Best practices for managing risk	19
B – Safety and health program assessment	21
C – Workers' compensation claims analysis	24
D – References	25
Response to the Report	
Metro Chief Operating Officer Michael Jordan	

Executive Summary

As a large organization with many employees, facilities and a substantial interaction with the public, Metro faces a great deal of risk from possible liability claims, worker injuries and property damage. Metro covers these risks through a combination of self-insurance and insurance purchased on the commercial market. This is a substantial obligation for Metro, costing approximately \$2.2 million annually. Metro also administers programs to educate employees about safety and identify and eliminate potential safety and liability risks. This audit examines how Metro manages the organization's exposure to these risks.

The audit found that Metro's exposure to loss is generally well managed in many respects and cost containment practices are in place. For example, costs for workers' compensation claims and liability claims have dropped in the past several years, insurance costs are carefully managed, and outside expertise is efficiently obtained to augment Metro's small risk management staff. Even so, improvements in programs, practices and processes can be made in five key areas:

- **Ensure the soundness of the Risk Management Fund.** The balance in Metro's self-insurance fund for liability claims, workers' compensation and property insurance has been insufficient to meet actuarial recommendations for the past three years.
- **Update program guidance for programs that have changed over time.** Guidance and policies for several key risk management and accident prevention programs established 10-20 years ago have not been revised to reflect changes that have taken place. For example, the risk management plan contains no discussion of workers' compensation. Updating this guidance also would provide Metro with an opportunity to clarify its goals and objectives related to risk management and workplace safety.
- **Strengthen Metro's safety program.** Opportunities exist to enhance safety awareness by targeting attention to major types of accidents and strengthening safety guidance and training. Doing so could help save money, avoid costs and maximize returns on organizational investments.
- **Formalize and document procedures in several key areas of operation.** Procedures are needed in several areas. For example, claims are occasionally paid from department operating funds rather than the Risk Management Fund. This could misstate the amount of losses Metro realizes in a year and the actuarial estimate of claims liability.
- **Report results.** Metro's upper management is currently not receiving information about the risk management program's achievements (because there are no goals, objectives or performance measures associated with the program) or regular reports about Metro's current risks and the strategies for mitigating them. More information is also needed on Metro's exposure to loss, trends in liability claims and safety activities.

Specific recommendations for addressing these matters follow.

Recommendations

1. **Develop a plan to ensure the risk management fund is actuarially sound.** The plan should be developed as soon as possible and include provisions for adverse contingencies as well as long-term provisions for ensuring that funding levels remain actuarially sound.
2. **Update program guidance for the risk management and accident prevention programs.** For each of these two programs, the body of this report specifies the types of information that should be included in the update.
3. **Enhance the safety program organization-wide.** Enhancements should include (1) processes to review the types of incidents or accidents occurring annually and (2) training for improving awareness of how these types of incidents or accidents occur, identifying conditions that could produce them, reporting potential hazards, and providing recommendations to keep them from occurring. In addition, the Supervisor and Safety Committee Reference and Training Manual should be reviewed for adequacy and appropriateness and revised as needed, and supervisor training should be incorporated as a regularly scheduled part of Metro's safety training program.
4. **Establish and document procedures in three areas.** (1) Develop step-by-step procedural manuals for managing and processing both liability and workers' compensation claims. (2) Clearly define the types of claims to be settled out of the risk management fund, and apply this definition uniformly across all Metro departments. (3) Ensure that all personnel files and records containing sensitive employee information and personal data are kept in a secure location not accessible by unauthorized people.
5. **Strengthen reporting of four types of information.** (1) Strengthen controls and procedures for ensuring that items reported in the financial statements are correct. (2) Formally report on current risks as well as risk mitigation plans associated with the Risk Management Program annually. (3) Include liability claims and trend analyses in the quarterly reports currently provided to management for workers' compensation claims. (4) Report safety efforts and accomplishments as well as action plans to modify trends or significant safety issues.

Introduction

Overview This audit addresses the management of three key elements of risk in Metro's operations: liability, workers' compensation and property damage to facilities and equipment. Liability claims can be brought on by many circumstances, such as members of the public having an accident in a Metro facility or a company or individual incurring financial damages because of negligence on the part of a Metro employee. Workers' compensation involves providing medical treatment and income compensation if a Metro employee is injured on the job. Property damage can occur in many ways, ranging from storms to vandalism. Risk management is the process by which risks are isolated and subjected to rational management techniques in order to minimize Metro's overall exposure to loss.¹

Metro uses two different methods to cover these risks. As with many local jurisdictions, Metro has determined there is financial benefit to being self-insured for liability incidents; however, Metro also purchases excess insurance to help cap losses associated with liability claims. In addition, Metro purchases commercial insurance for property damage and workers' compensation insurance through the State Accident Insurance Fund Corporation (SAIF).² Excess liability and property insurance comes into play if, in a given year, Metro's own expenditures for liability claims rise above \$1 million or its property damages are above \$500,000. The source of funding for liability claims and insurance premiums is the Risk Management Fund. All Metro units pay into this fund, with the total level of funding based on an actuarial estimate of (1) the amounts needed to pay prior and current year claims and (2) a sufficient reserve for the future. In fiscal year 2006, Metro budgeted more than \$2.2 million to cover these costs.³

Besides preparing for and administering claims, risk management also involves taking steps to keep liability and workers' compensation claims and property damage from occurring in the first place. Metro, like most large organizations, has established safety and related programs designed to identify potential risks and eliminate or minimize them. Metro has two main programs – an Accident Prevention and Loss Control program that focuses on the safety expectations of each job responsibility, and a Risk Management program that includes measures for helping ensure facilities and workplaces are kept in safe condition.

To manage risks associated with liability and workers' compensation claims, as well as property damage for all of its facilities and equipment, Metro has established a Risk Management Division. This Division has a number of responsibilities (see Table 1). The Division's staff consists of a manager, a part-time claims assistant, and a small amount of additional administrative help. The manager is an Associate Risk Manager⁴ and is involved in several professional risk

¹ Self-Insurance and Risk Management Program, page 1.

² ORS 656.407(7).

³ This amount excludes \$5.5 million relating to medical benefits.

⁴ Designation of the American Institute for Chartered Property Casualty Underwriting (AICPCU).

and insurance management organizations. The claims assistant has approximately four years' experience in processing workers' compensation claims and in returning injured employees to work as soon as possible, a key factor in controlling workers' compensation costs. The Division relies on outside help for much of its workload for actual claims. To help administer more difficult liability claims, the Division contracts with a firm that specializes in liability claims investigation and processing. Workers' compensation claims are processed by SAIF employees.

Table 1
Major Responsibilities of Metro's Risk Management Division

Liability, workers' compensation and property damage programs

- Planning, developing and implementing Metro's self-insurance program
- Purchasing cost effective commercial insurance
- Managing and administering Metro's liability and workers' compensation claims
- Managing Metro's budget for Metro's claims liability and insurance needs
- Advising management and staff on workers' compensation and liability claims issues – including cost containment strategies
- Analyzing and advising senior management of potential risks

Safety and related programs

- Managing Metro's overall safety program
- Acting as a safety resource and representative for all Metro facilities
- Advising management on environmental liability issues
- Developing and maintaining Metro's Emergency Operations Plan
- Coordinating emergency management response for the organization and conducting periodic drills

Laws affecting risk management

Several state laws affect risk management. First, Oregon tort law actually limits the amount of liability Metro is subject to for any of its facilities and officers, employees or agents acting within the scope of their employment or duties. For instance, Metro's liability is limited to:

- \$50,000 to any claimant for any number of claims for damage to or destruction of property arising out of a single accident.
- \$100,000 to any claimant as general and special damages arising out of a single accident or occurrence unless those damages exceed \$100,000, in which case the claimant may recover additional special damages of up to \$100,000.
- \$500,000 for any number of claims arising out of a single accident or occurrence.⁵

⁵ ORS 30.270.

In addition, no awards shall be made for punitive damages. These limits have a direct effect on the amount of potential loss Metro is exposed to for liability claims.

Workers' compensation law is meant to provide prompt, complete medical treatment and fair, adequate and reasonable income benefits to injured workers.⁶ Oregon law requires that employers be either approved through the Department of Consumer and Business Services as a "self-insured" employer for workers' compensation or, as with Metro, a "carrier-insured" employer.⁷

Under the Oregon Safe Employment Act,⁸ Metro is required to provide safe and healthful working conditions for its employees. Oregon Administrative Rules also require that the employer see that workers are properly instructed and supervised in the safe operation of any machinery, tools, equipment, process or practice which they are authorized to use or apply and take reasonable means to require employees to work in a safe manner.⁹ Metro's Accident Prevention and Loss Control program is designed to respond to these requirements. Metro has also established appropriate workplace safety committees as required by law.¹⁰

Audit objectives and methodology

The audit's objectives were to determine if Metro's risk management program is effective at:

- Managing Metro's exposure to risk of loss
- Meeting regulatory and authoritative requirements in relation to safety or risk management programs
- Eliminating potential safety hazards and providing a safe workplace for employees and a safe environment for citizens
- Ensuring funding levels for losses (expected losses as well as provisions for adverse contingencies) are actuarially sound
- Ensuring appropriate disclosures are made in relation to exposure levels.

Our work to carry out these objectives included reviewing relevant Oregon statutes and rules, Metro Code provisions, strategic plans, program plans, and processes, as well as records relating to safety practices, risk management and claims administration throughout Metro. We also conducted interviews with insurance industry experts, risk management staff and persons responsible for safety at each Metro facility. Extensive research was performed on safety and insurance issues facing public entities as well as issues relating to risk management. The research

⁶ ORS 656.012(2)(a).

⁷ ORS 656.017(1)(a).

⁸ ORS 654.001 to 654.295, 654.750 to 654.780 and 654.991.

⁹ OAR 437-001-0760(1).

¹⁰ ORS 654.176(1)(a).

and interviews allowed us to gain a fundamental knowledge of risk management practices for jurisdictions such as Metro and the processes and practices used by Metro to manage its exposure levels and ultimate risk of loss. We focused primarily on claims for the last three to five years.

To provide an objective framework for our work, we conducted two analyses based on industry-established criteria. As a framework for assessing risk management activities, we compared Metro's risk management practices with best practices from several different best practice sources,¹¹ such as risk and insurance periodicals, different state government publications, and OSHA. To assess Metro's safety programs, we compared Metro's activities to a set of guidelines and practices assembled by SAIF Corporation, the leading insurer for workers' compensation claims in the state. Appendixes A and B show the specific criteria included in these two sets of criteria, along with our assessment of the degree to which Metro's programs met these criteria.

The audit was conducted in accordance with government auditing standards. These standards require that we review internal controls and report significant deficiencies that are relevant to audit objectives. The Risk Management Division has many effective controls in place to ensure claims are addressed appropriately, adequately and timely. In addition the risk management teams are seasoned professionals with years of experience in managing risk and administering liability and workers' compensation programs. Any significant internal control deficiencies found during the course of the audit are described in the report.

¹¹ See Appendix D for a detailed reference list.

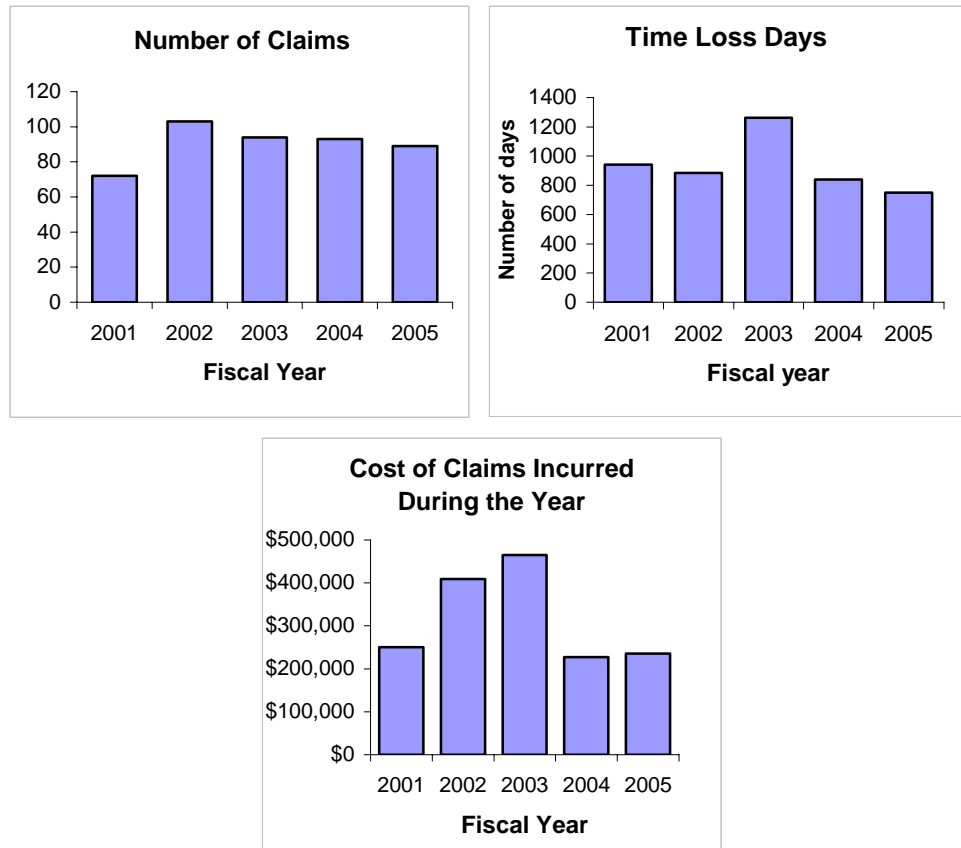
Exposure to loss is well managed in several respects

In several ways, the Risk Management Division is doing a good job of managing Metro’s exposure to loss. These positive results can be seen in claims trends, cost containment measures, and several areas of program management, all of which are discussed below.

Claim costs trending downward and are lower than other jurisdictions

Trends for workers’ compensation costs are favorable, particularly over the most recent fiscal years. Figures 1-3 show three components of these trends – the number of claims, the number of days lost to work as a result of injury, and the total cost of claims incurred during the year. The number of claims has hovered around 90 each year and has dropped in each of the past three years. The number of lost work days has averaged 936 per year and is also trending down. Total costs, which have averaged \$317,000 a year, are down substantially since fiscal year 2003. Metro management attributes this primarily to a strengthening of Metro’s return-to-work program.

**Figures 1-3
Workers’ compensation claim trends**



Trends are similar with regard to liability and property claims. In fiscal year 2001, claims totaled \$339,000; in fiscal year 2005, they stood at \$125,000.

Finally, comparisons with other jurisdictions show that Metro's average claim costs per employee are lower. A comparison of liability and workers' compensation claims with two other local jurisdictions – the City of Portland and Multnomah County – showed that the average claim cost per employee for Metro was substantially lower than the average for these two jurisdictions in fiscal year 2005. Based on figures reported in each jurisdiction's Comprehensive Annual Financial Report or adopted budget for fiscal year 2005, the average cost of a workers' compensation claim for Metro was \$3,000, compared with \$5,700 for Multnomah County and \$7,600 for the City of Portland.¹² In addition, the Oregon Workers' Compensation Division reports the average claim cost statewide for the past three years exceeds \$13,000,¹³ while Metro's average cost per claim for the same period was \$3,400.

Effective cost containment measures are in place

The Risk Management Division takes a number of steps to contain costs, such as the following:

- **Managing insurance costs.** The risk manager contracts with an insurance broker to help determine the best insurance value based on the combination of all Metro's insurance needs. Metro's insurance premiums almost doubled in fiscal year 2003 and rose another \$100,000 to \$547,000 in fiscal year 2004. To combat the significant increases in premiums, the manager raised the deductible for property insurance from \$100,000 to \$500,000 and its liability self-insured retentions from \$500,000 to \$1,000,000. These changes resulted in a \$100,000 drop in premiums the following year. Raising deductibles and retentions exposed Metro to greater risk of uninsured loss, but a significant portion of that risk was mitigated by the \$100,000 annual drop in premiums and the decrease in liability claims over the last five years.

The risk manager has been creative in finding ways to control insurance costs. He has negotiated that Metro will pay no brokerage fees or commissions for its liability, property, directors and officers, or other such insurances. The insurance broker will receive only those workers' compensation commissions received directly from SAIF¹⁴ as payment in full for all broker services to Metro.

- **Obtaining expertise.** For liability claims, one cost control available to Metro is to try to settle valid claims as quickly as possible. To accomplish this, Metro contracts with a firm specializing in liability incidents. Metro

¹² This analysis does not take into consideration some seasonal employees and there may be other variables not included in the analysis that could impact the results.

¹³ Average Claim Costs, Workers' Compensation Division, Department of Consumer and Business Services, State of Oregon.

¹⁴ Insurance policies through SAIF are written through insurance brokers. SAIF pays those brokers commissions based on the amount of business it does with the organization (Metro in this case) and will not write a policy to exclude those commissions.

controls the contract cost by requiring a fixed price contract.¹⁵ Metro is entitled to claim management of 20 claims for a single contract price. The contract is used for more difficult claims and to supplement when Metro's small staff is unable to process claims in a timely manner. Similarly, the risk manager also purchases insurance through SAIF. This provides Metro with such outside expertise as compensability and disability management specialists, return-to-work process specialists, and fraud investigation specialists.

Other management programs help limit number and size of claims

Besides adequate and timely claims management, claim costs are controlled by maintaining facilities, equipment, and grounds in a safe manner and by safe workplace practices. To a degree, programs for addressing these issues are in place. All major departments have safety committees that perform quarterly inspections of their facilities to ensure they are appropriately maintained. Safety committees also provide training on safe workplace practices.

Additionally, risk management has developed a strong return-to-work program. The return-to-work program allows Metro to participate in the State's Employer-at-Injury Program wherein the state reimburses Metro for a significant portion of the costs related to returning the employee to work in modified or light duty. The reimbursements Metro has received under the Employer-at-Injury-Program program have more than paid for the risk manager's workers' compensation specialist, and returning employees to work as soon as possible reduces workers' compensation benefit costs.

¹⁵ Fixed price contracts effectively transfer risk of significant claim management costs, especially for complicated claims, to the contractor. The contractor is paid the same amount regardless of how much time he spends on the claims.

Program improvements are needed

While some aspects of the risk management program are sound, we identified a number of areas in which Metro and its Risk Management Division can make improvements. These areas are as follows:

- Develop a plan to ensure the soundness of the Risk Management Fund.
- Update program guidance for two programs that have changed greatly over time.
- Take additional steps to strengthen the safety program organization-wide.
- Formalize and document procedures in several key areas of operation.
- Strengthen several aspects of reporting.

Given the Risk Management Division's small size – essentially two people – action in these areas may need to be prioritized and may take some time. Nonetheless, they represent important improvements that should be made.

Adequacy of Risk Management Fund reserves needs attention

For some time, the actuaries who have developed the estimate of the funding levels needed for Metro's Risk Management Fund have raised concerns about the level of reserves Metro has decided to place in the fund. In the most recent actuarial reports for liability/property and workers' compensation, the actuary **strongly** recommended that Metro transfer an amount to fund the liability/ property program with an 80 percent confidence level and the workers' compensation program with an 85 percent confidence level¹⁶. The actuary also recommended margins for adverse contingencies. The actuary's report stated, "Loss experience can change suddenly and dramatically," and "This is especially true for a public entity with relatively small number of claims such as with Metro." In addition, Metro's decision to increase its deductible limits for its insurance coverage has also contributed to the potential volatility of the risk management program. The Risk Management Fund is now responsible for the first \$500,000 in property damage (up from \$100,00), and for the first \$1 million in liability claims (up from \$500,000). Metro management is aware of and has made attempts to rectify this funding problem on a gradual basis, but fund balances have remained extremely low in recent years.

We concur with the actuaries and recommend that Metro develop a plan to ensure the Risk Management Fund is actuarially sound (including provisions for adverse contingencies) as soon as possible and that the plan also include long-term provisions for ensuring that funding levels remain actuarially sound.

¹⁶ An 80 percent confidence level means there is an 80 percent probability that actual ultimate costs will be less than the stated amount; an 85 percent confidence level raises the probability to 85 percent.

Key programs have changed; procedures not updated

The Risk Management Division has two major programs – the risk management program and the accident prevention program – that have undergone significant change, but guidance and procedures have not been revised to reflect the changes.

Risk management program

Metro's risk management program, called the Self-Insurance and Risk Management Program, has a program document that was formalized 20 years ago and has not been updated since. This outdated program document refers, for example, to a superseded form of Metro government and to a fund that no longer exists. The program document does briefly describe the following areas, but many of these procedures and processes have also changed over the past 20 years:

- *Fund administration*, including cost allocation methods used to allocate costs across departments for premiums, claims, asset replacement, and reserves for contingencies not covered by insurance. This section also discusses how interest revenue and proceeds from insurance policies are to be handled.
- *Claims administration*, including liability and property claims processing procedures as well as authority levels for claim settlement.
- *Loss prevention*, including measures to avoid losses such as safety programs, maintenance programs and hazard reduction programs.
- *Insurance industry relationships* that allow Metro to purchase insurance against losses where self-insurance is inadvisable.

Perhaps most significantly, guidance is lacking in a number of areas that either have been added as part of the Risk Management Division's operations or have become increasingly important as management tools. These include:

- Any discussion of workers' compensation, which is a significant component of the division's current responsibilities.
- Goals or objectives for the program and performance measures against which it can be evaluated.
- The division's role in Metro's emergency preparedness and operations plans.
- Guidance regarding Metro's preferred risk tolerance levels or a plan for achieving preferred levels. Without a formally documented plan for achieving preferred tolerance levels, Metro runs the risk of being funded based on what Metro departments can afford in any given year rather than the amount of actual risk the organization faces.

An updated, formally documented risk management program will allow Metro departments to better understand the purpose, responsibilities and needs of the Risk Management Division, as well as measures to provide for those needs. A well-written program can provide clarity regarding Metro's expectations of the risk management program as well as the role the risk management staff is to play in achieving those expectations. It can describe Metro's risk tolerance levels and its

plan and methodology for providing actuarially sound funding for all known claims as well as other unforeseen contingencies.

We recommend that Metro update the risk management program document to describe the expectations of the risk management program as well as the current role and responsibilities of the risk management staff. In addition to expectations, roles and responsibilities, the document should also define Metro's goals and objectives relating to managing its risk and describe the key strategies and activities to be used in order to achieve those goals. The revised document should include such things as authority levels for claim settlement, acceptable risk tolerance levels and Metro's strategy for adequately funding the program. The program should also contain performance measures against which it will be evaluated and, finally, the program should be evaluated and updated annually.

Accident prevention program

Metro's safety policy was originally established through ordinance¹⁷ in 1981. Based on that policy, a formally documented program, called the Accident Prevention and Loss Control Program, was established in the early 1990s. In 1994, the ordinance establishing Metro's safety policy was repealed, making the document outdated. However, the safety program still remains in its original form to this date. In its current form, the safety program is missing many key elements. We reviewed the program using a self-assessment tool developed by SAIF and found that Metro could improve in 67 percent of the safety program elements listed in the self-assessment (see appendix B).

We also found that the existing document is not widely known or used. While the risk manager is aware of Metro's safety program document, only two of the seven departmental safety committees had a copy of it, and the representatives of those two committees said they had not looked at it in years. Without a current, formally approved, and widely distributed safety program or plan, it is highly unlikely that all Metro staff realize what Metro's safety policies are. An updated program specifying Metro's commitment to safety and its goals and objectives for maintaining a safe and healthy environment for employees and visitors would provide employees with a clear understanding of Metro's expectations regarding safety practices. The program could inform employees of the role of both Risk Management and the departments in achieving Metro's safety goals. It could also provide responsibility and accountability measures for all levels of employees throughout Metro. Metro's overall safety program could be used as the basis from which all departmental programs are drafted. This would help ensure that departments understood and embraced Metro's minimum safety requirements while allowing them the flexibility to expand their programs with rules and procedures designed to fit their individual departmental needs.

¹⁷ Ordinance 81-116, Sec 49.

We recommend that Metro update its Accident Prevention and Loss Control Program to ensure it:

- Provides clear guidance regarding the priority of the creation and maintenance of a safe work environment throughout Metro
- Clarifies the current rolls and responsibilities of each Metro department and employee
- Describes goals and objectives relating to overall safety at Metro
- Ensures Metro’s safety program is used as the basis for individual departmental safety programs
- Integrates safety and health expectations into each job responsibility
- Requires that supervisors and staff have safety performance goals and are evaluated on achievement of those goals
- Ensures people are rewarded in tangible, visible ways for promoting safety
- Promotes measurable safety awareness and promotion goals in supervisor and staff performance evaluations, especially in areas where work activities are prone to accidents and higher claims
- Contains performance measures against which the effectiveness of the program can be evaluated, such as reductions in:
 - Lost-time injury frequency
 - Medical treatment frequency
 - Sick days used
 - Medical costs
 - Workers’ compensation or liability claim costs
 - The number of potential safety issues reported during quarterly inspections.

Strengthening Metro’s safety culture could reduce costs

A point closely related to updating the accident prevention program is the overall enhancement of a safety culture at Metro. We identified two ways in which safety awareness could be strengthened – targeting major types of accidents and incidents in training programs, and reviewing other safety guidance and training for adequacy and appropriateness.

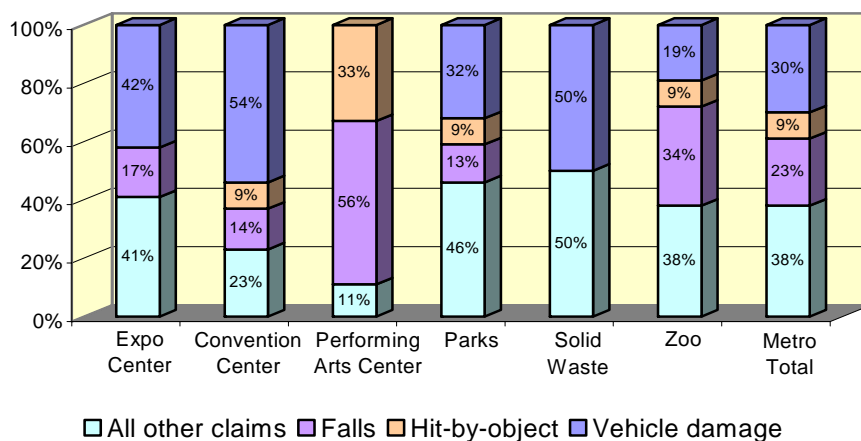
Identify and target common types of accidents and incidents

Workers’ compensation costs are directly impacted by accidents and incidents. While Metro’s overall workers’ compensation costs have been trending downward in recent years, continued emphasis on safety could help keep these costs low –and possibly reduce them further in the future. Besides reducing direct costs, reduced accident and incident rates also bring a savings in indirect costs, which may run five to ten times the amount of direct costs, according to the Oregon Department of Consumer & Business Services.¹⁸ Promoting a safe environment may also reduce liability and property claims. As shown in Figure 4, which shows the primary types

¹⁸ Oregon Occupational Safety and Health Division, Workplace Safety Committees, *A basic guide to developing and implementing an occupational safety and health committee*, (#440-2240). Indirect costs relate to such things as production delays, time lost by workers and supervisors attending an accident victim, clean up and start up of interrupted operations, conducting an accident investigation, time spent retraining others to replace injured workers, and possible lower efficiency.

of claims for each major Metro facility for fiscal years 2003-2005, a significant amount of Metro's liability and property claims are from falls, being hit by objects and vehicle damage. In all, falling, being hit by objects or vehicle accidents caused 62 percent of liability incidents.¹⁹

Figure 4
Liability/property claims at Metro facilities, fiscal years 2003-2005



These types of claims are best controlled through safety inspections of facilities and equipment (required by OSHA) and through enhanced training programs. The high incidence of a few types of accidents suggests Metro might benefit by focusing on them in safety awareness and training efforts. While departments train staff regularly on mandated safety issues such as hazardous materials, first aid and lock-out tag-out procedures,²⁰ the most prevalent types of incidents – vehicle accidents, falls, lifting etc. – are not often addressed. In some cases they may only be addressed during initial orientation training.

A good example of the benefits of providing periodic (more often than just at orientation) training or awareness campaigns is vehicle operation training. Metro has more vehicle damage claims than any other type of liability or property damage claim. According to John Howard, M.D., Director of the National Institute for Occupational Safety and Health, vehicle accidents are the leading cause of traumatic injury and death in the U.S. workplace. Vehicle accidents can result in significant property damage and serious injury to employees as well as citizens of the region. According to Oregon OSHA, the majority of all motor vehicle accidents are caused by driver error or poor operating practices, but they can also

¹⁹ Our analysis of Metro's workers' compensation claim results showed similar results. In all, 57 percent of claims for the same period were caused by lifting, falling or being hit by an object (see Appendix C for graphic representation of workers' compensation claim results).

²⁰ Procedures used to prevent power from being inadvertently turned back on while an employee is working on the electrical system, for instance.

result from mechanical failure or improper maintenance. OSHA suggests that “an organization’s vehicle accident prevention effort should focus on both of these principal factors, driver error and vehicle failure, because both can be controlled.” Proper vehicle operation would help Metro reduce the number of these accidents.

Training on techniques to identify the types of objects people have been hit with and conditions within the facility that might result in falls would help ensure employees are better equipped to recognize potentially unsafe conditions. Not only must employees be able to recognize potential safety issues, they must also be able to adequately convey or report the issue to appropriate management. Training that focuses on the types of incidents or accidents that most often happen and techniques to identify and report potential hazards that cause them, will help reduce or prevent them from occurring.

Some Metro locations, such as the Zoo, have excellent safety programs and Metro safety committees appear to be aware of the importance of safety and do their best to eliminate issues and provide a safe working environment. However, we did not get the impression that safety was considered a “priority” throughout all of Metro. Few we spoke to know of any specific departmental goals meant to ensure safety was a priority and we found personal performance goals that included adherence to safety practices in only one small group of employees.

We recommend that Metro enhance its safety program organization-wide. Enhancement should include a process to review the most prevalent types of incidents or accidents occurring annually and training sessions developed and targeted directly at:

- Improving awareness as to how these types of incidents occur
- Identifying conditions that could result in incidents or accidents
- Reporting potential hazards
- Providing recommendations to help prevent incidents from occurring.

Once Metro’s safety program is updated, enhanced and finalized, we recommend that an organized safety awareness campaign be developed to inform employees of management’s commitment to making safety a priority throughout Metro. The campaign should be designed to make all Metro staff aware of management’s goals and objectives regarding safety and its expectations of supervisors and staff in achieving those goals and objectives. Management might also want to consider increasing safety reminders through media such as newsletters, bulletins, posters or adding a weekly safety tip to the weekly *Metro Update* e-mail from the Chief Operating Officer.

Review safety guidance and training for adequacy and coverage

Metro has a Supervisor and Safety Committee Reference and Training manual. This manual provides specific information on safety training, safety analysis, accident investigation and accident prevention. Although the manual is comprehensive and appears well thought out and organized, it is approximately 12 years old and should be updated. In addition, although the manual is intended both

for safety committees and supervisors, in recent years only safety committees have received training related to the subjects it covers. Supervisors are considered key to Metro’s loss prevention efforts and they are responsible for implementing and enforcing rules and regulations, as well as meeting safety expectations throughout Metro. Reviewing and revising the manual as needed and incorporating it into Metro’s regular training program for supervisors would help ensure that supervisors have the appropriate training and tools to complete their responsibilities.

We recommend that the Supervisor and Safety Committee Reference and Training Manual be reviewed for adequacy and appropriateness and revised as needed. We also recommend that supervisor training be incorporated as a regularly scheduled part of Metro’s safety training program.

Develop and document procedures
Claims processing manuals

We identified three areas in which procedures need to be documented, clarified or developed.

Metro’s Risk Management Division does not have procedure manuals for processing liability and workers’ compensation claims. All of these processes and procedures are important in ensuring that Metro manages and processes claims in a cost effective, efficient and timely manner. Because Metro does not have detailed process and procedure manuals for any of these activities, it is subject to significant risk that claims processing efficiencies may be lost should the risk manager or his assistant leave Metro or become unable to perform claim management and processing duties for any reason.

We recommend that Metro develop step-by-step procedural manuals for managing and processing both workers’ compensation and liability claims. The workers’ compensation manual should contain directions for returning employees to work as soon as possible and detailed instructions regarding participation in the Employer-at-Risk program.

Specify types of claims paid from risk management fund

Occasionally, departments pay liability claims directly rather than through the risk management fund. When this happens, the costs are removed from the claims data provided to the actuary for use in evaluating what the risk management fund balance should be. For example, the Parks Department elected to pay directly for a \$50,000 claim in which the owner of adjacent property purchased by Metro through the open spaces program claimed that because of Metro’s purchase, he could no longer do what he intended to do with his own property. In total, the amounts we identified were not substantial and had no material effect on Metro’s financial statements. However, we also found several claim records with no dollar amounts attached to them. It is unclear whether departments paid directly for any of these claims.

Allowing Metro departments to pay claims from their current operating budgets rather than through the risk management fund has several consequences. It masks the full amount of loss to Metro and potentially affects the reliability of the actuary’s estimate of the amount needed in the risk management fund. This could

cause the risk liability and cost accounts to be understated in Metro's financial statements. Also, allowing departments to pay claims directly reduces their true claim experience for risk management cost allocation purposes.

Metro would benefit by specifying the types of claims that need to be settled through the risk management fund and include all of those types of claims in the claim record. Specification of the types of claims that need to be settled through the fund would ensure accurate financial records, greater transparency in accounting practices, appropriate allocation of risk management costs among departments and it would allow management to assess Metro's true exposure more accurately.

We recommend that Metro clearly define the types of claims that must be included in risk management records and settled out of the risk management fund and follow that rule uniformly across the departments. Metro's true exposure can then be calculated by the actuaries and assessed by management more accurately.

Greater security for confidential records

Safeguarding employee personal information is becoming increasingly important – not only to protect the confidentiality of transactions between employee and employer but to protect against personal confidential information being obtained and used for unlawful purposes such as identity theft. The audit revealed that liability and workers' compensation claims case files were being kept in an unlocked file cabinet in the risk management assistant's cubicle. In addition, we were able to electronically extract detailed claims data from the "projects" folder in the risk management section of Metro's computer network system.

We recommend that Metro develop a plan to ensure that all personnel files and records across Metro containing sensitive employee information and personal data be kept in a secure location not accessible by unauthorized people.

Reporting needs to be strengthened

We noted several areas for improvement in management reporting:

- *Financial reporting regarding Metro's exposure to loss.* For the past two years, Metro has understated its exposure related to deductibles by \$900,000 in its financial statements. Beginning July 1, 2003, the property insurance deductible increased from \$100,000 to \$500,000 and the liability insurance deductible from \$500,000 to \$1 million. This understatement is considered significant given the low levels of reserves in Metro's risk management fund. Developing strong controls to ensure Metro's financial statements are accurately reported will provide greater reliability and transparency of Metro's financial records.
- *Management reporting regarding the risk management program.* Metro's upper management is not receiving information about (1) the risk management program's achievements (because there are no goals, objectives or performance measures associated with the program) or (2) current risks and the strategies for mitigating them. Providing management with a formal annual update on current risks and risk mitigating strategies as well as program performance in achieving goals and objectives would

give them the necessary information to adjust goals, objectives and strategies in a timely manner.

- *Reporting of liability claim experience and trends.* While risk management staff does prepare an analysis of workers' compensation claims and trends, they do not currently do so for liability claims. Including liability claim statistics and trends in the quarterly workers' compensation report provided to all department heads and Metro's upper management would provide a more complete picture of claim experience within Metro.
- *Safety issues and accomplishments.* Formal Metro-wide safety reports sharing accomplishments and remedial action plans for known issues are not prepared and shared with management. Annual Metro-wide safety reports would provide management as well as Metro employees with information regarding progress toward achieving a safe and healthy environment.

We recommend that Metro:

- Strengthen its controls and procedures for ensuring that items reported in the financial statements are correct.
- Formally report on current risks as well as risk mitigation plans associated with the Risk Management Program annually.
- Include liability claims and trend analyses in the quarterly reports currently provided to management for workers' compensation claims.
- Formally report safety efforts, accomplishments and action plans to modify trends or significant safety issues.

Appendices

Appendix A – Best practices for managing risk

Based on several articles by industry experts and publications from Oregon OSHA, we assembled a list of eight best practices for risk management. When we analyzed the Risk Management Division’s operations for the presence of these best practices, we found four of them well in place: a single point of accountability for the program, constant evaluation of risks and measures to limit exposure, timely claims processing, and strong cost containment practices. We found the remaining four to be absent or insufficient: written manuals; clear goals, objectives and performance measures; a strong safety program; and reporting on program performance. Our findings with regard to these eight criteria are depicted below:

Table 2
Best practices for managing risk

Best Practice	In place at Metro?	Explanation
Single point accountability	Yes	Risk Manager is responsible for managing Metro’s overall exposure to loss, including liability and workers’ compensation claims as well as property damage and insurance premium costs.
Constant evaluation of risks and measures to limit exposure	Yes	Risk Manager utilizes specialists including insurance brokers, actuaries, examiners etc. to assist him in providing the best coverage given current costs and exposures. This includes self-retentions and deductible assessments.
Written program and procedure manuals	Not adequately	All program and procedure manuals are extremely dated and refer to forms of government, funds and practices no longer appropriate.
Clear, concise goals, objectives and performance measures	No	Neither the risk management program nor the safety program contains specific goals, objectives or performance measures.
Timely claims processing	Yes	Metro insures with SAIF Corporation and contracts with liability claim specialists to ensure resources are adequate to process claims in a timely manner.
Strong cost containment practices	Yes	Metro brokers, insures or contracts with outside organizations which include the following cost saving measures: the use of managed care organizations, claim management, medical bill auditing, fraud experts, local claim processing teams and premium cost evaluations necessary to determine the appropriate mix of self-insured retentions and deductibles necessary to mitigate skyrocketing premium costs.

Best Practice	In place at Metro?	Explanation
Strong safety program	Not adequately	Safety is the primary method of mitigating liability and workplace safety risks. Of the 18 key safety program elements suggested by SAIF Corporation, Metro needs improvement in 67% or 12 of those program elements. Metro's current safety program is outdated, incomplete and basically unknown.
Program performance evaluation and reporting	No	Metro has no specific goals, objectives or performance measures noted in the outdated risk management and safety programs, and hence formal evaluation of the programs' performance does not occur. Metro does report quarterly workers' compensation claims but it does not currently include liability claims in that report nor does it recommend changes or suggest areas in which an increased emphasis on safety is warranted.

Appendix B – Safety and health program assessment

An assessment of Metro’s safety program was also performed. SAIF Corporation provides the following safety program self-assessment tool for its clients to use in determining the adequacy of its program. The tool lists primary program elements and sections to note whether that element is effective or needs improvement. We obtained the tool and completed the assessment based on audit findings related to the program (see the comment section of the table). The results are that 67% of these primary program elements need improvement. Details are provided below:

Table 3
Safety and health program assessment

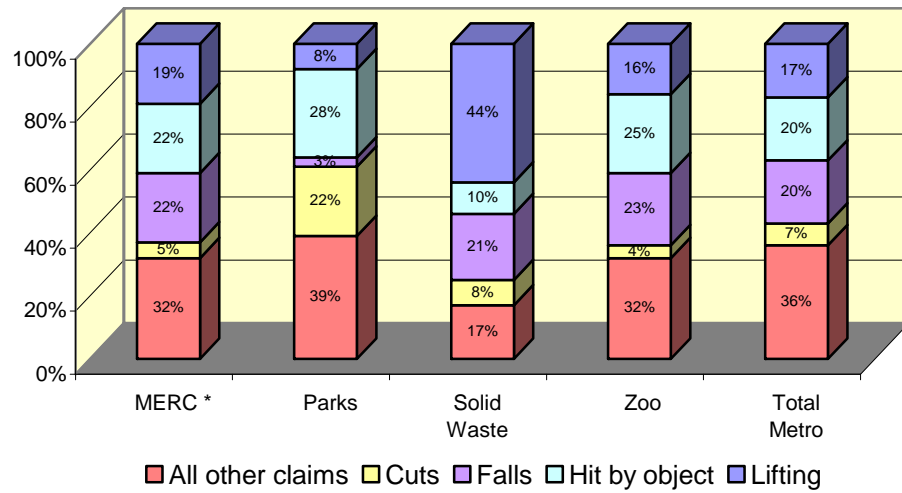
Program Elements	The program or procedure:		Comments
	Is Effective	Needs Improvement	
Mission reflects organization’s commitment to zero damage to people, property and product		✓	<ul style="list-style-type: none"> • Safety policy does not commit to zero damage • Safety program is very old and antiquated • Safety program is guidelines not rules
Clear management statement of safety commitment		✓	Ordinance establishing Metro’s safety policy has been repealed.
Managers set visible example of safety and health leadership		✓	Because Metro’s safety program is basically unknown, we believe management needs to improve in this area.
Authority and responsibility understood		✓	Authority levels and responsibility are documented in the risk management and safety programs, but both are out of date and unknown to employees. There is also a disconnect between Risk Management and the departments as to the role of each relating to safety.
Organizational safety policies and procedures		✓	<i>Metro’s Accident Prevention and Loss Control and Supervisor and Safety Committee Reference and Training Manual</i> are outdated.
Annual safety policy evaluation		✓	Evaluations of Metro’s overall and department safety programs are incomplete.

Program Elements	The program or procedure:		Comments
	Is Effective	Needs Improvement	
Safety committees	✓		Metro has committees for each location. Some, like the Zoo are especially well run.
Safety goals and objectives		✓	Most departments, as well as Metro's overall safety program, do not include safety goals and objectives.
Safety policy: discipline and reinforcement		✓	Only one small group of employees is evaluated on safety practices.
Written job standards and expectations	✓		While we are unsure whether specific safety standards are included in all job descriptions, all job classifications have basic descriptions.
Supervisor accountability		✓	In discussions with safety committees, most are unaware of specific supervisor accountability measures.
Use of behavior-based system of performance management		✓	Incentives other than an annual BBQ are not offered and most employees do not have safety goals and objectives nor are they evaluated on safety awareness and practices.
Ergonomics	✓		Metro does have an adequate ergonomics program.
Hazard identification and correction	✓		Metro has strong programs for hazard identification and correction, including written reports on potential hazards found during quarterly facility inspections.
Defensive driving program and training		✓	Driver training is provided to all employees using Metro vehicles or using personal vehicles for Metro business only as part of new-hire orientation.
Facilities and preventive maintenance	✓		We performed an audit of MERC facilities recently and found them adequately maintained. We have also visited several parks in the area as well as the zoo and noticed no significant issues.

Program Elements	The program or procedure:		Comments
	Is Effective	Needs Improvement	
Use of OSHA/contracted consultative services	✓		Metro safety committees have utilized OSHA services such as training videos and other materials.
Incentive program		✓	Metro offers each department \$500 for an incentive program. This usually results in a departmental picnic or BBQ. However, incentives for individual awareness and promotion of safety practices are not offered.

Appendix C – Workers’ compensation claims analysis

Figure 5
Workers’ compensation claims analysis



This data suggests Metro might benefit by choosing a couple types of claims to focus on for safety awareness and training. If consistently applied, the practice of promoting awareness of and focusing training on the most prevalent causes of claims each year could play a significant role in reducing the number of claims.

* The Metropolitan Exposition Recreation Commission (MERC) is comprised of the Oregon Convention Center, Portland Center for the Performing Arts and Portland Metropolitan Exposition Center.

Appendix D – References

1. “ABC’s of Experience Rating,” *National Council on Compensation Insurance, Inc.*, 2004, http://www.ncci.com/media/pdf/abc_Exp_Rating.pdf
2. Peter Rousmaniere and Phil Denniston. “Getting workers' comp costs under control: workers' comp insurance costs may accelerate as employers with good records continue to opt for self-insurance – Workers' Comp,” *Risk & Insurance*, March 2003
3. “An Overview of Oregon’s Workers’ Compensation System,” *Liberty Northwest*
4. “The Employer-at-Injury Program,” *Oregon Department of Consumer & Business Services, Workers’ Compensation Division*, <http://www.cbs.state.or.us/external/wcd/communications/publications/3525.pdf>
5. “2003 RIMS Benchmark Survey,” *Risk and Insurance Management Society, Inc.*, 2004, www.rims.org
6. “Best Practices: Role of the Employer,” *Georgia State Board of Workers’ Compensation*, July 2005, http://sbwc.georgia.gov/vgn/images/portal/cit_1210/8/14/13899977role_employer.pdf
7. “The SAIF Difference,” *SAIF Corporation*, May 2005, <http://saif.com/prodserv/m0010.pdf>
8. “Manager’s Loss Control Guide: Summary,” *SAIF Corporation*, January 2006, http://saif.com/worksafe/S869/Sec1_01-06.pdf
9. “Workplace Safety Toolkit,” *Non-Profit Risk Management Center*, 2005, <http://www.nonprofitrisk.org/ws/wsp.htm>
10. “Addressing recent findings, research opportunities and best practices on occupational injury prevention,” speech by John L. Henshaw at the National Occupational Injury Research Symposium, *U.S. Department of Labor Occupational Safety & Health Administration*, October 28, 2003, http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=SPEECHES&p_id=752
11. “Recommendations for Improvements in Texas Workers’ Compensation Safety and Return-to-Work Programs,” A Report to the 77th Texas Legislature, Research and Oversight Council on Workers’ Compensation and Researching Planning Consultants, L.P., *Texas Department of Insurance*, January 2001, <http://tdi.state.tx.us/wc/regulation/roc/3697safety.html>
12. “Return-to-Work Best Practices,” *HRTTools.com*, http://www.hrtools.com/Forms/work_c27.rtf
13. “A Foundation for a Safe Workplace: How to manage safety and health at your workplace,” *Oregon OSHA*, April 2005, <http://www.cbs.state.or.us/external/osha/pdf/pubs/4755.pdf>
14. “Safety Committees for the Real World,” *Oregon OSHA*, <http://www.cbs.state.or.us/external/osha/pdf/pubs/2341.pdf>

15. "Managing Your Vehicle Safety Program," *Oregon OSHA*,
<http://www.cbs.state.or.us/external/osha/pdf/workshops/220w.pdf>
16. "Selling Safety to Management!" *Oregon OSHA*,
<http://www.cbs.state.or.us/external/osha/pdf/workshops/107w.pdf>
17. "Workplace Safety Committees," *Oregon OSHA*
18. "Actions and Suits in Particular Cases," *Oregon Revised Statutes Chapter 30, 2003 Edition, State of Oregon*, <http://www.leg.state.or.us/ors/030.html>
19. "Occupational Health and Safety," *Oregon Revised Statutes Chapter 654, 2003 Edition, State of Oregon*, <http://www.leg.state.or.us/ors/654.html>
20. "Workers' Compensation," *Oregon Revised Statutes Chapter 656, 2003 Edition, State of Oregon*, <http://www.leg.state.or.us/ors/656.html>
21. "General Administrative Rules," *Oregon Occupational Safety and Health Division (OR-OSHA), 2006*,
http://www.cbs.state.or.us/external/osha/pdf/rules/division_1/div_1.pdf
22. "Statement No. 10 of the Governmental Accounting Standards Board Accounting and Financial Reporting for Risk: Financing and Related Issues," *Governmental Accounting Standards Board*
23. "Summary of Statement No. 30, Risk Financing Omnibus – an amendment of GASB Statement No. 10," *Governmental Accounting Standards Board*, February 1996, <http://www.gasb.org/st/summary/gstsm30.html>
24. "Statement No. 30 of the Governmental Accounting Standards Board Risk Financing Omnibus: an amendment of GASB Statement No. 10," *Governmental Accounting Standards Board*

Response to the Report

Metro Chief Operating Officer Michael Jordan

**METRO**

August 23, 2006

Alexis Dow
Metro Auditor
600 NE Grand Avenue
Portland, Oregon 97232

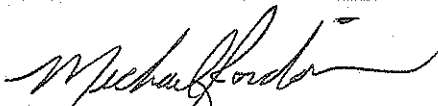
Dear Ms. Dow:

We are transmitting the response to the audit report entitled *Risk Management Program Can Be Strengthened*. An electronic copy is being provided separately.


I appreciate your findings that Metro's exposure to loss is well managed and cost containment practices are sound. We also appreciate your acknowledgement that the risk management teams are seasoned professionals with a considerable depth of experience. We share a concern about maintaining appropriate funding levels in the risk management fund, and we are looking forward to the completion of the latest independent actuarial study in September.

We agree with the recommendations for strengthening our program and will endeavor to do so over the next two years.

Sincerely,



Michael Jordan
Chief Operating Officer



William Stringer
Chief Financial Officer

Audit: Risk Management Program Can Be Strengthened

Date: August 2006

AUDIT RESPONSE

Recommendation 1

Develop a plan to ensure the risk management fund is actuarially sound. The plan should be developed as soon as possible and include provisions for adverse contingencies as well as long-term provisions for ensuring that funding levels remain actuarially sound.

Agree

Yes X

No (specify reasons for disagreement)

What action will be taken (if any)?

Risk Management, as part of Metro's self-insurance program, periodically contracts for an independent actuarial review of its claims history and reserve requirements. The actuarial report provides an analysis of expected claims and reserve requirements with escalating levels of confidence, or probability, that the reserves can meet fully all claims costs. The higher the confidence level desired, the higher the required reserves. The latest review is underway for the fiscal year ending June 30, 2006. A draft actuarial report is expected in September 2006 with a final report following within 30 days.

Risk Management will use this actuarial report to evaluate appropriate funding levels for the Risk Management Fund, given acceptable levels of confidence. The CFO will use the actuarial report to develop funding options for Council consideration.

Who will take action?

The Risk Manager will obtain actuarial report.

The CFO will develop funding options for Council consideration.

The Council's determination will be reflected in the 2007-08 budget plan.

When will action be accomplished?

Evaluation, recommendation and Council consideration by December 2006; implementation in FY 2007-08 budget.

Follow-up necessary to correct or prevent reoccurrence.

Changing conditions (claims experience, cost of claims, cost of the program) will require that Metro continue to engage an actuarial study review periodically and make funding adjustments. Approval of the funding strategy may result in increases to the cost allocation system.

Audit: Risk Management Program Can Be Strengthened

Date: August 2006

AUDIT RESPONSE

Recommendation 2

Update program guidance for the risk management and accident prevention programs.

For each of these two programs, the body of this report specifies the kinds of information that should be included in the update.

Agree

Yes X

No (specify reasons for disagreement)

What action will be taken (if any)?

The Risk Manager will update the Risk Management program guidance and the safety program. The updates will be reviewed formally by the safety committees and presented to senior management.

Who will take action?

Risk Manager

When will action be accomplished?

FY 2006-07

Follow-up necessary to correct or prevent reoccurrence.

The guidance will be reviewed at least every other year by Metro's safety committees and senior management.

Audit: Risk Management Program Can Be Strengthened

Date: August 2006

AUDIT RESPONSE

Recommendation 3

Enhance the safety program organization-wide. Enhancements should include (1) processes to review the types of incidents or accidents occurring annually and (2) training for improving awareness of how these types of incidents or accidents occur, identifying conditions that could produce them, reporting potential hazards, and providing recommendations to help them from occurring. In addition, the Supervisor and Safety Committee Reference and Training Manual should be reviewed for adequacy and appropriateness and revised as needed, and supervisor training should be incorporated as a regularly scheduled part of Metro's safety training program.

Agree

Yes

No (specify reasons for disagreement)

What action will be taken (if any)?

- As part of recommendation #2, the written safety programs for Metro, including the Supervisor Safety Manual, will be updated and re-distributed to all departments.
- Risk Management offered training to all safety committees in FY 05-06 to ensure each safety committee received minimum training required by Oregon OSHA, including accident and incident investigation training. Risk Management will repeat this training in FY 06-07. This training will be offered once a year to each safety committee.
- The responsibility to conduct accident and incident investigation and review will be addressed in the updated safety manuals from recommendation #2. This responsibility resides with the parent department and parent safety committee, unless Risk Management determines additional action is warranted.
- Risk Management provided quarterly reports of workers' compensation claims to all departments in FY 05-06 including an analysis of the three-year claims history. Quarterly liability reports and a similar analysis of liability reports will be added in FY 06-07.

Risk Management is preparing a training to address back injury prevention, one of Metro's high-frequency claims. The training plan has two phases: The training will first be offered to facility safety committees allowing managers and supervisors to preview the training to become familiar with its content. In the second phase, managers will request training dates from Risk Management for specifically targeted sites.

Who will take action?

Risk Manager

When will action be accomplished?

FY 06-07

Follow-up necessary to correct or prevent reoccurrence.

Safety Committees, working with the Risk Manager, will recommend the year's training schedule in the fall of each fiscal year, targeted to higher frequency claims.

Audit: Risk Management Program Can Be Strengthened

Date: August 2006

AUDIT RESPONSE

Recommendation 4

Establish and document procedures in three areas. (1) Develop step-by-step procedural manuals for managing and processing both liability and workers' compensation claims. (2) Clearly define the types of claims to be settled out of the risk management fund, and apply this definition uniformly across all Metro departments. (3) Ensure that all personnel files and records containing sensitive employee information and personal data are kept in a secure location not accessible by unauthorized people.

Agree

Yes

No (specify reasons for disagreement)

What action will be taken (if any)?

- 1) Risk Management will develop a separate step-by-step procedure manual.
- 2) The update of the Risk Management program guidance, recommendation #2, will include the claim settlement guidelines.
- 3) Risk Management obtained keys for all cabinets and transferred the file mentioned by the Auditor's staff.

Who will take action?

Risk Manager

When will action be accomplished?

Risk Management program guidance will be updated in FY 06-07.

Procedure manual will be completed in FY 07-08.

The file and data security has been completed.

Follow-up necessary to correct or prevent reoccurrence.

Audit: Risk Management Program Can Be Strengthened

Date: August 2006

AUDIT RESPONSE

Recommendation 5

Strengthen reporting of four types of information. (1) Strengthen controls and procedures for ensuring that items reported in the financial statements are correct. (2) Formally report on current risks as well as risk mitigation plans associated with the Risk Management Program annually. (3) Include liability claims and trend analyses in the quarterly reports currently provided to management for workers' compensation claims. (4) Report safety efforts and accomplishments as well as action plans to modify trends or significant safety issues.

Agree

Yes

No (specify reasons for disagreement)

What action will be taken (if any)?

(1) Strengthen controls and procedures for ensuring items reported in the financial statements are correct. The change in deductible amounts in the purchased program will be corrected in the FY 05-06 CAFR. A summary of the purchased insurance renewals will be provided to the CAFR coordinator at the time the purchases are made (usually June of each year).

(3) A quarterly liability claims report and trend analysis will be included with the workers' comp quarterly report to senior management, beginning with the quarter ending September 30, 2006.

(2) and (4) The current actuarial study and subsequent recommendation to Council will include the claims experience, the trends, the risks and the mitigation. In the years in which no actuarial study is being presented, the same elements will be included in the discussion with Council about funding levels as part of the annual budget preparation process.

Who will take action?

Risk Manager will provide the necessary documentation to ensure accurate CAFR reporting and will prepare and distribute quarterly claims reports to senior management.

CFO will bring the actuarial report and funding recommendations to Council for direction for the FY 07-08 budget.

When will action be accomplished?

Quarterly reports to senior management in month following end of quarter.

Council report by December 2006.

Follow-up necessary to correct or prevent reoccurrence.

Annual report to Council and periodic reporting to department directors.



Metro Auditor Report Evaluation Form

**Fax... Write... Call...
Help Us Serve Metro Better**

Our mission at the Office of the Metro Auditor is to assist and advise Metro in achieving honest, efficient management and full accountability to the public. We strive to provide Metro with accurate information, unbiased analysis and objective recommendations on how best to use public resources in support of the region's well-being.

Your feedback helps us do a better job. If you would please take a few minutes to fill out the following information for us, it will help us assess and improve our work.



Name of Audit Report: Risk Management Program Can Be Strengthened,
August 2006

Please rate the following elements of this report by checking the appropriate box.

	Too Little	Just Right	Too Much
Background Information	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Details	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Length of Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarity of Writing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential Impact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Suggestions for our report format: _____

Suggestions for future studies: _____

Other comments, ideas, thoughts: _____

Name (optional): _____

Thanks for taking the time to help us.

Fax: 503.797.1831
Mail: Metro Auditor, 600 NE Grand Avenue, Portland, OR 97232-2736
Call: Alexis Dow, CPA, Metro Auditor, 503.797.1891
Email: dowa@metro.dst.or.us

Suggestion Hotline: 503.230.0600, MetroAuditor@metro.dst.or.us

MINUTES OF THE METRO COUNCIL MEETING

Thursday, August 17, 2006
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Robert Liberty, Rex Burkholder, Carl Hosticka, Rod Park, Brian Newman

Councilors Absent:

Council President Bragdon convened the Regular Council Meeting at 2:01 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Curtis Sommer, League of West Linn Neighborhoods, 3038 Clubhouse Ct, West Linn OR 97068 spoke about a vision statement for the West Linn Triangle. He provided a letter for the record, which summarized his comments from the League. He recommended buffers between Lake Oswego, West Linn and Tualatin and explained why he suggested this idea (a copy of his letter is included in the meeting record).

3. REASONS FOR INVESTING IN ETHANOL

Scott Berry, Clackamas High School student, completed a senior project on the benefits of investing in ethanol. He then provided a PowerPoint presentation on the benefits of using ethanol (a copy of which is included in the meeting record). He provided background, environmental benefits, noted that ethanol supported the farming economy, created less reliance on petroleum, was renewable, and cost less.

Councilor Newman talked about one of the challenges of ethanol, which was that it required a lot of petroleum to produce the ethanol. Mr. Berry responded that they had proved this idea was false. There was a 30% to 38% increase in energy gained. Councilor Newman asked about the possibility of converting current automobiles/ Mr. Berry responded that there was some modification necessary. Councilor Liberty talked about a report on ethanol summarized in the New York Times. He wondered about bio-diesel versus ethanol. Mr. Berry spoke to the benefits of each. Councilor Liberty suggested conservation as a primary focus. Councilor McLain talked about the corrosion on vehicles. She said they still needed to put money and research into looking at these issues. Councilor Park said he found the debate interesting. He felt it was interesting to look at the issue of self-sustainability.

4. CONSENT AGENDA

4.1 Consideration of minutes of the July 20, 2006 Regular Council Meeting.

Motion:

Councilor Burkholder moved to adopt the meeting minutes of the July 20, 2006 Regular Metro Council.

Vote:

Councilors Burkholder, McLain, Liberty, Newman, Park, Hosticka and

Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
--

4. ORDINANCES – FIRST READ

- 4.1 **Ordinance No. 06-1125**, For the Purpose of Amending Metro Code Section 4.01.050 to Include a Conservation Surcharge With Regular Admission to the Oregon Zoo, Effective January 1, 2007.

Council President Bragdon assigned Ordinance No. 06-1125 to Council.

- 4.2 **Ordinance No. 06-1126**, For the Purpose of Amending FY 2006-07 Budget and Appropriations Schedule to Provide Funding for Metro’s Diversity Plan and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 06-1126 to Council.

- 4.3 **Ordinance No. 06-1127**, For the Purpose of Amending Metro Code Section 7.01.050 to Exempt the Oregon Zoo Conservation Admission Surcharge from Metro Excise Tax, Effective January 1, 2007.

Council President Bragdon assigned Ordinance No. 06-1127 to Council.

5. RESOLUTIONS

- 5.1 **Resolution No. 06-3722**, For the Purposed of Approving the Interim Waste Reduction Plan to Provide Direction for Regional Waste Reduction Programs Pending the Completion of the Regional Solid Waste Management Plan.

Motion:	Councilor McLain moved to adopt Resolution No. 06-3722.
Seconded:	Councilor Newman seconded the motion

Councilor McLain introduced the resolution on the interim plan. She talked about the outreach efforts to solicit input for the plan on waste reduction. She noted Department of Environmental Quality (DEQ) had approved the draft of the plan. She noted policy elements in the plan 1) providing a guiding direction and 2) program area section containing the goals and objectives to focus the work program. She noted Metro’s key role in creating changes in the reduction of waste. She suggested issues the Council must consider. She talked about product stewardship and the reduction of hazardous waste. She said this interim plan was focusing on meeting the 64% recovery goal by 2009. She stated that the sustainability goals were included in the interim plan. She felt Metro was headed in the right direction.

Council President Bragdon opened a public hearing.

Jeanne Roy, 2420 SW Boundary Portland OR 97239, said she was a citizen advocate for waste reduction. She had served many years on this effort. She said this plan was called interim because it had not yet been incorporated into the Regional Solid Waste Management Plan (RSWMP). State law required that Metro had a waste reduction plan. She felt this plan was the weakest plan she had seen because it didn’t say how they were going to accomplish the plan. She noted that there were a lot of important programs that should be included in the plan. She urged Council not

to approve the plan and send it back to staff for revision. Councilor McLain provided her comments to Ms. Roy's recommendation and spoke to the budget process. Ms. Roy said this was the only opportunity for the public to have input. Councilor Liberty asked Ms. Roy if the programs were the right way to reduce waste. Ms. Roy said she did support the programs. She was not sure how they would achieve the programs.

Jeff Murray, Far West Fibers, 6440 SW Alexander St Hillsboro, OR 97219 said his company processed recyclables. He felt Metro should focus on education. He was very happy with section 4 of the plan focusing on education. He talked about the cooperative effort. He supported that section particularly. Councilor Liberty asked what kind of fibers his company recovered. Mr. Murray said they processed paper. Councilor Liberty asked about the success of business recycling. Mr. Murray added that businesses would do a better job of recycling through education. Councilor Park asked about the commercial recycling effort and outreach in Beaverton. Mr. Murray talked about the success of the program and the need to repeat educational efforts. He shared the successes of the program both with the commercial sector and multi-family dwellings.

Wade Lange, Building Owners and Managers Association (BOMA), 825 NE Multnomah Portland OR 97232, said he served on the Solid Waste Advisory Committee (SWAC) and represented the business interests. They supported the interim plan that had been put together. He talked about the opportunities to partner. He talked about trash hauling in the Portland area and the costs. They whole-heartedly supported the interim plan and the continued use of incentives.

Dave White, Oregon Refuse and Recycling Association/Tri-county, 1739 NW 156th Ave Beaverton, OR 97006 said the document was readable, clear and was a strong plan. It had a strong regional focus and would require local partnering. He asked, had they gone to the locals to talk to them about the plan? Their industry felt there must be local buy in. He noted page 39 of the plan. He asked Council if the local jurisdictions knew about page 39. If you got local jurisdiction buy in, the plan would be successful. Councilor McLain said they went to the Metro Policy Advisory Committee (MPAC) twice and asked that they review the plan. She felt it had been an integrated process. She said she knew that staff from Metro had been communicating with local jurisdiction staff. She noted that recycling issues were difficult to get on the jurisdictional agendas. Councilor Burkholder said they had requirements that we were required to meet. He said what page 39 did was provide mechanisms if local jurisdictions didn't follow waste reduction plans. Mike Hogle, Solid Waste and Recycling Director, said this was a rewrite of the previous waste reduction plan, which had been implemented over 10 years ago. They looked at this as a recovery recyclable issue in reaching the 64%. If local governments wanted to vary their program, they needed to come to Metro for a review. It was a checks and balance to ensure state recycling goals were met. He talked about the need to take the plan out to local jurisdictions once the plan was adopted. Councilor Liberty wondered how the existing program got us further along in our 64% goal. Mr. Hogle responded to his questions. He noted that organics collection, roll-cart recycling, and waste prevention activities added to the increase reduction in waste. Councilor Liberty talked about the plan and the integration into RSWMP. Mr. White said if there was a change in program Metro would look at the impact.

Councilor Newman asked Mr. Lange about his concerns. Mr. Lange said the business community was concerned about mandatory waste reduction. The business plan of a facility would be impacted by mandatory waste reduction.

Councilor Park asked Mr. White if there really was a local level of concern. Mr. White said they don't know about the plan. The question was whose responsibility was it to tell the jurisdictions about the plan?

Councilor Liberty asked Mr. Lange if BOMA had had a discussion about mandatory recycling. Mr. Lange responded that they wanted to promote waste reduction through education. He thought in working together and working with the tenants in their property they would see a significant increase in recycling.

Council President Bragdon closed the public hearing.

Councilor McLain appreciated the testimony provided today. She felt local jurisdictions and the general public had sat down with Metro staff and Councilors and talked about services provided over the past three years. They were responding to state requirements to meet a statewide goal. It was important that all citizens, local jurisdictions and businesses be included in the plan and educated on the plan. She agreed with Ms. Roy that the plan was more general. They were agreeing on a vision and principles. It was important that citizens and local jurisdictions had an opportunity to weigh in on the plan. She urged support of the plan.

Councilor Park said this resolution and plan was before SWAC. SWAC voted to forward the plan to Council. Local governments were part of SWAC and did hear about the plan. He talked about the system and felt that we were doing well with all of the competing goals. He noted Jeff Murray's testimony on the success of the program. They were continuing to make this a better system.

Councilor Liberty said he was still a bit uncertain about what the word interim meant. He felt the plan was a bit thin and a bit vague. Mr. Hoglund said he was guilty of putting the word interim in the title. The disposal system plan will be developed over the next six months and then both would be integrated into the RSWMP.

Councilor McLain said any policy document was never finished. They could always amend the document. She urged support of the resolution.

Vote:

Councilors Hosticka, Newman, Burkholder, McLain, Park voted in support of the motion. The vote was 5 aye/2 nay, the motion passed with Councilor Liberty and Council President Bragdon voting no.

5.2 **Resolution No. 06-3717**, For the Purpose of Endorsing Regional Support of the "Plug-In" Partners National Campaign.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3717.
Seconded:	Councilor McLain seconded the motion

Councilor Burkholder said they were invited to support a plug-in hybrid car national initiative. He talked about the net energy benefit. The Joint Policy Advisory Committee on Transportation (JPACT) considered this resolution and adopted the resolution. He urged support.

Vote:

Councilors Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed with Councilor Park absent from the vote.

5.3 **Resolution No. 06-3720**, For the Purpose of Authorizing the Chief Operating Officer to Enter into Options to Purchase Properties in the Newell Creek, Lower Tualatin River Headwaters, Forest Park and Johnson Creek Target Areas, and Including a Property in the Forest Park Target Area Subject to Unusual Circumstances under the Proposed 2006 Natural Areas Bond Measure Implementation Work Plan.

Motion:	Councilor Hosticka moved to adopt Resolution No. 06-3720.
Seconded:	Councilor Liberty seconded the motion

Councilor Hosticka reviewed the resolution and explained the issues about the Forest Park Target Area unusual circumstances. Councilor Liberty added his comment. Councilor Hosticka urged support of the resolution.

Vote:

Councilors Hosticka, Burkholder, Newman, McLain, Liberty and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed with Councilor Park absent from the vote.
--

5.4 **Resolution No. 06-3721**, For the Purpose of Adopting the Metro Diversity Plan.

Motion:	Councilor McLain moved to adopt Resolution No. 06-3721.
Seconded:	Councilor Hosticka seconded the motion

Councilor McLain explained the Metro Diversity Plan and the efforts that had gone into the plan. She talked about the principles of the plan. She noted the Diversity Action Team at Metro and how they planned to advance this effort. She reviewed current initiatives at Metro, which included Chief Operating Officer's accountability on these issues, opportunities for diversity training, increases in our recruitment efforts, increases in our citizen advisory committee, as well as employment and procurement strategies. She also talked about a budget amendment that would be coming forward on September 7, 2006 to support the program.

Council President Bragdon opened a public hearing.

Vicki Nakashima, Partners in Diversity, 4685 Galewood St., Lake Oswego OR 97035 said she was the director for Partners in Diversity. They were working together to support initiatives to support diversity. Metro was one of the first organizations to step in and participate in the Partners in Diversity. In reviewing the plan the areas that were effective were 1) leadership commitment, 2) measuring the progress, and 3) investment. She believed these three elements would help the plan continue.

Samuel Brooks, Oregon Association of Minority Enterprises, 4134 N Vancune Portland OR 97217 said he had looked at Metro's plan. It was a great start. He suggested inclusiveness in diversity was important. He acknowledged Metro's staff.

Baruti Artharee, Partners in Diversity, 1235 NE 47th Ave Portland OR 97213 said he was a member of the Partner's organization. He also represented Providence Health Systems. He talked about his past experience working with groups on diversity both in public and private sector. He noted a document he shared with Councilors (a copy of which is included in the meeting record). He said diversity was changing in the State of Oregon. He was pleased to have worked with the COO and Metro staff. He talked about what they had done at Providence on diversity.

Council President Bragdon closed the public hearing.

Councilor Burkholder said that diversity was one of the Council's operating principles. This was a critical success factor. He felt there was a deep commitment on the part of the Council and Metro. He acknowledged Mr. Jordan's commitment to taking this task on.

Councilor Liberty said he had the opportunity to attend his first "Say Hey" event. He was impressed by the attendance at the event. He thanked all for the work they had done.

Council President Bragdon added his thanks. This was about the plan and internalizing it.

Councilor McLain said this was a good start. We needed to continue to do this in a big way.

Vote:

Councilors Hosticka, Burkholder, McLain, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed with Councilor Park absent from the vote.

5.5 **Resolution No. 06-3724**, For the Purpose of Approving an Application for a Wetland Mitigation Easement to the City of Wilsonville and Matrix Development Corporation.

Motion:	Councilor Hosticka moved to adopt Resolution No. 06-3724.
Seconded:	Councilor Newman seconded the motion

Councilor Hosticka provided an overview of the application for a wetland mitigation easement. Councilor Liberty asked about previous legislation that impacted this legislation. Councilor Burkholder asked a clarifying question about long-term liability. Jim Desmond, Regional Parks and Greenspaces Director, added his comments about the plan and responded to their questions. Council President Bragdon said he had similar reservations to Councilor Burkholder. He assumed that Mr. Desmond would come back to Council if the plan did not meet his expectations. Mr. Desmond said staff had raised these concerns from the beginning. They were 100% committed to making a good plan. Councilor Park asked additional questions about the mitigation project. Mr. Desmond said there were several projects that were similar. He talked about the public benefits of this site. He urged that this mitigation be done in the same water basin. He felt it was a good partnership.

Councilor Newman said he had not been to this site. He asked how Mr. Desmond would characterize it now. What had been our long-term plan? Mr. Desmond said historically it had been farmed but there had been a lot of ditching. They wanted to bring back the natural hydrology. The area had become overrun with exotics. They would have to remove all of the exotics and plant native plants. He talked about the cost of the project. Councilor Newman asked if these dollars weren't available from the private partner, how would they proceed? Mr. Desmond responded that the project would be delayed greatly. He talked about other projects in the area that were more of a priority. He felt this was an incredible opportunity to tie the wildlife refuge all the way to the river. Councilor Liberty said he felt this was an attractive opportunity. He asked about the restoration efforts and the necessity for pumping. Mr. Desmond responded to his question. Councilor Hosticka said the idea that what they were doing was taking a situation where someone was going to fill in and then use public property to mitigate was a concern. He

felt it was a loss of wetlands. He was willing to support this easement but they should be careful to assure that the wetlands improved.

Vote:

Councilors Park, Hosticka, Burkholder, Newman, McLain, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
--

5.6 **Resolution No. 06-3706**, For the Purpose of Entering an Order Relating to the Roger and Ann Miracle Claim for Compensation under ORS 197.352 (Measure 37).

Sonny Conder, Planning Department, summarized the claim. The staff recommends denial because Metro found that there had been no loss of value.

Council President Bragdon opened a public hearing.

Mark Bobbitt, the attorney representing the Miracles, said he believed the Metro analysis was flawed. The purpose of the Metro Council was to serve a judicial function. The basic rule was the Council was to interpret statutes. They were not allowed to legislate. He spoke to the claim and the timing of the claim. The claim was effective the date it was filed. The claim was based upon the present enforcement of the 20-acre overlay. The claim was not based upon the passage of the Ordinance in 2002. The analysis of the staff was premised on the basis of the adoption of the Ordinance in 2002. At the time the claim was filed, Mr. Miracle had already received a waiver from the City of Damascus and Clackamas County. He summarized Measure 37 and what it allowed the claimant to do. The second issue was the determination of what was fair market value. He defined fair market value as defined by the court. He suggested Council should be using the same definition as the courts used in condemnation: income, cost or comparable sales. They were using the comparable sales for the purpose of determining fair market value. He felt staff's analysis was flawed. He then talked about the Jaeger method. It had never been accepted nor showed up in any court case in the State of Oregon. Fair market value was the standard the courts and the State of Oregon used. He continued his comments about the Jaeger method. In conclusion, he said, there was no issue as to the validity of the claim. The sole issue was a reduction in fair market value. He urged Council to send this resolution back to staff for reconsideration.

Roger Miracle said he was here because he had submitted a Measure 37 claim. He read a portion of Measure 37 and spoke to what was the basis of his claim. The basis for these staff recommendations were faulty and in error. He talked about the comparable sales methods and summarized what Metro's staff report said. His claim was in the present tense. He had approval from the City, State and County to develop one-acre parcels. The staff recommendation missed the point. He said Measure 37 did not refer to the future or the past. His claim was in the present, as of February 1, 2006. In light of that fact, there were two issues, 1) restriction of the use of private property and 2) reduction of fair market property. The crux of the issue was the valuation. He said the report said he had failed to establish loss in value. The courts had upheld establishing value for the property as what a willing buyer and willing seller would agree to. Further, looking at the 20-acre overlay and having one building site opportunity going by the values presented in the report, page 8 and 10 on attachment 2, put the value at about \$252,000 to \$290,000. He noted a letter he had received recently from Brad Davis Properties (a copy of the letter is included in the meeting record). He said that the letter established value, which totaled about \$1.4 million. He noted three comparable sales documents. He said there had been a reduction in the fair market value of his property. He reviewed several sections on the findings of fact. He shared his vision of

his comprehensive plan for his land. He said Metro had used wrong assumptions in its assessments. He urged Council to fulfill the request of the Oregon public.

Council President Bragdon closed the public hearing.

Councilor Park said he had talked with Mr. Miracle prior to this Council meeting and wanted to note this for the record.

Councilor Liberty talked about the history of the property. He asked about the zoning at the time he purchased the property. Mr. Miracle said he was not ready to develop the property so he did not apply for one-acre properties zoning. Councilor Liberty talked about the ordinance and each section of the ordinance. Mr. Bobbitt responded to his comment. Mr. Miracle added that he had a bona fide offer for his property. This offer established that he had a loss in value.

Councilor Burkholder asked if they were in a judicial hearing. Dick Benner, Metro Senior Attorney, responded that it was a not a judicial or quasi-judicial proceeding. Council had chosen to hold a hearing. He summarized what Mr. Bobbitt was talking about. Council did interpret a statute. Councilor Hosticka asked about the dates and what was the operative date that Council needed to be considering. Mr. Benner responded that Mr. Bobbitt was reading part of Measure 37. He summarized what Mr. Bobbitt was claiming in terms of dates. Mr. Benner summarized Metro's interpretation of the measure and the analysis. Mr. Bobbitt reviewed a portion of Measure 37 and his thoughts about what the claims process was. Councilor Park talked about the State's acknowledgement of the ordinance. Mr. Benner concurred with Councilor Park's remarks. He said what they were talking about here was whether there had been a reduction in value. The market perception of what Council did, showed there was an increase in value. Mr. Bobbitt agreed with that analysis. The evidence that they submitted when the market took this into account was that there was a reduction in value. Councilor Park talked about if the property was removed from the Urban Growth Boundary (UGB).

Councilor Liberty asked additional questions about the date of enforcement. Had the attorney general provided any information? Mr. Benner said the attorney general's summary was similar to Metro's interpretation.

Motion:	Councilor Burkholder moved to adopt Resolution No. 06-3706.
Seconded:	Councilor Liberty seconded the motion

Councilor Burkholder said they had heard similar claims. He felt comfortable that our action had not reduced the value of the property. Therefore, the claim did not stand. He supported the resolution. Councilor Hosticka echoed Councilor Burkholder's comments. He felt our legal counsel provided good guidance. He supported the COO's recommendation. Council President Bragdon concurred with the COO's recommendation.

Councilor Park said he would be supporting the resolution and explained their responsibilities concerning the claim. He also noted that the 20-acre lot minimum was a temporary action. He concurred with Metro's legal advice. Councilor Liberty provided his comments and supported the staff report and resolution.

Vote:	Councilors Park, Hosticka, Burkholder, McLain, Newman, Liberty, and Council President Bragdon voted in support of the motion. The vote was 7 aye, the motion passed.
-------	--

6. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, talked about an article from the Gresham Outlook about Jim Caudell's action at Blue Lake Park where he saved a person's life. He commended Mr. Caudell for his action. He felt his actions were laudable. Councilor Park also appreciated Mr. Caudell's actions and asked about the citizen he saved. Mr. Jordan said he would follow up.

7. COUNCILOR COMMUNICATION

Councilor Newman updated the Council on the Oregon Zoo Master Plan.

Councilor Burkholder updated the Council on investigating the use of bio diesel for our vehicles. This was part of our on going sustainability efforts. Second, he attended the Columbia River Crossing meeting yesterday and shared what was happening.

Councilor Newman asked Council if Metro wanted to partner with Reconnecting American to convene focus groups on the aging population and transportation. Councilor McLain said she felt there were unique issues in the region that would be important to include in the conversation. Councilor Hosticka said he felt it was a good idea. It was an important subject when they come to looking at the next Urban Growth Report. It would be good to collect all the information. Councilor Liberty added his comments about Reconnecting America.

Councilor Park said he was working on a resolution on open spaces bond measure and refinement policies about how they dealt with the agricultural areas. He was hopeful that this would be on the September 7th Council agenda. Council President Bragdon supported placing the resolution on the agenda.

Council President Bragdon said Warren Iliff had died last week. Under his tenure the Zoo came under this agency's umbrella.

8. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 5:32 p.m.

Prepared by

Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF AUGUST 17, 2006

Item	Topic	Doc Date	Document Description	Doc. Number
6.4	Amended Exhibit A	8/16/06	To: Metro Council From: Karol Ford, Human Resources Department Re: Amended Exhibit A to Resolution No. 06-3721	081706c-01
3.0	Power Point Presentation	8/16/06	To: Metro Council From: Scott Berry Re: Reasons to Invest in Ethanol power point	081706c-02
6.1	Testimony	8/17/06	To: Metro Council From: Jeanne Roy Re: Testimony on Resolution No. 06-3722	081706c-03
6.6	Letter and attachments	7/28/06	To: Roger Miracle From: Brad Davis, Brad Davis Properties Re: Measure 37 claim information	081706c-04
6.4	Diversity packet	8/17/06	To: Metro Council From: Baruti Artharee, Regional Director Office of Diversity Re: Providence Health System	081706c-05
2.0	Letter	8/17/06	To: Metro Council From: Curtis Sommer, League of West Linn Neighborhoods Re: Comments from the League on a vision statement for the West Linn Triangl	081706c-06

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 06-3723
APPOINTMENT OF THERESA KOPPANG TO)
THE REGIONAL SOLID WASTE ADVISORY) Introduced by David Bragdon,
COMMITTEE (SWAC)) Council President

WHEREAS, Metro Code Chapter 2.19.130 established the Regional Solid Waste Advisory Committee (SWAC) to evaluate policy recommendations to the Metro Council regarding regional solid waste management and planning; and

WHEREAS, Metro Code Chapter 2.19.030 states that all members and alternate members of all Metro Advisory Committees shall be appointed by the Council President subject to confirmation by the Council; and

WHEREAS, Metro Code Chapter 2.19.130 authorizes representatives and alternates for the SWAC; and

WHEREAS, vacancies have occurred in the SWAC membership; and

WHEREAS, the Council President has appointed Theresa Koppang as a member representing the County of Washington, in the place and stead of Dr. Keith Thomsen, subject to confirmation by the Metro Council; now therefore,

BE IT RESOLVED, that the Metro Council confirms the appointment of Ms. Koppang to Metro's SWAC.

ADOPTED by the Metro Council this _____ day of _____, 2006.

David Bragdon, Council President

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3723 FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF THERESA KOPPANG TO THE REGIONAL SOLID WASTE ADVISORY COMMITTEE (SWAC)

Date: September 7, 2006

Prepared by: Susan Moore

BACKGROUND

The 25-member Regional Solid Waste Advisory Committee (SWAC), representing recyclers, the hauling industry, disposal sites, citizen-ratepayers and local governments, evaluates policy options and presents recommendations to the Metro Council regarding regional solid waste management and planning.

The following individual has been recommended to serve as a member of the SWAC:

1. Washington County Department of Health & Human Services has recommended Theresa Koppang as the new representative to Metro's Solid Waste Advisory Committee. (See Attachment 1).

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

ORS 192.610 "Governing Public Meetings", Metro Code Chapter 2.19.030, "Membership of the Advisory Committees" and 2.19.130, "Metro Solid Waste Advisory Committee", are the relevant legal documents related to these appointments.

3. Anticipated Effects

This resolution is intended to appoint the following individual for non-term limited service on the SWAC: Theresa Koppang.

4. Budget Impacts

None.

RECOMMENDED ACTION

The Council President has reviewed the qualifications of Ms. Koppang and finds her qualified to advise Metro in the matters of solid waste management and planning. Therefore, Council confirmation of these appointments by adoption of Resolution No. 06-3723 is recommended.

Theresa E. Koppang

823 SE 15th Avenue, Portland OR 97214

(503) 703-6077

Professional Experience

Solid Waste Management Supervisor

2006- present

Washington County Health and Human Services Department; Hillsboro, Washington

Supervises and coordinates all aspects of the solid waste management program for Washington County; administers the solid waste and nuisance abatement codes; coordinates, directs and supervises the recycling program; serves as a liaison for the Metropolitan Services District, the Department of Environmental Quality, local governments within Washington County and the solid waste industry.

Lead Planner, Supervisor

2005-2006

King County Department of Natural Resources and Parks, Solid Waste Division; Seattle, Washington

Lead the regional planning effort of 37 jurisdictions to update the comprehensive solid waste management plan. Plan elements included upgrading the landfill and transfer stations owned and operated by King County and updating the education and outreach programs related to recycling and environmental services provided by the county. Supervised the planning unit staff of economists, analysts and planners. Provided technical support to the solid waste management advisory committee (SWAC) and the metropolitan solid waste management advisory committee (MSWMAC).

Program/Project Manager

Recycling and Environmental Services

95 – 2005

Engineering Services

94-95

King County Department of Natural Resources and Parks, Solid Waste Division; Seattle, Washington

Green Team Lead

Major accomplishments:

- Recognized as one of 25 Leaders in the Northwest by the *Sustainable Industries Journal*
- Presented King County's sustainable program accomplishments at EPA conference in Washington, D.C. while accepting the top award from EPA on behalf of King County.
- Revised and redesigned program web pages
- Held trainings on Reducing Toxics; Water Conservation; Specifying Green Products and Building Materials; Designing for Indoor Air Quality; Green Roof Design, Permeable Pavement
- Completed submittal garnering LEED Gold award for county office building
- Green Building Media Campaign launched in partnership with local government and non-profit partners
- Facilitated County Council adoption of environmental building and solid waste practices legislation

Team Lead: Sustainable Development Team

Responsible for overseeing programs that supported King County facilities including: Resource conservation, sustainable building, construction site recycling, waste reduction and recycling programs, toxics reduction, environmental purchasing, product stewardship, Integrated Pest Management and a division-wide environmental management system. Managed contracts for providing support of program and policy development, program evaluation, educational outreach and media publicity. Hired and supervised interns, member of hiring committees for permanent staff. Represented County at regional, state, national and international conferences.

- Facilitated adoption of countywide environmental building policy on behalf of County Executive. Completed cross-county review and formal presentation to Executive and his Cabinet. Formed a cross-departmental team to implement environmentally sustainable initiatives (2001).
- Facilitated a sustainable development team comprised of members from all county departments (01-present)
- Member of King County Solid Waste Division Leadership Team (1999 – 2003)

- Speaker and presenter at Washington State Recycling Association Conferences; US Green Building Council events and 2000 European Conference on Construction Recycling (Rome, Italy).
- Board Member US Green Building Council (Cascadia Chapter) (1999 – 2004)
- Formed a partnership with the local homebuilders association and created a green homebuilding program called BUILT GREEN™. As an executive committee member contributed program design ideas, technical review, funding, and facilitated countywide regulatory review. Organized 2000 media kickoff event.
- Co-sponsored the 1997 Sustainable Building Northwest conference and trade show. Planned and implemented this regional conference with the City of Seattle and private-sector partners. Developed an industry recognition program called *Construction Works* to reward building projects for innovative resource conservation efforts.
 - Steering committee member of the Washington State Recycling Association Construction Recycling Council (1997-2001.) Coordinated with public and private sector members to implement educational programs for the building industry focusing on resource conservation and sustainable building.
 - Wrote, edited and managed production of educational materials.

Program Manager- Wastemobile On-site Education Program

97 - 2000

Managed a public outreach and education program for the hazardous wastes. Promoted proper disposal and alternatives to toxic products. Managed a team responsible for providing program development, staff hiring and training, and program implementation. Provided training to field staff. Enhanced training for field staff and recruited program staff from other county and city household hazardous waste education programs to attend.

Community Educator

92 - 93

Chelan-Douglas Solid Waste Program; East Wenatchee, Washington

Developed and implemented a comprehensive community information and education program on waste reduction and recycling issues. Taught workshops on hazardous and non-hazardous waste handling policies including: federal and state legal requirements, methods for storage and disposal, alternative products, waste prevention, recycling and composting. Tailored topics to a variety of audiences ranging from K-12 students, college students, public and private sectors of manufacturing and service industries.

- Designed, wrote and produced outreach materials; Promoted program through media interviews, public speaking events, placing advertising, and participating in community events; Maintained public resource center of educational materials through on-going research of federal and state policies; Recruited and trained a volunteer base to meet additional education needs throughout a two-county area.

Data Assistant/Communications Volunteer

90 - 91

The Nature Conservancy; Portland, Oregon

Assisted in maintaining database of Oregon's endangered species. Provided information required to complete environmental assessments for land use activity. Maintained knowledge base of environmental policies stemming from the Endangered Species Act.

- Integrated, compiled and organized data sets for entry and reporting purposes; Provided on-going training to volunteer staff; Attained promotional media interviews for staff members throughout state.

Marketing/Sales Representative

87 - 90

Clairol, Inc.; Portland, Oregon

Developed sales, marketing and educational programs for distributors in Oregon and Montana. Maintained detailed account and expense reports.

- Received educator of the year award for implementing a new training program.

Public Relations Experience

85 - 87

Public Affairs Department; The Portland Development Commission; Portland, Oregon

Public Relations Assistance; Kagan and Associates; Dallas, Texas

Public Relations Assistant; City of Richardson; Richardson, Texas

- Produced news releases for a variety of clients; and provided follow-up on results of publicity efforts.
- Assisted in special event planning.
- Wrote articles, directed media calls, answered public inquiries on urban renewal policies and related projects

Education/Training

1995 Master's (Environmental Studies) The Evergreen State College; Olympia, Washington (attended 9/93 - 6/95)

1985 B.A. (Communications) Portland State University; Portland, Oregon
1998 – HAZWOPPER Training (OSHA certified)
2002 Leadership in Energy and Environmental Design (LEED) Accredited Professional

Published in the following trade journals:

2004 *C&D Recycler*
2002 *American Recycler, C&D Recycler, Demolition & Recycling International*, (United States and United Kingdom)
2001 *BioCycle, Recycling Product News, Waste Age* (United States)
2001 *Costruzioni* (Italy)
1999 Government West

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE)	RESOLUTION NO. 06-3725
APPOINTMENTS OF HAL BALLARD, MARK)	
KNUDSEN AND GERRITT ROSENTHAL TO)	Introduced by Council President David
THE METRO COMMITTEE FOR CITIZEN)	Bragdon
INVOLVEMENT (MCCI))	

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

WHEREAS, Section 28 (1) of the Metro Charter states that the Metro Office of Citizen Involvement (MCCI) is created to develop and maintain programs and procedures to aid communication between citizens and the Metro Council; and

WHEREAS, the Metro Council has created MCCI (Metro Code Section 2.19.100); and

WHEREAS, there are three vacancies in MCCI membership with two appointments to be made in District 4 and one in the Washington County Unincorporated area; and

WHEREAS, a recruitment and selection process has been initiated, resulting in the nomination by MCCI of citizens Hal Ballard (Exhibit A), Mark Knudsen (Exhibit B) and Gerritt Rosenthal (Exhibit C) to represent two District 4 positions and a Washington County Unincorporated position, each for two-year terms beginning September 6, 2006, and;

WHEREAS, the Council President has appointed citizens Hal Ballard (Exhibit A), Mark Knudsen (Exhibit B) and Gerritt Rosenthal (Exhibit C) to represent two District 4 positions and a Washington County Unincorporated position to serve in MCCI subject to Metro Council confirmation; now therefore

BE IT RESOLVED that the Metro Council confirms the appointments of Hal Ballard, Mark Knudsen and Gerritt Rosenthal as members of MCCI.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David L. Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Application for the Metro Committee for Citizen Involvement

About Us

Metro is responsible for a wide variety of issues affecting local governments, residents, neighborhoods, businesses, civic organizations and overall quality of life of the region. As a result, Metro is committed to including residents of the region in its decisions and values their perspectives.

The Metro Committee for Citizen Involvement (MCCI) was established under Metro's home-rule charter in 1992 to assist with the development, implementation, and evaluation of Metro's citizen involvement program and advise how to best involve residents in regional planning activities. As such, MCCI is an advisory committee and does not participate in policy-setting.

Biographical Information

Name Hal Ballard		Date July 5, 2006	
Address 15597 NW Athens Drive Apt. 229	State OR	City Portland	Zip Code 97229
Email address info@washcobtc.org		Phone number (503) 984-1761	
Occupation Bicycle Safety Educator		Place of Employment Self-employed	
Council District/County of Residence Metro District 4/ Washington County			

Education

Employment

Please check highest level completed:

- Elementary School (Grades 1-5)
- Middle School (Grades 6-8)
- High School (Grades 9-12)
- Some College
- College
- Post-Graduate

Additional employment and/or work experience.

**Certified Instructor with the League of American Bicyclists since 2000.
Universal Bicycling Institute 1998
Computer Career Institute Instructor 1985-1989**

Volunteering, Community Projects, Groups, Boards, Religious or Civic Organizations, etc.

List and describe any involvement you have had with volunteering, community projects, groups, etc. If you have never volunteered before, please describe what interested you about MCCI.

I have served on many city, county and state level projects since 1996 including the Washington County Transportation Plan update to 2040.

I served as a director of the Bicycle Transportation Alliance for 4 years, and supervised many programs and projects including bicycle parking at events, and establishment and management of the bike lockers along the TriMet ROW from 1998 - 2004.

I served 10 yrs. on the Beaverton B.I.K.E. Task Force, with 7 as chair. My efforts to gain "permanence" for the task force culminated in the designation as the Beaverton Bicycle Advisory Committee.

I currently run the Washington County Bicycle Transportation Coalition a 501(c)(3) not for profit whose mission is "promote bicycle transportation, protect bicyclists' rights, and to improve bicycling conditions throughout Washington County, Oregon through education and advocacy."

Please give two references who are familiar with your community and volunteer work. If you have never volunteered before, please list two personal references.

Dick Schouten, Washington County Commission contact at: schouten@aracnet.com
Margaret Middleton, Sr. Planner, City of Beaverton contact via: mmiddleton@ci.beaverton.or.us

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3725, FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF HAL BALLARD, MARK KNUDSEN AND GERRITT ROSENTHAL TO THE METRO COMMITTEE FOR CITIZEN INVOLVEMENT.

Date: August 7, 2006

Prepared by: Cheryl Grant

BACKGROUND

The Metro Committee for Citizen Involvement (MCCI) has continued to attempt to fill its vacancies. MCCI has actively recruited new members, including soliciting stakeholders and local leaders for nominees, notifying agency staff, and advertising on a weekly basis.

Hal Ballard resides in District 4. The MCCI Membership Committee has recommended Mr. Ballard for this position citing his interest in transportation and environmental issues and community planning. Mr. Ballard's application to the committee is attached to Resolution 06-3725 as Exhibit A.

Mark Knudsen resides in District 4. The MCCI Membership Committee has recommended Mr. Knudsen for this District 4 position citing his commitment to community involvement and his interest in land use planning. Mr. Knudsen's application to the committee is attached to Resolution 06-3725 as Exhibit B.

Gerritt Rosenthal resides in unincorporated Washington County. The MCCI Membership Committee has recommended Mr. Rosenthal for this position citing his interest in the environment and regional planning and development issues. Mr. Rosenthal's application to the committee is attached to Resolution No. 06-3725 as Exhibit C.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Section 28(1) of the Metro Charter and Metro Code Section 2.19.100, adopted on November 9, 2000, states that the Metro Office of Citizen Involvement (MCCI) is created to develop and maintain programs and procedures to aid communication between citizens and the Metro Council; and Ordinance No. 00-860A (For the Purpose of Adding a New Chapter 2.19 to the Metro Code Relating to Advisory Committees).

3. Anticipated Effects

That three new members will be appointed to MCCI.

4. Budget Impacts

None.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 06-3725.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY) ORDINANCE NO. 06-1126
2006-07 BUDGET AND APPROPRIATIONS) Introduced by Mike Jordan, Chief Operating
SCHEDULE PROVIDE FUNDING FOR METRO’S) Officer, with the concurrence of Council
DIVERSITY PLAN AND DECLARING AN) President Bragdon
EMERGENCY)

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2006-07 Budget; and

WHEREAS, the need for the increase 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 2006-07 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled “Revision” of Exhibits A and B to this Ordinance for the purpose of amending the General Fund.
- 2. 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 _____, 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Council Office							
Total Personal Services		20.00	\$1,589,895	0.00	\$0	20.00	\$1,589,895
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		45,000		0		45,000
	5205 Operating Supplies		7,500		0		7,500
	5210 Subscriptions and Dues		4,000		0		4,000
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		29,500		17,500		47,000
	5251 Utility Services		2,500		0		2,500
	5260 Maintenance & Repair Services		1,200		0		1,200
	5265 Rentals		1,000		0		1,000
	5280 Other Purchased Services		9,000		0		9,000
<i>OTHEXP Other Expenditures</i>							
	5450 Travel		8,000		0		8,000
	5455 Staff Development		8,000		0		8,000
	5470 Council Costs		19,500		0		19,500
	5490 Miscellaneous Expenditures		31,000		0		31,000
Total Materials & Services			\$166,200		\$17,500		\$183,700
TOTAL REQUIREMENTS		20.00	\$1,756,095	0.00	\$17,500	20.00	\$1,773,595

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Non-Departmental							
Total Personal Services		4.00	\$454,058	0.00	\$0	4.00	\$454,058
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
	5201 Office Supplies		20,780		0		20,780
	5205 Operating Supplies		4,370		0		4,370
	5210 Subscriptions and Dues		32,500		0		32,500
	5215 Maintenance & Repairs Supplies		7,500		0		7,500
<i>SVCS Services</i>							
	5240 Contracted Professional Svcs		413,450		0		413,450
	5246 Sponsorships		35,000		(5,000)		30,000
	5251 Utility Services		1,000		0		1,000
	5280 Other Purchased Services		186,640		0		186,640
	5290 Operations Contracts		250		0		250
<i>IGEXP Intergov't Expenditures</i>							
	5300 Payments to Other Agencies		11,320,046		0		11,320,046
	5305 Election Expenses		300,000		0		300,000
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		1,175,000		0		1,175,000
	5450 Travel		6,000		0		6,000
	5455 Staff Development		2,000		0		2,000
	5490 Miscellaneous Expenditures		50,000		0		50,000
Total Materials & Services			\$13,554,536		(\$5,000)		\$13,549,536
<i>Debt Service</i>							
<i>REVBND Revenue Bond Payments</i>							
	5635 Revenue Bond Payments-Interest		1,198,898		0		1,198,898
Total Debt Service			\$1,198,898		\$0		\$1,198,898
TOTAL REQUIREMENTS		4.00	\$15,207,492	0.00	(\$5,000)	4.00	\$15,202,492

Exhibit A
Ordinance No. 06-1126

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
General Expenses							
Total Interfund Transfers			\$7,823,692		\$0		\$7,823,692
<i><u>Contingency & Unappropriated Balance</u></i>							
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* General Contingency		1,796,785		(12,500)		1,784,285
	* General Reserve		5,848,983		0		5,848,983
	* Tourism Opportunity & Comp. Account		43,307		0		43,307
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Recovery Rate Stabilization reserve		1,982,748		0		1,982,748
	* Computer Replacement Reserve (Planning)		90,000		0		90,000
	* Tibbets Flower Account		278		0		278
	* Reserve for Future Debt Service		1,862,371		0		1,862,371
Total Contingency & Unappropriated Balance			\$11,624,472		(\$12,500)		\$11,611,972
TOTAL REQUIREMENTS		402.33	\$102,053,553	0.00	\$0	402.33	\$102,053,553

Exhibit B
Ordinance No. 06-1126
FY 2006-07 SCHEDULE OF APPROPRIATIONS

GENERAL FUND	<u>Current</u>	<u>Revision</u>	<u>Amended</u>
	<u>Appropriation</u>	<u>Revision</u>	<u>Appropriation</u>
Council Office			
Operating Expenses (PS & M&S)	1,756,095	17,500	1,773,595
Subtotal	<u>1,756,095</u>	<u>17,500</u>	<u>1,773,595</u>
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,352,501	0	7,352,501
Capital Outlay	5,000	0	5,000
Subtotal	<u>7,357,501</u>	<u>0</u>	<u>7,357,501</u>
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Subtotal	<u>1,527,312</u>	<u>0</u>	<u>1,527,312</u>
Metro Auditor			
Operating Expenses (PS & M&S)	342,280	0	342,280
Subtotal	<u>342,280</u>	<u>0</u>	<u>342,280</u>
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,448,414	0	1,448,414
Subtotal	<u>1,448,414</u>	<u>0</u>	<u>1,448,414</u>
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Capital Outlay	200,000	0	200,000
Subtotal	<u>22,708,631</u>	<u>0</u>	<u>22,708,631</u>
Planning			
Operating Expenses (PS & M&S)	23,852,076	0	23,852,076
Subtotal	<u>23,852,076</u>	<u>0</u>	<u>23,852,076</u>
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Subtotal	<u>1,390,721</u>	<u>0</u>	<u>1,390,721</u>
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	6,914,866	0	6,914,866
Capital Outlay	100,000	0	100,000
Subtotal	<u>7,014,866</u>	<u>0</u>	<u>7,014,866</u>

Exhibit B
Ordinance No. 06-1126
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Amended Appropriation</u>
Non-Departmental			
Operating Expenses (PS & M&S)	14,008,594	(5,000)	14,003,594
Debt Service	1,198,898	0	1,198,898
Subtotal	15,207,492	(5,000)	15,202,492
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	7,689,075	(12,500)	7,676,575
Subtotal	15,512,767	(12,500)	15,500,267
Unappropriated Balance	3,935,397	0	3,935,397
Total Fund Requirements	\$102,053,553	\$0	\$102,053,553

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE_NO. [06-1126](#), FOR THE PURPOSE OF AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE TO PROVIDE FUNDING FOR METRO'S DIVERSITY PLAN AND DECLARING AN EMERGENCY

Date: August 17, 2006

Prepared by: Karol Ford

BACKGROUND

In 2005, Metro Council developed a strategic plan and critical success factors for the agency, including Workforce Excellence and "providing leadership in the community through our diversity practices." In response to this objective, Michael Jordan, Chief Operating Officer (COO), convened the Diversity Action Team, comprised of Councilor Susan McLain, liaison to Metro Council, Mike Hogle, Solid Waste & Recycling Director, liaison to senior management, and employee representatives from Contracts and Procurement, Public Affairs and Government Relations, and Human Resources. The Diversity Action Team has developed a Metro Diversity Plan as a written statement of Metro's commitment to diversity, including measurable objectives within each of the core areas of contract and procurement, membership on citizen advisory committees, and recruitment and retention of employees. The Program Budget for the Diversity Action Team was presented in the Metro Council Work session December 6, a copy of which is attached as Exhibit A to this staff report. Subsequent to that work session the Diversity Program Budget was inadvertently left out of the Proposed Budget. This budget amendment is being requested in order to provide necessary funding to achieve the Metro Diversity Plan objectives.

First year efforts for this program will be to sponsor the Partners in Diversity program, and provide a small amount for activities/events to further diversity efforts. The Office of the COO provides program management.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this resolution.
2. **Legal Antecedents:** This program ensures Metro compliance with local, state and federal regulations concerning diversity including Title VI and VII of the Civil Rights Act of 1964, as well as related contracts & purchasing laws and regulations, including Oregon Revised Statutes, Federal Regulations, and Metro Code 2.04.100 – 2.04.190.
3. **Anticipated Effects:** Adoption of the Diversity Action Team Budget will provide much needed funding to support initiatives proposed in the Metro Diversity Action Plan.
4. **Budget Impacts:** The budget amendment request is for the amount of \$17,500. \$5,000 will be used to renew the Partners in Diversity annual sponsorship fee; the remaining \$12,500 will be used to implement Diversity Plan objectives. The proposed funding for this amendment will be a \$12,500 transfer from the General Fund contingency and a \$5,000 reduction to non-departmental sponsorship funding. Proposed funding in future years for this program will be Central Services Cost Allocation. In year three of this program, funding will need to increase to provide for a part-time employee to manage diversity goals and objectives identified by the Diversity Action Team.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance # [06-1126](#).

Exhibit A to Ordinance No. 06-1126 Staff Report

Metro

FY 2006/2007 Program Budget

**Workforce Excellence
Diversity Action Team**

Program Manager: Mike Jordan, COO

Program Status: New

Description of Program

Metro's diversity efforts are most evident in three areas: Contracts and Purchasing, membership on citizen advisory committees, Recruitment and Retention. This program ensures Metro's success in identifying and achieving diversity initiatives in each of these areas. Primary stakeholders include the Metro Council, outside businesses, Metro advisory committee members, department directors, managers and line employees.

Regulatory/Statutory Requirements

This program ensures Metro compliance with local, state and federal regulations concerning diversity including Title VI and VII of the Civil Rights Act of 1964, as well as related contracts & purchasing laws and regulations, including Oregon Revised Statutes, Federal Regulations, and Metro Code 2.04.100 – 2.04.190.

Relationship to Goal/Critical Success Factor

This program supports Metro Council's Critical Success Factor of Workforce Excellence by developing goals and objectives that align with Council's stated objective of "providing leadership in the community through our diversity practices."

In addition, this program provides ancillary support to the Critical Success Factor of Communications and Leadership Excellence by enhancing diversity on Metro advisory committees in order to reflect the ethnicity and income distribution of the community we serve.

**Changes from
FY 2005/06 Current Service Levels**

This is a new program. These initiatives were previously administered in three departments, including FAS Contracts

and Purchasing, Human Resources, and Public Affairs and Government Relations.

Interrelationship to Other Programs

Contracts and Purchasing
Human Resources
Public Affairs and Government Relations

Issues & Challenges

Collaboratively develop and implement sustainable diversity initiatives.

**Performance Measures or
Indicators of Success**

Perf Measure #1: Agency-wide diversity plan developed.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	100%				

Perf Measure #2: Diversity goals established for Metro Citizen Committees.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	TBD	TBD	TBD	TBD	TBD

Perf Measure #3: Diversity of applicant pools increased for recruitments where underutilization is found.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	3%	5%	7%	10%	10%

Perf Measure #4: M/W/ESB utilization increased on Metro Projects. Percentage represents utilization achieved based on the total contract dollars solicited through the competitive bidding process.

<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
N/A	5%	7%	10%	15%	15%

Metro
 FY 2006/2007 Program Budget

Budget and Projections	<i>Adopted</i>	<i>Proposed</i>	<i>Projected</i>	<i>Projected</i>	<i>Projected</i>	<i>Projected</i>
	<u>05/06</u>	<u>06/07</u>	<u>07/08</u>	<u>08/09</u>	<u>09/10</u>	<u>10/11</u>
PROGRAM RESOURCES						
Enterprise Revenue						
Grants & Donations						
Governmental Sources						
Other resources (specify)						
TOTAL PROGRAM RESOURCES	\$0	\$0	\$0	\$0	\$0	\$0
PROGRAM OUTLAYS						
Costs	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
Capital						
Department Administration & Overhead						
Direct Service Transfers						
Central Administration & Overhead						
TOTAL PROGRAM OUTLAYS	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
NET PROGRAM REVENUE / (COST) <i>(program resources minus outlays)</i>						
<i>less: NON-PROGRAMMATIC RESOURCES</i>						
Excise Tax						
Property tax						
Central Services Cost Allocation	\$0	\$17,500	\$17,500	\$75,000	\$77,000	\$78,000
Department Current Revenue						
Reserves						
Other (specify)						
<i>equals: Additional Resources / (Resources Needed)</i>	\$0	(\$17,500)	(\$17,500)	(\$75,000)	(\$77,000)	(\$78,000)

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 06-1125
CODE SECTION 4.01.050 TO INCLUDE A)
CONSERVATION SURCHARGE WITH) Introduced by Chief Operating Officer Michael J.
REGULAR ADMISSION TO THE OREGON) Jordan, with the concurrence of Council
ZOO, EFFECTIVE JANUARY 1, 2007) President David Bragdon

WHEREAS, The Oregon Zoo has established itself as one of the leading zoos in the country for its conservation efforts; and

WHEREAS, funding is necessary for the continued development of these innovative conservation programs; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 4.01.050 is amended to read as follows:

“4.01.050 Admission Fees and Policies

(a) Regular Fee Schedule

Adult (12 years and over)	\$9.50
Youth (3 years through 11 years)	\$6.50
Child (2 years and younger)	Free
Senior Citizen (65 years and over)	\$8.00

(b) Conservation Admission Surcharge. A twenty-five cents (\$0.25) surcharge will be added to each regular paid admission to go toward the funding of Oregon Zoo conservation initiatives. This surcharge is in addition to the admission fees listed in the Regular Fee Schedule in subsection (a) above.

(bc) Free and Reduced Admission

- (1) The Director may set free or reduced price admission rates for groups, special events, or as otherwise in accordance with this Chapter.
- (2) A free admission pass will entitle the holder only to enter the Zoo without paying an admission fee.
- (3) A reduced admission pass will entitle the holder only to enter the Zoo by paying a reduced admission fee.

- (4) Free or reduced admission passes may be issued to the following groups or individuals and shall be administered as follows:
- (A) Metro employees shall be entitled to free regular Zoo admission upon presentation of a current Metro employee identification card.
 - (B) Metro elected officials shall be entitled to free admission.
 - (C) Free admission passes in the form of volunteer identification cards may, at the Director's discretion, be issued to persons who perform volunteer work at the Zoo. Cards shall bear the name of the volunteer, shall be signed by the Director, shall be non-transferable, and shall terminate at the end of each calendar year or upon termination of volunteer duty, whichever date occurs first. New identification cards may be issued at the beginning of each new calendar year for active Zoo volunteers.
 - (D) The Zoo Director may issue reduced price admission passes to individuals using a TriMet bus or the Metro Area Express (MAX) for travel to the Zoo, upon presentation of acceptable proof of fare payment, which includes TriMet passes, MAX tickets and bus transfer receipts validated on the date of Zoo entry.
- (5) Admission to the Zoo shall be at a reduced rate for all persons during a portion of a day each month, as determined by the Director.

~~(ed)~~ Special Events. The Zoo, or portions thereof, may be utilized for special events designed to enhance Zoo revenues during hours that the Zoo is not normally open to the public. The number, nature of, and admission fees for such events shall be determined by the Zoo Director.

~~(de)~~ Parking Fee. The Zoo Director may establish, charge and collect a parking fee from Zoo patrons for parking in the Zoo Parking Lot and Shuttle Lot and may adjust said parking fee annually.”

2. The amendment to Metro Code Section 4.01.050 Admission Fees and Policies, takes effect January 1, 2007.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1125, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 4.01.050 TO INCLUDE A CONSERVATION SURCHARGE WITH REGULAR ADMISSION TO THE OREGON ZOO, EFFECTIVE JANUARY 1, 2007, AND ORDINANCE NO. 06-1127, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 7.01.050 TO EXEMPT THE OREGON ZOO CONSERVATION ADMISSION SURCHARGE FROM METRO EXCISE TAX, EFFECTIVE JANUARY 1, 2007

Date: August 17, 2006

Prepared by: Tony Vecchio and Brad Stevens

BACKGROUND

The FY 2006-07 budget for the Oregon Zoo includes the addition of a twenty-five cents (\$0.25) conservation surcharge on regular admission. The zoo is part of a consortium of northwest conservation organizations. Funds raised through the conservation surcharge are to be pooled with the funds collected from the other member organizations and used to fund northwest conservation initiatives, including conservation projects at the Oregon Zoo. Initially, until a mechanism can be established through the conservation consortium, these funds will go to the Oregon Zoo Foundation to be tracked and managed through the Future for Wildlife Fund. The zoo will report back to Council annually on the disposition of surcharge funds, including a summary of surcharge funded projects.

The companion ordinance, Ordinance No. 06-1127, is necessary if the Metro Council wishes to exempt the surcharge from Metro Excise Tax. If the surcharge is subject to the excise tax, it is projected to generate \$95,000.00 annually. Exempting the surcharge from Metro Excise Tax is would generate an additional \$7,000.00 each year for conservation projects.

ANALYSIS/INFORMATION

- 1. Known Opposition** None known.
- 2. Legal Antecedents** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees and requires the Zoo to request an amendment to increase fees. Metro Code Section 7.01.050 Exemptions allows for excise tax exemptions for specified persons, users, and operators.
- 3. Anticipated Effects** The Conservation Surcharge is expected to generate approximately \$102,000.00 annually to fund northwest regional conservation projects.
- 4. Budget Impacts** The projected revenues and expenditures associated with the Conservation Surcharge are already included in the FY 2006-07 budget.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinances Nos. 06-1125 and 06-1127.

Staff Report to Ordinance Nos. 06-1125 & 06-1127

M:\attorney\confidential\R-0\2006\Ords. 06-1125.1127.Zoo.Staff Report.02
ZOO/FAS/BS/OMA/DBC/sm 8/3/06

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 06-1127
CODE SECTION 7.01.050 TO EXEMPT THE)	
OREGON ZOO CONSERVATION)	Introduced by Chief Operating Officer Michael J.
ADMISSION SURCHARGE FROM METRO)	Jordan, with the concurrence of Council
EXCISE TAX, EFFECTIVE JANUARY 1, 2007)	President David Bragdon

WHEREAS, The Oregon Zoo has established itself as one of the leading zoos in the country for its conservation efforts; and

WHEREAS, funding is necessary for the continued development of these innovative conservation programs; and

WHEREAS, the Metro Council has approved the creation of a Conservation Admission Surcharge at the Oregon Zoo; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 7.01.050 is amended to read as follows:

“7.01.050 Exemptions

- (a) The following persons, users and operators are exempt from the requirements of this chapter:
 - (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the state of Oregon.
 - (2) Persons who are users and operators of the Portland Center for the Performing Arts.
 - (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
 - (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
 - (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.

- (6) Users of the following facilities:
 - (A) Facilities that are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a);
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.

- (7) Persons making payments to Metro for the following purposes:
 - (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
- (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

(G) Payments collected with admission to the Oregon Zoo in the form of a Conservation Admission Surcharge;

~~(G)~~(H) Notwithstanding the provisions of subsections (C) through ~~(G)~~(F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

- (11) Persons making the following payments:
- (A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

- (12) Persons making the following payments:
- (A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park; and
 - (B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro; and
 - (C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

- (b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.”

2. The amendment to Metro Code Section 7.01.050 Exemptions, takes effect January 1, 2007.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1125, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 4.01.050 TO INCLUDE A CONSERVATION SURCHARGE WITH REGULAR ADMISSION TO THE OREGON ZOO, EFFECTIVE JANUARY 1, 2007, AND ORDINANCE NO. 06-1127, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 7.01.050 TO EXEMPT THE OREGON ZOO CONSERVATION ADMISSION SURCHARGE FROM METRO EXCISE TAX, EFFECTIVE JANUARY 1, 2007

Date: August 17, 2006

Prepared by: Tony Vecchio and Brad Stevens

BACKGROUND

The FY 2006-07 budget for the Oregon Zoo includes the addition of a twenty-five cents (\$0.25) conservation surcharge on regular admission. The zoo is part of a consortium of northwest conservation organizations. Funds raised through the conservation surcharge are to be pooled with the funds collected from the other member organizations and used to fund northwest conservation initiatives, including conservation projects at the Oregon Zoo. Initially, until a mechanism can be established through the conservation consortium, these funds will go to the Oregon Zoo Foundation to be tracked and managed through the Future for Wildlife Fund. The zoo will report back to Council annually on the disposition of surcharge funds, including a summary of surcharge funded projects.

The companion ordinance, Ordinance No. 06-1127, is necessary if the Metro Council wishes to exempt the surcharge from Metro Excise Tax. If the surcharge is subject to the excise tax, it is projected to generate \$95,000.00 annually. Exempting the surcharge from Metro Excise Tax is would generate an additional \$7,000.00 each year for conservation projects.

ANALYSIS/INFORMATION

- 1. Known Opposition** None known.
- 2. Legal Antecedents** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees and requires the Zoo to request an amendment to increase fees. Metro Code Section 7.01.050 Exemptions allows for excise tax exemptions for specified persons, users, and operators.
- 3. Anticipated Effects** The Conservation Surcharge is expected to generate approximately \$102,000.00 annually to fund northwest regional conservation projects.
- 4. Budget Impacts** The projected revenues and expenditures associated with the Conservation Surcharge are already included in the FY 2006-07 budget.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinances Nos. 06-1125 and 06-1127.

Staff Report to Ordinance Nos. 06-1125 & 06-1127

M:\attorney\confidential\R-0\2006\Ords. 06-1125.1127.Zoo.Staff Report.02
ZOO/FAS/BS/OMA/DBC/sm 8/3/06

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING) RESOLUTION NO. 06-3727
METRO COUNCIL POLICY REGARDING THE)
ACQUISITION OF RURAL AGRICULTURAL)
LAND PURSUANT TO THE 2006 NATURAL) Introduced by Metro Councilor Rod Park
AREAS ACQUISITION AND WATER)
QUALITY PROTECTION BOND MEASURE)

WHEREAS, the Metro Council has taken a leadership role in identifying remaining natural areas in the Metro Area and planning for their protection; and

WHEREAS, in May 1995 voters in the Metro Area approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (1995 Open Spaces Bond Measure) with a stated goal of acquiring land in 14 of the 57 regional natural areas identified in the Greenspaces Master Plan and six of the 34 regional trails and greenways identified in the Greenspaces Master Plan; and

WHEREAS, the implementation of the 1995 Open Spaces Bond Measure has been successfully completed and the Metro Council has acquired, to date, over 8,100 acres (3,278 hectares) of open spaces in 14 target areas and 6 trails and greenways, and has protected 74 miles (119 kilometers) of stream and river frontage, greatly surpassing the 6,000-acre (2,428 hectares) minimum acquisition goal identified in the 1995 Open Spaces Bond Measure; and

WHEREAS, the 1995 Open Spaces Bond Measure was never intended to acquire all of the natural areas in the Metro Area identified as needing protection, and with human population growth continuing to occur, there is an urgent need to acquire additional natural areas to provide opportunities for outdoor recreation, to protect air and water quality, and to preserve fish and wildlife habitat; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), composed of officials representing the Metro Area’s local governments, adopted a “Vision Statement” in 2000 to enunciate the Metro Area’s commitment to improve the ecological health of the Metro Area’s fish and wildlife habitat; and

WHEREAS, on April 25, 2001, MPAC unanimously adopted the Final Report of its Parks Subcommittee, which, among other things, noted the need for additional land acquisition for parks and open spaces beyond the scope of the 1995 Open Spaces Bond Measure; and

WHEREAS, on December 9, 2004, the Metro Council adopted Resolution No. 04-3506A, “For the Purpose of Revising Metro’s Preliminary Goal 5 Allow, Limit, or Prohibit Decision; and Directing the Chief Operating Officer to Develop a Fish and Wildlife Habitat Protection and Restoration Program That Relies on a Balanced Regulatory and Incentive-Based Approach,” in which the Metro Council resolved to develop and take before the voters by November 2006 an open spaces acquisition bond measure that included authorization to acquire regionally significant fish and wildlife habitat from willing sellers; and

WHEREAS, on May 12, 2005, the Metro Council adopted Resolution No. 05-3574A “Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature In Neighborhoods” (“Nature In Neighborhoods Initiative”); enacting a regional conservation policy that promotes a consistent and effective level of region-wide habitat protection using a variety of means, including acquisition of critical fish and wildlife habitat from willing sellers and restoration of key wetland, streamside and upland sites; and

WHEREAS, the Nature In Neighborhoods Initiative specifically called for the Metro Council to place a bond measure before the voters in November 2006 that would create a funding source to acquire critical fish and wildlife habitat from willing sellers in the urban area; and

WHEREAS, on September 29, 2005, the Metro Council adopted Resolution No. 05-3612, “For the Purpose of Stating An Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program,” stating the Metro Council’s intent to submit to the voters of the Metro Area a general obligation funding measure to protect habitat, river and stream frontages and natural areas, through land acquisition, restoration, and enhancement, and establishing a Blue Ribbon Committee to make specific recommendations to the Metro Council regarding aspects of the bond measure program, said bond measure to be included on either the primary or general election ballot no later than November 2006; and

WHEREAS, the Blue Ribbon Committee returned its report to the Metro Council on December 8, 2005, recommending that the Metro Council undertake \$220 million in bond indebtedness to protect habitat, river and stream frontages and natural areas through acquisition, restoration, and enhancement; provide \$44 million to cities, counties and local park providers for acquisition, restoration, and enhancement of habitat, river and stream frontages and natural areas; and create a \$11 million Nature in Neighborhoods Capital Grants Program Fund; and

WHEREAS, the Metro Council adopted Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” on March 9, 2006, submitting to the voters at the November 7, 2006 General Election a \$227.4 bond measure to fund natural area acquisition and water quality protection (“2006 Natural Areas Acquisition and Water Quality Bond Measure” or “Bond Measure”); and

WHEREAS, if the Bond Measure is approved by the voters, Metro will be authorized to acquire land located in specific areas of the region that are currently zoned for agricultural use; and

WHEREAS, the Metro Council recognizes that purchase of agricultural land by Metro may have adverse impacts on adjacent agricultural land and on the agricultural industry as a whole; and

WHEREAS, the Metro Council desires to establish policy regarding possible purchase by Metro of agricultural land; and

WHEREAS, one of the building blocks of the 2040 Growth Concept as described in the Regional Framework Plan is the creation of rural reserves. The objectives of rural land planning in the region are to:

- “
- Maintain the rural character of the landscape.
 - Support and maintain our agricultural economy.
 - Avoid or eliminate conflicts with farm and forest practices.
 - Help meet regional needs for open space and wildlife habitat.
 - Help to clearly separate urban from rural land.”

; and

WHEREAS, Regional Framework Plan Policy 12.1 Protection of Agricultural and Forest Reserve Lands provides:

“1.12 Protection of Agriculture and Forest Resource Lands

It is the policy of the Metro Council to:

- 1.12.1 Agricultural and forest resource lands outside the UGB shall be protected from urbanization, and accounted for in regional economic and development plans, consistent with this Plan. However, Metro recognizes that all the statewide goals, including Statewide Planning Goal 10 Housing and Goal 14 Urbanization, are of equal importance to Goal 3 Agricultural Lands and Goal 4 Forest Lands which protect agriculture and forest resource lands. These goals represent competing and, some times, conflicting policy interests which need to be balanced.
- 1.12.2 When the Metro Council must choose among agricultural lands of the same soil classification for addition to the UGB, the Metro Council shall choose agricultural land deemed less important to the continuation of commercial agriculture in the region.
- 1.12.3 Metro shall enter into agreements with neighboring cities and counties to carry out Council policy on protection of agricultural and forest resource policy through the designation of Rural Reserves and other measures.
- 1.12.4 Metro shall work with neighboring counties to provide a high degree of certainty for investment in agriculture and forestry and to reduce conflicts between urbanization and agricultural and forest practices.”

now therefore;

BE IT RESOLVED that the Metro Council hereby adopts the following policies for implementation of the 2006 Natural Areas Acquisition and Water Quality Bond Measure. These policies will be included in a work program or refinement plans approved by the Metro Council for implementation of the Bond Measure:

1. The preservation of the existing base of agricultural land as well as the ability of Oregon farmers in or near the Metro Area to operate efficiently and effectively is a high priority for Metro.
2. Refinement plans and implementation measures for water quality or habitat protection for target areas located in agricultural areas shall be subject to the following provisions:
 - (a) Where the use of Bond Measure funds is for the purpose of protecting habitat or water quality, Metro shall acquire easements rather than outright purchase of agricultural land, unless the seller is only willing to sell a fee simple interest to Metro.
 - (b) When owners of agricultural land are willing to sell a fee simple interest to Metro rather than water quality or habitat easements, Metro may purchase the property. When Metro purchases agricultural property, staff will map the portions of the

property which are essential to achieve the water quality and habitat protection goals of the Bond Measure and which portions of the property are viable for agricultural production without conflicting with protection of water quality or habitat. Metro shall place the property for sale on the open market at fair market value subject to easements that achieve the goals of the Bond Measure for water quality and habitat protection and restrict use of the remainder of the property to agricultural uses.

- (c) Easements for water quality or habitat protection obtained by Metro shall not allow access to the property by the general public but will allow access by Metro for purposes described in the easement.
- 3. The Oregon Department of Agriculture shall be consulted to help determine which properties or areas may best achieve the goals of agriculture and Metro during the refinement process. All refinement plans for bond target areas in resource land areas shall be developed in close collaboration with tenants and owners of agricultural property, and other representatives of the local agricultural industry. Such plans shall address the potential adverse impacts to adjacent agricultural uses from the restoration of wetlands, reintroduction of wildlife, or increased water table levels or the creation of public access points to rivers, such as the Tualatin River. Where access points will be created, plans shall provide for mitigation for adverse impacts to rural agricultural areas.
- 4. Target area refinement plans shall address the use of conservation easements, and the creation of development restrictions along streams that may create enhanced natural boundaries to separate rural from urban areas. Refinement plans will also establish criteria based on minimum annual flow levels to be determined which streams and tributaries should be protected for water quality or habitat purposes.

ADOPTED by the Metro Council this _____ day of _____ 2006.

David Lincoln Bragdon, Metro Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3727, FOR THE PURPOSE OF ESTABLISHING METRO COUNCIL POLICY REGARDING THE ACQUISITION OF RURAL AGRICULTURAL LAND PURSUANT TO THE 2006 NATURAL AREAS ACQUISITION AND WATER QUALITY PROTECTION BOND MEASURE.

Date: September 1, 2006

Prepared by: Kathryn Sofich

BACKGROUND

In May 1995 voters in the Metro Area approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (1995 Open Spaces Bond Measure) with a stated goal of acquiring land in 14 of the 57 regional natural areas identified in the Greenspaces Master Plan and six of the 34 regional trails and greenways identified in the Greenspaces Master Plan. The implementation of the 1995 Open Spaces Bond Measure has been successfully completed and the Metro Council has acquired, to date, over 8,100 acres (3,278 hectares) of open spaces in 14 target areas and 6 trails and greenways, and has protected 74 miles (119 kilometers) of stream and river frontage, greatly surpassing the 6,000-acre (2,428 hectares) minimum acquisition goal identified in the 1995 Open Spaces Bond Measure.

The 1995 Open Spaces Bond Measure was never intended to acquire all of the natural areas in the Metro Area identified as needing protection, and with human population growth continuing to occur, there is an urgent need to acquire additional natural areas to provide opportunities for outdoor recreation, to protect air and water quality, and to preserve fish and wildlife habitat. The Metro Policy Advisory Committee (MPAC), composed of officials representing the Metro Area's local governments, adopted a "Vision Statement" in 2000 to enunciate the Metro Area's commitment to improve the ecological health of the Metro Area's fish and wildlife habitat and unanimously adopted the Final Report of its Parks Subcommittee, which, among other things, noted the need for additional land acquisition for parks and open spaces beyond the scope of the 1995 Open Spaces Bond Measure.

In addition, since 2004, the Metro Council has passed several resolutions that both promote a regional conservation policy and specifically call for the Metro Council to place a bond measure before the voters in November 2006 that would create a funding source to acquire critical fish and wildlife habitat from willing sellers in the urban area. On March 9, 2006, the Metro Council adopted Resolution No. 06-3672B, "For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection. This resolution submits to the voters at the November 7, 2006 General Election a \$227.4 million bond measure to fund natural area acquisition and water quality protection ("2006 Natural Areas Acquisition and Water Quality Bond Measure," "Bond Measure," or "Ballot Measure 26-80").

If the Bond Measure is approved by the Metro Area voters, Metro will be authorized to acquire land located in specific areas of the region that are currently zoned for agricultural use. The Metro Council recognizes that purchase of agricultural land by Metro may have adverse impacts on adjacent agricultural land and on the agricultural industry, as a whole desires to establish a policy regarding possible purchase by Metro of agricultural land. Metro's commitment to preserving agricultural land can be demonstrated in several ways. For example, one of the building blocks of the 2040 Growth Concept as described in the Regional Framework Plan is the creation of rural reserves. In addition, Metro's Regional Framework Plan Policy states that Metro provide protection of agricultural and forest reserve lands.

For these reasons, the Metro Council will consider adopting the following policies for implementation of the 2006 Natural Areas Acquisition and Water Quality Bond Measure. These policies will be included in a work program or refinement plans approved by the Metro Council for implementation of the Bond Measure:

1. The preservation of the existing base of agricultural land as well as the ability of Oregon farmers in or near the Metro Area to operate efficiently and effectively is a high priority for Metro.
2. Refinement plans and implementation measures for water quality or habitat protection for target areas located in agricultural areas shall be subject to the following provisions:
 - (a) Where the use of Bond Measure funds is for the purpose of protecting habitat or water quality, Metro shall acquire easements rather than outright purchase of agricultural land, unless the seller is only willing to sell a fee simple interest to Metro.
 - (b) When owners of agricultural land are willing to sell a fee simple interest to Metro rather than water quality or habitat easements, Metro may purchase the property. When Metro purchases agricultural property, staff will map the portions of the property which are essential to achieve the water quality and habitat protection goals of the Bond Measure and which portions of the property are viable for agricultural production without conflicting with protection of water quality or habitat. Metro shall place the property for sale on the open market at fair market value subject to easements that achieve the goals of the Bond Measure for water quality and habitat protection and restrict use of the remainder of the property to agricultural uses.
 - (c) Easements for water quality or habitat protection obtained by Metro shall not allow access to the property by the general public but will allow access by Metro for purposes described in the easement.
3. The Oregon Department of Agriculture shall be consulted to help determine which properties or areas may best achieve the goals of agriculture and Metro during the refinement process. All refinement plans for bond target areas in resource land areas shall be developed in close collaboration with tenants and owners of agricultural property, and other representatives of the local agricultural industry. Such plans shall address the potential adverse impacts to adjacent agricultural uses from the restoration of wetlands, reintroduction of wildlife, or increased water table levels or the creation of public access points to rivers, such as the Tualatin River. Where access points will be created, plans shall provide for mitigation for adverse impacts to rural agricultural areas.
4. Target area refinement plans shall address the use of conservation easements, and the creation of development restrictions along streams that may create enhanced natural boundaries to separate rural from urban areas. Refinement plans will also establish criteria based on minimum annual flow levels to be determined which streams and tributaries should be protected for water quality or habitat purposes.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.

2. Legal Antecedents:

Metro is authorized under ORS 268.520 and the Metro Charter, Chapter III, Sections 10 and 12, to issue and sell voter-approved general obligation bonds in accord with ORS Chapters 287 and 288, to finance the implementation of Metro's authorized functions.

Metro Council Resolution No. 92-1637, "For the Purpose of Considering the Adoption of the Metropolitan Greenspaces Master Plan," adopted July 23, 1992.

Metro Council Resolution No. 94-2049B, "For the Purpose of Modifying the Submission to the Voters of a General Obligation Bond Indebtedness to Proceed with the Acquisition of Land for a Regional System of Greenspaces."

Metro Council Resolution No. 04-3506A, "For the Purpose of Revising Metro's Preliminary Goal 5 Allow, Limit, or Prohibit Decision; and Directing the Chief Operating Officer to Develop a Fish and Wildlife Habitat Protection and Restoration Program That Relies on a Balanced Regulatory and Incentive Based Approach," adopted December 9, 2004.

Metro Council Resolution No. 05-3574A, "For the Purpose of Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature In Neighborhoods," adopted May 12, 2005.

Metro Council Resolution No. 05-3612, "For the Purpose of Stating An Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of Metro to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program," adopted September 29, 2005.

Metro Regional Framework Plan, Policy 1.12 Protection of Agriculture and Forest Resource Lands, effective December 28, 2005.

Metro Council Resolution No. 06-3672B, "For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection," adopted March 9, 2006.

Ballot Measure No. 26-80, "Bonds to Preserve Natural Areas, Clean Water; Protect Fish, Wildlife," to be considered before by the Metro Area voters on the November 7, 2006 General Election.

3. Anticipated Effects:

- A. Provides a policy that ensures the preservation of the existing base of agricultural land.
- B. Provides a refinement plan to measure water quality and habitat protection for target areas located in agricultural areas.

4. Budget Impacts:

At the recommendation of the TSCC, budget authority for program expenses if the voters approve the measure are not anticipated to be included in the FY 06-07 adopted budget. The Metro Council will have the legal authority to establish appropriation authority related to the successful passage of the Bond Measure, once the election has been certified. It is anticipated that, upon passage of the Bond Measure, staff will work with the Metro Council on the development of the Bond Measure program and the

necessary budgetary appropriation to be approved by Ordinance at a later date. To the extent this resolution may have impacts on future budgets, the Metro Council can address those impacts in future actions implementing the resolution and the Bond Measure.

RECOMMENDED ACTION

Staff recommends adoption of Resolution No. 06-3727.