

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;

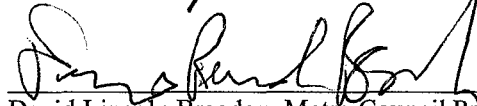
BE IT RESOLVED that the Metro Council hereby adopts the following policies for implementation of the 2006 Natural Areas Acquisition and Water Quality Bond Measure. These policies will be included in a work program or refinement plans approved by the Metro Council for implementation of the Bond Measure:

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

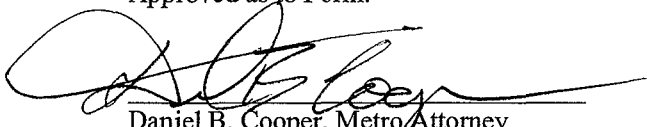
property which are essential to achieve the water quality and habitat protection goals of the Bond Measure and which portions of the property are viable for agricultural production without conflicting with protection of water quality or habitat. Metro shall place the property for sale on the open market 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.

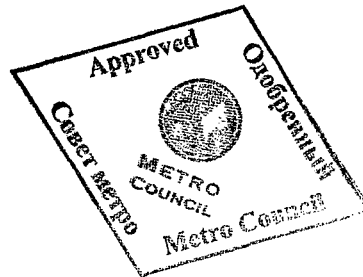
- (c) Easements for water quality or habitat protection obtained by Metro shall not allow access to the property by the general public but will allow access by Metro for purposes described in the easement.
3. The Oregon Department of Agriculture shall be consulted to help determine which properties or 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 determine which streams and tributaries should be protected for water quality or habitat purposes.

ADOPTED by the Metro Council this 7th day of September, 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.