

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE) RESOLUTION NO. 02-3200
OFFICER TO PURCHASE PROPERTIES AND ACCEPT A)
DONATION OF REAL PROPERTY IN THE JACKSON)
BOTTOM – DAIRY / MCKAY CREEKS TARGET AREA) Introduced by Mike Burton,
Executive Officer

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, on June 27, 1996, via Resolution 96-2342, the Metro Council adopted a refinement plan for the Jackson Bottom – Dairy / McKay Creeks regional target area, which included a confidential tax-lot specific map identifying priority properties for acquisition; and

WHEREAS, on May 17, 2001, via Resolution 01-3070A, the Metro Council amended the Jackson Bottom – Dairy / McKay Creeks regional target area to include properties in areas along Council Creek and in the Camp Ireland area; and

WHEREAS, Beverly J. Harris, property owner, has agreed to sell to Metro a 19.72-acre parcel that lies in the designated Council Creek target area, as described in the attached Exhibit A, conditional on Metro Council approval; and

WHEREAS, Russell and Pamela Wilkinson, property owners, have agreed to sell to Metro a 0.2-acre parcel and to donate an additional three acres of land, both of which lie within the designated Council Creek target area, as described in the attached Exhibit B, conditional on Metro Council approval; and

WHEREAS, one of the Wilkinsons' conditions in donating the land is that such land shall not be open for public use and access for up to five years; and

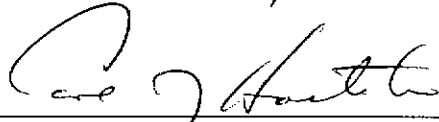
WHEREAS, Jeff Morris and Janina Darling have stated their intent to donate a conservation easement for the floodplain riparian area of their property that is adjacent to the Beverly Harris property and to donate funds for restoration purposes conditional on Metro's acquisition of the Harris property and upon Metro Council approval; and

WHEREAS, on September 27, 2001, the Metro Council approved Resolution 01-3106, 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 335-acre goal established for the Jackson Bottom – Dairy / McKay Creeks target area, and therefore the purchase of the Harris and Wilkinson properties requires formal Metro Council authorization pursuant to Council Resolution 01-3106; now therefore

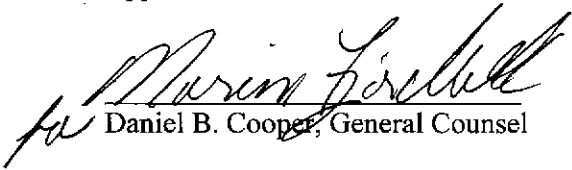
BE IT RESOLVED that the Metro Council authorizes the Metro Executive Officer to purchase the Harris property as identified in Exhibit A; purchase the Wilkinson property and accept the Wilkinson donation as identified in Exhibit B, in accordance with the provisions set forth herein and in Agreements of Purchase and Sale as approved as to form by the Metro General Counsel; and to negotiate a conservation easement over a portion of the Morris and Darling property adjacent to the Harris property.

ADOPTED by the Metro Council this 11th day of July, 2002.



Carl Hosticka, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

Exhibit A
Property Description
Harris Property

A tract of land situated in the Northeast one-quarter of Section 34, Township 1 North, Range 3 West of the Willamette Meridian, in the County of Washington and State of Oregon, more particularly described as follows:

Beginning at the Southwest corner of the John R. Porter Donation Land Claim No. 62; thence following the South line of said Porter Claim, North 89° 11' 13" East 1498.75 feet to a point thereon, which bears South 89° 11' 13" West 398.01 feet from the Southeast corner thereof; thence South 00° 48' 47" East 170.00 feet and South 48° 08' 40" East 666.84 feet to a point on the North line of the William McLinn Donation Land Claim No. 67, which bears West 120.21 feet from the Southeast corner thereof; thence following the North line of said McLinn Claim, West 2355.33 feet to a point in the center of Susbauer Road (County Road No. 196); thence, along the center of said Susbauer Road, North 15° 39' 43" East 285.99 feet to the Southwest corner of that certain tract of land described in Deed to Virgil R. Hockett, et ux, recorded June 10, 1977 in Book 1173 page 356, Records of Washington County, Oregon; thence along the South line thereof, North 88° 55' 18" East 504.21 feet to an iron rod marking the Southerly Southwest corner of that certain tract of land described in Deed to Donald D. Mulholland, et ux, recorded February 20, 1985 as Fee No. 85-6090, Records of Washington County, Oregon; thence following the boundary of said Mulholland tract, North 89° 11' 13" East 713.60 feet, North 00° 48' 47" West 261.87 feet and South 89° 11' 13" West 1140.00 feet to the Northwest corner thereof, in the center of said Susbauer Road; thence along said center, North 15° 35' 43" East 52.12 feet which bears North 89° 11' 13" West 152.72 feet from the Southwest corner of said Porter Donation Land Claim; thence North 89° 11' 13" East 192.72 feet to the point of beginning.

TOGETHER WITH an easement for ingress and egress over and upon a strip of land, more particularly described as follows:

Beginning at the Northeast corner of the hereinabove described parcel; thence along the East line of said hereinabove described parcel, South 00° 48' 47" East 20.00 feet to a point; thence parallel with the South line of the J.R. Porter Donation Land Claim No. 62, North 89° 11' 13" East 352.93 feet to a point; thence South 43° 41' 40" East 27.30 feet, and North 89° 11' 13" East 25.02 feet to a point in the center of said Hobbs Road; thence along said center line North 01° 18' 20" East 40.03 feet to the Southeast corner of said Porter Donation Land Claim; thence along the South line thereof, South 89° 11' 13" West 398.01 feet to the point of beginning.

EXCEPT from the hereinabove described tracts that portion described in Dedication Deed to the public recorded February 18, 1986 as Fee No. 86007114, Records of Washington County, Oregon.

RESOLUTION No. 02-3200
Exhibit B
Wilkinson Property Description

A tract of land situated in the Southeast one-quarter of Section 34, Township 1 North, Range 3 West of the Willamette Meridian, in the City of Cornelius, County of Washington and State of Oregon, more particularly described as follows:

Beginning at a point in the East line of that certain tract of land described in Deed to Ewald Kohlmeyer, et ux, recorded December 13, 1967 in Book 672 page 459, Records of Washington County, Oregon, said point of beginning being North 89° 07' West 792.13 feet and South 0° 42' West 500.00 feet from a stone marking the Northeast corner of the William McLinn Donation Land Claim No. 67 in said Section 34; running thence on said East line South 0° 42' West 508.00 feet to a point; thence North 89° 07' West parallel with the North line of said McLinn Donation Land Claim, a distance of 849.79 feet to a point in the center line of County Road No. 485 (Hobbs Road); thence North 0° 28' East on said centerline, a distance of 50 feet to a point; thence South 89° 07' East, parallel with the North line of said McLinn Donation Land Claim, a distance of 467.19 feet to a point; thence North 0° 42' East 458.00 feet to a point on the South line of that tract described in Deed to Robert L. Angle, et ux, recorded August 20, 1968 in Book 711 page 94, Records of Washington County, Oregon; thence South 89° 07' East along said South line, 382.80 feet to the point of beginning.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 02-3200 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE PROPERTIES AND ACCEPT A DONATION OF REAL PROPERTY IN THE JACKSON BOTTOM – DAIRY / MCKAY CREEKS TARGET AREA

Date: May 31, 2002

Prepared by: Charles Ciecko
Jim Desmond

BACKGROUND

Resolution No. 02-3200 requests authorization for the Executive Officer to purchase a 19.72-acre property, a 0.20-acre parcel, and accept a donation of land along Council Creek in the Jackson Bottom – Dairy / McKay Creeks target area. The staff report and resolution also contemplate the acceptance of a conservation easement in the same target area adjacent to the properties being purchased and accepted herein; however, the conservation easement will be formally brought before Council in several weeks due to the specific public notice requirements associated with conservation easements (the properties at issue here and the upcoming conservation easement are referred to herein as "the Properties").

This resolution proposes to authorize the purchase of two properties, and the acceptance of a donation of land, subject to the terms of Purchase and Sale and Donation Agreements between the property owners and Metro. The purchase of the Properties requires Metro Council authorization pursuant to 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") because Metro has previously exceeded the minimum 335-acre goal established for the target area.

The items under consideration are as follows:

- A Purchase and Sale Agreement for the Harris property, a 19.72-acre parcel with approximately 2,238 feet of frontage along each side of Council Creek, a tributary of Dairy Creek.
- A Purchase and Sale/Donation Agreement for the Wilkinson property, a 0.2-acre parcel, adjacent to Metro-owned property. In addition to this transaction, the owners, Russell and Pamela Wilkinson have agreed to donate an additional three acres of land, within the 100-year floodplain, including approximately 844 feet of frontage along each side of Council Creek. The donation of land is subject to certain conditions.

Metro is also negotiating a donation of a conservation easement donation and pledge of restoration dollars with Mr. Morris, a landowner adjacent to the Harris property, and one of the conditions for that donation is that Metro purchase the Harris property.

Acquisition of the Properties and acceptance of the donations are recommended because they would meet two of the criteria set forth in Resolution 01-3106:

- The Properties "are adjacent to existing Metro or other public ownership or conservation group-owned properties, and are key remaining parcels 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 Plans for that target area.” The Properties are adjacent to two Metro-owned properties. The purchase of these properties was identified as a specific objective in Resolution 01-3070A, dated May 17, 2001 (“For The Purpose of Amending The Jackson Bottom – Dairy / McKay Creeks Target Area Refinement Plan to Include Council Creek and Camp Ireland”).

- The Properties are “within existing target areas and parcels that meet the objectives otherwise set forth in this Resolution, particular emphasis should be given to acquisitions that would either (a) have a significant financial contribution from a local government or other outside partner; ... ” The donation of the Wilkinson land and the upcoming donation of the Morris conservation easement and restoration funds are conditioned upon the acquisition of the Harris and Wilkinson properties and will be important contributions towards the program.

The Properties are situated along the north boundary of the City of Cornelius, in Washington County. The majority of the Harris property is located outside of the urban growth boundary, with approximately 3.47 acres of the Property lying within the urban growth boundary. This portion of the Property could be developed with up to four single-family residences. The landowner is willing to sell the property to Metro for the appraised value.

The entire Wilkinson property is within the City of Cornelius, and is approved for one single family home. The landowner is willing to sell the lot to Metro for the appraised value. The donation of the adjacent land is subject to the purchase of the lot. In addition, the Wilkinsons have stipulated that, on the donated parcel, Metro can not allow public access for a period of five years, as well as other minor conditions regarding the construction of fences should public use occur.

The upcoming Morris conservation easement is entirely in unincorporated Washington County, and is adjacent to and surrounded by the Harris property. The donation of the conservation easement for the floodplain along Council Creek and the commitment of funds for restoration for five years are conditioned upon the purchase of the Harris property by Metro.

All of the above properties are identified in the Biological Assessment of McKay and Dairy Creek Drainages (Fishman Environmental Services, June 1996); Appendix E of Resolution No. 96-2342 as parts of biological sites 6 and 7. These sites contain the following features:

Fish and wildlife features:

- riparian species (numerous bird species);

Habitat features:

- connectivity to Dairy Creek (and eventually the Tualatin River);
- adjacent forest community on east end;

Other features:

- floodplain including emergent and scrub-shrub wetlands;
- relatively large floodplain wetlands for the size of stream protect water quality, quantity, and hydrologic control;
- forested hill slopes protect slopes from erosion and protect water quality.

The properties contain wetland shrub community, Council Creek frontage and some forested wetland floodplain with forested ravines. Portions of the land have been previously grazed and will need to be restored. Acquisition of these lands would protect an important area associated with Council Creek and is

consistent with the stated acquisition goals of the original Jackson Bottom – Dairy / McKay Creeks target area.

The Harris and the Wilkinson properties are adjacent to two 5-acre parcels previously acquired by Metro. Acquisition of these properties will form the nucleus for a potential regional wetland/streamside trail along Council Creek. The cities of Hillsboro, Cornelius and Forest Grove have all voiced support for the concept of a Council Creek regional trail. The Greenspaces Technical Advisory Committee has recommended that a trail along Council Creek be included in the Regional Trail System, the revised plan for which will be presented to Metro Council for approval in June 2002.

FINDINGS

Acquisition of the Properties with the above-stated terms is recommended based on the following:

- The Properties lie in the Jackson Bottom – Dairy / McKay Creeks target area and fulfill a specific goal of the refinement plan.
- The Properties have significant natural and scenic resource values, including frontage along both sides of Council Creek.
- The Properties represent a critical link in the effort to acquire a riparian corridor along Council Creek. This same corridor may be used for the proposed regional trail along potential regional trail along the Creek.
- While the overall minimum acreage goal of the target area has been exceeded, the acquisition of these Properties is highly desirable from a regional perspective due to their natural area features, frontage along a stream of regional significance, opportunity for restoration, donation leverage, and proximity to the City of Cornelius.
- The City of Cornelius is in support of the proposed acquisitions and donations.

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. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 95-2228A, as amended by Resolution 96-2424, was established to implement the Open Spaces, Parks and Streams bond measure passed by the voters of the

region in 1995. The Work Plan established acquisition parameters that authorize the Executive Officer to purchase property, within certain criteria, in the Council-approved target area refinement plan maps. Via Resolution 96-2342 ("For The Purpose Of Approving A Refinement Plan For The Jackson Bottom – Dairy / McKay Creeks Target Area As Outlined In The Open Space Implementation Work Plan"), the Metro Council approved the Jackson Bottom – Dairy/McKay Creeks target area refinement plan and tax lot-specific map. Via Resolution 01-3070A ("For The Purpose Of Amending The Jackson Bottom – Dairy / McKay Creeks Target Area Refinement Plan To Include Council Creek and Camp Ireland"), the Metro Council amended the Jackson Bottom – Dairy/McKay Creeks regional target area refinement plan map to include the Council Creek / Camp Ireland area.

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 and acceptance of a donation of the Properties subject to the terms of the Purchase and Sale Agreements to be executed by the Property owners and Metro. The proposed acquisition satisfies two of the listed criteria set forth in Section A of Resolution 01-3106.

3. Anticipated Effects

The acquisition of these Properties represents a critical link in the effort to acquire a riparian corridor along Council Creek for purposes of a potential regional trail along the Creek.

4. Budget Impacts

After the acquisition of these Properties, approximately \$6,329,000 will remain of unrestricted regional bond funds.

Landbanking and future management costs will be borne by Metro.

RECOMMENDED ACTION

The Executive Officer recommends passage of Resolution No. 02-3200.