

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: January 4, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. RECOGNITION OF SHERYL MANNING SERVICES

**4. MULTNOMAH CHAPTER OF OREGON STATE UNIVERSITY
MASTER GARDENERS PRESENTATION**

5. CONSENT AGENDA

5.1 Consideration of Minutes for the December 14, 2006 Metro Council Regular Meeting.

6. ORDINANCES – FIRST READING

6.1 **Ordinance No. 07-1135**, Amending Metro Code Chapter 5.02.027 to Modify Charges for Management of Certain Household Hazardous Wastes.

6.2 **Ordinance No. 07-1136**, For the Purpose of Amending Metro Code Chapter 2.21 (Claims under Ballot Measure 37) for Treatment of Claims against Metro under ORS 197.352 and Declaring an Emergency.

6.3 **Ordinance No. 07-1137**, For the Purpose of Amending Metro Code Sections 3.07.120, 3.07.130 and 3.07.1120 and Adding Metro Code Section 3.07.450 to Establish a Process and Criteria for Changes to the Employment and Industrial Areas Map, and Declaring an Emergency.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 06-1132**, For the Purpose of Amending the FY 2006-07 Budget and Appropriations Schedule Related to Certain Elected Offices, and Declaring an Emergency.

Newman

8. RESOLUTIONS

- 8.1 **Resolution No. 07-3749**, For the Purpose of Reorganizing the Metro Council for 2007. Bragdon
- 8.2 **Resolution No. 07-3756**, For the Purpose of Entering into an Intergovernmental Agreement with Multnomah County for Acquisition of the Morrison Building Property. Burkholder
- 8.3 **Resolution No. 07-3751**, For the Purpose of Granting Two Slope Easements and Two Drainage Easements to Tri-Met for Non-Park Use through Metro Property in Wilsonville. Hosticka
- 8.4 **Resolution No. 07-3760**, Recognizing the Successful Completion of Council Projects: Concept and Comprehensive Planning (Construction Excise Tax), Measure 37 Analysis, Natural Areas, Parks and Streams Bond Measure, Nature in Neighborhoods Grant Program, and Nature in Neighborhoods Monitoring Program in 2006. Park
- 8.5 **Resolution No. 07-3763**, Designating Councilors Carl Hosticka and Brian Newman to Serve as Legislative Liaisons for the 2007 Oregon Legislative Session. Hosticka
- 8.6 **Resolution No. 07-3753**, For the Purpose of Confirming the Council President's Appointment of Gary W. Reynolds to the Metropolitan Exposition-Recreation Commission. Harrington
- 8.7 **Resolution No. 07-3754**, For the Purpose of Confirming the Council President's Appointments and Reappointments to the Transportation Policy Alternatives Committee (TPAC) for 2007-2008. Burkholder
9. **EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e), DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.**
- 9.1 **Resolution No. 07-3752**, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property in the East Buttes/Boring Lava Domes Target Area. Park

10. CHIEF OPERATING OFFICER COMMUNICATION

11. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for January 4, 2007 Metro Council meeting

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

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).

MINUTES OF THE METRO COUNCIL MEETING

Thursday, December 14, 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 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. EXTERNAL QUALITY CONTROL REVIEW

Alexis Dow, Metro Auditor, briefed the Council on the External Quality Control Review. She noted that this was where the auditor was audited. She had other auditors come in to look at policies and procedures to make sure the work they did was up to government standards. She wanted to leave a clean shop before she left. They gave a clean bill of health following professional standards. She noted that they applauded her efforts for training staff. Council congratulated her on the peer review. Councilor Newman thanked Ms. Dow for the report. He acknowledged that this was her last report for Metro. He thanked her for the services she had done for the residents of the region and Metro. He wished her luck in her future endeavors.

Councilor McLain added her thanks. They had served twelve years together. She thanked Ms. Dow for her citizen committee. She had done a good job of seeking input from citizens. Council President Bragdon said Ms. Dow had started from scratch in building the Office of the Auditor. The work Ms. Dow did was very important. He provided Ms. Dow with a plaque in recognition of her service. Ms. Dow thanked the Council for the plaque.

4. SHAPE OF THE REGION: AG/URBAN STUDY FINDINGS

Councilor Hosticka introduced the presentation. As the Council knew, Metro had embarked on the New Look effort for planning future urban growth boundary decision. This presentation dealt with a lot of edge issues. The Ag/Urban group was looking at the needs for agriculture as well as natural resource features outside of the boundary and what the components of a great community would be to allow communities to have their own integrity. Tim O'Brien, Planning Department, would provide an overview of the initial findings of the Ag Urban Study. They would start an outreach effort based upon these findings. Mr. O'Brien said he was here to do a brief introduction. This work was focused on the lands outside the boundary. He provided a power point presentation on the Shape of the Region (a copy of which is included in the meeting record). There had been an Ag Urban Committee to review the technical work of the group. He spoke of the three analysis elements. He reviewed the agricultural analysis and talked about the objective, methodology, key factors including capability and suitability of the ground inventory. Jim

Johnson from the Department of Agriculture did the inventory and analysis. Mr. O'Brien then addressed the Natural Landscape Feature inventory and analysis. He spoke to the objectives and methodology of the analysis. They identified 27 areas in the region. The third analysis considered Great Communities. He talked about the objectives and methodology for this component of the study. He noted the eight characteristics of great communities such as community design. He talked about current and future investments such as infrastructure and open spaces. He noted that these characteristics needed to be evaluated at different times in the process. Governance and the economy should be looked at, at the beginning of the process. He talked about next steps for the project. He said there would be a symposium on January 19th. They would then have to take these three components to see what future policy decision would be coming to Council.

Councilor Hosticka asked if Greenspaces Policy Advisory Committee (GPAC) was involved in the work. Mr. O'Brien said they were involved in the technical area of the analysis. Councilor Park talked about the overlays between the natural areas and the agricultural areas. He talked about drinking water for the region and where that drinking water came from. He also asked Mr. O'Brien to talk about what work they were doing with neighboring cities. Mr. O'Brien said he had met with a number of city administrators in neighboring cities. Michael Jordan, Chief Operating Officer (COO) had met with elected in the neighboring cities. They were aware of the growth that happened here and the impact as well as the growth that happened in their communities and the impact on the region. Councilor Park said he knew that the new Metro Policy Advisory Committee (MPAC) Chair, Mayor Fuller, was interested in creating a position on MPAC that would focus on this area. Councilor McLain asked if the reports were public yet. Mr. O'Brien said they were finishing the reports and the reports would be available in a few weeks as well as at the symposium in January.

Councilor Newman said he had also been involved in this discussion and served on the committee. He talked about the future plans based on this work convening a variety of groups to execute the process. Councilor Liberty talked about agricultural lands in the area and the changing markets. We have an interesting challenge due to the successful agricultural lands around the region and the value of that land. Councilor Burkholder asked about differential costs for redevelopment and future infrastructure investments. Mr. O'Brien responded to his question. Councilor Burkholder said he felt the work they had done was very important in making future choices. They were also looking at transportation infrastructure investments and limited funds. They needed to answer the question about the financial implications of their decisions. Councilor Park talked about future infrastructure costs versus agricultural land that was already in production. Council President Bragdon asked about the governance piece of the research. Mr. O'Brien responded that they had not gone to individual jurisdictions and asked them about governance, it was a higher level of analysis. Council President Bragdon talked about annexations and the delivery of urban services. He then asked about the successful neighborhood impact ballot measure and whether this was part of Mr. O'Brien's research and discussion. Mr. O'Brien said that was part of the discussion. Council President Bragdon felt this research was important to future decisions, as the old ways of doing things were no longer working.

5. CONSENT AGENDA

5.1 Consideration of minutes of the December 7, 2006 Regular Council Meeting.

5.2 **Resolution No. 06-3745**, For the Purpose of Accepting the November 7, 2006 General Election Abstract of Votes For Metro.

Motion: Councilor Hosticka moved to adopt the meeting minutes of the December 7, 2006 Regular Metro Council and Resolution No. 06-3745.

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

6. ORDINANCES – FIRST READING

6.1 **Ordinance No. 06-1132**, For the Purpose of Amending the FY 2006-07 Budget and Appropriations Schedule Related to Certain Elected Offices, and Declaring an Emergency.

Council President Bragdon assigned Ordinance No. 06-1132 to Council.

7. ORDINANCES – SECOND READING

7.1 **Ordinance No. 06-1130**, For the Purpose of Amending the FY 2006-07 Budget and Appropriations Schedule to Provide For a Loan Payable Under the TOD Program and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 06-1130.
Seconded:	Councilor Liberty seconded the motion

Councilor McLain said this ordinance happened because there were specific things that happened in the departments that required budget amendments. She then further briefed the Council on the ordinance and urged support.

Council President Bragdon opened a public hearing on Ordinance No. 06-1130. No one came forward. Council President Bragdon closed the public hearing.

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.

7.2 **Ordinance No. 06-1131**. For the Purpose of Amending the FY 2006-07 Budget and Appropriations Schedule to Provide For Several Projects at Metro Regional Center, Amending the FY 2006-07 through 2010-11 Capital Budget, and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 06-1131.
Seconded:	Councilor Burkholder seconded the motion

Councilor McLain talked about a variety of projects that were happening in the Metro Regional System including a sound system for the chamber and department moves. She asked for approval.

Council President Bragdon opened a public hearing on Ordinance No. 06-1131. No one came forward. Council President Bragdon closed the public hearing.

Council President Bragdon asked about the status of the district attorney's (DA) office downstairs on the first floor. Mr. Jordan responded to his question. They would be working with the DA and the police department to keep them in the area. He talked about the plan. Councilor Park mentioned the value of the new microphone system in the chamber.

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.

7.3 **Ordinance No. 06-1133**, For the Purpose of Amending the FY 2006-07 Budget And Appropriations Scheduled Authorizing New Positions for the Natural Areas Bond Work Program, Providing for Expenditures Related to the Natural Areas Bond, Providing for a Land Purchase in the Open Spaces Fund, and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 06-1133.
Seconded:	Councilor Hosticka seconded the motion

Councilor McLain said because the voters passed a natural area bond measure, this ordinance would provide for several action in the natural area work program including added space for staff and approval of additional FTEs.

Council President Bragdon opened a public hearing on Ordinance No. 06-1133. No one came forward. Council President Bragdon closed the public hearing. He reinforced Councilor McLain's comments. The consent agenda included the acceptance of the ballot results.

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.

7.4 **Ordinance No. 06-1134**, For the Purpose of Amending the FY 2006-07 Budget and Appropriations Schedule Amending the MERC Operating and Pooled Capital Funds and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 06-1134.
Seconded:	Councilor Liberty seconded the motion

Councilor McLain briefed the Council on the ordinance and said this would support the addition of two FTEs, purchasing and contracts and a temporary employee, the general manager executive search, and the Metropolitan Exposition Recreation Commission (MERC) capital fund.

Council President Bragdon opened a public hearing on Ordinance No. 06-1134. No one came forward. Council President Bragdon closed the public hearing.

Councilor Burkholder asked about support services and keeping the costs down. He wanted to understand how the two new FTE's fit into the scheme. Kathy Taylor, MERC acting General Manager, responded to his question. Council President Bragdon asked about the recruitment of the General Manager and the amount of the contract. Ms. Taylor said they put this number in as a placeholder. They felt they would spend much less. They were doing a comprehensive salary survey. Councilor McLain said this amendment and the budget series were the only times they had a chances to review MERC's dollars. She pointed out that it was extremely important to

continue the cooperative and good integration between Metro and MERC. They were still trying to save money for the public.

Vote:

Councilors McLain and Liberty voted yes, Councilors Park, Burkholder, Hosticka, Newman and Council President Bragdon vote no. The vote was 2 aye/5 nay, the motion failed.
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Motion:	Councilor Newman moved to reconsider Ordinance No. 06-1134.
Seconded:	Councilor Hosticka seconded the motion

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.

Council President Bragdon thanked Margo Norton, Deputy Chief Financial Officer, for bundling these ordinances. The Council recessed the meeting and held an executive session.

EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e). DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE REAL PROPERTY TRANSACTIONS.

Time Began: 3:11 pm

Time Ended: 3:44 pm

Members Present: Phil Whitmore, Meganne Steele, Michael Jordan, Dan Cooper, Joel Morton

8. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, said he had nothing to day.

9. COUNCILOR COMMUNICATION

Councilor Burkholder talked about the Joint Policy Advisory Committee on Transportation (JPACT meeting this morning. He said Adam Davis provided a report on the Columbia River Crossing. They had looked at the public perception of what the issues were. The public was willing to pay tolls. The number one problem was too much traffic. He supported a multi-modal response to the problem. Councilor Park said he thought there was a lot of good information in the report. He suggested a briefing to Council at a work session.

Councilor Liberty talked about the MPAC discussion on the Regional Transportation Plan.

Council President Bragdon said Councilor McLain had been an example to all of the present Councilors. He remembered asking Councilor McLain why she wanted to serve. He summarized what she had described. She said she saw things that were happening in her community without citizen involvement. She had joined Friends of Washington County to get better input from citizens. He said others had encouraged her to run for office. The two characteristics that he valued most: 1) citizen involvement including going to where the citizens were and make it convenient for them and 2) the work ethic that doesn't quit. This was a way of life for her in terms of being a true public servant.

Councilor Newman said he started his first term when Councilor McLain started her fourth term. She played a role as the Council historian and shared institutional knowledge. The other role she played was the conscience of the Council particularly having to do with citizen involvement. He also talked about the county fairs and engagements with the citizens. He had enjoyed her friendship and the distance she had driven to and from Metro. She was a walking embodiment of regionalism.

Councilor Liberty said he knew about Councilor McLain before he ever met her because he had also run in 1990 but lost his race. 16 years in this institution was remarkable. He acknowledged the tremendous contribution by her family. It took a team to succeed.

Councilor Burkholder said Councilor McLain was always gracious. She would always thank those who had something to say.

Councilor Park said when Councilor McLain leaves he became the most senior member of the Council. She had participated in the first bond measure. He also recalled a group of angry farmers that weren't feeling very gracious. He echoed Councilor Liberty's comments about her family support.

Councilor Hosticka echoed his colleagues about Councilor McLain's quality of service. She was an inspiration to others who wanted to seek running for public office. The power of involving the citizens and then maintaining the continuous contact was a quality that all of them respected.

Councilor McLain said she had served with 38 other councilors. This particular Council had been the best feel as far as team members and working in such a way that was truly good public service. She then introduced a new video about Metro: your regional governments (a Metro video 101).

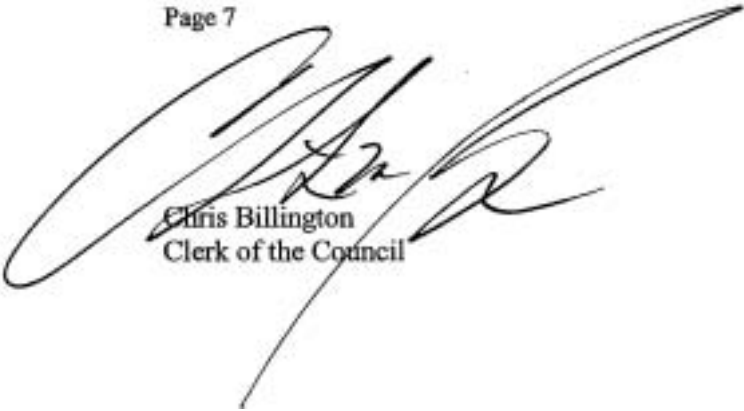
Council President Bragdon provided Councilor McLain with a plaque and a frame picture of her nameplate.

Councilor McLain said this was a graduation. She shared public pearls of wisdom; the Council had the most active and important ride to be part of, including finishing a Regional Transportation Plan and Urban Reserves. This was a big responsibility. She knew they would involve the public at the right time and in the right way. She got a call tonight about household hazardous waste. They worked hard on the recycle issue. They had a responsibility to listen to their citizens. They had a lot to do in the solid waste area. Finally, they were able to build onto Expo and the Convention Center as well as the Oregon Zoo. Lastly, green spaces were very important, Metro had a lot of responsibilities in this area. She then talked about Metro staff and how extraordinary they were. They were truly ambassadors. They counted. She then acknowledged her family and their contribution. You have to have a family that cares to be successful. She also thanked Dan Cooper, the Metro Attorney. He has made Metro tick.

10. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:30 p.m.

Prepared by

A large, stylized handwritten signature in black ink, appearing to read 'Chris Billington', is written over the typed name and title.

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF
DECEMBER 14, 2006**

Item	Topic	Doc Date	Document Description	Doc. Number
5.1	Minutes	12/7/06	Metro Council Meeting Minutes of December 7, 2006	121406c-01
4.0	Power Point Presentation	12/14/06	To: Metro Council From: Tim O'Brien, Planning Department Re: Shape of the Region PowerPoint presentation	121406c-02

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER) ORDINANCE NO. 07-1135
5.02.027 TO MODIFY CHARGES FOR)
MANAGEMENT OF CERTAIN HOUSEHOLD) Introduced by Chief Operating Officer
HAZARDOUS WASTES) Michael J. Jordan, with the concurrence of
) Council President David Bragdon

WHEREAS, in 2001 Metro Council adopted Metro Ordinance No. 01-907A and thereby determined that for a period of three years there should be no charge for household hazardous waste accepted at Metro facilities or hazardous waste collection events in a container of less than 10 gallons in capacity, to reduce barriers to safe management of such hazardous products from residences in the Metro region; and

WHEREAS, in 2004 the Metro Council adopted Metro Ordinance No. 04-1057 and thereby extended the hazardous waste fee exemption for an additional two years; and

WHEREAS, the hazardous waste fee exemption adopted in Ordinance No. 01-907A and extended in Ordinance No. 04-1057 is scheduled to expire on December 31, 2006; and

WHEREAS, Metro staff will evaluate a permanent HHW fee exemption and report back to the Metro Council on the issues, merits, economics, disposal options and potential effects of such an action, so that the Metro Council may implement either a permanent HHW fee exemption or a fee-based program to be effective October 2007; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.02.027 is amended as follows:

5.02.027 Charges for Management of Household Hazardous Wastes

(a) There is hereby established a Household Hazardous Waste Management Charge that shall be collected on all household hazardous waste accepted at Metro Hazardous Waste Facilities and at household hazardous waste collection events. Such Household Hazardous Waste Management Charge shall be in lieu of all other base disposal charges, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

(b) The Household Hazardous Waste Management Charge shall be \$5.00 for the first 35 gallons of household hazardous waste that is delivered in a single transaction in containers of 10 gallons capacity or less and \$5.00 for each additional 35 gallons (or portion thereof) of household hazardous waste that is delivered in the same transaction in containers of 10 gallons capacity or less.

(c) The Household Hazardous Waste Management Charge shall be \$5.00 for a quantity of household hazardous waste that is delivered in a single transaction in containers greater than 10 gallons capacity, together with an additional charge for the contents of each container as follows:

- (1) \$5.00 for up to 25 gallons of household hazardous waste;
- (2) \$10.00 for more than 25 gallons of household hazardous waste.

(d) Each of the above charges may be waived by the Director of the Solid Waste & Recycling Department.

(e) Notwithstanding subsections (b) and (c) of this section, there shall be no charge for household hazardous waste accepted at Metro Hazardous Waste Facilities or household hazardous waste collection events in a container of less than 10 gallons capacity. The provisions of this sub-section (e) are repealed September 30, 2007.

ADOPTED by the Metro Council this _____ day of _____ 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Council Clerk Recording Secretary

Daniel B. Cooper, Metro Attorney

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1135 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02.027 TO MODIFY CHARGES FOR MANAGEMENT OF CERTAIN HOUSEHOLD HAZARDOUS WASTES

January 4, 2007

Prepared by: Jim Quinn

BACKGROUND

Between 1993 and 2001, Metro collected a fee of \$5 for each 35 gallons of household hazardous waste (HHW) brought to our permanent collection facilities. No fee was collected from customers bringing waste to our one-day HHW collection events. In addition, customers who brought MSW to the transfer stations for disposal at the same time as bringing in an HHW load were not charged the fee. The revenue collected this way amounted to about 1% of the hazardous waste program's total operating costs.

In 2001 Metro Council adopted Metro Ordinance No. 01-907A, which established that for a period of three years there would be no charge for household hazardous waste accepted at Metro's Hazardous Waste Facilities and collection events, except for containers greater than 10 gallons capacity. This fee waiver was intended to help reduce stockpiles of HHW still held by residents of the Metro region, in order to reduce the risks to the environment and public health.

The household hazardous waste fee exemption adopted was originally scheduled to expire on December 31, 2004. Metro Ordinance No. 04-1057 extended this deadline to December 31, 2006, so that the issue of fees for HHW could be examined as part of developing the Regional Solid Waste Management Plan (RSWMP).

The primary argument against charging fees in an HHW program is that they may provide a disincentive to bringing hazardous waste in, and residents may be more likely to dispose of it improperly. The benefit of the revenue obtained must be balanced against this risk. In lieu of a fee, all funding for the hazardous waste program comes from the regional system fee. Each household in region pays approximately \$0.25 each month as part of their garbage bill.

During the course of developing the recent RSWMP revision, some analysis of the HHW fee question was conducted. A survey was done of customers bringing waste in to Metro's HHW facilities, and stakeholders were asked about the issue during the RSWMP public involvement process. In addition, a survey of leading HHW programs around the country was completed, including a look at whether or not they charge fees.

This ordinance extends the HHW fee waiver for an additional 9 months, so that Metro staff may evaluate a permanent HHW fee exemption and report back to the Metro Council on the issues, merits, economics, disposal options, and potential effects of such a program, versus a fee-based program. The Metro Council may then choose to implement either a permanent fee exemption program or a fee-based program to be effective October 2007.

ANALYSIS/INFORMATION

1. Known Opposition

None

2. Legal Antecedents

Metro Ordinance No. 01-907A, which waived the HHW fee for containers less than 10 gallons in size through December 31, 2004, and Metro Ordinance No. 04-1057, which extended the waiver through December 31, 2006.

Anticipated Effects

Adoption of Ordinance No. 07-1135 is not expected to have a substantial impact on HHW customers or loads.

Budget Impacts

Prior to the 2001 HHW fee waiver, Metro's HHW program was collecting about \$40,000 annually from household customer at the facilities. Passage of this ordinance would eliminate this revenue from the hazardous waste program budget for an additional nine months.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 07-1135.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) Ordinance No. 07-1136
METRO CODE CHAPTER 2.21 (CLAIMS)
UNDER BALLOT MEASURE 37) FOR)
TREATMENT OF CLAIMS AGAINST) Introduced by Michael Jordan, Chief Operating
METRO UNDER ORS 197.352 AND) Office, with concurrence by David Bragdon, Metro
DECLARING AN EMERGENCY) Council President

WHEREAS, the Metro Council adopted Metro Code Chapter 2.21 by Ordinance No. 05-1087A [For the Purpose of Adopting a Process for Treatment of Claims Against Metro Under Ballot Measure 37 by Adding Chapter 2.21 to Title II of the Metro Code (Administration and Procedure)], effective December 21, 2005; and

WHEREAS, the Metro Council has heard and entered final orders disposing of seven claims for compensation brought under Metro Code Chapter 2.21, the experience from which leads the Council to clarify its basis for determining whether a land use regulation has had the effect of reducing the fair market value of a claimant's property; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the proposed amendments and recommends that the Metro Council adopt them; and

WHEREAS, the Metro Council held a public hearing on the proposed amendments on January 11, 2007, and has considered the testimony; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. Chapter 2.21 of Title II of the Metro Code, Claims Under ORS 197.352 (Ballot Measure 37), is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit B, explain how the amendments comply with the Regional Framework Plan and state law.
3. This ordinance is necessary for the immediate preservation of the welfare of the people of the region because a large number of claims under Chapter 2.21 of Title III of the Metro Code has been filed recently to meet a deadline in ORS 197.352. The ordinance makes

significant changes to the way Metro evaluates claims. It is essential that claimants and the people of the region know about these changes as soon as possible because Metro must respond to the claims within 180 days after they are filed. An emergency is therefore declared to exist. This ordinance shall take effect immediately upon adoption, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this __ day of January, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1136

CHAPTER 2.21

CLAIMS UNDER ~~ORS 197.352~~ (BALLOT MEASURE 37)

SECTIONS	TITLE
2.21.010	Purpose
2.21.020	Definitions
2.21.030	Filing a Claim
2.21.040	Review of Claim by Chief Operating Officer and Recommendation
2.21.050	Hearing on Claim before Metro Council
2.21.060	Action on Claim by Metro Council
2.21.070	Conditions on Compensation or Waiver
2.21.080	Fee for Processing Claim

2.21.010 Purpose

This chapter establishes a process for treatment of claims for compensation submitted to Metro under ~~ORS 197.352~~ (Ballot Measure 37). Metro adopts this chapter in order to afford property owners the relief guaranteed them by ~~Ballot Measure 37~~ ~~ORS 197.352~~ and to establish a process that is fair, informative and efficient for claimants, other affected property owners and taxpayers. It is the intention of Metro to implement ~~Measure 37~~ the statute faithfully and in concert with its other responsibilities, including its Charter mandate to protect the environment and livability of the region for current and future generations.

2.21.020 Definitions

(a) "Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to ORS Chapter 674. In the case of commercial or industrial property, "appraisal" additionally means a written statement prepared by an appraiser holding the MAI qualification, as demonstrated by a written certificate.

(b) "Family member" means the wife, husband, son, daughter, father, brother, brother-in-law, sister, sister-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

(c) "Land use regulation" means a provision of a Metro functional plan or a land use regulation adopted by a city or county to comply with a Metro functional plan.

(d) "Owner" means the owner of the property, or any interest therein. "Owner" includes all persons or entities who share ownership of a property.

(e) "Reduction in value" means a reduction in the fair market value of real property, or any interest therein, resulting from enactment or enforcement of a land use regulation ~~as of the date the owner makes a written claim for compensation.~~

(f) "Waiver" means action by the Metro Council to modify, remove or not apply the land use regulation ~~resulting in found to have caused~~ a reduction in fair market value.

2.21.030 Filing a Claim

(a) A person may file a claim with Metro for compensation under ~~Measure 37~~ ORS 197.352 without following the process set forth in this chapter. Metro ~~will~~ may give priority to a claim filed under this chapter over claims filed without compliance with this chapter.

(b) A person filing a claim under this chapter must be the owner of the property that is the subject of the claim at the time the claim is submitted to Metro. The person must simultaneously file with Metro all claims against Metro under ~~Measure 37~~ ORS 197.352 that involve the property. The person shall submit the claim or claims to the Chief Operating Officer (COO) and shall include, at a minimum, the following information:

- (1) The name, street address and telephone number of the claimant and all other persons and entities with an interest in the property;
- (2) A title report issued no more than 30 days prior to submission of the claim that shows the claimant's current real property interest in the property, the deed registry of the instrument by which the claimant acquired the property, the location and street address and township, range, section and tax lot(s) of the property, and the date on which the owner acquired the property interest;
- (3) A written statement signed by all owners of the property, or any interest in the property, consenting to the filing of the claim;

- (4) ~~A copy of reference to~~ any and all specific, existing land use regulations the claimant believes reduced the value of the property and a description of the manner in which the regulation restricts the use of the property;
- (5) A copy of the ~~city or county~~ land use regulations that applied to the property at the time ~~the claimant acquired the property~~ the challenged land use regulations became applicable to, or were enforced against, the property;
- (6) ~~An appraisal that shows the reduction in value of the property that the claimant believes resulted from the land use regulation that restricts the use of the property and the methodology used in the appraisal, such as comparable sales data~~The claimant's purchase price for the property;
- (7) Evidence of the fair market value of the property prior to the application or enforcement of the challenged land use regulations to the property and the fair market value after application or enforcement of the regulations;
- (78) A description of the claimant's proposed use of the property if the Council chooses to waive a land use regulation instead of paying compensation; and
- (89) A statement whether the claimant is filing claims with other public entities involving the same property and a copy of any decision made by the entity on the claim.

(c) In addition to the information required by subsection (b) of this section, a person filing a claim under this chapter after December 4, 2006, shall also submit the following information with the claim:

- (1) A copy of the land use application the claimant has filed with the city or county in which the property lies; and
- (2) A copy of the final decision made by the city or county on the claimant's land use application indicating that the city or county applied the challenged land use regulation as a criterion as part of its final decision.

(d) A claim shall not be considered complete for purposes of subsections (4) and (6) of ~~Ballot Measure 37~~ ORS 197.352 until the claimant has submitted the information required by this section.

2.21.040 Review of Claim by Chief Operating Officer and Recommendation

(a) The COO shall review the claim to ensure that it provides the information required by Section 2.21.030. If the COO determines that the claim is incomplete, the COO shall, within 15 business days after the filing of the claim, provide written notice of the incompleteness to the claimant. If the COO does not notify the owner that the claim is incomplete within the prescribed 15 days, the claim shall be considered complete on the date it was filed with the COO.

(b) ~~If the COO receives a completed claim, t~~The COO shall conduct a preliminary review of a claim to determine whether ~~the claim it~~ satisfies all of the following prerequisites for full evaluation of the claim:

- (1) The property lies within Metro's jurisdictional boundary;
- (2) The land use regulation that is the basis for the claim is a provision of a functional plan or was adopted by a city or county to comply with a functional plan; and
- (3) The claimant acquired an interest in the property before the effective date of the land use regulation and has continued to have an interest in the property since the effective date.

(c) If the claim fails to satisfy one or more of the prerequisites in subsection (b) of this section, the COO shall prepare a report to that effect and recommend to the Metro Council that it dismiss the claim as provided in Section 2.21.060(a)(1).

(d) If the claim satisfies each of the prerequisites in subsection (b) of this section, the COO shall complete the review of the claim to determine whether:

- (1) The claimant owns an interest in the property and has owned an interest in the property without interruption since the ~~claimant acquired the interest and prior to the~~ effective date of the land use regulation that is the basis for the claim;
- (2) ~~The~~City, county, regional and state land use regulations that applied to the property at the time ~~the claimant acquired the property the challenged land~~

use regulation became applicable to, or were enforced against, the property allowed the claimant's proposed use and, if so, what criteria or conditions applied to the proposed use under the regulations;

- (3) The specific, existing land use regulation that allegedly reduced the value of the property allows the proposed use and, if so, what criteria or conditions apply to the proposed use under the regulation;
- (4) The specific, existing land use regulation that allegedly reduced the value of the property is exempt from ~~Ballot Measure 37 under subsection 3 of the measure~~ claims under ORS 197.352(3); and
- (5) If the specific, existing land use regulation that allegedly reduced the value of the property is not exempt ~~from Ballot Measure 37~~ under ORS 197.352(3), the regulation restricts the proposed use and the restriction has reduced the fair market value of the property. In making this determination, the COO will compare the value of the property before application or enforcement of the challenged land use regulation to the property with the value after the application or enforcement.

(e) The COO may commission an appraisal or direct other research in aid of the determination whether a claim meets the requirements of ~~Ballot Measure 37~~ ORS 197.352, and to assist in the development of a recommendation regarding appropriate relief if the claim is found to be valid.

(f) The COO shall prepare a written report, to be posted at Metro's website, with the determinations required by subsection (b) and (d) of this section and the reasoning to support the determinations. The report shall include a recommendation to the Metro Council on the validity of the claim and, if valid, whether Metro should compensate the claimant for the reduction of value or waive the regulation. If the COO recommends compensation or waiver, the report shall recommend any conditions that should be placed upon the compensation or waiver to help achieve the purpose of this chapter and the policies of the Regional Framework Plan.

(g) The COO shall provide the report to the Council, the ~~owner~~ claimant, the city or county with land use responsibility for the property, and other persons who request a copy. If ~~the COO determines that~~ the Council adopted the regulation in order to comply with state law, the COO shall send a copy of the report to the Oregon Department of Administrative Services.

2.21.050 Hearing on Claim before Metro Council

(a) The Metro Council shall hold a public hearing on ~~the a~~ claim ~~that satisfies the prerequisites of Section 2.21.040(b)~~ before taking final action. The COO shall schedule the hearing for a date prior to the expiration of 180 days after the filing of a completed claim under Section 2.21.030.

(b) The COO shall provide notification of the date, time and location of the public hearing at least 25 days before the hearing to the claimant, owners and occupants of property within 500 feet of the subject property, the local government with land use planning responsibility for the property and any person who requests notification. The notification shall indicate that a copy of the COO's recommendation under Section 2.21.040 is available upon request.

2.21.060 Action on Claim by Metro Council

(a) After the public hearing, but not later than 180 days after the filing of a claim under Section 2.21.030, the Metro Council shall consider the COO's recommendation and:

- (1) Determine that the claim does not qualify for compensation;
- (2) Determine that the claim qualifies for compensation and provide relief in the form of compensation or enhancement of the value of the property or decide not to apply the land use regulation; or
- (3) Determine that the claim qualifies for compensation and resolve to modify or remove the land use regulation.

(b) The Council shall take the action that is most consistent with the purpose of this chapter and the Regional Framework Plan.

(c) The Council shall issue an order with its decision and direct the COO to send the order to the claimant, ~~the city or county with land use responsibility for the property~~, persons who participated at the hearing held under Section 2.21.050, other persons who request a copy, and the Oregon Department of Administrative Services if the Council adopted the land use regulation to comply with state law.

2.21.070 Conditions on Compensation or Waiver

(a) The Metro Council may place any conditions on its action under Section 2.21.060, including conservation easements and deed restrictions, that are appropriate to achieve the purposes of this

chapter. The Council shall place a condition on a decision under Section 2.21.060(a)(2) or (3) that the decision constitutes a waiver by the claimant of any further claims against Metro under Measure 37 involving the subject property.

(b) Failure by a claimant to comply with a condition provides a basis for action to recover any compensation made or revoke any action by the Council under Section 2.21.060(a)(2) or (3).

2.21.080 Fee for Processing Claim

(a) The COO may establish a fee to be paid by a person filing a claim at the time the person files the claim. The fee shall be based upon an estimate of the actual cost incurred by Metro in reviewing and processing claims. The COO may waive the fee if the claimant demonstrates that the fee would impose an undue hardship.

(b) The COO shall maintain a record of Metro's costs in reviewing and processing the claim. After final action by the Council under Section 2.21.060, the COO shall determine Metro's total cost and issue a refund to the claimant if the estimated fee exceeded the total cost or a bill for the amount by which the total cost exceeded the estimated fee.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1136, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.21 (CLAIMS UNDER MEASURE 37) FOR TREATMENT OF CLAIMS UNDER ORS 197.352 AND DECLARING AN EMERGENCY

Date: December 18, 2006

Prepared by: Richard Benner

BACKGROUND

The Metro Council adopted a process (now Metro Code Chapter 2.21) for treatment of claims under Measure 37 (now ORS 197.352), effective December 21, 2005. During the first two years following the effective date of the measure (December 2, 2004), Metro received 18 claims. Seven of those claims went through the full claims process under Chapter 2.21 to conclusion following a public hearing before the Council. During Metro's treatment of these claims, the Council revised its method for evaluating claims and determining whether Metro regulations had reduced the fair market values of claimants' properties. The methodology described in Chapter 2.21 no longer reflects the Council's practice.

By the terms of ORS 197.352, claims filed with government entities, including Metro, claims filed after two years following the effective date of Measure 37 are subject to different requirements from those filed earlier. Chapter 2.21 does not fully set forth these requirements for claims filed after the two-year deadline.

Other provisions of Chapter 2.21 are out of date as the result of codification of the measure in Oregon Revised Statutes and cases interpreting the measure.

In the last week prior to the expiration of two years following the effective date of the measure, Metro received 32 new claims. It is important that these claimants and the people of the region are aware of these changes to the extent they can be addressed in Metro's code on Measure 37 claims.

For these reasons, the Office of Metro Attorney proposes amendments to Metro Code Chapter 2.21.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to the proposed amendments.
2. **Legal Antecedents:** Measure 37 is now codified at Oregon Revised Statutes 197.352. The Metro process for addressing claims is in the Metro Code, Chapter 2.21.
3. **Anticipated Effects:** The amendments can be expected to better inform claimants and members of the public about the process Metro will follow when addressing claims and the methods Metro will use in determining whether a challenged land use regulation has had the effect of reducing the fair market value of a claimant's property.
4. **Budget Impacts:** The amendments can be expected to reduce slightly the costs to claimants in filing a claim and the costs to Metro in processing the claim.

RECOMMENDED ACTION

The Office of Metro Attorney recommends that the Metro Council amend Metro Code Chapter 2.21 as proposed by Ordinance No. 07-1136

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO CODE)
SECTIONS 3.07.120, 3.07.130 AND 3.07.1120;) Ordinance No. 07-1137
ADDING METRO CODE SECTION 3.07.450 TO)
ESTABLISH A PROCESS AND CRITERIA FOR) Introduced by Chief Operating Officer
CHANGES TO THE EMPLOYMENT AND) Michael J. Jordan, with the concurrence of
INDUSTRIAL AREAS MAP; AND DECLARING AN) Council President David Bragdon
EMERGENCY)

WHEREAS, Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (“UGMFP”) prescribes limitations on certain uses in Industrial Areas, Regionally Significant Industrial Areas and Employment Areas and makes reference to an “Employment and Industrial Areas Map,” which depicts the boundaries of these areas for regulatory purposes; and

WHEREAS, the Metro Council wishes to provide a process and criteria for making changes to the designations of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas on the Title 4 Employment and Industrial Areas Map; and

WHEREAS, the Metropolitan Policy Advisory Committee has reviewed the proposed amendments and recommends their approval; and

WHEREAS, the Council held a public hearing on the proposed amendments on January 18, 2007, and considered public comment on the amendments; now, therefore,

THE METRO COUNCIL ORDAINS as follows:

SECTION 1. Metro Code Sections 3.07.120 and 3.07.130 are amended to read as follows: Sections 3.07.120 and 3.07.130 of Title 1 (Requirements for Housing and Employment Accommodation) of the UGMFP are hereby amended as shown in Exhibit A, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 2. Metro Code Section 3.07.450 is amended to read as follows: Section 3.07.450 is hereby added to Title 4 (Industrial and Other Employment Areas) of the UGMFP as shown in Exhibit B, attached and incorporated into this ordinance, to prescribe a process and criteria for amendments to the Employment and Industrial Areas Map.

SECTION 3. Metro Code Section 3.07.1120 is amended to read as follows: Section 3.07.1120 of Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended as shown in Exhibit C, attached and incorporated into this ordinance, to clarify mapping procedures for territory added to the UGB.

SECTION 4. The Findings of Fact and Conclusions of Law in Exhibit D, attached and incorporated into this ordinance, explain how these amendments comply with Metro’s Regional Framework Plan and state land use planning laws.

SECTION 5. This ordinance is necessary for the immediate preservation of public health, safety and welfare because, without this ordinance, there is no clear process for amending the Employment and Industrial Areas Map in Title 4 of the UGMFP and no specific criteria for such amendments. Metro has received a number of requests from local governments for amendments that involve economic development and need immediate attention. This ordinance provides a process and criteria for amendments to the map. Therefore, a emergency is declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this ___ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1137
Amendments to Title 1 of the Urban Growth Management Functional Plan

TITLE 1: REQUIREMENTS FOR HOUSING AND EMPLOYMENT ACCOMMODATION

3.07.120 Housing and Employment Capacity

- A. Each city and county shall determine its capacity for housing and employment in order to ensure that it provides and continues to provide at least the capacity for the city or county specified in Table ~~3.01-7~~ 3.07-1, **supplemented by capacity resulting from addition of territory to the UGB.** Local governments shall use data provided by Metro unless the Metro Council or the Chief Operating Officer determines that data preferred by a city or county is more accurate.
- B. A city or county shall determine its capacity for dwelling units by cumulating the minimum number of dwelling units authorized in each zoning district in which dwelling units are authorized. A city or county may use a higher number of dwellings than the minimum density for a zoning district if development in the five years prior to the determination has actually occurred at the higher number.
- C. If a city annexes county territory, the city shall ensure that there is no net loss in regional housing or employment capacity, as shown on Table 3.07-1, as a result of amendments of comprehensive plan or land use regulations that apply to the annexed territory.
- D. After completion of its initial determination of capacity, each city or county shall report changes in its capacity by April 15 of the first calendar year following completion of its initial determination and by April 15 of every following year.

3.07.130 Design Type Boundaries Requirement

For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map **or on maps adopted by ordinances adding territory to the UGB:**

Central City--Downtown Portland is the Central City which serves as the major regional center, an employment and cultural center for the metropolitan area.

Regional Centers--Seven regional centers will become the focus of compact development, redevelopment and high-quality transit service and multimodal street networks.

Station Communities--Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment.

Town Centers--Local retail and services will be provided in town centers with compact development and transit service.

Main Streets--Neighborhoods will be served by main streets with retail and service developments served by transit.

Corridors--Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities.

Employment Areas--Various types of employment and some residential development are encouraged in employment areas with limited commercial uses.

Industrial Areas--Industrial areas are set aside primarily for industrial activities with limited supporting uses.

Regionally Significant Industrial Areas--Industrial areas with site characteristics that are relatively rare in the region that render them especially suitable for industrial use.

Inner Neighborhoods--Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods.

Outer Neighborhoods--Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods.

Exhibit B to Ordinance No. 07-1137
Amendments to Title 4 Of the Urban Growth Management Functional Plan

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

Add the following section:

3.07.450 Employment and Industrial Areas Map

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.
- C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:
 - 1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
 - 2. The amendment will not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;
 - 3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
 - 4. The amendment would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or

exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan for state highways, and would not require added road capacity to stay within the standards or ratios;

5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
 6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.
- D. The Chief Operating Officer shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.
- E. After consultation with Metropolitan Policy Advisory Committee, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.
- F. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to better achieve the policies of the Regional Framework Plan. To approve an amendment, the Council must conclude that the amendment:
1. Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;
 2. Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in

the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan for state highways, and would not require added road capacity to stay within the standards or ratios;

3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
 4. Would not reduce the integrity or viability of a traded sector cluster of industries;
 5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
 6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.
- G. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- H. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
- I. By January 31 of each year, the Chief Operating Officer (COO) shall submit a written report to the Council and the Metropolitan Policy Advisory Committee on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

Exhibit C to Ordinance No. 07-1137
Amendments to Title 11 of the Urban Growth Management Functional Plan

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1120—Urban Growth Boundary Amendment Urban Reserve Plan Requirements Planning for Territory Added to the UGB

All territory added to the ~~Urban Growth Boundary~~ UGB as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

- A. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB.
- AB. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.
- BC. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or such other densities that the Council specifies pursuant to section 3.01.040 of the Urban Growth Management Functional Plan.
- CD. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.
- DE. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined

permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

- EF. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.
- FG. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- GH. Identification and mapping of areas to be protected from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation, including, without limitation, all Habitat Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include zoning strategies to minimize the conflicts between planned future development and the protection of Habitat Conservation Areas, Water Quality Resource Areas, Flood Management Areas, and other natural hazard areas. The plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected.
- HI. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

- ~~IJ~~. A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.
- ~~JK~~. An urban growth diagram for the designated planning area showing, at least, the following, when applicable:
1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
 2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
 3. Location of Habitat Conservation Areas;
 4. General locations for mixed use areas, commercial and industrial lands;
 5. General locations for single and multi-family housing;
 6. General locations for public open space, plazas and neighborhood centers; and
 7. General locations or alternative locations for any needed school, park or fire hall sites.
- ~~L~~. A determination of the zoned dwelling unit capacity of zoning districts that allow housing.
- ~~KM~~. The plan amendments shall be coordinated among the city, county, school district and other service districts.

Exhibit D to Ordinance No. 07-1137
Findings of Fact and Conclusions of Law

Ordinance No. 07-1137 amends various provisions of the Urban Growth Management Functional Plan (UGMFP) in order to establish a process and criteria for amendments to the Employment and Industrial Areas Map of Title 4 (Industrial and Other Employment Areas). The ordinance also clarifies the process for adjusting UGMFP maps and tables (housing and employment capacities) following completion of planning under Title 11 (Planning for New Urban Areas) of territory added to the UGB. The practical effects of these changes are as follows:

- Title 4 now provides specific procedures for changes to Title 4's Employment and Industrial Areas Map, some of which are initiated by cities and counties and others by the Metro Council
- Title 4 now provides specific criteria derived from the policies of the Regional Framework Plan for review of proposed changes to the Employment and Industrial Areas Map
- Titles 1 and 11 more clearly set forth the process for bringing maps and tables of the UGMFP into conformance with city and county planning under Title 11 of territory newly added to the UGB. The Metro Council assigns general design-type designations to the territory in the ordinance which adds the territory to the UGB. The city or county responsible for planning the new territory develops comprehensive plan and zoning designations that generally conform to Metro's design-type designation. After adoption by the city or county, Metro conforms UGMFP maps and tables to the local maps.

Ordinance No. 07-1137 does not change any of the regulatory boundaries contained in the maps. The ordinance, therefore, does not change requirements under the functional plans as they apply to any particular property under Metro's jurisdiction.

I. STATEWIDE PLANNING GOALS

Statewide Planning Goal 1 – Citizen Involvement: Metro provided notice of the proposed amendments to stakeholders and the general public by following the notification requirements in its acknowledged code. Metro provided notice to the Oregon Department of Land Conservation and Development Commission as provided in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee (MPAC), which sought the advice of its Metropolitan Technical Advisory Committee (MTAC). On January 18, 2007, the Metro Council held a public hearing on the proposed ordinance. The Council concludes that these activities conform to Metro's code and policies on citizen involvement and comply with Goal 1.

Statewide Planning Goal 2 – Land Use Planning: Metro sought and received comment from the local governments and special districts that comprise the metropolitan region. The Metro Charter establishes MPAC, composed principally of representatives of local governments, special districts and school districts in the region, and requires the Metro Council to seek its advice on amendments to the Regional Framework Plan and its components, such as the

UGMFP. MPAC reviewed Ordinance No. 07-1137 and recommended revisions to the draft, some of which the Council adopted. The Council concludes that the ordinance complies with Goal 2.

Statewide Planning Goal 3 – Agricultural Lands: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 3 does not apply to the amendments.

Statewide Planning Goal 4 – Forest Lands: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the maps have no regulatory effect outside the UGB, the Council concludes that Goal 4 does not apply to the amendments.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Because the amendments made by the ordinance do not change the boundaries on any map that applies to resources protected by Goal 5, the Council concludes that the ordinance is consistent with Goal 5.

Statewide Planning Goal 6 – Air, Land and Water Resources Quality: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect resources protected by Goal 6. The Council concludes, therefore, that the amendments are consistent with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect areas subject to natural disasters and hazards. The Council concludes, therefore, that the amendments are consistent with Goal 7.

Statewide Planning Goal 8 – Recreational Needs: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect recreational needs. The Council concludes, therefore, that the amendments are consistent with Goal 8.

Statewide Planning Goal 9 – Economic Development: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. Thus, although Goal 9 does not apply to Metro, the Council concludes that the ordinance is consistent with the goal.

Statewide Planning Goal 10 – Housing: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The ordinance does not apply to land available for housing. The Council concludes that Goal 10 does not apply to the amendments.

Statewide Planning Goal 11 – Public Facilities and Services: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 11 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect any public facility plan. The Council concludes that the amendments are consistent with Goal 11.

Statewide Planning Goal 12 – Transportation: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 12 will apply to proposed changes to the Title 4 map pursuant to this ordinance, but this ordinance itself does not amend or affect the Regional Transportation Plan or any city or county transportation system plan. The Council concludes that the amendments are consistent with Goal 12.

Statewide Planning Goal 13 – Energy Conservation: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. The amendments do not affect energy resources. The Council concludes, therefore, that the amendments are consistent with Goal 13.

Statewide Planning Goal 14 – Urbanization: Goal 14 governs the establishment and change of UGBs. Ordinance No. 07-1137 does not apply outside the UGB and does not apply to changes to the UGB. Goal 14 also requires management of “urbanizable land” within UGBs “...to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.” The ordinance does not change any of the regulatory

boundaries contained in the maps. For these reasons, the Council concludes that the amendments are consistent with Goal 14.

Statewide Planning Goal 15 – Willamette River Greenway: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Goal 15 will apply to proposed changes to the Title 4 map pursuant to this ordinance for land that lies within the greenway, but this ordinance itself does not change any of the regulatory boundaries contained in the maps and, therefore, does not change requirements under the functional plans as they apply to any particular industrial or employment land. The Council concludes that the amendments are consistent with Goal 15.

II. REGIONAL FRAMEWORK PLAN

Policy 1.4 – Economic Opportunity: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.4 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.4.

Policy 1.5 – Economic Vitality: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policy 1.5 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.5.

Policy 1.13 – Participation of Citizens: The public involvement actions described above under Statewide Planning Goal 1 comply with Metro’s code and Policy 1.13.

Policy 1.15 – Centers: Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive

in part from Policy 1.15 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with Policy 1.15.

Policies 2.20 – Regional Freight System – and 2.21 – Regional Freight System Investments:
Ordinance No. 07-1137 amends various provisions of the UGMFP to establish a process and criteria for amendments to the Title 4 Employment and Industrial Areas Map and to clarify the process for adjusting UGMFP maps and tables following completion of planning under Title 11 of territory added to the UGB. Changes to the map and to subsequent land uses can have significant effects on the regional freight system. This ordinance itself does not change any of the regulatory boundaries contained in the maps and does not change requirements under the functional plans as they apply to any particular industrial or employment land. The ordinance, however, does establish criteria for changes to the Title 4 map. Criteria in the ordinance derive in part from Policies 2.20 and 2.21 [subsections 3.07.450(C) and (F)]. The Council concludes that the amendments are consistent with these policies.

Because Ordinance No: 07-1137 does not make any changes to design-type designations or the Title 4 map itself and addresses only process and criteria for future amendments to the Title 4 Employment and Industrial Areas Map, the following policies of the Regional Framework Plan do not apply to the ordinance:

- Policy 1.1 – Urban Form
- Policy 1.2 – Built Environment
- Policy 1.3 – Affordable Housing
- Policy 1.6 – Growth Management
- Policy 1.7 – Urban/Rural Transition
- Policy 1.8 – Developed Urban Land
- Policy 1.9 – Urban Growth Boundary
- Policy 1.10 – Urban Design
- Policy 1.11 – Neighbor Cities
- Policy 1.12 – Protection of Agriculture and Forest Resource Land
- Policy 1.16 – Residential Neighborhoods

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1137 FOR AMENDING METRO CODE SECTIONS 3.07.120, 3.07.130 AND 3.07.1120; ADDING METRO CODE SECTION 3.07.450 TO ESTABLISH A PROCESS AND CRITERIA FOR CHANGES TO THE EMPLOYMENT AND INDUSTRIAL AREAS MAP; AND DECLARING AN EMERGENCY

Date: December 27, 2006

Prepared by: Dick Benner and Ray Valone

BACKGROUND

Title 4 of the Urban Growth Management Functional Plan (UGMFP) seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses within Regionally Significant Industrial Areas, Industrial Areas and Employment Areas. Title 4 sets the boundaries for these design type designations and determines which land in the region is subject to the title's limitations. Local governments rely upon the Title 4 map (Employment and Industrial Areas map) to bring their comprehensive plans and zoning ordinances into compliance with the provisions of this title. From time to time, a city or county wants to change its plan and zone designations within a Title 4 design type. To remain in compliance with the UGMFP, these changes usually require an amendment to the Title 4 map.

Currently, there is no specific process or specific criteria in place in Title 4 against which to judge Title 4 map change requests. In recent months, several local governments have requested changes to this map. In the absence of specific criteria, the Metro Council would apply the policies of the Regional Framework Plan (RFP). In the absence of a specific process, the Metro Council would follow its customary ordinance process, regardless how large or small the map change request. Because the RFP does not specify which policies apply to Title 4 map changes, and because most RFP policies are general in nature, local governments - and the Metro Council when asked to approve or reject a proposed map change - face a large degree of uncertainty concerning Title 4 change requests.

Metro staff brought this issue to the May 23 and August 1, 2006, Metro Council work sessions. During the first session, the Metro Council directed staff to recommend a process and criteria after consultation with advisory committees. After discussion sessions on June 21, July 5 and July 19, 2006, with the Metropolitan Technical Advisory Committee (MTAC), staff brought the results back to the Metro Council on August 1, 2006. MTAC again discussed this issue on August 16, 2006. The proposed amendments to the UGMFP, shown in Exhibits A, B and C to this ordinance, is the result of the above discussions. In general, the approach contemplates:

- Basing the decision criteria on existing adopted Metro Council policy
- Treating minor and major requests differently
- Allowing local governments to process and decide on the minor amendment requests

Metro staff intends to introduce this issue to MPAC on September 13, 2006, and seek a recommendation from MTAC on September 20, 2006. It will go to MPAC for a recommendation on October 11 and come back to the Metro Council for a second reading and action on October 12, 2006. The first reading at Metro Council is scheduled for January 4, 2007.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known
2. **Legal Antecedents:** Ordinance No. 97-715B, Ordinance No. 02-969B and Ordinance No. 04-1040B.
3. **Anticipated Effects:** By adopting Ordinance 06-1124, the Council is amending three sections and adding a new section to the Urban Growth Management Functional Plan to establish a process and specific criteria for changing the Employment and Industrial Areas map of Title 4. If there is no successful appeal to the Land Use Board of Appeals, the Metro Council's decision is final.
4. **Budget Impacts:** The cost for processing amendments to Title 4 is included in the current budget.

RECOMMENDED ACTION

Staff recommends the adoption of Ordinance No. 07-1137

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY) ORDINANCE NO. 06-1132
2006-07 BUDGET AND APPROPRIATIONS)
SCHEDULE RELATED TO CERTAIN ELECTED) Introduced by Mike Jordan, Chief Operating
OFFICES, AND DECLARING AN EMERGENCY) Officer, with the concurrence of Council
) President Bragdon

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 and Solid Waste Revenue Fund to provide for several projects at Metro Regional Center.
- 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 _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A
Ordinance No. 06-1132

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		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		47,000		0		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		1,500		21,000
	5490 Miscellaneous Expenditures		31,000		0		31,000
Total Materials & Services			\$183,700		\$1,500		\$185,200
TOTAL REQUIREMENTS		20.00	\$1,773,595	0.00	\$1,500	20.00	\$1,775,095

Exhibit A
Ordinance No. 06-1132

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Metro Auditor's Office							
<i><u>Personal Services</u></i>							
<i>SALWGE</i>	<i>Salaries & Wages</i>						
5000	Elected Official Salaries						
	Auditor	1.00	76,640	-	0	1.00	76,640
5010	Reg Employees-Full Time-Exempt						
	Auditor's Administrative Assistant	1.00	28,715	-	28,716	1.00	57,431
	Senior Auditor	3.00	130,943	-	130,943	3.00	261,886
5030	Temporary Employees		950		950		1,900
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		80,596		54,561		135,157
5190	PERS Bond Recovery		7,355		4,920		12,275
Total Personal Services		5.00	\$325,199	0.00	\$220,090	5.00	\$545,289
<i><u>Materials & Services</u></i>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		3,515		3,515		7,030
5205	Operating Supplies		1,607		1,608		3,215
5210	Subscriptions and Dues		1,691		1,691		3,382
<i>SVCS</i>	<i>Services</i>						
5260	Maintenance & Repair Services		268		268		536
5280	Other Purchased Services		1,640		1,640		3,280
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
5300	Payments to Other Agencies		161		161		322
<i>OTHEXP</i>	<i>Other Expenditures</i>						
5450	Travel		4,766		4,767		9,533
5455	Staff Development		3,177		3,178		6,355
5490	Miscellaneous Expenditures		256		257		513
Total Materials & Services			\$17,081		\$17,085		\$34,166
TOTAL REQUIREMENTS		5.00	\$342,280	0.00	\$237,175	5.00	\$579,455

Exhibit A
Ordinance No. 06-1132

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		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		1,613,500		(238,675)		1,374,825
	* 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						
	* Undesignated		42,000		0		42,000
	* 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			\$11,483,187		(\$238,675)		\$11,244,512
TOTAL REQUIREMENTS		402.33	\$102,095,553	0.00	\$0	402.33	\$102,095,553

Exhibit B
Ordinance No. 06-1132
FY 2006-07 SCHEDULE OF APPROPRIATIONS

GENERAL FUND	<u>Current</u>	<u>Revision</u>	<u>Amended</u>
	<u>Appropriation</u>		<u>Appropriation</u>
Council Office			
Operating Expenses (PS & M&S)	1,773,595	1,500	1,775,095
Debt Service	0	0	0
Capital Outlay	0	0	0
Subtotal	1,773,595	1,500	1,775,095
Finance & Administrative Services			
Operating Expenses (PS & M&S)	7,370,001	0	7,370,001
Debt Service	0	0	0
Capital Outlay	158,285	0	158,285
Subtotal	7,528,286	0	7,528,286
Human Resources			
Operating Expenses (PS & M&S)	1,527,312	0	1,527,312
Debt Service	0	0	0
Capital Outlay	0	0	0
Subtotal	1,527,312	0	1,527,312
Metro Auditor			
Operating Expenses (PS & M&S)	342,280	237,175	579,455
Debt Service	0	0	0
Capital Outlay	0	0	0
Subtotal	342,280	237,175	579,455
Office of Metro Attorney			
Operating Expenses (PS & M&S)	1,448,414	0	1,448,414
Debt Service	0	0	0
Capital Outlay	0	0	0
Subtotal	1,448,414	0	1,448,414
Oregon Zoo			
Operating Expenses (PS & M&S)	22,508,631	0	22,508,631
Debt Service	0	0	0
Capital Outlay	200,000	0	200,000
Subtotal	22,708,631	0	22,708,631
Planning			
Operating Expenses (PS & M&S)	23,822,826	0	23,822,826
Debt Service	29,250	0	29,250
Capital Outlay	0	0	0
Subtotal	23,852,076	0	23,852,076

Exhibit B
Ordinance No. 06-1132
FY 2006-07 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
Public Affairs & Government Relations			
Operating Expenses (PS & M&S)	1,390,721	0	1,390,721
Debt Service	0	0	0
Capital Outlay	0	0	0
Subtotal	1,390,721	0	1,390,721
Regional Parks & Greenspaces			
Operating Expenses (PS & M&S)	6,914,866	0	6,914,866
Debt Service	0	0	0
Capital Outlay	100,000	0	100,000
Subtotal	7,014,866	0	7,014,866
Non-Departmental			
Operating Expenses (PS & M&S)	14,003,594	0	14,003,594
Debt Service	1,198,898	0	1,198,898
Capital Outlay	0	0	0
Subtotal	15,202,492	0	15,202,492
General Expenses			
Interfund Transfers	7,823,692	0	7,823,692
Contingency	7,505,790	(238,675)	7,267,115
Subtotal	15,329,482	(238,675)	15,090,807
Unappropriated Balance	3,977,397	0	3,977,397
Total Fund Requirements	\$102,095,553	\$0	\$102,095,553

All other appropriations remain as previously adopted

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1132 FOR THE PURPOSE OF AMENDING THE FY 2006-07 BUDGET AND APPROPRIATIONS SCHEDULE RELATED TO CERTAIN ELECTED OFFICES, AND DECLARING AN EMERGENCY

Date: November 9, 2006

Presented by: Reed Wagner
Michael Jordan

BACKGROUND

In election years, certain elected offices change leadership. Incoming officials expect to have access to a prorated level of appropriated funding for their offices. In June of 2006, with this in mind, half of the discretionary budget in the two elected offices with leadership changes was preserved for the incoming officials. The amounts below reflect those that should be replaced back into the departments from contingency on January 1, 2006.

The Chief Operating Officer has proposed to the Council, to accompany this budget amendment, a revision to Metro Code establishing an ongoing policy applying this principle to all offices with transitioning elected officials.

Department(s)	Line items		
	<i>Acct #</i>	<i>Account Title</i>	<i>Amount</i>
Office of the Auditor	5010	Personal services (sans Elected official salary)	159,659
	5030	Temporary Employees	950
	5100	Fringe	54,561
	5190	PERS Bond Recovery	4,920
	5201	Office Supplies	3,515
	5205	Operating Supplies	1,608
	5210	Subscriptions & Dues	1,691
	5260	Maintenance & Repair Services	268
	5280	Other Purchased Services	1,640
	5300	Payments to other agencies	161
	5450	Travel	4,767
	5455	Staff Development	3,178
	5490	Miscellaneous Expenditures	257
		<i>Subtotal Office of the Auditor</i>	<i>\$237,175</i>
Council	5470	Council Costs	1,500
General Fund	5999	Contingency	(\$238,675)

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this ordinance.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.

3. **Anticipated Effects:** This action will restore the budgets of certain elected officials to an estimated full year requirement. The budgets had initially been adopted at a prorated amount due to mid-year change in leadership.
4. **Budget Impacts:** This ordinance transfers \$238,675 from the General Fund contingency to the Metro Auditor and Council Office budgets. The funding had been placed in contingency at the time the budget was adopted until such time as new elected officials took office.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance 06-1132.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REORGANIZING THE) RESOLUTION NO. 07-3749
METRO COUNCIL IN 2007)
) Introduced by Council President
) David Bragdon

WHEREAS, the Metro Charter directs the Council to adopt an annual organizing resolution for the orderly conduct of Council business; and

WHEREAS, the Metro Charter provides that the Council President appoints the Deputy President and all members of committees, commissions and boards; and

WHEREAS, the Council President has nominated Councilor Rod Park to serve as the Deputy President for 2007; now therefore

BE IT RESOLVED:

1. That the Metro Council elects Councilor Rod Park as the Deputy for 2007.
2. That the Metro Council confirms all other appointments on exhibit A.

ADOPTED by the Metro Council this 4th day of January 2007.

David Lincoln Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Resolution No. 07-3749

EXHIBIT "A"

ADDITIONAL APPOINTMENTS FOR CALENDAR YEAR 2007

Joint Policy Advisory Committee on Transportation: Councilor Burkholder, Chair; Councilor Park, Vice Chair, Councilor Newman.

Metro Policy Advisory Committee (delegates): Councilor Harrington (spokesperson for "Council Update"), Councilor Liberty; Councilor Newman.

Solid Waste Advisory Committee (SWAC): Councilor Harrington, Chair

Solid Waste Rate Review Committee: Councilor Park, Chair

Oregon Zoo Foundation Board of Directors (ex-officio delegates): Councilor Newman, Councilor Liberty

Bi-State Transportation Committee: Councilor Burkholder

South Corridor Transportation Study: Councilor Newman

Transit Oriented Development Steering Committee: Councilor Liberty

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING INTO AN) RESOLUTION NO. 07-3756
INTERGOVERNMENTAL AGREEMENT WITH)
MULTNOMAH COUNTY FOR ACQUISITION) Introduced by Council President
OF THE MORRISON BUILDING PROPERTY) David Bragdon

WHEREAS, Resolution No. 93-1877 was approved by Metro Council on December 19, 1993, "For The Purpose Of Approving An Intergovernmental Agreement Between Multnomah County And Metro Regarding Transfer Of Regional Parks, Natural Areas, Golf Courses, Cemeteries, And Trade/Spectator Facilities Presently Owned And Operated By Multnomah County To Metro", and authorizing the Executive Officer to enter into an agreement providing for the Phase I transfer (operation/management) of Multnomah County parks, natural areas, golf courses and cemeteries from Multnomah County to Metro; and

WHEREAS, Resolution No. 96-2285 was adopted by Metro Council on March 14, 1996, "For The Purpose Of Authorizing A Phase II Intergovernmental Agreement With Multnomah County Regarding Parks And Other Facilities", and authorizing the Executive Officer to enter into an agreement providing for the Phase II transfer (property ownership/title) of Multnomah County parks, natural areas, golf courses and cemeteries from Multnomah County to Metro; and

WHEREAS, Multnomah County owns the property commonly known as the Morrison Building Property, located at 2115 SE Morrison Street, in the city of Portland, county of Multnomah, state of Oregon, hereinafter referred to as "Property" and consisting of Lots 4 & 5, Block 7, Garrison's Subdivision in East Portland, and Parcel 2, Partition Plat No. 1997-197; and

WHEREAS, on March 7, 2002, the Multnomah County Board of Commissioners ("Board") adopted its Resolution 02-032, which deemed the Property surplus and directed its disposition. On October 6, 2005, by Resolution 5-071, the Board approved the transfer of the Property to Metro and authorized the Chair to execute all documents necessary to complete the transfer; and

WHEREAS, Metro, the City, and the County are all committed to working together in the future with interested community groups to see that the Morrison Building property is appropriately developed to create a proper entrance to the Lone Fir Cemetery, to create a potential memorial to the Chinese immigrants who were buried on the site, and/or to other uses appropriate to its history, location, and circumstances. Metro and Multnomah County have an IGA, Exhibit A, that transfers ownership of the Property from Multnomah County to Metro; now therefore

BE IT RESOLVED that the Metro Council authorizes the Metro Chief Operating Officer to enter into an Intergovernmental Agreement with Multnomah County and to accept fee simple title to the Property on the terms and conditions set forth in Exhibit A.

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Adopted by the Metro Council this _____ day of _____ 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

EXHIBIT A
RESOLUTION 07-3756

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") between Metro, a political subdivision of the state of Oregon ("Metro") and Multnomah County, a political subdivision of the state of Oregon ("County"), is made and entered into as of _____, 2007.

RECITALS:

- a.** County owns the property known as the Morrison Property, located at 2115 SE Morrison Street, in the city of Portland, county of Multnomah, state of Oregon, hereinafter referred to as "Property" and consisting of **Lots 4 & 5, Block 7, Garrison's Subdivision in East Portland, and Parcel 2, Partition Plat No. 1997-197.**
- b.** By Resolution 02-032, dated March 7, 2002, The Multnomah County Board of Commissioners ("Board") deemed the Property surplus and directed its disposition. By Resolution 5-071, dated October 6, 2005, the Board approved the transfer of the Property to Metro and authorized the Chair to execute all documents necessary to complete the transfer.
- c.** On January 4, 2007, via Metro Council Resolution No. 07-3756, "For the Purposes of Entering Into an Intergovernmental Agreement with Multnomah County for Acquisition of the Morrison Building Property," the Metro Council authorized the Metro Chief Operating Officer to enter into this Agreement and to accept fee simple title to the Property on the terms and conditions set forth below.
- d.** The parties desire by this Agreement to provide for transfer of ownership of the Property to Metro.

The terms of this Agreement are as follows:

- 1. Transfer of the Property.** Transfer of the Property shall be by statutory bargain and sale deed (the "Deed"), and shall occur on or before January 5, 2007, or a later date mutually agreeable to the parties, but no later than January 31, 2007 (the "Transfer Date").
- 2. Consideration.** The transfer shall be for non-monetary consideration, and is made and accepted in reliance upon the recitals set forth above and in consideration of the mutual and reciprocal agreements and covenants between County and Metro set forth herein.

3. Indemnification

3.1. Liability Other Than Environmental Liability

3.1.1. Metro has examined the Property and Metro agrees that it is acquiring the Property in an “as is” condition, subject only to the provisions of Section 3.2, solely in reliance on Metro’s physical inspection and examination of the Property, including title reports, environmental and archeological reports related to the demolition, and environmental reports attached hereto as Exhibits A and B. Moreover, Metro acknowledges and agrees that County has made no representations or warranties with respect to the Property.

3.1.2. County, to the maximum extent permitted by law and within the limits of the Oregon Tort Claims Act, ORS 30.260 to 30.300, shall defend, indemnify and hold harmless Metro and its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits and actions, whether arising in tort, contract, or by operation of any statute, including the Workers Compensation laws, including, but not limited to attorneys’ fees and expenses at trial and appeal, relating to or resulting from any claim based on any act or occurrence that took place prior to the Transfer Date, arising from operations at the Property.

3.1.3. Metro, to the maximum extent permitted by law and within the limits of the Oregon Tort Claims Act, ORS 30.260 to 30.300, shall defend, indemnify and hold harmless County and its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits and actions, whether arising in tort, contract, or by operation of any statute, including the Workers Compensation laws, including, but not limited to attorneys’ fees and expenses at trial and appeal, relating to or resulting from any claim based on any act or occurrence that took place on or after the Transfer Date, arising from operations at the Property.

3.2. Environmental Liability

3.2.1. This Section 3.2 sets forth the agreement between the parties regarding the allocation of liability for any contamination, fuel leak, discharge or release of toxic materials or hazardous substances as those terms are defined in any law or regulation on the Property which is being transferred to Metro. As used in this Section 3.2, “occurred” means any contamination, fuel leak, discharge or release of toxic materials or hazardous substances that originated on the Property rather than off-site.

3.2.2. Metro, to the maximum extent permitted by law, shall defend, indemnify and hold harmless County, and its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits and actions relating to or resulting from any contamination, fuel leak, discharge or release of toxic materials or hazardous substances as those terms are defined in any law or regulation, on the Property, except for any such contamination, fuel leak,

discharge or release of toxic materials or hazardous substances for which County has a duty to indemnify Metro pursuant to Section 3.2.3 below.

3.2.3. County, to the maximum extent permitted by law, shall defend, indemnify and hold harmless Metro, and its officers, employees, and agents from and against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits and actions relating to or resulting from any contamination, fuel leak, discharge or release of toxic materials or hazardous substances as those terms are defined in any law or regulation (hereafter, "Release"), on the Property that:

3.2.3.1. is located within the top sixteen (16) inches of soil surface of the Property, or

3.2.3.2. is identified in PBS's Phase I Environmental Site Assessment, January 2006 (Exhibit A) and PBS Soil Assessment, May 24, 2006 (Exhibit B), provided that costs are required to be incurred to comply with an order issued by a governmental authority or to comply with a law or regulation requiring investigation, remediation or cleanup of any Release, or

3.2.3.3. occurred or originated on the Property if such Release occurred or originated during the period beginning on the date County became the owner or operator of the Property on which the Release occurred or originated and ending as of the Transfer Date, provided that costs are required to be incurred an order issued by a governmental authority or to comply with a law or regulation requiring investigation, remediation or cleanup of any Release.

County's indemnity and hold harmless obligation set forth above in Sections 3.2.3.1, 3.2.3.2 and 3.2.3.3 shall not extend to legal costs and fees incurred by Metro.

3.2.4. In the event Metro or County is notified by any state or federal agency that it is a potentially responsible party as the result of any contamination, fuel leak, discharge or release of toxic materials or hazardous substances as those terms are defined in any law or regulation originating from the Property, or if either party shall become aware of any contamination, fuel leak, discharge or release of toxic materials or hazardous substances, other than those described in Exhibits A and B, notice shall immediately be given to the other party in writing. If a notice is received from a state or federal agency, Metro shall take the lead role in responding to the notice. County agrees to cooperate with Metro in responding to any such notice. After discovery that a contamination, fuel leak, discharge or release of toxic materials or hazardous substances has occurred, the parties shall meet and agree regarding responsibility under the terms of this Agreement. If the parties cannot agree regarding responsibility under this Agreement, such responsibility shall be determined in accordance with Section 3.2.5 below. Metro shall take all necessary action required to mitigate damages resulting from the contamination, fuel leak, discharge or release of toxic materials or hazardous substances, subject to reimbursement by County as provided herein, if it is determined that County is the responsible party.

3.2.5. Dispute Resolution

In the event there is a dispute between Metro and County regarding responsibility for any contamination, fuel leak, discharge or release of toxic materials or hazardous substances as those terms are defined in any law or regulation, the dispute shall be resolved by the binding decision of a panel of experts as provided herein.

Whichever party determines that a dispute exists may initiate the dispute resolution process by notifying the other party in writing. The party initiating the dispute resolution process shall appoint an expert environmental engineer to the dispute resolution panel within 14 days of the notice initiating the dispute resolution process. Thereafter, the other party shall appoint its expert environmental engineer within 14 days. The two experts so appointed shall appoint a third expert environmental engineer within 30 days of the second appointment. No expert shall be required to have any particular education, training or experience to serve on the panel.

Each party agrees to provide the other party all information and documents available to the party, its employees, agents or experts relating to the dispute, including but not limited to all expert reports (including raw data) whether or not prepared by the party's appointed environmental engineer.

The three experts shall resolve the matter. Unless a majority of the panel finds that the County is responsible pursuant to Section 3.2.3 above, Metro shall be responsible pursuant to Section 3.2.2 above. The decision of the panel shall be final and binding on the parties. Each party shall pay the costs of its own expert, investigation costs and attorney fees. The cost of the third expert shall be shared equally by the parties.

- 4. Taxes, Prorates, Costs and Expenses.** The Property is currently in tax-exempt status and no real property taxes are assessed or owing against the Property. Any other items required to be prorated shall be prorated as of the Transfer Date.
- 5. Possession.** Metro shall be entitled to exclusive possession of the Property on the Transfer Date.
- 6. Easement Property.** County received an interest in property described as the south twenty (20) feet of Lot 3, Block 7 Garrison's Subdivision, via quitclaim instrument recorded July 17, 1929 in Book 16, Page 421, Multnomah County deed records (the "Easement Property"). The Deed will convey to Metro all of County's rights acquired under the above described instrument. The County agrees that it will make best efforts to convey any interest in the title to the Easement Property that may vest in the County after the Transfer Date to Metro by quitclaim deed.. No provision of this Agreement other than this Section 6 shall apply to the Easement Property.
- 7. Notices.** All notices or other communications required or permitted under this Agreement must be in writing and must be (1) personally delivered (including by means of a professional messenger service), which notices and communications will be deemed received on receipt at the office of the addressee; (2) sent by registered or certified mail, postage prepaid, return receipt requested, which notices and communications will be deemed

9.5. Time of Essence. The County and the Metro hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision.

9.6. Construction. Headings at the beginning of each section and subsection are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural, and the masculine shall include the feminine, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. Unless otherwise indicated, all references to sections and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference. If the date on which the Metro or the County is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

9.7. Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the state of Oregon.

9.8. Non-Merger, Survival. The covenants, agreements, representations and warranties made herein shall survive the conveyance of the bargain and sale deed to the Property to Metro, and shall not merge into the deed at recording in the official deed records of Multnomah County.

10. Statutory Disclaimer.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year written above.

The parties agree as follows:

MULTNOMAH COUNTY, OREGON

METRO

Chair
Multnomah County

Michael J. Jordan
Chief Operating Officer
Metro

Date: _____

Date: _____

Reviewed:

John S. Thomas,
Deputy County Attorney
For Multnomah County

Approved as to form:

Joel E. Morton
Senior Assistant Attorney
for Metro

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3756 FOR THE PURPOSE OF ENTERING INTO AN INTERGOVERNMENTAL AGREEMENT WITH MULTNOMAH COUNTY FOR ACQUISITION OF THE MORRISON BUILDING PROPERTY

Date: December 21, 2007

Prepared by: Jim Desmond
Teri Dresler

BACKGROUND

In September 2005, Metro, Multnomah County (“County”) and the City of Portland (“City”) entered into a Memorandum of Understanding (MOU) concerning the transfer of the Morrison Building property to Metro. The MOU described the general terms and conditions for the progress of negotiations and the due diligence, to result in the entry by the parties into an intergovernmental agreement (“IGA”) governing the transfer by the County of the Morrison Building property (“Property”) to Metro. The Property is located at 2115 SE Morrison Street and consists of Lots 4 & 5, Block 7, Garrison’s Subdivision in East Portland, and Parcel 2, Partition Plat No. 1997-197.

The building was built in 1953 on the Property, which was originally part of the Lone Fir Cemetery. The County retained the Property when it transferred the Lone Fir Cemetery to Metro in 1996. Though the Property was never developed as part of the formal Lone Fir Cemetery, it was used from the late 19th century to the mid-20th century as a “temporary” burial site for early Chinese workers who could not be buried in the Cemetery proper at that time. It was believed that all of the remains on the property had been disinterred and returned to China for permanent burial prior to construction of the Morrison Building.

In preparation for the sale or transfer of the Property, the County did archeological exploration of the site and discovered human remains on the property. It is believed that the remains are from early Chinese workers and their families.

The County and Metro desire to re-unite the Property with the Lone Fir Cemetery and Metro is prepared to accept responsibility for the long-term ownership of the property. Metro does not have adequate funding to redevelop the site, however.

Metro, the City, and the County are all committed to working together in the future with interested community groups to see that the Morrison Building property is appropriately developed to create a proper entrance to the Lone Fir Cemetery, to create a potential memorial to the Chinese immigrants who were buried on the site, and/or to other uses appropriate to its history, location, and circumstances.

Metro and Multnomah County have negotiated an IGA, Exhibit A to the Resolution, that transfers ownership of the Property from Multnomah County to Metro.

ANALYSIS/INFORMATION

Known Opposition

No known opposition.

Legal Antecedents

Resolution No. 93-1877 was approved by Metro Council on December 19, 1993, "For The Purpose Of Approving An Intergovernmental Agreement Between Multnomah County And Metro Regarding Transfer Of Regional Parks, Natural Areas, Golf Courses, Cemeteries, And Trade/Spectator Facilities Presently Owned And Operated By Multnomah County To Metro", and authorizing the Executive Officer to enter into an agreement providing for the Phase I transfer (operation/management) of Multnomah County parks, natural areas, golf courses and cemeteries from Multnomah County to Metro.

Resolution No. 96-2285 was adopted by Metro Council on March 14, 1996, "For The Purpose Of Authorizing A Phase II Intergovernmental Agreement With Multnomah County Regarding Parks And Other Facilities", and authorizing the Executive Officer to enter into an agreement providing for the Phase II transfer (property ownership/title) of Multnomah County parks, natural areas, golf courses and cemeteries from Multnomah County to Metro.

Anticipated Effects

After Metro takes control of the Property, a group of interested groups will be convened, including County and City staff, to discuss the appropriate design and development of a memorial to the Chinese workers buried on the site.

Budget Impacts

Ownership of the Property carries with it maintenance and improvement costs which will be accommodated within appropriated funds. The City of Portland has committed \$150,000 in its FY 06-07 budget to fund stabilization of the site, which will include removal of existing asphalt, surface grading and seeding and perimeter fence installation. Once these projects are completed, it is anticipated that annual maintenance costs will be minimal. At such time improvement costs exceed budget allocation; grants, donations, or other forms of support will be pursued.

RECOMMENDED ACTION

The Chief Operating Officer Michael Jordan recommends passage of Resolution No. 07-3756.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN)	RESOLUTION NO. 07-3751
EASEMENT TO TRIMET FOR NON-PARK USE)	
THROUGH METRO PROPERTY IN)	Introduced by Chief Operating Officer
WILSONVILLE)	Michael J. Jordan with the
		concurrence of Council President
		David Bragdon

WHEREAS, Metro owns and manages property in Wilsonville along the existing railway right-of-way; and

WHEREAS, TriMet is requesting two permanent slope easements and two permanent drainage easements needed for the construction of the Washington County Commuter Rail on the tract of land owned by Metro as seen in Exhibit A; and

WHEREAS, the permanent drainage and slope easements square footage is 50,114 in total; and

WHEREAS, TriMet will pay Metros costs and expenses to process this easement and install a wildlife passage culvert at the site; and

WHEREAS, the Metro Parks and Greenspaces Department Easement Policy requires formal review of easement requests by the Metro Council; and

WHEREAS the Metro Parks and Greenspaces Department has determined that this easement request has met the Metro Easement Policy criteria, as identified in Exhibit B, and can be accommodated without significant impact to natural resources, cultural resources, recreational opportunities or their operation and management; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to grant two permanent slope and two permanent drainage easements to TriMet, as identified in Exhibit A, on the tract of land owned by Metro in Wilsonville.

ADOPTED by the Metro Council this _____ day of _____ 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Resolution No. 07-3751

PLACEHOLDER

EASEMENT DOCUMENTS

Two Slope Easements

Two Drainage Easements

EXHIBIT B
Resolution 07-3751

Metro Easement Policy Criteria and Staff Findings

- 1) Provide for formal review of all proposed easements, rights of ways, and leases for non-park uses to Metro Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right-of-way, or lease is still subject to the review and approval by the full Metro Council.**

Staff Finding: Criterion has been satisfied through a review and approval process that includes a formal easement application; staff and legal review and the full Council body will review the easement prior to approval.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff Finding: The applicant proposes to acquire 2 permanent easements for slope and 2 permanent easements for storm drainage for the Washington County Commuter line between Beaverton and Wilsonville. The storm drain easements will extend existing drain facilities.

- 3) Reject proposals for utility easements, transportation right-of-ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff Finding: There will be no significant impact on park or natural resource values. The culvert amendment will allow for wildlife passage, as it is a 10-foot CMP culvert. This is the present slope of the rail line.

- 4) Accommodate utility easements, transportation right-of-ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right-of-way, or non-park use can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.**

Staff Finding: The additional rail line will be built in the existing right-of-way. The easement is for the slope that will be built up with rock to the height of the current rail line. There are no significant impacts on Metro owned land. Metro has negotiated a larger culvert with TriMet to accommodate the passage of wildlife. This meets criteria.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right-of-ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: No mitigation is required due to the culvert change.

- 6) **Limit rights conveyed by easements, right-of-ways, and leases for non-park uses to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The dimensions and terms of the easements are limited to accommodate the slope and drainage necessary. These are not transferable or assignable to adjacent properties.

- 7) **Limit the term of easements, right-of-ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: These are permanent easements that have been determined as the minimum necessary to accomplish the project.

- 8) **Require reversion, non-transferable, and removal and restoration clauses in all easements, rights of ways, and leases.**

Staff Finding: The easement will include these terms.

- 9) **Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying, or assuring compliance with the terms of any easement, right-of-way, or lease for non-park use.**

Staff Finding: Metro staff assigned to this application have documented time and costs spent on this application and informed the applicant of the policy requiring reimbursement. Execution of the easement is subject to satisfaction of all expenses.

- 10) **Receive no less than fair market value compensation for all easements, right-of-ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than money.**

Staff Finding: The rail project is funded by the Federal Transit Administration. The project is envisioned as being part of the Metropolitan Portland transit system. The public will benefit by having more transit options in the southwest section of the metropolitan area. TriMet has agreed to install a 10-foot CMP culvert for wildlife passage at Basalt Creek and will follow the terms and conditions for constructing this passage that Metro requested. The additional cost of the larger and more effective culvert equals or exceeds the fair market value of the easement area and thus constitutes payment and appropriate consideration under Metro's policy on easement and right-of-way. The terms are included in the easement.

- 11) **Require full indemnification from the easement, right of way or leaseholder for all costs, damages, expenses, fines, or losses related to the use of the easement, right of way, or lease. Metro may also require insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff Finding: The easement will include indemnification and insurance provisions.

- 12) **Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff Finding: No exception requested.

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

- A. The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute unfeasibility.**

Staff Finding: Applicant has submitted a detailed proposal, including all required information.

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

Staff Finding: No additional information is needed.

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

Staff Finding: No alternative for realigning the rail line exists.

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

Staff Finding: No significant negative impact on Metro property will occur.

- E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval. In no event shall construction of a project commence prior to formal approval of a proposal.**

Staff Finding: Construction is contingent upon approval.

- F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right**

of way, or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.

Staff Finding: Metro costs have been documented and applicant will be billed for reimbursement.

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

Staff Finding: Criterion satisfied.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 07-3751 FOR THE PURPOSE OF GRANTING TWO SLOPE EASEMENTS AND TWO DRAINAGE EASEMENTS TO TRIMET FOR NON-PARK USE THROUGH METRO PROPERTY IN WILSONVILLE

Date: December 5, 2006

Prepared by: Laurie Wulf

BACKGROUND

Resolution No. 07-3751 would provide Metro Council authorization for the Chief Operating Officer to approve TriMet acquisition of four permanent easements for slope and drainage on a tract of land in Wilsonville that is owned by Metro.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition to this proposed legislation. The Washington County Commuter Rail Line has had favorable public response.
2. **Legal Antecedents:** Metro Council Resolution 97-2539B “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed By the Regional Parks and Greenspaces Department.approved general policies related to the review of easements, right-of-ways and non-park uses through properties managed by the Regional Parks and Greenspaces Department”. The resolution provides for a formal review of all proposed easements and final review and approval by the Metro Council.
3. **Anticipated Effects:** Metro Regional Parks and Greenspaces has and will continue to receive requests for easements, leases and right-of-ways through property that has been acquired through the Open Spaces Acquisition Division. Some of these properties include existing easements or right-of-ways.

Metro has received and reviewed an easement application from TriMet. The proposal meets all criteria set forth in the Metro Policy regarding easements, right-of-ways, and leases for non-park use. TriMet has requested two slope easements and two drainage easements along an existing ODOT rail line. The storm drainages also extend existing drain facilities. The request will facilitate the construction of the Washington County Commuter Line between Beaverton and Wilsonville. Parcel 1 slope easement is 25,846 square feet, Parcel 2 slope easement is 22,703 square feet, Parcel 3 for storm drainage is 504 square feet and Parcel 4 storm drainage easement is for 1061 square feet. The total square footage is 50,114.

The easement is found to have minimal impacts on Metro-owned property, after Metro staff negotiated a wildlife passage culvert to be installed by TriMet. TriMet also agreed to terms and conditions of construction of the crossing/culvert at Basalt Creek.

4. **Budget Impacts:** Metro will receive a wildlife passage area to be built by TriMet.

RECOMMENDED ACTION

Staff recommends that the Council adopt this easement request.

BEFORE THE METRO COUNCIL

RECOGNIZING THE SUCCESSFUL) RESOLUTION NO. 07-3760
COMPLETION OF COUNCIL PROJECTS:)
CONCEPT AND COMPREHENSIVE PLANNING) Introduced by
(CONSTRUCTION EXCISE TAX), MEASURE 37) Council President David L. Bragdon
ANALYSIS, NATURAL AREAS, PARKS AND
STREAMS BOND MEASURE, NATURE IN
NEIGHBORHOODS GRANT PROGRAM, AND
NATURE IN NEIGHBORHOODS MONITORING
PROGRAM IN 2006

WHEREAS, the development of certain identified new initiatives have policy implications that require policy decisions by the Metro Council; and

WHEREAS, some new initiatives with are of a scope and complexity that, for purposes of efficiency, benefit from the focused attention of individual Councilors; and

WHEREAS, members of the Council have identified such projects and such projects have been confirmed by the council and designated as "Council Projects" in resolutions 05-3551 "For the Purpose of Designating Council Projects and Confirming Lead Councilors and Council Liaisons" adopted March 3, 2005; 05-3628 "Designating Additional Council Projects and Confirming Lead Councilors and Council Liaisons for Fall 2005" adopted November 17, 2005; and 06-3666 "Designating Council Projects Confirming Lead Councilors and Council Liaisons for Nature in Neighborhoods and New Look Communications" adopted February 2, 2006 for a limited duration; and

WHEREAS, Council Projects retain their designation until policy questions have been answered, at which point the projects move to an implementation phase and become an administrative matter for staff and an oversight matter for the Council as a whole; and

WHEREAS, Councilors have successfully completed the policy questions posed by several Council Projects; now therefore

BE IT RESOLVED:

1. The Council recognizes that the policy implications of the following Council Projects have been addressed and, recognizing that these projects have moved to implementation, removes their Council Project status: Concept and Comprehensive Planning (Construction Excise Tax), Measure 37 Analysis, Natural Areas, Parks and Streams Bond Measure, Nature in Neighborhoods Monitoring Program and Nature in Neighborhoods Grants Program.

2. The Chief Operating Officer remains responsible to the Council as a whole for administrative oversight of any programs, which were launched by these projects.

ADOPTED by the Metro Council this 4th day of January 2007.

David L. Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO.07-3760, RECOGNIZING THE SUCCESSFUL COMPLETION OF COUNCIL PROJECTS: CONCEPT AND COMPREHENSIVE PLANNING, MEASURE 37 ANALYSIS, NATURAL AREAS, PARKS AND STREAM BALLOT MEASURE, NATURE IN NEIGHBORHOODS GRANT PROGRAM, AND NATURE IN NEIGHBORHOODS MONITORING PROGRAM.

Date: January 4, 2007

Prepared by: Michael Wetter

BACKGROUND

This resolution recognizes the successful completion of five council policy development projects in 2006: Concept and Comprehensive Planning for Urban Growth Boundary (UGB) Expansion Areas Fund, Measure 37 Analysis, Natural Areas, Parks and Streams Bond Measure, Nature in Neighborhoods Grant Program, and Nature in Neighborhoods Monitoring Program. These projects have all moved from a policy development phase to an on-going implementation phase. The Council will continue to exercise its oversight role as a whole.

The Chief Operating Officer is requested to keep the Council as a whole informed regarding the on-going administration of the activities, which were set in motion by these successful initiatives. Should additional policy development be required for new phases of these areas, the Council President reserves the ability to designate new follow-up projects and appoint liaison Councilors subject to Council confirmation.

The current Council Project Portfolio, listing the completed ones at the bottom, is as follows:

Project	Liaisons	Pjct Manager	Status
Investing in Our Communities	Liberty Bragdon Newman	McArthur	Active
2035 RTP	Burkholder Park Newman	Ellis	Active
Shape of the Region	Hosticka Park Newman	McArthur	Active
Windfall Tax: Farmlands, Fairness and Fine New Neighborhoods	Liberty	Wagner	Active
Neighbor Cities	Park	O'Brien	Active
Growth Management Communications Plan	Bragdon Hosticka Burkholder	Coney	Active
Housing Supply	Burkholder Liberty	Uba	Active
Disposal System Planning	Park	Ehinger	Active
RSWMP	Park	Matthews	Active
OCC Subsidy Gap	Park	Wagner	Active
Health Care Delivery: Scope of Work	Hosticka	Wagner	Active
Nature in Neighborhoods Nature-Friendly Practices Program	Newman	Triplett	Active
Regional Leadership Initiative	Bragdon, Burkholder, Hosticka	Stacey	Active
<i>Nature in Neighborhoods (original)</i>	<i>Hosticka, McLain</i>	<i>Deffebach</i>	<i>Complete</i>
<i>Nature in Neighborhoods Monitoring Program</i>	<i>Hosticka McLain</i>	<i>Triplett</i>	<i>Complete</i>
<i>Nature in Neighborhoods Grants Program</i>	<i>Park McLain Hosticka</i>	<i>Triplett</i>	<i>Complete</i>
<i>Measure 37 Analysis</i>	<i>Liberty Hosticka</i>	<i>Neill</i>	<i>Complete</i>

Project	Liaisons	Pjct Manager	Status
<i>Natural Areas Bond Measure</i>	<i>Bragdon</i>	<i>Desmond</i>	<i>Complete</i>
<i>Concept and Comprehensive Planning (Construction Excise Tax)</i>	<i>Newman</i>	<i>Wagner</i>	<i>Complete</i>

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Resolutions 05-3551, 05-3628 and 06-3666 adopted Council Projects
3. **Anticipated Effects:** Policymaking work will be considered complete on the projects named in the resolution. If additional policy questions arise in relation to the project, they will be taken to the full council, or a new Council Project will be defined.
4. **Budget Impacts:** None

BEFORE THE METRO COUNCIL

DESIGNATING COUNCILORS CARL)	RESOLUTION NO. 07-3763
HOSTICKA AND BRIAN NEWMAN TO SERVE)	
AS LEGISLATIVE LIAISONS FOR THE 2007)	Introduced by Council President David
OREGON LEGISLATIVE SESSION)	Bragdon

WHEREAS, the Metro Council’s success in serving the region depends in part on the laws and policies of the State of Oregon; and

WHEREAS, the Council’s interests need to be effectively represented during the 2007 session of the Oregon Legislative Assembly; and

WHEREAS, while Council staff in the Public Affairs and Government Relations Department and the Office of the Metro Attorney will represent the Metro Council’s interests in day-to-day activity during the legislative session, strategic guidance and periodic presence by the agency’s elected officials is also desirable; and

WHEREAS, the fast pace of legislative activity requires that specific Councilors be appointed to serve as liaisons for communication with the Council and to represent Council interests in instances when there is not time for staff to engage the Council as a whole; and

WHEREAS, the Council President makes appointments subject to Council confirmation; and

WHEREAS, the Council President has appointed Councilors Carl Hosticka and Brian Newman; now therefore

BE IT RESOLVED that the Metro Council hereby concurs in designating Councilors Carl Hosticka and Brian Newman to serve as the Metro Council’s liaisons to the Oregon Legislature in 2007 as specified in Exhibit A.

ADOPTED by the Metro Council this 4th day of January, 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit "A"

Resolution No. 07-3763

Metro Council Project Proposal / Work Plan

Part One: Council Project Proposal

1) Project Title

2007 Oregon Legislative Assembly

2) Council Liaisons

Councilor Carl Hosticka and Councilor Brian Newman

3) Project Begin Date

January 2007

4) Estimated Date of Completion (Project Automatically Sunsets)

July 2007

5) Project Description (What issue/problem will be addressed?)

The Metro Council's success depends in part on conducive State of Oregon policies and state law. The Council's interests need to be effectively represented during the 2007 Oregon Legislative Assembly. While day-to-day activity in Salem will be accomplished by Council staff in the public affairs and attorney's office, strategic guidance and periodic presence by the agency's elected officials is also desirable. Therefore it is desirable that lead Councilors (Hosticka and Newman) be designated as staff's initial "quick response" point of contact on behalf of the Council as a whole.

6) Policy Questions (What major policy questions must be answered?)

Major policy issues will be determined by the Council as part of a resolution directing staff regarding the agency's legislative priorities. This resolution should be developed and introduced by the end of January. Councilors Hosticka and Newman will assist staff in preparation of the agenda and then perform the "first point of contact" liaison role on behalf of the Council and agency's interests.

7) Outcomes (What must be in place for policy development to be considered complete?)

After legislative adjournment, staff will review the results with Council.

8) Connection to Council Goals and Objectives

State laws, budget, regulations, and programs relate to all of the Council’s goals and objectives.

9) Resources Required / Budget Implications

Existing budgetary resources exist at the staff level. This project proposal merely authorizes Councilors Hosticka and Newman to serve as liaison to those existing staff efforts, at no additional cost.

End Here for Council Project Proposal – This Portion is Adopted by Resolution

- Part Two: Work Plan Element -

10) Project Manager

Randy Tucker (with some participation by Dan Cooper and Ken Ray)

11) Metro Council Role (What is the agency’s role and the role of Metro councilors?)

Metro Councilors are to be called in to testify or meet directly with Legislators on particular issues, as circumstances and relationships best dictate Councilors be so deployed. Councilors Hosticka and Newman as liaison will serve as Mr. Tucker’s guide and “quick response” first point of contact on behalf of the other five Councilors.

12) Stakeholders (Who are the major stakeholders and implementing parties? How will stakeholders and the public participate in the project?)

Metro Councilors and staff work on an as-needed basis with other parties who have aligned interests before the legislature. A sub-committee of MPAC has already been formed for this purpose. At times the Metro Council will have its own interests which are independent of those multi-jurisdictional interests.

13) Major Milestone

Mid-January: Adoption of resolution encapsulating Council’s legislative agenda.

Mid-January: Inventory of Councilors’ contacts with legislators.

On-going: Weekly email reports from staff to Council

September: Re-cap of session.

14) Communications (What is the communications plan? If incomplete, how and when will it be developed?)

This project is in and of itself a communication plan. Staff will develop a series of issue papers, letters, proposed legislative language, testimony, etc., as required on a variety of legislative issues. Councilors Hosticka and Newman will provide general and particular strategic guidance to staff and will report back to the other six Metro Councilors on legislative issues. Mr. Tucker, Mr. Cooper and Councilors Hosticka and Newman will use their judgment to enlist other Metro Councilors to make visits to legislators, deliver testimony, etc. as most effectively as possible.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) Resolution No. 07-3753
COUNCIL PRESIDENT’S APPOINTMENT OF)
GARY W. REYNOLDS TO THE METROPOLITAN) Introduced by David Bragdon, Council
EXPOSITION-RECREATION COMMISSION) President

WHEREAS, the Metro Code, Section 6.01.030(a) provides that the Metro Council President shall appoint all members to the Metropolitan Exposition Recreation Commission; and

WHEREAS, the Metro Code, Section 6.01.030(b) provides that the Metro Council President’s appointments to the Commission are subject to confirmation by the Metro Council; and

WHEREAS, pursuant to Metro Code, Section 6.01.030(d)(3) and (g) the Metro Council President has nominated Gary W. Reynolds as a candidate to replace Sheryl Manning as a member on the Commission due to her resignation from the Commission as of December 31, 2006, for the remainder of Ms. Manning’s term; and

WHEREAS, the Metro Council President submitted his appointment of Mr. Reynolds to the Metro Council for confirmation; and

WHEREAS, the Council finds that Gary W. Reynolds has the experience and expertise to make a substantial contribution to the Commission’s work; now, therefore,

BE IT RESOLVED, that the Metro Council hereby confirms the Council President’s appointment of Gary W. Reynolds as a member of the Metropolitan Exposition Recreation Commission beginning on January 1, 2007, and ending December 31, 2009.

ADOPTED by the Metro Council this _____ day of January, 2007.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3753 FOR THE PURPOSE OF
CONFIRMING THE COUNCIL PRESIDENT'S APPOINTMENT OF GARY W.
REYNOLDS TO THE METROPOLITAN EXPOSITION RECREATION
COMMISSION

Date: December 18, 2006

Prepared by: Kathy Taylor

BACKGROUND

The Metro Code, Section 6.01.030(a), gives the Metro Council President sole authority to appoint all members of the Metropolitan Exposition Recreation Commission, subject to confirmation by the Council. Section 6.01.030(d)(3) of the Code allows the Metro Council President to nominate a candidate for appointment for the Council President's consideration. Under Section 6.01.030(g) of the Metro Code, vacancies are filled pursuant to the procedure governing initial appointments.

Commissioner Sheryl Manning, originally appointed by the Metro Council President, resigned from the Commission December 31, 2006. Accordingly, a spot remains vacant on the Commission. The Metro Council President has nominated Gary W. Reynolds as a candidate for membership on the Commission to replace Sheryl Manning. The Council President has concurred with this nomination and accordingly submitted his appointment of Mr. Reynolds to the Council for confirmation. If confirmed, Mr. Reynolds would, pursuant to Metro Code, Section 6.01.030(g), serve the remainder of Ms. Manning's term, beginning January 1, 2007 and ending December 31, 2009.

A copy of Mr. Reynolds' resume is attached.

Metro Chief Operating Officer Michael Jordan concurs with this appointment.

ANALYSIS/INFORMATION

1. Known Opposition.

None

2. Legal Antecedents.

Metro Code, as referenced above.

3. Anticipated Effects: (identify what is expected to occur if the legislation is adopted)

Appointment of Mr. Reynolds in the manner provided by the Metro Code.

4. Budget Impacts.

None

RECOMMENDATION

The Chief Operating Officer recommends approval of Resolution 07-3753 to confirm the appointment of Gary W. Reynolds to the Metropolitan Exposition Recreation Commission and to begin serving January 1, 2007.

Gary W. Reynolds, CPA

Professional Profile

Gary has been in public accounting since 1975. The majority of those years he has been a company owner, both as a founder of small local firm focused on audit services, and as a founding shareholder of Perkins & Company in 1986. The goal for founding Perkins & Company was to form an accounting firm that offered the depth of service usually only found in national or regional firms, but remain locally-based with strong focus on personal service. Today, Perkins & Company is Portland's largest locally-based accounting firm. Gary became president of Perkins & Company in 2005. He continues to handle client responsibilities for a variety of large closely-held businesses throughout the West Coast, with primary emphasis in manufacturing and distribution, real estate, insurance, retail, and service organizations. In addition to providing auditing and accounting services, he regularly consults with clients on obtaining financing, mergers and acquisitions, tax planning, general financial management issues, and establishing and operating Employee Stock Ownership Plans.

Education

Bachelor of Science, Business Administration, with honors
University of Oregon, Eugene, OR

Professional and Civic Affiliations

Oregon Society of Certified Public Accountants
Former Secretary and Board of Directors
Past chairman of Quality Review Committee
Past chairman of Accounting and Auditing Standards Committee
Instructor for continuing education classes in peer reviews
Named 1990 and 1992 Oregon AICPA Discussion Leader of the Year
American Institute of Certified Public Accountants
Professional Liability Insurance Committee (2002-2005)
Quality Review Executive Committee member (1989-92)
National Accounting and Auditing Advanced Technical Symposium Steering Committee (1993-96);
national conference speaker (1995)
Oregon State Board of Accountancy
OSCPA and Oregon Legislature on mandatory quality review legislation
Practice Review Committee (1986-88)
Oregon College of Art & Craft
Board Member
Chairman, Board of Trustees (2003-04)
Northwest Business for Culture and the Arts
Board of Directors
Accounting Circle, University of Oregon Lundquist College of Business
Executive Committee
Portland Golf Club
Rules Committee

Gary W. Reynolds
President and Shareholder
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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 07-3754
COUNCIL PRESIDENT’S APPOINTMENTS)
AND REAPPOINTMENT TO THE)
TRANSPORTATION POLICY ALTERNATIVES)
COMMITTEE (TPAC) FOR 2007–2008) Introduced by Councilor Rex Burkholder

WHEREAS, Metro Code Sections 2.19.030(b) and 2.19.180 and the Transportation Policy Alternatives Committee (TPAC) bylaws provides that the Metro Council President shall appoint all members of all advisory committees; and

WHEREAS, TPAC coordinates and guides the regional transportation planning program in accordance with the policy of the Metro Council; and

WHEREAS, TPAC has four seats for citizen members currently vacant; and

WHEREAS, the Metro Council President has made the following appointments and reappointment to fill the TPAC vacancies:

TPAC Names; New Appointments / Reappointment; and Terms:

- Sreya Sarkar, Policy Analyst, Cascade Policy Institute (New appointment; First Two-Year Term – January 2007 through December 2008);
- Sorin Garber, Transportation Consultant (New Appointment; First Two-Year Term – January 2007 through December 2008);
- Scott Bricker, Policy Director, Bicycle Transportation Alliance (Reappointment; Third Two-Year Term);
- John Reinhold, Software Systems Analyst, Windsor Solutions, Inc. (New Appointment; appoint to complete existing Two-Year Term – January 2007 through December 2007); now therefore

BE IT RESOLVED that the Metro Council hereby confirms the Metro Council President’s appointments and reappointment of the following citizens to serve as TPAC members as noted below:

TPAC Names; New Appointments / Reappointment; and Terms:

- Sreya Sarkar, Policy Analyst, Cascade Policy Institute (New appointment; First Two-Year Term – January 2007 through December 2008);
- Sorin Garber, Transportation Consultant (New Appointment; First Two-Year Term – January 2007 through December 2008);
- Scott Bricker, Policy Director, Bicycle Transportation Alliance (Reappointment; Third Two-Year Term); and
- John Reinhold, Software Systems Analyst, Windsor Solutions, Inc. (New Appointment; appoint to complete existing Two-Year Term – January 2007 through December 2007).

ADOPTED by the Metro Council this _____ day of January 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3754, FOR THE
PURPOSE OF CONFIRMING THE COUNCIL PRESIDENT'S
APPOINTMENTS AND REAPPOINTMENT TO THE TRANSPORTATION
POLICY ALTERNATIVES COMMITTEE (TPAC) FOR 2007–2008

Date: December 14, 2006

Prepared by: Pat Emmerson

BACKGROUND

The Transportation Policy Alternatives Committee (TPAC) provides technical advice to the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council regarding transportation planning and policy. TPAC has 21 members—15 technical staff from governments in the region and 6 interested citizens. The citizen members represent various interests and parts of the region.

Currently TPAC has four vacant citizen seats—three seats have expired terms and one was vacated when a member resigned with one year remaining in the term. Public notices of the vacancies were sent to a list of interested parties, neighborhood association newsletters and major and community newspapers. The vacancies were posted on the Metro web site with application instructions and a link to an online application form. Metro received 19 applications and interviewed 9 individuals.

EXISTING LAW

Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6) states that citizen representatives be nominated through a public application process, appointed by the Metro President and confirmed by the Metro Council.

ANALYSIS/INFORMATION

1. **Known Opposition:** none
2. **Legal Antecedents:** Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6); Metro TPAC Bylaws; Ordinance No. 00-860A (For the Purpose of Adding a New Chapter 2.19 to the Metro Code Relating to the Advisory Committees), adopted November 9, 2000; and Resolution No. 04-3469A (For the Purpose of Approving Updated Bylaws for the Transportation Policy Alternatives Committee (TPAC) That Formalize New Technical Subcommittees), adopted August 19, 2004.
3. **Anticipated Effects:** Approval fills vacancies for citizen members on TPAC.
4. **Budget Impacts:** none

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 07-3754.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE) RESOLUTION NO. 07-3752
CHIEF OPERATING OFFICER TO PURCHASE)
PROPERTY IN THE EAST BUTTES / BORING) Introduced by Chief Operating Officer
LAVA DOMES TARGET AREA) Michael J. Jordan with the
concurrence of Council President
David Bragdon

WHEREAS, in July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, at the election held on May 16, 1995, the Metro area voters approved the Open Spaces, Parks and Streams bond measure (Ballot Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and capital improvements; and

WHEREAS, via Resolution 96-2361 (“For the Purpose of Approving a Refinement Plan For the East Buttes and Boring Lava Domes Target Area as Outlined in the Open Space Implementation Work Plan”) the Metro Council adopted a refinement plan for the East Buttes / Boring Lava Domes regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, the East Buttes / Boring Lava Domes target area refinement plan identified property owned by Ronald and Virginia Davidson (“the Davidsons”) as a Tier I acquisition; and

WHEREAS, the Davidsons own 1.4 acres and have offered to sell the Property to Metro as described in the attached Exhibit A, conditional on Metro Council approval; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution 01-3106 (“For The Purpose of Modifying The Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans To Direct Future Acquisitions Of Properties That Satisfy Specific Identified Criteria”), modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition regional target area refinement plans to require Metro Council approval of all acquisitions in target areas where minimum acreage goals have been met; and

WHEREAS, Metro has exceeded the minimum 545-acre goal established for the East Buttes / Boring Lava Domes regional target area, and therefore purchasing the Davidson Property requires formal Metro Council authorization pursuant to Council Resolution 01-3106; and

WHEREAS, the acquisition of the Davidson Property meets the required criteria set forth in Council Resolution No. 01-3106 as follows: 1) the Davidson property is located in an existing identified gap in public ownership in a critical wildlife corridor identified in the bond measure, and 2) the Davidson property is adjacent to existing Metro owned property, and is a key remaining parcel necessary to accomplish the assemblage of a regional scale natural area, consistent with specific Target Area goals and objectives as set forth in existing approved Refinement Plan for the East Buttes / Boring Lava Domes target area.

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to purchase the Property from Mr. and Mrs. Davidson subject to the terms of a Purchase and Sale Agreement executed between Metro and the Sellers.

ADOPTED by the Metro Council this _____ day of _____ 2007

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Resolution No. 07-3752
Property Legal Description

Real property in the County of Multnomah , State of Oregon, described as follows:

A TRACT OF LAND IN SECTION 21, TOWNSHIP 1 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF GRESHAM, COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE HALF SECTION LINE RUNNING NORTH AND SOUTH THROUGH SECTION 21, TOWNSHIP 1 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, WHERE SAID LINE INTERSECTS THE CENTER LINE OF THE COUNTY ROAD 588; RUNNING THENCE NORTH ALONG SAID HALF SECTION LINE 13 RODS; THENCE NORTH 83°02'20" WEST 17 RODS; THENCE SOUTH 17.5 RODS TO THE CENTRE LINE OF COUNTY ROAD NO.588; THENCE EASTERLY ALONG THE CENTER LINE OF SAID ROAD NO. 588, 17 RODS, MORE OR LESS, TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM A PORTION OF SAID LAND LYING WITHIN THE LIMITS OF S.E BUTLER ROAD.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3752, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY IN THE EAST BUTTES / BORING LAVA DOMES TARGET AREA

Date: January 4, 2007

Prepared by: William Eadie

BACKGROUND

Resolution No. 07- 3752 requests authorization for Metro to purchase the 1.4-acre Davidson property (“the Property”) in the East Buttes / Boring Lava Domes target area, as described in Exhibit A. This resolution proposes to authorize the purchase of the Davidson Property subject to the terms of a Purchase and Sale Agreement executed between Metro and the Seller. Authorization from Council is needed because Metro has exceeded the minimum 545-acre goal established by the East Buttes / Boring Lava Domes target area refinement plan.

Acquisition of the Property is recommended because:

- (a) The acquisition of the Property would meet two of the criteria set forth in Resolution 01-3106:
 - 1) the Property is located in an existing identified gap in public ownership in a critical wildlife corridor identified in the bond measure, and
 - 2) the Property is adjacent to existing Metro owned property, and is a key remaining parcel necessary to accomplish the assemblage of a regional scale natural area, consistent with specific Target Area goals and objectives as set forth in the existing approved Refinement Plan for the East Buttes / Boring Lava Domes target area.

Using City of Gresham open space on Gresham Butte as a northern anchor and Metro’s sixty-acre acquisition atop Burt Butte as a southern anchor, Metro has assembled a broad forested corridor of natural area with the intent of protecting a viable wildlife habitat area to buffer against urban encroachment. To date, Metro has acquired approximately 439 acres in this area, including some of the most valuable property in the region, both from a natural area perspective as well as from a development perspective. Metro has solidified public ownership on Gresham Butte, the northern anchor of the wildlife habitat corridor and has acquired most of the large blocks of land between Gresham Butte and Burt Butte.

However Metro’s 439 acres currently do not comprise a completely viable wildlife habitat corridor because several key, privately owned parcels interrupt Metro’s ownership. If cleared and developed, these parcels could become obstacles within the natural area corridor and prevent Metro from achieving the target area plan goals.

The Property represents one of these privately owned parcels that interrupt Metro’s ownership. It is located along the north side of SW Butler Road in Tier I of the adopted East Buttes / Boring Lava Domes Target Area Refinement Plan. Adjacent to the east, north, and west sides of the property is Metro owned natural area, and additional Metro owned natural area is located across SW Butler Road from the

Property. The property is zoned for residential use and is currently listed for sale. If not purchased by Metro, this property will likely be developed with a single-family residence.

ANALYSIS/INFORMATION

1. Known Opposition

None

2. Legal Antecedents

In May 1995, Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements. Metro Code 2.04.026 (a) (3) requires that the Executive Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424 (“For The Purpose Of Authorizing The Executive Officer To Purchase Property With Accepted Acquisition Guidelines As Outlined In The Amended Open Spaces Implementation Work Plan”) established acquisition parameters that authorize the Executive Officer to purchase property, within the Council-approved target area refinement plan maps. Via Resolution 96-2361 (“For The Purpose Of Approving A Refinement Plan For the East Buttes/Boring Lava Domes Target Area, As Outlined In The Open Space Implementation Work Plan”), the Metro Council adopted a refinement plan, which outlined a land protection strategy for the East Buttes/Boring Lava Domes. Through that resolution, the Metro Council also approved the target area refinement plan tax-lot specific map, which includes the subject Property as a Tier I priority.

On September 27, 2001, the Metro Council adopted Resolution 01-3106, which modifies the Open Spaces Implementation Work Plan. Section B of Resolution 01-3106 requires Metro Council approval of new acquisitions in target areas where minimum acreage goals (as established in the bond measure) have been met.

This resolution proposes to authorize the purchase of the Property subject to the terms of Purchase and Sale Agreement to be executed by the Property owners and Metro. The proposed acquisition satisfies more than one of the listed criteria set forth in Section A of Resolution 01-3106, but because Metro has exceeded the minimum acreage goal established for the target area, Resolution 01-3106 requires that the purchase of the Property be authorized by the Metro Council prior to acquisition.

This authorization assumes that the purchase will meet the terms of the Acquisition Parameters of the Open Spaces Implementation Work Plan on matters such as appraisal review, environmental audit and title matters. This authorization does not cover any such “unusual circumstances” and to the extent any “unusual circumstances” arise during the negotiation of a Purchase and Sale Agreement or during Metro’s due diligence process, further Council review and authorization will be required.

3. Anticipated Effects

Acquisition of the Property will allow greater protection of a broad forested corridor of natural area with the intent of protecting a viable wildlife habitat area to buffer against urban encroachment.

4. Budget Impacts

If approved, this property is anticipated to close prior to the end of the 2006-07 fiscal year. Adequate budgetary authority and bond proceeds exist within the Open Spaces Fund (1995 Bond issue) to pay for the acquisition of this property. Future management costs will be the responsibility of Metro.

RECOMMENDED ACTION

Staff recommends passage of Resolution No. 07-3752.