

# A G E N D A

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



**METRO**

## Agenda

MEETING: METRO COUNCIL REGULAR MEETING  
DATE: August 1, 2002  
DAY: Thursday  
TIME: 2:00 PM  
PLACE: Metro Council Chamber

### CALL TO ORDER AND ROLL CALL

#### 1. INTRODUCTIONS

#### 2. CITIZEN COMMUNICATIONS

#### 3. EXECUTIVE OFFICER COMMUNICATIONS

- **EXECUTIVE OFFICER RECOMMENDATIONS ON TASK 2 OF URBAN GROWTH BOUNDARY PERIODIC REVIEW**

#### 4. CONSENT AGENDA

- 4.1 Consideration of Minutes for the July 25, 2002 Metro Council Regular Meeting.

#### 5. ORDINANCES - SECOND READING

- 5.1 **Ordinance No. 02-956**, Amending the FY 2002-03 Budget and Appropriations Schedule by Recognizing \$28,039 in Additional Grant Funds and Increasing Appropriations in the General Revenue Bond Fund for the Council Chambers Camera Project; and Declaring an Emergency. Bragdon
- 5.2 **Ordinance No. 02-960**, For the Purpose of Amending Metro Code Chapter 2.19 to Modify the Term Limitation Provisions Applicable to Metro Advisory Committee and to Enlarge the Membership of the Solid Waste Advisory Committee. McLain

## 6. RESOLUTIONS

- 6.1 **Resolution No. 02-3213A**, For the Purpose of Formalizing Budget Assumption Bragdon Guidelines for Departmental Use in Preparing the Fiscal Year 2003-2004 Budget, and Directing the Executive Officer and/or Council President to Advise Council of Any Substantive Changes in the Assumptions Prior to the Submission of the Budget to Council for Public Review.
- 6.2 **Resolution No. 02-3214**, For the Purpose of Approving a Final Order Imposing a Monetary Fine on Michael Reynolds, dba Workhorse Services Inc., for a violation of Section 7.01 of the Metro Code. Atherton
- 6.3 **Resolution No. 02-3215**, For the Purpose of Approving a Final Order Imposing a Monetary Fine on Warren Z. Biden, dba Westmont Properties for a violation of Section 7.01 of the Metro Code. Atherton

## 7. COUNCILOR COMMUNICATION

### ADJOURN

#### Cable Schedule for Week of August 1, 2002 (TVTV)

	Sunday (8/4)	Monday (8/5)	Tuesday (8/6)	Wednesday (8/7)	Thursday (8/1)	Friday (8/2)	Saturday (8/3)
<b>CHANNEL 11</b> (Community Access Network) (most of Portland area)		4:00 PM				2:00 PM	
<b>CHANNEL 21</b> (TVTV) (Washington Co., Lake Oswego, Wilsonville)	12:00 PM			7:00 PM 11:00 PM		7:00 PM 11:00 PM	
<b>CHANNEL 30</b> (TVTV) (NE Washington Co. - people in Wash. Co. who get Portland TCI)	12:00 PM			7:00 PM 11:00 PM		7:00 PM 11:00 PM	
<b>CHANNEL 30</b> (CityNet 30) (most of City of Portland)	8:30 PM	8:30 PM					
<b>CHANNEL 30</b> (West Linn Cable Access) (West Linn, Rivergrove, Lake Oswego)	4:30 PM			5:30 AM	1:00 PM 5:30 PM	3:00 PM	
<b>CHANNEL 32</b> (ATT Consumer Svcs.) (Milwaukie)		10:00 AM 2:00 PM 9:00 PM					

**PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.**

Portland Cable Access	<a href="http://www.pcatv.org">www.pcatv.org</a>	(503) 288-1515
Tualatin Valley Television	<a href="http://www.tvca.org">www.tvca.org</a>	(503) 629-8534
West Linn Cable Access	<a href="http://www.ci.west-linn.or.us/CommunityServices/htmls/wltvsked.htm">www.ci.west-linn.or.us/CommunityServices/htmls/wltvsked.htm</a>	(503) 650-0275
Milwaukie Cable Access		(503) 652-4408

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 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 email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

**Consideration of the July 25, 2002 Regular Metro Council Meeting minutes.**

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

**Agenda Item Number 5.1**

**Ordinance No. 02-956, Amending the FY 2002-03 Budget and Appropriations Schedule by Recognizing \$28,039 in Additional Grant Funds and Increasing Appropriations in the General Revenue Bond Fund for the Council Chambers Camera Project; and Declaring an Emergency.**

***Second Reading***

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 2002-03	)	ORDINANCE NO. 02-956
BUDGET AND APPROPRIATIONS SCHEDULE BY	)	
RECOGNIZING \$28,039 IN ADDITIONAL GRANT	)	
FUNDS AND INCREASING APPROPRIATIONS IN	)	Introduced by Councilor Rex
THE GENERAL REVENUE BOND FUND FOR THE	)	Burkholder
COUNCIL CHAMBERS CAMERA PROJECT; AND	)	
DECLARING AN EMERGENCY.	)	

WHEREAS, In accordance with ORS 294.326(3) the Metro Council has recognized and accepted the additional grant funds; and

WHEREAS, The need for the increase appropriation has been justified; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2002-03 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 increasing the General Revenue Bond Fund Capital Outlay appropriations by \$28,039 to complete the council chambers camera project;
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 \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hostika, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Christina Billington, Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

**Exhibit A**  
**Ordinance 02-956**  
**FY 2002-03 SCHEDULE OF APPROPRIATIONS**

	<u>Current</u> <u>Budget</u>	<u>Revision</u>	<u>Amended</u> <u>Budget</u>
<b>GENERAL REVENUE BOND FUND</b>			
Construction Account			
Capital Outlay - Metro Regional Center	0	28,039	28,039
Subtotal	0	28,039	28,039
Project Account			
Capital Outlay - Washington Park Parking Lot	188,138	0	188,138
Capital Outlay - Expo Center Hall D	0	0	0
Subtotal	188,138	0	188,138
Debt Service Account			
Debt Service - Metro Regional Center	1,785,506	0	1,785,506
Debt Service - Expo Center Hall D	1,078,865	0	1,078,865
Debt Service - Washington Park Parking Lot	428,959	0	428,959
Subtotal	3,293,330	0	3,293,330
General Expenses			
Interfund Transfers	110,000	0	110,000
Contingency	300,000	0	300,000
Subtotal	410,000	0	410,000
Unappropriated Balance	1,926,000	0	1,926,000
<b>Total Fund Requirements</b>	<b>\$5,817,468</b>	<b>\$28,039</b>	<b>\$5,845,507</b>

*All other appropriations remain as previously adopted*

**Exhibit B, Ordinance 02-0456**  
**General Revenue Bond Fund**  
**FY 2002-2003 Line Item Detail**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Resources							
<u>Resources</u>							
METRO REGIONAL CENTER							
BEGBA	Beginning Fund Balance						
	* Construction Account		0		0		0
	* Debt Service Account		0		0		0
	* Debt Service Reserve Account		1,865,000		0		1,865,000
	* Renewal & Replacement Account		505,000		0		505,000
	* Prior year adjustment		0		0		0
GRANTS Grants							
4120	Local Grants-Direct		0		28,039		28,039
INTRST Interest on Investments							
4700	Interest Earnings						
	* Debt Service Account		0		0		0
	* Debt Service Reserve Account		28,000		0		28,000
	* Renewal & Replacement Account		8,000		0		8,000
EQTRE Fund Equity Transfers							
4970	Transfer of Resources						
	* from Building Management Fund		1,715,506		0		1,715,506
	* from General Fund		0		0		0
EXPO CENTER HALL D EXPANSION							
DBTREV Bond and Loan Proceeds							
4910	State Bond Bank Proceeds		0		0		0
EQTRE Fund Equity Transfers							
4970	Transfer of Resources						
	* from MERC Operating Fund		1,078,865		0		1,078,865
WASHINGTON PARK PARKING LOT							
BEGBA Beginning Fund Balance							
	* Project Account (prior year balance)		185,358		0		185,358
	* Project Account (prior year adjustment)		0		0		0
INTRST Interest on Investments							
4700	Interest Earnings		2,780		0		2,780
DBTREV Bond and Loan Proceeds							
4910	State Bond Bank Proceeds		0		0		0
EQTRE Fund Equity Transfers							
4970	Transfer of Resources						
	* from Zoo Operating Fund		428,959		0		428,959
TOTAL RESOURCES			\$5,817,468		\$28,039		\$5,845,507

**Exhibit B, Ordinance 02-956  
General Revenue Bond Fund  
FY 2002-2003 Line Item Detail**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
Construction Account							
Capital Outlay							
METRO REGIONAL CENTER							
CAPNO Capital Outlay (Non-CIP Projects)							
5750	Office Furn & Equip (non-CIP)		0		28,039		28,039
Total Capital Outlay			\$0		\$28,039		\$28,039
TOTAL CONSTRUCTION ACCOUNT			\$0		\$28,039		\$28,039
Project Account							
Capital Outlay							
EXPO CENTER HALL D EXPANSION							
CAPCIP Capital Outlay (CIP Projects)							
5725	Buildings & Related		0		0		0
WASHINGTON PARK PARKING LOT							
CAPCIP Capital Outlay (CIP Projects)							
5715	Improve-Oth thn Bldg (CIP)		188,138		0		188,138
Total Capital Outlay			\$188,138		\$0		\$188,138
TOTAL PROJECT ACCOUNT			\$188,138		\$0		\$188,138
Debt Service Account							
Debt Service							
METRO REGIONAL CENTER							
REVBN Revenue Bond Payments							
5630	Revenue Bond Pmts-Principal		640,000		0		640,000
5635	Revenue Bond Payments-Interest		1,145,506		0		1,145,506
EXPO CENTER HALL D EXPANSION							
LOAN Loan Payments							
5610	Loan Payments - Principal		235,728		0		235,728
5615	Loan Payments - Interest		843,137		0		843,137
WASHINGTON PARK PARKING LOT							
LOAN Loan Payments							
5610	Loan Payments - Principal		200,337		0		200,337
5615	Loan Payments - Interest		228,622		0		228,622
TOTAL DEBT SERVICE ACCOUNT			\$3,293,330		\$0		\$3,293,330



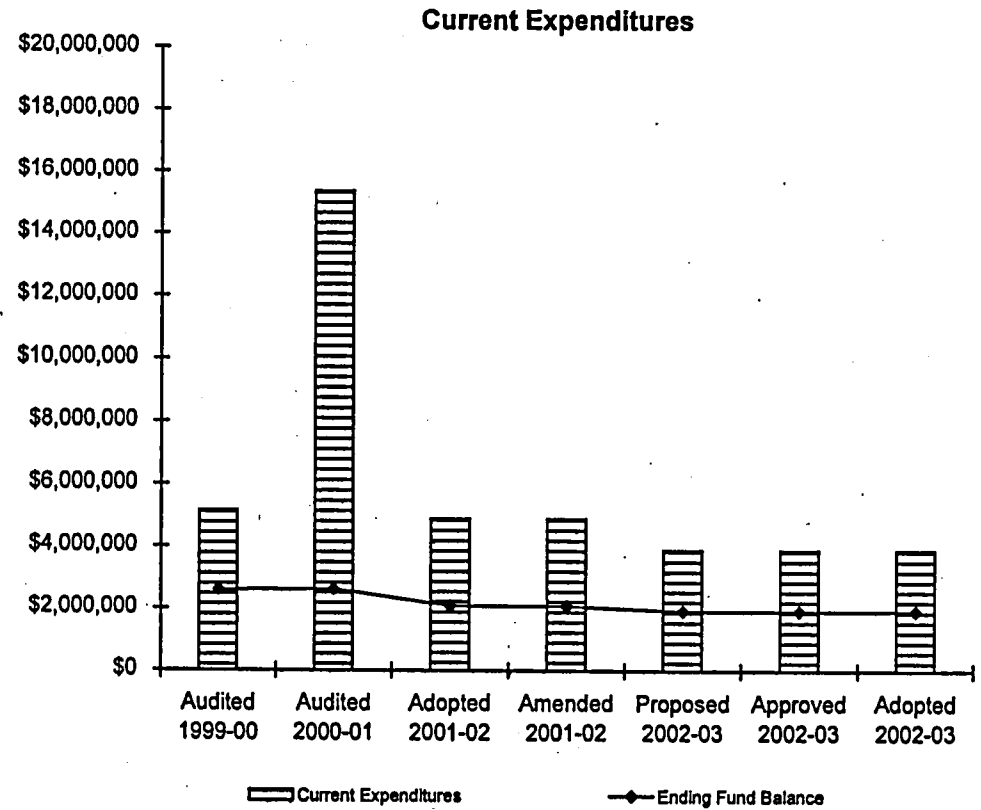
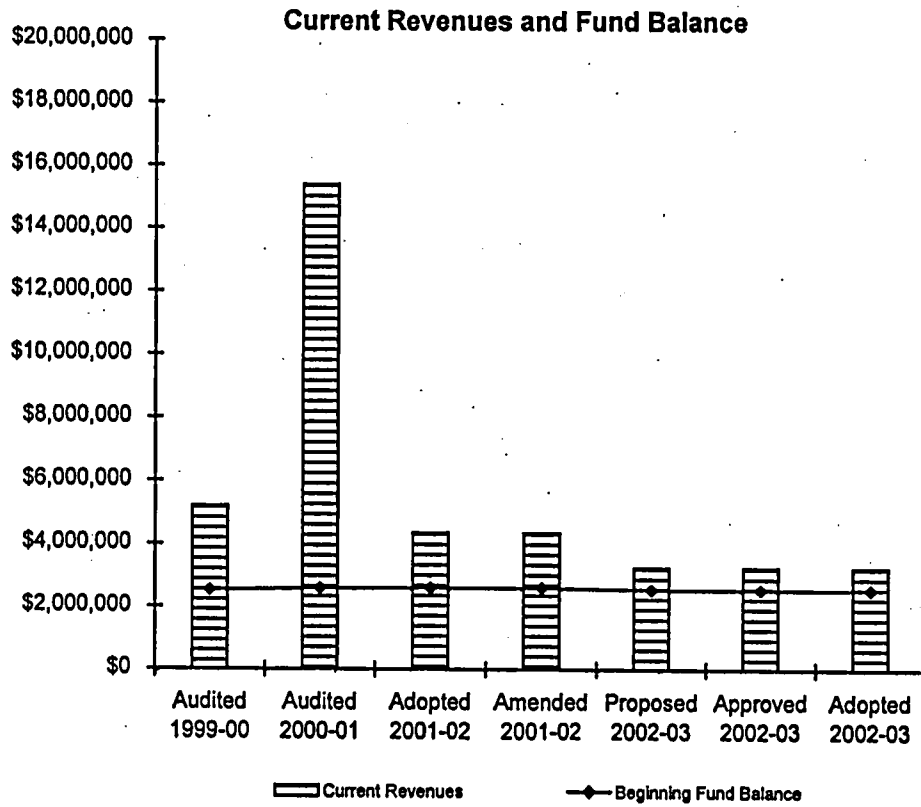
**Exhibit B, Ordinance 02-956**  
**General Revenue Bond Fund**  
**FY 2002-2003 Line Item Detail**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
	<b>General Expenses</b>						
	<b><u>Interfund Transfers</u></b>						
<i>EQTCH</i>	<i>Fund Equity Transfer</i>						
5810	Transfer of Resources						
	* to Building Management Fund		110,000		0		110,000
	<b>Total Interfund Transfers</b>		<b>\$110,000</b>		<b>\$0</b>		<b>\$110,000</b>
	<b><u>Contingency and Ending Balance</u></b>						
<i>CONT</i>	<i>Contingency</i>						
5999	Contingency						
	* Renewal & Replacement Account		300,000		0		300,000
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
5990	Unappropriated Fund Balance						
	* Construction Account		0		0		0
	* Debt Service Account		0		0		0
	* Debt Reserve Account		1,823,000		0		1,823,000
	* Renewal & Replacement Account		103,000		0		103,000
	* Washington Park Parking Lot Account		0		0		0
	<b>Total Contingency and Ending Balance</b>		<b>\$2,226,000</b>		<b>\$0</b>		<b>\$2,226,000</b>
	<b>TOTAL FUND REQUIREMENTS</b>		<b>\$5,817,468</b>		<b>\$28,039</b>		<b>\$5,845,507</b>

## General Revenue Bond Fund

	Audited FY 1999-00	Audited FY 2000-01	Adopted FY 2001-02	Amended FY 2001-02	Proposed FY 2002-03	Approved FY 2002-03	Adopted FY 2002-03	% Change from Amended FY 2001-02
<b>Resources</b>								
<i>Beginning Fund Balance</i>	\$2,544,135	\$2,603,677	\$2,610,005	\$2,610,005	\$2,555,358	\$2,555,358	\$2,555,358	(2.09%)
<b>Current Revenues</b>								
Grants	0	0	108,100	108,100	0	0	0	(100.00%)
Interest Earnings	117,569	124,357	100,000	100,000	38,780	38,780	38,780	(61.22%)
Bond and Loan Proceeds	2,960,474	13,029,831	1,100,000	1,100,000	0	0	0	(100.00%)
Interfund Transfers:								
Fund Equity Transfers	2,121,078	2,221,787	3,051,294	3,051,294	3,223,330	3,223,330	3,223,330	5.64%
Subtotal Current Revenues	5,199,121	15,375,975	4,359,394	4,359,394	3,262,110	3,262,110	3,262,110	(25.17%)
<b>Total Resources</b>	<b>\$7,743,256</b>	<b>\$17,979,652</b>	<b>\$6,969,399</b>	<b>\$6,969,399</b>	<b>\$5,817,468</b>	<b>\$5,817,468</b>	<b>\$5,817,468</b>	<b>(16.53%)</b>
<b>Requirements</b>								
<b>Current Expenditures</b>								
Capital Outlay	\$2,913,501	\$12,413,479	\$1,308,073	\$1,308,073	\$188,138	\$188,138	\$188,138	(85.62%)
Debt Service	2,226,078	2,942,253	3,229,293	3,229,293	3,293,330	3,293,330	3,293,330	1.98%
Interfund Transfers:								
Fund Equity Transfers	0	0	50,000	50,000	110,000	110,000	110,000	120.00%
Contingency	0	0	300,000	300,000	300,000	300,000	300,000	0.00%
Subtotal Current Expenditures	5,139,579	15,355,732	4,887,366	4,887,366	3,891,468	3,891,468	3,891,468	(20.38%)
<i>Ending Fund Balance</i>	2,603,677	2,623,920	2,082,033	2,082,033	1,926,000	1,926,000	1,926,000	(7.49%)
<b>Total Requirements</b>	<b>\$7,743,256</b>	<b>\$17,979,652</b>	<b>\$6,969,399</b>	<b>\$6,969,399</b>	<b>\$5,817,468</b>	<b>\$5,817,468</b>	<b>\$5,817,468</b>	<b>(16.53%)</b>
<b>Full-Time Equivalents (FTE)</b>	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00%

## General Revenue Bond Fund



## **BUDGET AND FINANCE COMMITTEE REPORT**

**CONSIDERATION OF ORDINANCE NO. 02-956 , AN ORDINANCE AMENDING THE FY 02-03 BUDGET AND APPROPRIATIONS SCHEDULE BY RECOGNIZING \$28,039 IN ADDITIONAL GRANT FUNDS AND INCREASING APPROPRIATIONS IN THE GENERAL REVENUE BOND FUND FOR THE COUNCIL CHAMBERS CAMERA PROJECT; AND DECLARING AN EMERGENCY**

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**Date:** July 25, 2002

**Presented by:** Councilor Bragdon

**Committee Recommendation:** At its July 24, meeting, the Budget and Finance Committee voted 4-0 to recommend Council adoption of Ordinance No. 02-956. Voting in favor: Councilors Atherton, Bragdon, McLain and Chair Burkholder. Voting against: None. Absent: Councilor Monroe.

**Background:** Councilor Burkholder presented the staff report. He noted that the intent of the ordinance was to amend the FY 02-03 budget to recognize receipt of additional funding from the Mt. Hood Cable Commission to complete the camera and media-related improvements to the Council Chamber. The additional funding will allow the installation of the latest digital technology that will make the chamber camera and broadcast system compatible with current cable broadcasting technology. He closed by noting that the committee members were familiar with the intent of the project and that approval of the ordinance will be the final step necessary to complete the project.

**Committee Issues/Discussion:** Committee members briefly indicated that they were all familiar with the intent of the amendment and no further discussion occurred.

**Key Public Testimony:** None..

## **STAFF REPORT**

CONSIDERATION OF ORDINANCE NO. 02-956, FOR THE PURPOSE OF AMENDING THE FY 2002-03 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF RECOGNIZING \$28,039 IN ADDITIONAL GRANT FUNDS AND INCREASING APPROPRIATIONS IN THE GENERAL REVENUE BOND FUND FOR THE COUNCIL CHAMBERS CAMERA PROJECT: AND DECLARING AN EMERGENCY

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Date: July 1, 2002

Presented by: Councilor Rex Burkholder

### **Background**

The Metro Council has long sought to improve the video production systems in the Council Chamber to provide for in-house video production and live broadcast of Council and other meetings that occur in the Chambers. In May 2001, Metro was awarded a \$108,100 grant from the Mt. Hood Cable Commission to fund the purchase and installation of the equipment needed to achieve these goals. During the installation process, which commenced in early 2002, it was determined by the commission and Metro that additional equipment would be needed to allow the broadcast signal to be transmitted in a digital format. Therefore, the commission has agreed to provide an additional \$28,039 for this equipment.

### **Analysis/Information**

**Legal Background.** State budget law requires that unanticipated expenditures that exceed the adopted expenditure authority be recognized in a jurisdiction's budget through a budget amendment prior to the end of the fiscal year in which the expenditures are incurred. The purpose of the proposed ordinance is to recognize \$28,039 in additional grant funds and expenditure of the additional funds received from the cable commission during FY 2002-03.

**Anticipated Effect.** The chamber project is being funded out of the General Revenue Bond Fund. The grant proceeds were recognized in the fund as a resource and expenditure of the funds was authorized in the capital outlay line item for Metro Regional Center in FY 2001-02. The proposed ordinance would recognize an additional \$28,039 and transfer that amount from the fund contingency to the capital outlay line item.

**Known Oppostion.** None

**Budget Impact.** See anticipated effect above.

**Recommended Action.** Council adoption of the proposed ordinance.

**Agenda Item Number 5.2**

**Ordinance No. 02-960, For the Purpose of Amending Metro Code Chapter 2.19 to Modify the Term Limitation Provisions Applicable to Metro Advisory Committee and to Enlarge the Membership of the Solid Waste Advisory Committee.**

***Second Reading***

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO 02-960
METRO CODE CHAPTER 2.19, TO MODIFY	)	
THE TERM LIMITATION PROVISIONS	)	Introduced by Councilor McLain
APPLICABLE TO METRO ADVISORY	)	
COMMITTEE AND TO ENLARGE THE	)	
MEMBERSHIP OF THE SOLID WASTE	)	
ADVISORY COMMITTEE	)	
	)	

WHEREAS, on November 9, 2000, the Metro Council adopted Ordinance No. 00-860A to establish the membership and terms of office for Metro advisory committees; and

WHEREAS, certain advisory committee term limitations do not apply to representatives of local governments; and

WHEREAS, various trade, professional and special interest organizations and associations have historically been represented on Metro advisory committees; and

WHEREAS, representatives of stakeholder organizations contribute valuable technical expertise to the work of Metro advisory committees; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Section 2.19.030(c) is amended to read as follows:

“(c) Terms.

- (1) All appointments made by the Executive Officer or members of the Council shall be for a term of two (2) years or to fill a vacancy in the remaining portion of a term not to exceed two (2) years.
- (2) No person may be appointed to serve more than two (2) consecutive full two (2) year terms on the same committee nor may any person be appointed to fill more than one partial term on any one committee. ~~However, employees of agencies serving as the nominees of their employer are not subject to these limitations on terms.~~
- (3) The limitations on terms set forth in subsection (2) shall not apply to:
  - (a) employees of public agencies serving as the representative of their public employer; or

(b) representatives of associations, cooperatives, or other non-profit groups, provided such group continues to re-nominate the designated representative every two years.

~~(3)~~(4) Members shall continue to serve until their successor is appointed and confirmed."

Metro Code section 2.19.130(b) is amended to read as follows:

(b) Membership. Members are categorized as follows:

(1)	<u>Regular Voting Members</u>	
	Chair (Metro)	1
	Recycling Interests:	3
	Facilities	(1)
	Composters	(1)
	Recycler/advocate	(1)
	Hauling Industry:	4
	County Areas	(3)
	At-Large	(1)
	Disposal Sites	3
	Undesignated	
	Citizen-Ratepayers	6
	Citizens	(3)
	Business	(3)
	Governments:	6
	Cities	(4)
	Counties	(2)
	<hr/> Total	<hr/> 23
(2)	<u>Non-Voting Members</u>	
	Metro Regional Environmental	1
	Management Director	
	Department of Environmental	1
	Quality	
	Clark County, Washington	1
	Clark County Hauler	1
(3)	<u>Associate Members</u>	
	Additional associate members	



without a vote may serve on  
the Committee at the pleasure  
of the Committee

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_ 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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6/22/2001

## **GOVERNMENTAL AFFAIRS COMMITTEE REPORT**

**CONSIDERATION OF ORDINANCE NO. 02-960, FOR THE PURPOSE OF OF AMENDING METRO CODE CHAPTER 2.19 TO MODIFY THE TERM LIMITATION PROVISIONS APPLICABLE TO METRO ADVISORY COMMITTEES AND TO ENLARGE THE MEMBERSHIP OF THE SOLID WASTE ADVISORY COMMITTEE**

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Date: 25 July 2002

Presented by: Councilor McLain

**Committee Recommendation:** At its July 25, 2002, meeting, the Governmental Affairs Committee voted 2-0 to recommend Council adoption of Ordinance No. 02-960. Voting in favor: Councilors Bragon and Burkholder. Voting against: None. Absent: Councilor Monroe.

**Background:** John Houser, Council Analyst, presented the staff report. Mr. Houser noted that the purpose of the ordinance is to exempt employees of public employers representing their employers or groups on an advisory committee from term limitation provisions of Metro Code section 2.19. Public employers includes government agencies, associations, cooperatives, and other non-profit groups. In addition, the ordinance also adds a Clark County hauler as a non-voting member to the Solid Waste Advisory Committee (SWAC).

**Committee Issues/Discussion:** Councilor Bragdon noted that it makes sense to have term limits for citizen appointments, to enable a variety of viewpoints to be heard. In the case of organizational appointments, however, a consistency of viewpoint would be more important.

Councilor Burkholder expressed his general concern with the manner in which organizations are selected to hold seats on advisory committees. He stated that, in the future, he would like to re-visit how such organizations are selected, to ensure adequate representation of differing points of view.

**Key Public Testimony:** David White, Chair of the Tri-County Council, representing the haulers in the Metro region, expressed his support for the proposed ordinance.

## **STAFF REPORT**

CONSIDERATION OF ORDINANCE NO. 02-960, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.19 TO MODIFY THE TERM LIMITATION PROVISIONS APPLICABLE TO METRO ADVISORY COMMITTEES AND TO ENLARGE THE MEMBERSHIP OF THE SOLID WASTE ADVISORY COMMITTEE

Date: July 2, 2002

Presented by: Councilor McLain

### **Background**

The proposed ordinance would amend Metro Code Chapter 2.19 create an exception to the current limitations on the number of terms that may be served on Metro advisory committees for individuals representing certain employers or types of organizations. Specifically the limitations would not be applicable to employees of public employers that represent their employer or representatives of associations, cooperatives or other non-profit groups. The ordinance also would add a Clark County hauler to the list of non-voting members on the Solid Waste Advisory Committee.

### **Analysis/Information**

**Legal Background.** The Council enacted Metro Code Chapter 2.19 in November 2000. The purpose of the new chapter was to assemble code provisions related to Metro advisory committees in a single location and clarify the appointment process, membership and terms of office for committee members. Section 2.19.030(c) limits the length of service for committee members to two-two year terms. The membership of the Solid Waste Advisory Committee is set forth in Section 2.19.130(b). The REM staff periodically review the membership of the committee and make recommendations for additions or deletions.

**Anticipated Effect.** Many Metro advisory committees have positions that are appointed by specific local jurisdictions or groups of jurisdictions. Many committee positions also are filled by direct appointment by an organization, association or group or such entities are asked to recommend an appointee for a position. Many local governments prefer to appoint employees that have specific expertise that relate to the purpose of a particular advisory committee. In addition, organizations, associations and other groups often wish to appoint members of their staff, such as an executive director, to represent them on committees. In both cases, they desire to have the appointed individual serve for as long as he or she is employed by the jurisdiction or organization.

The solid waste systems of the Metro region and Clark County, Washington are becoming increasingly linked together. For example, there are several non-system licenses that allow Portland-based haulers to take material to disposal facilities in Clark County, disposal facilities would like to access Metro's system fee credit program and Metro processes latex paint collected in Clark County. A representative of Clark County's solid waste regulatory staff has served as a non-voting SWAC member. As recognition that Metro solid waste decisions more frequently affect Clark County haulers and disposal facilities, REM staff is recommending that a Clark County hauler be appointed as a non-voting SWAC member.

**Known Oppostion.** None

**Budget Impact.** None

**Recommended Action.** Council adoption of the proposed ordinance.

**Agenda Item Number 6.1**

**Resolution No. 02-3213A, For the Purpose of Formalizing the Budget Assumption Guidelines for Departmental Use in Preparing the Fiscal Year 2003-04 Budget, and Directing the Executive Officer and/or Council President to Advise Council of Any Substantive Changes in the Assumptions Prior to the Submission of the Budget to Council for Public Review.**

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

**BEFORE THE METRO COUNCIL**

FOR THE PURPOSE OF FORMALIZING )  
BUDGET ASSUMPTION GUIDELINES FOR )  
DEPARTMENTAL USE IN PREPARING THE )  
FISCAL YEAR 2003-04 BUDGET, AND )  
DIRECTING THE THE EXECUTIVE OFFICER )  
AND/OR THE COUNCIL PRESIDENT TO )  
ADVISE COUNCIL OF ANY SUBSTANTIVE )  
CHANGES IN THE ASSUMPTIONS PRIOR TO )  
THE SUBMISSION OF THE BUDGET TO )  
COUNCIL FOR PUBLIC REVIEW )

RESOLUTION NO. 02-3213A

**Introduced by Rex Burkholder, Chair  
Budget/Finance Committee**

WHEREAS, The Budget and Finance Committee has deliberated upon the global budget assumptions shown in the attached exhibit to a) better understand the factors that are used in creating Metro departmental and agency assumptions; b) discuss questions, issues, or concerns related to these proposed assumptions; c) determine areas where a change in assumptions may be desirable; and d) determine areas where Council has little or no discretion in changing assumptions; and

WHEREAS, The Budget and Finance Committee has agreed upon the need for this set of assumptions to be used by departments in the preparation of the Fiscal Year 2003-04 budget; and

WHEREAS, The Budget and Finance Committee wishes to formalize these assumptions as guidelines prior to the dissemination of the Budget Preparation Manual, and, to that end, has submitted these assumptions to the Council as a whole for approval; now therefore

BE IT RESOLVED that the Metro Council approves and formalizes the budget assumptions in the attached exhibit as guidelines for departmental use in preparing the Fiscal Year 2003-04 budget, and directs the Executive Officer and/or the Council President, as appropriate, to advise the Council of any substantive changes in these assumptions prior to the submission of the budget to Council for public review.

**ADOPTED** by the Metro Council this \_\_\_\_ day of August, 2002

**Carl Hosticka, Presiding Officer**

APPROVED AS TO FORM:

**Daniel B. Cooper, General Counsel**

**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**  
**(Results of Committee Discussion in FY 2003-04 Assumption Column)**

**Personal Service Assumptions**

	Represented	Authority	Non-Represented	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04
Cost of Living - Represented	Set by Bargaining Agreement	n/a		Between 2% and 4% based on CPI CPI factors vary by bargaining unit Required under agreement AFSCME based on Portland-Salem CPI-U 2nd half	3% from beginning of fiscal year	3% from beginning of fiscal year <i>Actual CPI indicator for AFSCME not known until January 2003</i>
Cost of Living - Non-represented	n/a		Allowed under Metro Code 2.02.035(d)	Based on National CPI-W (urban wage earners) from March to March Allowed but not required	3% from beginning of fiscal year	3% from beginning of fiscal year <i>Actual CPI indicator not known until late Spring 2003</i>
Step Increase	Set by Bargaining Agreement	n/a		Required under agreement. AFSCME pay scale includes 7 steps with 5% increments between steps. No other bargaining agreement has multiple year step progression.	AFSCME: 5% from date of anniversary; or 3% from beginning of fiscal year not to exceed top of range	AFSCME: 5% from date of anniversary; or 3% from beginning of fiscal year not to exceed top of range
Merit Increase	n/a		Allowed under Metro Code 2.02.060(3)(b)	Allowed but not required. Code allows for merit increases between 0% and 8% annually	5% from date of anniversary; or 3% from beginning of fiscal year not to exceed top of range	5% from date of anniversary; or 3% from beginning of fiscal year not to exceed top of range
<b>Fringe Benefit Components:</b>						
Health Insurance	Set by Bargaining Agreement		Allowed under Metro Code 2.02.110	Payment up to CAP is required under bargaining agreements. Any Metro contribution above CAP is optional. For non-represented employees payment of health & welfare costs is set by Council policy.	Assume Health & Welfare Cap in LIU 483 bargaining agreement FY 2002-03 CAP = \$535	Assume Health & Welfare Cap in AFSCME bargaining agreement FY 2003-04 CAP = \$562
PERS Retirement	Set by Bargaining Agreement		Allowed under Metro Code 2.02.110	Agency is required to pay employer rate set by PERS Board. Payment of employee contribution is set by bargaining agreement for represented employees and by Council policy for non-reps.	Currently: Employee Contribution = 6.00% Employer Contribution = 8.61% Combined Contribution = 15.13%	Estimate for 7/1/03: Employee Contribution = 6.00% Employer Contribution = 13.11% Combined Contribution = 19.90% <i>Actual rate will be known in the Fall 2002</i>

**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**  
**(Results of Committee Discussion in FY 2003-04 Assumption Column)**

**Personal Service Assumptions**

		Authority			
	Represented	Non-Represented	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04
FICA	Federal Law	Federal Law	Required by law. The social security portion of FICA does not apply to Elected Officials.	FICA Social Security - 6.20% FICA LTD - 1.45%	FICA Social Security - 6.20% FICA LTD - 1.45% <i>No Change Expected</i>
Tri-Met Payroll Tax	State Law	State Law	Required by law. Rate set by Tri-Met board.	0.6218% of salaries/wages	0.6218% of salaries/wages <i>No change expected</i>
Long Term Disability	Set by Bargaining Agreement	Allowed under Metro Code 2.02.110	Required under bargaining agreements. Allowed but not required for non-represented employees.	0.74% of covered payroll	0.74% of covered payroll <i>Any rate change will not be known until late Spring 2003</i>
Life Insurance	Set by Bargaining Agreement	Allowed under Metro Code 2.02.110	Required under bargaining agreements. Allowed but not required for non-represented employees.	\$0.17 per \$1,000 of annual salary (to a maximum of \$50,000) per month	\$0.17 per \$1,000 of annual salary (to a maximum of \$50,000) per month <i>Any rate change will not be known until late Spring 2003</i>
Accidental Death Insurance	Set by Bargaining Agreement	Allowed under Metro Code 2.02.110	Required under bargaining agreements. Allowed but not required for non-represented employees.	\$0.03 per \$1,000 of annual salary (to a maximum of \$50,000) per month	\$0.03 per \$1,000 of annual salary (to a maximum of \$50,000) per month <i>Any rate change will not be known until late Spring 2003</i>
Dependent Life Insurance	Set by Bargaining Agreement	Allowed under Metro Code 2.02.110	Required under bargaining agreements. Allowed but not required for non-represented employees.	\$0.35 per employee per month	\$0.35 per employee per month <i>Any rate change will not be known until late Spring 2003</i>
Employee Assistance Program	Set by Bargaining Agreement	Allowed under Metro Code 2.02.110	Required under bargaining agreements. Allowed but not required for non-represented employees.	\$1.78 per employee per month	\$1.78 per employee per month <i>No change per contract</i>
Tri-Met Passport Program	Council Policy	Council Policy	Allowed but not required.	Regular Employees Only Metro Regional Center - \$151/emp Regional Parks Offsite - \$10/emp Oregon Zoo - \$115/emp	Regular Employees Only Metro Regional Center - \$170/emp Regional Parks Offsite - \$10/emp Oregon Zoo - \$115/emp <i>Received update on Regional Center cost on 6/28. Updated costs for other sites will be known by end of August 2002</i>
Worker Comp Tax	State Law	State Law	Required by Law	\$0.018 per hour worked	\$0.018 per hour worked <i>No change expected</i>



**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**  
**(Results of Committee Discussion In FY 2003-04 Assumption Column)**

**Personal Service Assumptions**

Authority		Represented	Non-Represented	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04
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**Note:** The assumptions that are shaded indicate federal or state requirements in which the Council has no flexibility.

**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**  
*(Results of Committee Discussion in FY 2003-04 Assumption Column)*

**Global Assumptions**

Assumption	Authority	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04
Interest Rate	Based on current trends and best estimate of what might happen in the future	Recommendation developed by Metro's Investment Manager	1.5% of cash balances	Investment Manager currently recommends 2.5% based on existing yield curve.
Inflation factor for other costs	Based on current trends in CPI factors		3%	3% <i>Actual CPI indicator for Portland-Salems CPI 1st half (thru June) will be known by end of August 2002</i>
General Fund ending balance reserves	Goal of \$1 million in general undesignated reserves	Council discretion	Not less than FY 2001-02 budgeted reserves	Not less than current year budget.
Contingency percent	Amount that would provide a prudent reserve for unforeseen needs during the year. Amount can vary between departments based on needs	Council discretion and department's operating requirements	4% of operating expenses (usually defined as total personal services, materials & services, and capital outlay)	Continue with general guideline of 4% with variances in some departments based on volatility of functions.
Elections (i.e. - ballot measures, # of elected official races)	Based on estimated costs provided by county elections officials. Varies depending on population of Metro districts represented on the ballot and other jurisdictions' elections.	Required to be paid	Use amount estimated	Budget for reasonable estimate. <i>Primary elections for 3 Council seats</i>
Excise tax allocations to departments: Discretionary Allocations	Based on revenue estimates developed during preparation of five year operating forecasts, tied to historical funding levels	Adjust or maintain funding levels based on available revenue and Council discretion	FY 2001-02 excise tax allocations plus 3%	FY 2002-03 excise tax allocations plus 3%. <i>Five year operating forecasts are usually updated in August - September</i>
Overhead Rates for Central Service Costs	Cost allocation plan is federally approved document. Grant requirements necessitate similar/consistent application of regulations across agency regardless of level of grant receipt.	% of personal services based on the current adopted budget. Using a percentage of personal services recognizes the dynamics of programs (i.e. - increases/decreases in funding)	Used same % of personal services as in the FY 2001-02 adopted budget.	Use same % of personal services as in the FY 2002-03 adopted budget.
Excise Tax Allocation Landbanking Allocation	Council policy	Council has discretion to maintain or adjust funding level	FY 2001-02 allocation plus 3%	FY 2002-03 excise tax allocations plus 3%. <i>Five year operating forecasts are usually updated in August - September</i>

**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**  
*(Results of Committee Discussion in FY 2003-04 Assumption Column)*

**Global Assumptions**

Assumption	Authority	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04
Excise Tax earned during FY 2001-02 on solid waste revenues over base amount allowed in excise tax ordinance.	Metro Code 7.01.028(a)	Budgeting and/or expenditure of such funds shall be subject to review and approval by the Council.	None. No excess funds were received during FY 2000-01	Excise tax earned on solid waste revenues over base amount will be placed in a Recovery Rate Stabilization Reserve in the General Fund.
Excise Tax % (non-solid waste revenues)	Rate set in Metro Code. Council policy.	Use same percent as currently adopted	7.5% of eligible revenues	7.5% of eligible revenues
CPI for excise tax on solid waste	Based on Metro Code 7.01.022	CPI All Items, Portland-Salem (All Urban Consumers) 1st Half	2.7% of prior year base solid waste excise tax	Use actual CPI indicator known in August 2002
Excise Tax Allocation \$1.00 per ton on solid waste	Ordinance 02-939, dedication to Regional Parks	Ordinance is effective through 6/30/04. Increased based on CPI-U Portland-Salem, 1st half	\$1.184 million	Calculate amount based on actual CPI indicator known in August 2002
Excise Tax Allocation 1% on solid waste to Parks	Council authorization/policy based on actions taken during FY 1997-98 budget deliberations. Dedicated to Regional Parks	Council has discretion to maintain or adjust dedication of funding to Parks	11.75% of base excise tax earned on solid waste as set under Metro Code (not including the \$1.00/ton)	Calculate amount based on actual CPI indicator known in August 2002

**Note:** The assumptions that are shaded indicate federal or state requirements in which the Council has no flexibility.

**BUDGET ASSUMPTIONS MATRIX FOR FY 2003-04**  
**Presentation to Budget & Finance Committee - July 10, 2002**

**Department Assumptions**

Assumption	Authority	Range of Options	Assumption FY 2002-03	Assumption FY 2003-04	Estimated Cost
MERC Pay for Performance					
Zoo Attendance					
Rate Increases (i.e. - admissions, parking fees, green fees)					
Solid Waste tonnage					
Contingency					
Beginning/Ending Balances					

## **BUDGET AND FINANCE COMMITTEE REPORT**

**CONSIDERATION OF RESOLUTION NO. 02-3213, FOR THE PURPOSE OF FORMALIZING BUDGET ASSUMPTION GUIDELINES FOR DEPARTMENTAL USE IN PREPARING THE FISCAL YEAR 2003-04 BUDGET, AND DIRECTING THE EXECUTIVE OFFICER AND OR COUNCIL PRESIDENT TO ADVISE COUNCIL OF ANY SUBSTANTIVE CHANGES IN THE ASSUMPTIONS PRIOR TO THE SUBMISSION OF THE BUDGET TO COUNCIL FOR PUBLIC REVIEW**

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Date: July 25, 2002

Presented by: Councilor Bragdon

**Committee Recommendation:** At its July 24, meeting, the Budget and Finance Committee voted 3-0 to recommend Council adoption of Resolution No. 02-3213. Voting in favor: Councilors Bragdon, McLain and Chair Burkholder. Voting against: None. Absent: Councilors Atherton and Monroe.

**Background:** The substance of the proposed resolution is contained in the budget assumptions defined in the "assumptions matrix" that is attached to the resolution as an exhibit. Given that the contents of the matrix had been thoroughly reviewed by the committee at its two meetings prior to the drafting of the resolution, no staff report was presented as part of the committee's consideration of the resolution.

**Committee Issues/Discussion:** Committee discussion focused on the consideration and adoption of two amendments to the matrix. Councilors Bragdon and Park expressed concern that the financial planning staff had recommended that excess solid waste-related excise tax collections be placed in the general fund. They noted that it was the Council's intent that appropriation and expenditure of these funds was at the discretion of the Council. They recommended, and the committee concurred, that these funds should remain in the recovery rate stabilization reserve account until such time as the Council takes specific action related to these funds.

The second amendment related to the specific percentage increases in PERS and COLA costs that should be anticipated for FY 03-04. The proposed matrix assumed a 5% increase in PERS costs and a 3% COLA. Financial Planning staff noted that these estimates were on the high or conservative side and that the combined effect could restrict departmental flexibility in the budget preparation process. They questioned whether the committee might wish to consider lowering the percentage estimate for one or both of these assumptions.

During committee discussion, it was noted that the actual PERS percentage increase likely would be known prior to the deadline for the submittal of the proposed departmental budgets. Therefore, the departments will be able to incorporate the actual number into their budgets. It was also noted that early indications from PERS staff point to a potential increase of about 4% for Metro. Several committee members suggested that it was more prudent to set a conservative estimate for these assumptions. The committee ultimately agreed to lower the PERS assumption from 5 to 4.5% and leave the COLA assumption at 3%.

**Key Public Testimony:** None.

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 02-3213 FOR THE PURPOSE OF FORMALIZING ASSUMPTION GUIDELINES FOR DEPARTMENTAL USE IN PREPARING THE FISCAL YEAR 2003-04 BUDGET, AND DIRECTING THE THE EXECUTIVE OFFICER AND/OR THE COUNCIL PRESIDENT TO ADVISE COUNCIL OF ANY SUBSTANTIVE CHANGES IN THE ASSUMPTIONS PRIOR TO THE SUBMISSION OF THE BUDGET TO COUNCIL FOR PUBLIC REVIEW

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Date: July 24, 2002

Prepared by: Peggy Coats

### **BACKGROUND**

The Budget and Finance Committee directed staff to prepare for its evaluation and deliberation a list of global, personal services, and department-specific budget assumptions used in the past, and proposed for fiscal year 2003-04. These materials were disseminated and reviewed by the Committee at its June 26, July 10, and July 24, 2002 meetings, resulting in a set of global and personal services assumptions which could serve as agency-wide guidelines for departmental use in preparing budgets for the coming fiscal year. Enterprise departments (REM, MERC, Zoo, and Regional Parks) discussed their department-specific assumptions in a dialogue with the Committee at its July 24, 2002 meeting.

A number of questions and concerns arose in the course of discussion, and were concluded as follows:

- Many personal services assumptions, such as cost-of-living, step increases, merit increases, and fringe benefit components, are subject to bargaining agreements for represented staff, and would best be addressed in a Council Executive Session prior to specifying long-term preferences, or entering into subsequent collective bargaining.
- Some personal services costs, including long-term disability, life insurance, accidental death insurance, dependent life insurance, employee assistance program, and Tri-Met Passport program, were deemed to be insignificant in terms of potential savings with a change in assumptions.
- Interest Rates and PERS contribution rates cannot be effectively estimated until October-November, when appropriate indicators are issued to the Finance Department. Because of this, the Budget Coordinator may require some flexibility in revising instructions to departments after the Budget Manual has been issued.
- Inflation factors for other costs are only used when historical costs are unknown; the item is not governed by a fixed or contracted cost; and the vendor in question is unable to provide a firm estimate of projected costs for forecasting purposes.

### **ANALYSIS/INFORMATION**

1. **Known Opposition** There is no known opposition; assumptions were reviewed by and developed in conjunction with affected departments and agency personnel.
2. **Anticipated Effects** It is anticipated that the formalization of budget assumptions will aid both Council and staff in proceeding with budget preparation and approval in a concerted manner.
3. **Budget Impacts** None.

### **RECOMMENDED ACTION**

That Council approve Resolution 02-3213.

Agenda Item Number 6.2

**Resolution No. 02-3214, For the Purpose of Approving a Final Order  
Imposing a Monetary Fine on Michael Reynolds, dba Workhorse  
Services Inc., for a violation of Section 7.01 of the Metro Code.**

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A FINAL	)	RESOLUTION NO. 02-3214
ORDER IMPOSING A MONETARY FINE ON	)	
MICHAEL REYNOLDS, dba WORKHORSE	)	
SERVICES, INC., FOR A VIOLATION OF	)	Introduced by Mike Burton,
SECTION 7.01 OF THE METRO CODE	)	Executive Officer

WHEREAS, Section 7.01 of the Metro Code requires users of the Metro solid waste system to pay an excise tax on solid waste generated from within the Metro boundary; and,

WHEREAS, Michael Reynolds, dba Workhorse Services, Inc., knowingly and fraudulently certified that approximately 47 loads of solid waste he delivered to the Lakeside Reclamation Landfill between May, 2001, and October, 2001, were generated at specific locations outside the Metro region; and,

WHEREAS, Mr. Reynolds failed to pay excise tax on such solid waste; and,

WHEREAS, Code Section 7.01.150 provides for the imposition of monetary fines of up to \$500 for each violation of Code chapter 7.01; and,

WHEREAS, following a contested case hearing in this matter, the Hearings Officer issued a Proposed Order imposing a fine of \$1,808.85 on Mr. Reynolds; and,

WHEREAS, the Executive Officer recommends that the Hearings Officer's Proposed Order be amended to correct certain typographical errors, as shown in Exhibit A; and,

WHEREAS, with such corrections, the Executive Officer recommends that the Hearings Officer's Proposed Order be affirmed by approving a Final Order substantially similar to Exhibit B; now therefore,

BE IT RESOLVED that the Hearings Officer's Proposed Order No. 01-0912 imposing on Michael Reynolds, dba Workhorse Services, Inc., a \$1,808.85 penalty for violations of the Metro Code requirement to pay excise taxes on solid waste generated within the boundary and delivered to system facilities for disposal shall be affirmed, with certain amendments as provided in Exhibit A. A Final Order substantially similar to the order attached as Exhibit B shall be entered in this matter.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel



METROPOLITAN SERVICE DISTRICT

METRO ~~ILLEGAL DUMPING~~ EXCISE TAX ORDINANCE

In The Matter of Citation No. M 1251	)	<del>PROPOSED FINAL ORDER</del>
	)	FROM CONTESTED HEARING
Issued to	)	
	)	MSD # 01-0912
MICHAEL REYNOLDS, dba WORKHORSE	)	
	)	
SERVICES INC.,	)	
	)	
Respondent.	)	

On or about January 22, 2002, the Metropolitan Service District, through Mike Burton, Executive officer, Terry Peterson Petersen (Metro) issued A ~~findings~~ Findings of violation Violation and Notice of Assessment of Penalties, as well as a Findings ~~Of~~ of Fact to the above respondent. The Assessment was \$4,700.

Pursuant to Metro ordinance, Citation M1251 was issued to Respondent Michael Reynolds dba Workhorse Services, Inc. Said citation was signed by the Executive Officers designate, Terry Peterson Petersen. The citation was mailed U.S. Mail, return receipt, and notified Respondent of his procedural rights. Respondent requested a hearing.

/////

1 A Hearing was scheduled for March 6, 2002, at 9:30 a.m., to be held at the METRO  
2 offices in Portland, Oregon. A Notice of Hearing was mailed to Mr. Reynolds, which notice  
3 was not returned. On March 6, 2000 at 9:30 a.m. a hearing was held. Present were Michael  
4 Reynolds, Detective John Gaddis, METRO enforcement agent, and Robert J. Harris, attorney  
5 and Hearings Officer. The Hearing was audio-taped.

6 Based on the evidence presented at the Hearing, the following Findings of Fact,  
7 Conclusions and Law and Order are hereby entered:

8 FINDINGS OF FACT

9 1. Michael Reynolds owns and operates Workhorse Services Inc. (though the  
10 business is not actually incorporated). Workhorse Services Inc., is in the business of hauling and  
11 disposing of construction debris and other solid waste.

12 2. Between May 2001 and November 2001, Michael Reynolds, dba Workhorse  
13 Services, Inc. completed and signed certification forms claiming that 47 loads of solid waste (the  
14 solid waste) he disposed of at the Lakeside Reclamation Landfill originated from either 12160  
15 Wheatland Road, Sherwood or from the city of Nehalem, both located outside the Metro  
16 Boundary.

17 3. Mr. Reynolds paid no Metro System fees or excise tax on the solid waste.

18 4. The owner of the property located at Wheatland Road in Sherwood told Metro  
19 officials that Mr. Reynolds had hauled some solid waste from their property prior to May 2001,  
20 but that he had not hauled any materials from ~~their~~ there since that date.

21 5. Mr. Reynolds conducts business out of Aloha Oregon, which is within Metro  
22 service district.

23 6. On November 15, 2001, Metro investigators followed Mr. Reynolds as he drove  
24 his truck from his house to a job site in Milwaukie, Oregon. ~~At that~~ At that location, which is within  
25 the Metro boundary.

1           7.     When Mr. Reynolds' truck left the Milwaukie job site, his truck had construction  
2 debris in it. He then took that debris to the Lakeside Reclamation a landfill. When he dumped the  
3 solid waste there, he claimed it originated in Nehalem Oregon, and did not pay the Metro excise  
4 tax.

5           8.     When contacted by the Metro enforcement agents, Mr. Reynolds admitted that  
6 some of the 47 loads had originated within Metro.

7           9.     The amount of excise tax that would have been due on the 47 loads was \$308.85.

8           10.    Mr. Reynolds cooperated with the investigation.

9  
10                           **ULTIMATE FINDINGS OF FACT  
REASONING AND CONCLUSIONS OF LAW**

11          1.     Metro Code section 7.01.020 requires all users of the solid waste system to pay  
12 excise taxes on solid waste generated from within the Metro Boundary.

13          2.     Between May 2001 and November 2001, Michael Reynolds dba Workhorse  
14 Services, Inc. hauled 47 loads of solid waste to the Lakeside Reclamation Landfill, claiming that  
15 they originated from either a Sherwood Address, or a Nehalem Address. Both addresses are  
16 located outside Metro boundaries, and would therefore be exempt from the Metro excise tax.

17          3.     Mr. Reynolds did not truthfully disclose the origins of the 47 loads in questions.  
18 The only reason to not accurately report their origin would be to avoid paying the excise tax.  
19 Therefore it is reasonable to conclude that every one of the 47 loads originated from within  
20 Metro boundaries, and that an excise tax was due on each load.

21          4.     The excise tax for the 47 loads is \$308.85.

22          5.     The maximum penalty on each of the 47 violations is \$500 / violation.

23          6.     The Executive Officer has imposed a fine of \$4,700 pursuant to its authority  
24 under Metro Code Section 7.01.150.  
25

1 DISCUSSION

2 The mitigating circumstances here are: The cooperation of Mr. Reynolds; and the  
3 financial condition of Mr. Reynolds (Workhorse Services is now out of business and the truck  
4 has been repossessed). Additionally, while I believe the vast majority of the loads were generated  
5 from within Metro boundaries, I do believe Mr. Reynolds' testimony that at least some of them  
6 did not originate within Metro. Finally, this is Mr. Reynolds' first offense.

7 Aggravating Circumstances are: Multiple offenses.

8 I believe the fine should have some relation to the amount of taxes avoided, while taking  
9 into consideration Mr. Reynolds' ability to pay, his cooperation, and the scale of the loss.  
10 Therefore I believe a fine of \$1,500, plus the actual lost excise tax, is a proper remedy to ensure  
11 future compliance.  
12

13 ORDER

14 It is hereby Ordered that a civil penalty be imposed in the amount of \$1,808.6585.

15  
16  
17 Robert J. HarrisCarl Hosticka  
Hearing Presiding Officer

18 Dated: March 22, 2002

19 **NOTICE OF RIGHT TO RECONSIDER, AMEND OR SUPPLEMENT THE RECORD.**

20 ANY MOTION TO RECONSIDER THIS ORDER, SUPPLEMENT THE EVIDENCE OR  
21 CONTEST THE FINDINGS MUST BE FILED IN ACCORDANCE WITH METRO CODE  
22 CHAPTER AND SECTION 2.05.010 ET SEQ. FILING A MOTION FOR  
RECONSIDERATION DOES NOT TOLL THE PERIOD FOR FILING AN APPEAL IN  
COURT.

23 **RIGHT OF APPEAL:**

24 A PERSON MAY APPEAL A FINAL ADVERSE RULING ANY BY FILING A WRIT OF  
25 REVIEW AS PROVIDED FOR IN ORS 34.010 THROUGH 34.100102

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METROPOLITAN SERVICE DISTRICT  
METRO EXCISE TAX ORDINANCE

In The Matter of Citation No. M 1251	)	FINAL ORDER
Issued to	)	FROM CONTESTED HEARING
MICHAEL REYNOLDS, dba WORKHORSE	)	MSD # 01-0912
SERVICES INC.,	)	
Respondent.	)	

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10 business is not actually incorporated). Workhorse Services Inc. is in the business of hauling and  
11 disposing of construction debris and other solid waste.

12 2. Between May 2001 and November 2001, Michael Reynolds, dba Workhorse  
13 Services, Inc. completed and signed certification forms claiming that 47 loads of solid waste (the  
14 solid waste) he disposed of at the Lakeside Reclamation Landfill originated from either 12160  
15 Wheatland Road, Sherwood or from the city of Nehalem, both located outside the Metro  
16 Boundary.

17 3. Mr. Reynolds paid no Metro System fees or excise tax on the solid waste.

18 4. The owner of the property located at Wheatland Road in Sherwood told Metro  
19 officials that Mr. Reynolds had hauled some solid waste from their property prior to May 2001,  
20 but that he had not hauled any materials from there since that date.

21 5. Mr. Reynolds conducts business out of Aloha Oregon, which is within Metro  
22 service district.

23 6. On November 15, 2001, Metro investigators followed Mr. Reynolds as he drove  
24 his truck from his house to a job site in Milwaukie, Oregon, a location which is within the Metro  
25 boundary.

1           7.     When Mr. Reynolds' truck left the Milwaukie job site, his truck had construction  
2 debris in it. He then took that debris to the Lakeside Reclamation a landfill. When he dumped the  
3 solid waste there, he claimed it originated in Nehalem Oregon, and did not pay the Metro excise  
4 tax.

5           8.     When contacted by the Metro enforcement agents, Mr. Reynolds admitted that  
6 some of the 47 loads had originated within Metro.

7           9.     The amount of excise tax that would have been due on the 47 loads was \$308.85.

8           10.    Mr. Reynolds cooperated with the investigation.

9  
10                           ULTIMATE FINDINGS OF FACT  
                          REASONING AND CONCLUSIONS OF LAW

11          1.     Metro Code section 7.01.020 requires all users of the solid waste system to pay  
12 excise taxes on solid waste generated from within the Metro Boundary.

13          2.     Between May 2001 and November 2001, Michael Reynolds dba Workhorse  
14 Services, Inc. hauled 47 loads of solid waste to the Lakeside Reclamation Landfill, claiming that  
15 they originated from either a Sherwood Address or a Nehalem Address. Both addresses are  
16 located outside Metro boundaries, and would therefore be exempt from the Metro excise tax.

17          3.     Mr. Reynolds did not truthfully disclose the origins of the 47 loads in questions.  
18 The only reason to not accurately report their origin would be to avoid paying the excise tax.  
19 Therefore it is reasonable to conclude that every one of the 47 loads originated from within  
20 Metro boundaries, and that an excise tax was due on each load.

21          4.     The excise tax for the 47 loads is \$308.85.

22          5.     The maximum penalty on each of the 47 violations is \$500 / violation.

23          6.     The Executive Officer has imposed a fine of \$4,700 pursuant to its authority  
24 under Metro Code Section 7.01.150.  
25

1 DISCUSSION

2 The mitigating circumstances here are: The cooperation of Mr. Reynolds; and the  
3 financial condition of Mr. Reynolds (Workhorse Services is now out of business and the truck  
4 has been repossessed). Additionally, while I believe the vast majority of the loads were generated  
5 from within Metro boundaries, I do believe Mr. Reynolds' testimony that at least some of them  
6 did not originate within Metro. Finally, this is Mr. Reynolds' first offense.

7 Aggravating Circumstances are: Multiple offenses.

8 I believe the fine should have some relation to the amount of taxes avoided, while taking  
9 into consideration Mr. Reynolds' ability to pay, his cooperation, and the scale of the loss.  
10 Therefore I believe a fine of \$1,500, plus the actual lost excise tax, is a proper remedy to ensure  
11 future compliance.  
12

13 ORDER

14 It is hereby Ordered that a civil penalty be imposed in the amount of \$1,808.85.  
15

16  
17 Carl Hosticka  
Presiding Officer

18 Dated: \_\_\_\_\_  
19

20 **NOTICE OF RIGHT TO RECONSIDER, AMEND OR SUPPLEMENT THE RECORD.**

21 ANY MOTION TO RECONSIDER THIS ORDER, SUPPLEMENT THE EVIDENCE OR  
22 CONTEST THE FINDINGS MUST BE FILED IN ACCORDANCE WITH METRO CODE  
23 CHAPTER AND SECTION 2.05.010 ET SEQ. FILING A MOTION FOR  
24 RECONSIDERATION DOES NOT TOLL THE PERIOD FOR FILING AN APPEAL IN  
25 COURT.

26 **RIGHT OF APPEAL:**

27 A PERSON MAY APPEAL A FINAL ADVERSE RULING BY FILING A WRIT OF  
28 REVIEW AS PROVIDED FOR IN ORS 34.010 THROUGH 34.102

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## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 02-3214, FOR THE PURPOSE OF APPROVING A FINAL ORDER IMPOSING A MONETARY FINE ON MICHAEL REYNOLDS, dba WORKHORSE SERVICES, INC., FOR A VIOLATION OF SECTION 7.01 OF THE METRO CODE

---

July 11, 2002

Presented by: Terry Petersen

### **BACKGROUND**

Between May and November of 2001, Michael Reynolds dba Workhorse Services, Inc., completed and signed certification forms claiming that 47 loads of solid waste that he disposed of at Lakeside Reclamation Landfill originated from either 12160 Wheatland Road, Sherwood, Oregon, or from Nehalem, Oregon, both being locations outside the Metro boundary. On November 15, 2001, Metro investigators observed Mr. Reynolds as he picked up a load of debris from a location in Milwaukie, delivered it to Lakeside Reclamation Landfill for disposal, and certified that the load had originated in Nehalem. When interviewed by Metro investigators, Mr. Reynolds admitted that the majority of the 47 loads in question had actually originated from within the Metro boundary and that he had knowingly and intentionally falsified the forms to avoid paying system fees and excise taxes on the loads.

On January 22, 2002, Metro issued a citation to Mr. Reynolds for the above described violations of Metro Code. The citation stipulated that Mr. Reynolds submit security in the amount of \$4,700 (\$100 for each of the 47 violations). Mr. Reynolds requested a contested case hearing but certified that he was unable to submit security in any amount as his truck had been repossessed and he was no longer working. Such hearing was held on March 6, 2002. On March 22, 2002, the Hearings Officer issued a Proposed Order. Citing as mitigating circumstances, Mr. Reynolds' cooperation with the investigators, his situation of financial hardship, and the possibility that at least a few of the loads may not have originated from within the Metro boundary, the Hearings Officer imposed a fine in the amount \$1,500 and excise tax in the amount of \$308.85 for a total penalty of \$1,808.85, and provided Mr. Reynolds a Notice of Opportunity to File Written Exceptions within 21 days of the Notice's mailing. Mr. Reynolds did not file a written exception in this matter.

Passage of Resolution No. 02-3214 will adopt a Final Order that affirms that penalty.

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

Mr. Reynolds requested a contested case hearing in this matter, but has not filed any exceptions to the Hearings Officer's Proposed Order.

#### **2. Legal Antecedents**

Metro Code 7.01.020 requires users of the Metro solid waste system to pay an excise tax on solid waste generated from within the Metro boundary. Code section 7.01.150 stipulates that no person required to make or sign a report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by the chapter and that such violations are subject to a civil penalty of up to \$500 for each violation.

Metro Code 2.05.035 stipulates that the Hearings Officer's Proposed Order and any written exceptions that have been filed shall be forwarded to the Council for consideration and that Council's decision shall be adopted by a final order. Mr. Reynolds did not file any exceptions to the Hearings Officer's Proposed Order in this matter.

### **3. Anticipated Effects**

Approval of this resolution will finalize this enforcement action against Mr. Reynolds for having evaded payment of Metro excise taxes on solid waste that originated from within the Metro region.

### **4. Budget Impacts**

Metro's revenue will increase by the amount of the \$1,808.85 penalty imposed.

## **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Resolution 02-3214.

**Agenda Item Number 6.3**

**Resolution No. 02-3215, For the Purpose of Approving a Final Order  
Imposing a Monetary Fine on Warren Z. Biden, dba Westmont Properties  
for a violation of Section 7.01 of the Metro Code.**

**Metro Council Meeting  
Thursday, August 1, 2002  
Metro Council Chamber**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A FINAL	)	RESOLUTION NO. 02-3215
ORDER IMPOSING A MONETARY FINE ON	)	
WARREN Z. BIDEN, dba WESTMONT	)	
PROPERTIES, FOR A VIOLATION OF SECTION	)	Introduced by Mike Burton,
7.01 OF THE METRO CODE	)	Executive Officer

WHEREAS, Section 7.01 of the Metro Code requires users of the Metro solid waste system to pay an excise tax on solid waste generated from within the Metro boundary; and,

WHEREAS, Warren Z. Biden, dba Westmont Properties, knowingly and fraudulently certified that eight loads of solid waste he delivered to the Lakeside Reclamation Landfill between May, 2001, and October, 2001, were generated at a specific location outside the Metro region; and,

WHEREAS, Mr. Biden failed to pay excise tax on such solid waste; and,

WHEREAS, Code Section 7.01.150 provides for the imposition of monetary fines of up to \$500 for each violation of Code chapter 7.01; and,

WHEREAS, following a contested case hearing in this matter, the Hearings Officer issued a Proposed Order imposing a fine of \$828.48 on Mr. Biden; and,

WHEREAS, the Executive Officer recommends that the Hearings Officer's Proposed Order be amended to correct certain typographical errors and the factual description of certain documents that were accepted into evidence by the Hearings Officer, as shown in Exhibit A; and,

WHEREAS, with such corrections, the Executive Officer recommends that the Hearings Officer's Proposed Order be affirmed by approving a Final Order substantially similar to Exhibit B; now therefore,

BE IT RESOLVED that the Regional Hearings Officer's Proposed Order No. 01-0193 imposing upon Warren Z. Biden, dba Westmont Properties, a \$828.48 penalty for violations of the Metro Code requirement to pay excise taxes on solid waste generated within the boundary and delivered to system facilities for disposal shall be affirmed, with certain amendments as provided in Exhibit A. A Final Order substantially similar to the order attached as Exhibit B shall be entered in this matter.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2002

\_\_\_\_\_  
Carl Hosticka, Presiding Officer

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

METROPOLITAN SERVICE DISTRICT

METRO ~~ILLEGAL DUMPING~~ EXCISE TAX ORDINANCE

In The Matter of Citation No: M1253R	)	<del>PROPOSED ORDER BY</del>
	)	<del>HEARINGS OFFICER</del>
Issued to	)	<u>FINAL ORDER</u>
	)	MSD # 01-01930913
WARREN Z. BIDEN, dba WESTMONT	)	
PROPERTIES,	)	
	)	
Respondent.	)	

On January 30, 2002, Metro, ~~Through~~ through its executive officer made a Finding of Violation and Notice of Assessment of Penalties, finding that Respondent Warren Z. Biden, dba Westmont Properties, violated the provisions of Metro Code Section 7.01.020. On January 31, 2002, ~~the Metropolitan Service District~~ Metro through its Metro-Solid Waste Enforcement Unit (~~Metro~~) issued Citation No. M1253 to Respondent Warren Z. Biden. Attached to that Citation was a Findings of Fact, dated January 30, 2002.

Respondent was served with the Finding of Violation and Notice of Assessment of Penalties, Citation M1253, with attachment, and a Contested Case Notice, through certified mail, return receipt requested, mailed to Warren Biden dba, Westmont Properties, at 7299 S.W. Hunt Club Lane, Portland, Oregon 97223-9439. The ~~Certified~~ certified mailing was signed for on February 1, 2002 by Warren Biden.

On February 20, 2002, Warren Biden paid security in the amount of \$2,300, and requested a ~~Hearing~~ hearing.

/////

/////

1 On February 21, 2002, a ~~Hearing~~hearing notice was mailed, certified return receipt, to  
2 Warren Biden at 7299 S.E. Hunt Club Lane, Portland, Oregon, notifying him that a hearing  
3 would be held on April 3, 2002, at 9:30 a.m. in the Council Chambers at Metro Center 600  
4 N.E. Grand Avenue, Portland, Oregon 97232. On February 23, 2002, Mr. Biden signed for the  
5 mailing.

6 On April 1, 2002, a Metro assistant counsels office contacted the Hearings Officer and  
7 notified him that the ~~Hearing~~hearing on M1253 would be postponed as it appeared that there  
8 may have been some new information that would alter the proposed findings of fact.

9 On April 2, 2002 a ~~Hearing~~hearing notice was mailed, certified return receipt, to  
10 Warren Biden at 7299 S.E. Hunt Club Lane, Portland, Oregon, notifying him that a hearing  
11 would be held on May 1, 2002, at 9:30 a.m. in the Council Chambers at Metro Center 600 N.E.  
12 Grand Avenue, Portland, Oregon 97232. On April 5, 2002, someone picked up the mailing,  
13 apparently on behalf of Mr. Biden. The signature is not legible, and the person neglected to  
14 print his or her their name. It appears it may be a Mr. or Mrs. Steele.

15 On April 15, 2002, a Revised Finding of Violation and Notice of Assessment of  
16 Penalties was issued by Metro, signed by Mike Burton, Executive Officer. A Revised Citation,  
17 M1253R was issued along with a revised Finding of Fact as an attachment to the Citation.  
18 Metro also included a partial refund in security in the amount of \$1,540.01.

19 On May 1, 2002 at 9:30 a.m., the ~~a~~hearing was held. Present were Robert Harris,  
20 attorney and Hearings Officer, Paul Garrahan, Metro Assistant Counsel, Deputy Todd  
21 Lautenbach, Metro enforcement agent, and Respondent Warren Z. Biden. The hearing was  
22 audio-taped. The Hearings Officer stated the rights of the respondent as provided in Metro  
23 Code 2.05.007(a)(1-6). There were no ex-parte communications with the ~~hearings~~Hearings  
24 ~~office~~Officer by the ~~agency~~Metro or the respondents, except as earlier stated.

1 Based on the evidence presented at the Hearings~~hearing~~, the following Evidentiary  
2 Rulings, Findings of Fact, Conclusions and Law and ~~PROPOSED-FINAL~~ ORDER are hereby  
3 entered:

#### 4 EVIDENTIARY RULINGS

5 The Following Items are made a part of the Record:

- 6 1. METRO Enforcement Special Report # 01-0913, along with time log;
- 7 2. January 30, 2002 Letter form Metro to Respondent RE: Finding of Violation  
8 and Notice of Assessment of Penalties;
- 9 3. Citation M1253, with Finding of Fact attachment;
- 10 4. Contested Case Notice dated January 29, 2002;
- 11 5. Invoice to Westmont Properties, dated December 28, 2001, in the amount of  
12 \$68.49;
- 13 6. Copy of certified mail return dated February 1, 2002;
- 14 7. Copy of letter setting hearing, dated February 21, 2002, and return receipt dated  
15 February 23, 2002;
- 16 8. Copy of check from respondent in the amount of \$2,300 (Hearings Officer  
17 blacked out confidential information);
- 18 9. Two pages of ~~Weight-weight Slip~~slips;
- 19 10. Revised summary of weight slips;
- 20 11. Letter dated April 2, 2002, from Metro to Respondent setting the hearing over  
21 until May 1, 2002, along with return receipt showing respondent's agent signed  
22 for said letter on April 5, 2002;
- 23 12. Letter from Metro to Respondent, dated April 15, 2002, RE: Revised Finding of  
24 Violation and Notice of Assessment of Penalties;
- 25

1 13. Copy of Metro Citation M1253R, and attachment entitled Finding of Fact, dated  
2 April 15, 2002;

3 14. Metro Exhibits No. 2 through No. 24, copies of exemption forms signed by  
4 Westmont Properties; and

5 15. Metro Exhibits 25 through 47, ~~calculations of excise taxes, which would be~~  
6 ~~owed on the loads referenced in exhibit 2~~incoming solid waste weight slips  
7 produces by Grabhorn, Inc., corresponding to the exemption forms referenced in  
8 exhibits 2 through 24.

9 All items offered were accepted into evidence and made a part of the record without  
10 objection.

### 11 FINDINGS OF FACT

12 1. Between May and October of 2001, Respondent Warren Z. Biden, dba Westmont  
13 Properties, completed and signed certification forms claiming that 23 loads of solid waste which  
14 he disposed of at Lakeside Reclamation Landfill originated from 22360 SW Schaltenbrand Lane,  
15 Sherwood, Oregon. Of these 23 loads, fifteen were recyclable materials that are not subject to  
16 Metro excise tax, and eight loads consisted of solid waste that was subject to the tax. Mr. Biden  
17 believed that all 23 loads would be subject to the tax, and his intent was to avoid paying excises  
18 taxes and system fees on all 23 loads.

19 2. Warren Biden paid no Metro System fee or excise tax on the eight loads of solid  
20 waste.  
21

22 3. When confronted by Metro officials, Mr. Biden admitted he knowingly and  
23 intentionally falsified official records in an effort to avoid paying excise taxes and system fees.  
24 Mr. Biden claimed that some of the eight loads may have originated outside of the Metro  
25 Boundaryboundary, but he could show no proof of that claim. Based on the fact that Mr. Biden



1 falsified the records of the eight loads in question, and could provide no proof at the hearing to  
2 substantiate his claim that some of these loads originated outside Metro ~~Boundaries~~boundaries, I  
3 we find it more likely than not that all eight loads in question originated from within Metro  
4 boundaries. Otherwise, there would be no reason to falsify the records in the first place.

5 4. The actual excise taxes which should have been levied and paid ~~for~~ by  
6 Respondent on the eight loads in question is \$28.48.

### 8 CONCLUSIONS OF LAW

9 1. Metro Code Section 7.01.020 requires all users of the solid waste system to pay  
10 excise taxes on solid waste generated from within the Metro ~~Boundary~~boundary.

11 2. Warren Z. Biden, dba Westmont Properties, was legally required to pay excise  
12 taxes in the amount of \$28.48 on the eight loads in question. Mr. Biden failed to do so. Mr.  
13 Biden has therefore violated Metro Code, Section 7.01.020 on eight separate occasions.

14 3. Metro Code, Section 7.01.150 provides for a fine of up to \$500 for each incident  
15 of falsifying any report for the purpose of avoiding the excise taxes in question here. Said fine  
16 may be imposed by the Executive, with the Respondent being granted a right to a contested  
17 hearing.

### 18 REASONING

19 This investigation has expended a large amount of public resources, and Mr. Biden  
20 objects to ~~my~~-taking into account the time spent investigating the 15 loads that, as it turned out,  
21 were not subject to the Metro excise tax. The fact is, however, if he hadn't falsified records,  
22 there would have been no need to investigate those transactions. Mr. Biden also objects to the  
23 imposition of an \$800 fine when the excise tax he avoided was only \$28.48. Again, but for his  
24 falsifications, and attempts to avoid paying his share of our mutual tax burden, there would  
25 have been no investigation.

1 Imposition of a fine is not just punishment, it is also a recoupment of the taxpayer's  
2 costs of processing the violation. It would be a double burden on the law abiding taxpayer if he  
3 or she were to not only make up for the tax burden Mr. Biden would like to avoid, but also to  
4 subsidize the investigation of his violation.

5 /////

6 /////

7 /////

8 Finally, Mr. Biden's main complaint against the officers was that they should have told  
9 him how much his fine would be, in which case he would not have cooperated with the  
10 investigation. That is not indicative of sorrow, or remorse, or a recognition that he violated the  
11 law. Therefore a substantial fine is appropriate.

## 12 ORDER

13 Based upon the above findings of fact, ultimate findings of fact, reasoning and  
14 conclusions of law, IT IS HEREBY ORDERED THAT:

15 Respondent Warren Z. Biden, dba Westmont Properties, is liable for the violation as  
16 alleged, and shall pay the following amounts:

17 Fine in the amount of : \$800.00

18 Excise Tax of: \$ 28.48

19 TOTAL: \$828.48

20  
21 The Respondent shall be given credit for any excise tax already paid. The balance shall be due  
22 and payable immediately, and may be levied against the security already posted.

23  
24  
25 Dated: May 8, 2002 \_\_\_\_\_

\_\_\_\_\_  
Robert J. HarrisCarl Hosticka,  
Hearing Presiding Officer

1 THIS ORDER IS REVIEWABLE ONLY AS SET FORTH IN METRO CODE SECTION  
2 2.05.035050 OR ORS 34.010 through 34.102.

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METROPOLITAN SERVICE DISTRICT  
METRO EXCISE TAX ORDINANCE

In The Matter of Citation No: M1253R )  
Issued to ) FINAL ORDER  
WARREN Z. BIDEN, dba WESTMONT ) MSD # 01-0913  
PROPERTIES, )  
Respondent. )

On January 30, 2002, Metro, through its executive officer made a Finding of Violation and Notice of Assessment of Penalties, finding that Respondent Warren Z. Biden, dba Westmont Properties, violated the provisions of Metro Code Section 7.01.020. On January 31, 2002 Metro through its Solid Waste Enforcement Unit issued Citation No. M1253 to Respondent Warren Z. Biden. Attached to that Citation was a Findings of Fact, dated January 30, 2002.

Respondent was served with the Finding of Violation and Notice of Assessment of Penalties, Citation M1253, with attachment, and a Contested Case Notice, through certified mail, return receipt requested, mailed to Warren Biden dba, Westmont Properties, at 7299 S.W. Hunt Club Lane, Portland, Oregon 97223-9439. The certified mailing was signed for on February 1, 2002 by Warren Biden.

On February 20, 2002, Warren Biden paid security in the amount of \$2,300, and requested a hearing.

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1 On February 21, 2002, a hearing notice was mailed, certified return receipt, to Warren  
2 Biden at 7299 S.E. Hunt Club Lane, Portland, Oregon, notifying him that a hearing would be  
3 held on April 3, 2002, at 9:30 a.m. in the Council Chambers at Metro Center 600 N.E. Grand  
4 Avenue, Portland, Oregon 97232. On February 23, 2002, Mr. Biden signed for the mailing.

5 On April 1, 2002, a Metro assistant counsel contacted the Hearings Officer and notified  
6 him that the hearing on M1253 would be postponed as it appeared that there may have been  
7 some new information that would alter the proposed findings of fact.

8 On April 2, 2002 a hearing notice was mailed, certified return receipt, to Warren Biden  
9 at 7299 S.E. Hunt Club Lane, Portland, Oregon, notifying him that a hearing would be held on  
10 May 1, 2002, at 9:30 a.m. in the Council Chambers at Metro Center 600 N.E. Grand Avenue,  
11 Portland, Oregon 97232. On April 5, 2002, someone picked up the mailing, apparently on  
12 behalf of Mr. Biden. The signature is not legible, and the person neglected to print his or her  
13 their name. It appears it may be a Mr. or Mrs. Steele.

14 On April 15, 2002, a Revised Finding of Violation and Notice of Assessment of  
15 Penalties was issued by Metro, signed by Mike Burton, Executive Officer. A Revised Citation,  
16 M1253R was issued along with a revised Finding of Fact as an attachment to the Citation.  
17 Metro also included a partial refund in security in the amount of \$1,540.01.

18 On May 1, 2002 at 9:30 a.m., a hearing was held. Present were Robert Harris, attorney  
19 and Hearings Officer, Paul Garrahan, Metro Assistant Counsel, Deputy Todd Lautenbach,  
20 Metro enforcement agent, and Respondent Warren Z. Biden. The hearing was audio-taped. The  
21 Hearings Officer stated the rights of the respondent as provided in Metro Code 2.05.007(a)(1-  
22 6). There were no ex-parte communications with the Hearings Officer by Metro or the  
23 respondents, except as earlier stated.

24 Based on the evidence presented at the hearing, the following Evidentiary Rulings,  
25 Findings of Fact, Conclusions and Law and FINAL ORDER are hereby entered:

2 FINAL ORDER

## EVIDENTIARY RULINGS

The Following Items are made a part of the Record:

1. METRO Enforcement Special Report # 01-0913, along with time log;
2. January 30, 2002 Letter from Metro to Respondent RE: Finding of Violation and Notice of Assessment of Penalties;
3. Citation M1253, with Finding of Fact attachment;
4. Contested Case Notice dated January 29, 2002;
5. Invoice to Westmont Properties, dated December 28, 2001, in the amount of \$68.49;
6. Copy of certified mail return dated February 1, 2002;
7. Copy of letter setting hearing, dated February 21, 2002, and return receipt dated February 23, 2002;
8. Copy of check from respondent in the amount of \$2,300 (Hearings Officer blacked out confidential information);
9. Two pages of weight slips;
10. Revised summary of weight slips;
11. Letter dated April 2, 2002, from Metro to Respondent setting the hearing over until May 1, 2002, along with return receipt showing respondent's agent signed for said letter on April 5, 2002;
12. Letter from Metro to Respondent, dated April 15, 2002, RE: Revised Finding of Violation and Notice of Assessment of Penalties;
13. Copy of Metro Citation M1253R, and attachment entitled Finding of Fact, dated April 15, 2002;
14. Metro Exhibits No. 2 through No. 24, copies of exemption forms signed by Westmont Properties; and

15. Metro Exhibits 25 through 47, incoming solid waste weight slips produces by Grabhorn, Inc., corresponding to the exemption forms referenced in exhibits 2 through 24.

All items offered were accepted into evidence and made a part of the record without objection.

## FINDINGS OF FACT

1. Between May and October of 2001, Respondent Warren Z. Biden, dba Westmont Properties, completed and signed certification forms claiming that 23 loads of solid waste which he disposed of at Lakeside Reclamation Landfill originated from 22360 SW Schaltenbrand Lane, Sherwood, Oregon. Of these 23 loads, fifteen were recyclable materials that are not subject to Metro excise tax, and eight loads consisted of solid waste that was subject to the tax. Mr. Biden believed that all 23 loads would be subject to the tax, and his intent was to avoid paying excises taxes and system fees on all 23 loads.

2. Warren Biden paid no Metro System fee or excise tax on the eight loads of solid waste.

3. When confronted by Metro officials, Mr. Biden admitted he knowingly and intentionally falsified official records in an effort to avoid paying excise taxes and system fees. Mr. Biden claimed that some of the eight loads may have originated outside of the Metro boundary, but he could show no proof of that claim. Based on the fact that Mr. Biden falsified the records of the eight loads in question, and could provide no proof at the hearing to substantiate his claim that some of these loads originated outside Metro boundaries, we find it more likely than not that all eight loads in question originated from within Metro boundaries. Otherwise, there would be no reason to falsify the records in the first place.

4. The actual excise taxes which should have been levied and paid by Respondent on the eight loads in question is \$28.48.

## CONCLUSIONS OF LAW

1. Metro Code Section 7.01.020 requires all users of the solid waste system to pay excise taxes on solid waste generated from within the Metro boundary.

2. Warren Z. Biden, dba Westmont Properties, was legally required to pay excise taxes in the amount of \$28.48 on the eight loads in question. Mr. Biden failed to do so. Mr. Biden has therefore violated Metro Code, Section 7.01.020 on eight separate occasions.

3. Metro Code, Section 7.01.150 provides for a fine of up to \$500 for each incident of falsifying any report for the purpose of avoiding the excise taxes in question here. Said fine may be imposed by the Executive, with the Respondent being granted a right to a contested hearing.

## REASONING

This investigation has expended a large amount of public resources, and Mr. Biden objects to taking into account the time spent investigating the 15 loads that, as it turned out, were not subject to the Metro excise tax. The fact is, however, if he hadn't falsified records, there would have been no need to investigate those transactions. Mr. Biden also objects to the imposition of an \$800 fine when the excise tax he avoided was only \$28.48. Again, but for his falsifications, and attempts to avoid paying his share of our mutual tax burden, there would have been no investigation.

Imposition of a fine is not just punishment, it is also a recoupment of the taxpayer's costs of processing the violation. It would be a double burden on the law abiding taxpayer if he or she were to not only make up for the tax burden Mr. Biden would like to avoid, but also to subsidize the investigation of his violation.

//////



1 /////

2 /////

3 Finally, Mr. Biden's main complaint against the officers was that they should have told  
4 him how much his fine would be, in which case he would not have cooperated with the  
5 investigation. That is not indicative of sorrow, or remorse, or a recognition that he violated the  
6 law. Therefore a substantial fine is appropriate.

7 **ORDER**

8 Based upon the above findings of fact, ultimate findings of fact, reasoning and  
9 conclusions of law, IT IS HEREBY ORDERED THAT:

10 Respondent Warren Z. Biden, dba Westmont Properties, is liable for the violation as  
11 alleged, and shall pay the following amounts:

12 Fine in the amount of : \$800.00

13 Excise Tax of: \$ 28.48

14 **TOTAL:** \$828.48

15  
16 The Respondent shall be given credit for any excise tax already paid. The balance shall be due  
17 and payable immediately, and may be levied against the security already posted.

18  
19  
20 Dated: \_\_\_\_\_

\_\_\_\_\_  
Carl Hosticka,  
Presiding Officer

21  
22 THIS ORDER IS REVIEWABLE ONLY AS SET FORTH IN METRO CODE SECTION  
23 2.05.050 OR ORS 34.010 through 34.102.

24  
25 SK:bjl

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6 FINAL ORDER

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 02-3215, FOR THE PURPOSE OF APPROVING A FINAL ORDER IMPOSING A MONETARY FINE ON WARREN Z. BIDEN, dba WESTMONT PROPERTIES, FOR A VIOLATION OF SECTION 7.01 OF THE METRO CODE

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July 11, 2002

Presented by: Terry Petersen

### **BACKGROUND**

Between May and October of 2001, Warren Z. Biden, dba Westmont Properties, completed and signed certification forms claiming that eight loads of solid waste he disposed of at Lakeside Reclamation Landfill originated from 22360 SW Shaltenbrand Lane, Sherwood, Oregon, a location outside the Metro boundary. When interviewed by Metro investigators, Mr. Biden admitted that he knowingly and intentionally falsified these forms to avoid paying system fees and excise taxes on the eight loads, which had actually originated from within the Metro boundary.

On February 20, 2002, Metro issued a citation to Mr. Biden for the above described violations of the Metro Code. Mr. Biden submitted security in the amount of \$2,300 and requested a contested case hearing. Such hearing was held on May 1, 2002. The \$2,300 security amount was based on staff's proposed penalty of \$100 per load and an initial evaluation of the case that indicated 23 loads of solid waste had been fraudulently claimed as having originated from 22360 SW Shaltenbrand Lane. A later evaluation revealed that 15 of these loads were recyclables from which excise taxes and regional system fees would not have been due. Staff subsequently amended the citation issued to Mr. Biden to reflect that only eight loads consisted of solid waste on which he had attempted to evade the payment of excise taxes and regional system fees. Correspondingly, the proposed penalty was reduced to \$800. On May 8, 2002, the Hearings Officer issued a Proposed Order imposing a fine in the amount \$800 and excise tax in the amount of \$28.48 for a total penalty of \$828.48, and provided Mr. Biden a Notice of Opportunity to File Written Exceptions within 21 days of the Notice's mailing. Mr. Biden did not file a written exception in this matter.

Passage of Resolution No. 02-3215 will adopt a Final Order that affirms that penalty.

### **ANALYSIS/INFORMATION**

#### **1. Known Opposition**

Mr. Biden requested a contested case hearing in this matter, but has not filed any exceptions to the Hearings Officer's Proposed Order.

#### **2. Legal Antecedents**

Metro Code 7.01.020 requires users of the Metro solid waste system to pay an excise tax on solid waste generated from within the Metro boundary. Code section 7.01.150 stipulates that no person required to make or sign a report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by the chapter and that such violations are subject to a civil penalty of up to \$500 for each violation. The penalty imposed by the Hearings Officer in this case

amounts to \$100 for each of the eight loads fraudulently claimed as having originated from outside the boundary, plus the excise tax due.

Metro Code 2.05.035 stipulates that the Hearings Officer's Proposed Order and any written exceptions that have been filed shall be forwarded to the Council for consideration and that Council's decision shall be adopted by a final order. Mr. Biden did not file any exceptions to the Hearings Officer's Proposed Order in this matter.

### **3. Anticipated Effects**

Approval of this resolution will finalize this enforcement action against Mr. Biden for having evaded payment of Metro excise taxes on solid waste that originated from within the Metro region.

### **4. Budget Impacts**

Metro's revenue will increase by the amount of the \$828.48 penalty imposed.

## **EXECUTIVE OFFICER'S RECOMMENDATION**

The Executive Officer recommends approval of Resolution 02-3215.

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## MINUTES OF THE METRO COUNCIL MEETING

Thursday, July 25, 2002  
Metro Council Chamber

Councilors Present: Carl Hosticka (Presiding Officer), Susan McLain, Rod Park, Bill Atherton, David Bragdon, Rex Burkholder

Councilors Absent: Rod Monroe (excused)

Presiding Officer Hosticka convened the Regular Council Meeting at 2:05 p.m.

### 1. INTRODUCTIONS

There were none.

### 2. CITIZEN COMMUNICATIONS

Jackie Maisano, Tonquin Industrial Group, 2139 SE Tibbetts Street, Portland, Oregon 97202 spoke about including her parcel in the Urban Growth Boundary in the Wilsonville area. Presiding Officer Hosticka asked if her area was recommended by the City Council of Wilsonville? Ms. Maisano explained her property was north of Day Road. Councilor Park asked what study areas she was in. Ms. Maisano said she was tier one. Presiding Officer Hosticka directed to speak with Michael Morrissey, Council Analyst, concerning her parcel.

### 3. MPAC COMMUNICATIONS

Presiding Officer Hosticka said Metropolitan Policy Advisory Committee (MPAC) met and took votes on the wildlife inventory map. They moved to declare everything as significant, the vote failed 7 to 8. Then, there was a motion to adopt the Executive Officer recommendation as well as Goal 5 Technical Advisory Committee's (Goal 5TAC) and Metro Technical Advisory Committee's (MTAC) recommendation, that motion passed 13 to 2. They took up the sub-regional issues. There was debate about seeking a rule. The motion to recommend rule language that had been drafted by the MPAC sub-regional subcommittee vote passed 12 to 3. Councilor Park added that there would be a special Community Planning Committee meeting next Tuesday at 2:00 p.m. to discuss the sub-regional rule and Metro's position on it. Presiding Officer Hosticka further clarified the sub-regional issue for the public.

### 4. CONSENT AGENDA

#### 4.1 Consideration of minutes of the July 18, 2002 Regular Council Meeting.

Motion	Councilor Bragdon moved to adopt the meeting minutes of the July 18, 2002, Regular Council meeting. Councilor Burkholder seconded the motion.
Vote:	Councilors Bragdon, Park, Burkholder, and Presiding Officer Hosticka voted aye. The vote was 4/0/1 aye, the motion passed with Councilors Monroe and McLain absent and Councilor Atherton abstaining from the vote.

**5. ORDINANCES - SECOND READING**

**5.1 Ordinance No. 02-945A, For the Purpose of Amending the 2000 Regional Transportation Plan Financial Constrained System; Amending Ordinance No. 00-869A and Resolution No. 00-2969B to Reflect Resolution 02-3186.**

Motion	Councilor Burkholder moved to adopt Ordinance No. 02-945A.
Seconded:	Councilor Bragdon seconded the motion

Councilor Burkholder said this ordinance was formal recognition of the inclusion of a number of projects in our Regional Transportation Plan that had been funded by the Oregon Transportation Improvement Act of 2002 which was a bonding measure put together by the Oregon State Legislature to fund about \$5 million in projects throughout the State. In order for Metro to approve these projects they had to do a conformity analysis which was to look at how that project might effect the air quality and would it have a deleterious effect on the air quality in the region by increasing highway capacity. They had completed the study and found that there were no negative impacts, limits would not be exceeded. The second half of the ordinance was a number of minor technical changes in a number of projects both in terms of timing and characteristics. It was passed out of Transportation Committee unanimously.

Presiding Officer Hosticka opened a public hearing on Ordinance No. 02-945A. No one came forward. Presiding Officer Hosticka closed the public hearing.

Presiding Officer Hosticka asked if the dollars spent were only on the financially constrained list? Councilor Burkholder responded that they were defined and the reason they were being added in now was because they initially weren't on the list. There was no foreseeable funding for those projects at the time of adoption. That changed with the last legislative session when the new bond program came about through legislative action.

Councilor Atherton stated that they did not have any discretion concerning the Jackson School Road interchange. Councilor Burkholder responded that was correct, it was earmarked in the bill. That was unusual with Oregon transportation funding. Councilor Atherton clarified why he asked the question, we did not have discretion even though it was outside our jurisdiction and did not conform to our 2040 Growth Concept. Councilor Burkholder said that was correct. The reason it was on the list was because it was within the air quality conformity area that Metro was responsible for even though it was outside our district.

Councilor Park suggested Councilor Burkholder elaborate on the importance of the constrained Regional Transportation Plan and how it tied with the clean air quality conformity. Councilor Burkholder spoke to the Regional Transportation Plan (RTP), Metro's 20-year plan, which looked at what the best projects were that would meet the transportation and mobility needs of the residents who will live here in the next 20 years. Due to budget constraints the list of projects that we thought were needed couldn't all be funded. Under federal law you were required to also develop a list that said what you could actually reasonably expect to have the resources to do. This was the fiscally constrained list. He talked about the air quality issues, limit pollution, and the budget mandates of the federal government. He spoke to Resolution No. 02-3206 and urged support of this ordinance.

Vote:	Councilors Park, Burkholder, Bragdon, Atherton and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.
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**5.2 Ordinance No. 02-950A, For the Purpose of Amending the Metro Code Chapter 7.01 to Increase the Credits Available Against the Solid Waste Excise Tax and Making Other Related Changes.**

Motion	Councilor Atherton moved to adopt Ordinance No. 02-950A.
Seconded:	Councilor McLain seconded the motion

Councilor Atherton said this ordinance was to amend the schedule in our excise tax program and to continue this program which was designed to improve and meet our regional recovery goals. He noted Councilor McLain's amendment, which he would accept as a friendly amendment. Councilor McLain read the amendment and explained that it kept the budget review process solid and simple. She had received no testimony against the amendment.

Motion to Amend	Councilor McLain moved to amend Ordinance No. 02-950A (a copy of which is included in the meeting record).
Seconded:	Councilor Park seconded the motion.

Councilor Atherton said he was supportive of the amendment. The money for this program was already in the system. Fees had already been paid. This was a credit against some of the fees, which encouraged further recycling. Councilor Bragdon said he was also supportive of the amendment and explained that it was a good news situation, if more materials were recycled then the credits would also be increased. It was important to make sure that this was subject to budgetary authority and that it was tracked.

Vote to Amend:	Councilors Burkholder, McLain, Bragdon, Atherton, Park and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.
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Presiding Officer Hosticka opened a public hearing on Ordinance No. 02-950B. No one came forward. Presiding Officer Hosticka closed the public hearing.

Councilor Atherton said this brought the excise tax portion of the credit program consistent with the existing regional system fee credit program.

Marv Fjordbeck clarified that this was a substantive amendment and therefore would need to be held over until the next Council meeting for a vote on the main motion. Presiding Officer Hosticka announced that Ordinance No. 02-950B would be considered at the next Council meeting.

**5.3 Ordinance No. 02-951A, For the Purpose of Amending Metro Code Chapter 5.02 to Modify the Regional System Credit Fee Program.**

Motion	Councilor Atherton moved to adopt Ordinance No. 02-951A.
Seconded:	Councilor McLain seconded the motion

Councilor Atherton said that the same issues applied as in the previous ordinance. The one thing that was specific to this legislation was that the ordinance provided for materials that would be excluded from the system fee recovery. Those excluded materials were consistent with a published list by Department of Environmental Quality (DEQ). These materials were generally

source separated, bulky and associated with construction demolition. He noted Councilor McLain's amendment.

Motion to Amend:	Councilor McLain moved to amend Ordinance No. 02-951A (a copy of which is found in the meeting record).
Seconded:	Councilor Park seconded the motion
Vote to Amend:	Councilors McLain, Bragdon, Atherton, Park, Burkholder and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.

Presiding Officer Hosticka opened a public hearing on Ordinance No. 02-951A.

Dave White, representing the garbage haulers, 1739 NW 156<sup>th</sup> Avenue, Beaverton, OR, talked about the issue of brick. He was concerned that brick was originally excluded and now it was included except foundry, manufacturing and concrete brick. He felt this created a gray area. He recommended that the Council be very specific today about the legislative intent because this did not go through SWAC. He suggested including the DEQ memo. He suggested direction to staff to work off the ordinance document for clarity as well as to take it back to SWAC for discussion. He said they had experienced the same problem with concrete. For the benefit of the system it would be helpful to have strong clarification. He suggested a further amendment, which would include "other materials that are not used in the DEQ's recovery rate calculation". He felt this further clarified the intent of the Council.

Councilor Bragdon said it was understood in the committee that wanting to rely on the DEQ list would give some certainty to the industry. They wanted a clear objective list that could be used for guidance. The advice that was given to incorporate the list in the ordinance was that it was an attachment to a DEQ memo as opposed to it being part of a DEQ rule or state statute. Mr. White responded that he understood their intent but was concerned there might be misinterpretation down the road. Councilor McLain agreed with Councilor Bragdon. She said the staff felt that the memo was confusing, not official and would not be as clear as a short list of what does not count. She wanted to make sure that staff felt comfortable that the comments that Mr. White made today were not problematic to the ordinances. They had an extra week to clarify before the final vote. They didn't want a gray area. They were trying to make sure the gray area was gone. Mr. White said he could live with that, he felt it important to clarify what the brick issue meant.

Councilor Atherton said the reason they looked at this list was because of the expectation that there could be small demolition projects and a lot of remodeling projects that could be recycled and that you should get some credit for taking out brick. This was often not done on larger scale demolition projects. You segregated that stuff out and end up with rubble, which goes into a clean landfill. This was the intent. Mr. White said that was the difficulty, Portland did this when they did the mandate on commercial recycling. There was discussion about the size of the project. He agreed that the DEQ list on "other structures" needed clarity? He felt this discussion was on the record, an open conversation at SWAC would provide more clarity. He felt they had done the best they could do.

Vince Gilbert, East County Recycling, said Metro was very specific in its ordinances and explained further about source separated loads. The brick was to be treated like wood siding that will go to a landfill. He felt the language was very correct and very specific.

Presiding Officer Hosticka closed the public hearing and announced that this would be held over for final consideration.

**5.4 Ordinance No. 02-952A, For the Purpose of Amending Metro Code Chapter 5.01 to Decrease the Minimum Facility Recovery Rate Requirement.**

Motion	Councilor Bragdon moved to adopt Ordinance No. 02-952A.
Seconded:	Councilor McLain seconded the motion

Councilor Bragdon said this was a companion ordinance that changed the threshold in two ways. It did not change the amount that was required to be recycled but because of these other ordinances and the way things were being counted it changed the threshold. Previously there was a 5% allowance of loads that were coming in that were source separated wet waste. With that exclusion being added in, the 5% would be reduced. The other change related to the brick issue.

Presiding Officer Hosticka opened a public hearing on Ordinance No. 02-952A. No one came forward. Presiding Officer Hosticka closed the public hearing.

Councilor Burkholder asked if this represented Metro stepping back from our goals in terms of recycling and recovery of waste and how did that relate to our bigger picture? Councilor Bragdon said this ordinance was a matter of how it was counted in terms of the rate. The amount being recycled did not change. As a package, all of the credit programs were designed to encourage more recycling.

Councilor Park said there was a concern by the industry that this be looked at in the next three months to make sure they were able to achieve a minimum recovery for these credits based upon some further work they would like to do. The changing of the points may make it harder for them to take lower yield loads. He cautioned that the industry would be back to discuss this issue.

Councilor Atherton responded to Councilor Park's question about whether there may be a need to lower the threshold. The Regional Solid Waste Management Plan (RSWAMP) encouraged source separation and reduction of use. Keeping these percentages and threshold where they were created incentives for that kind of source separation. They would be listening to industry on that point but he would have to say as it stands now, RSWAMP was focused towards and incentivized sources separated recovery.

Vote:	Councilors Bragdon, Atherton, Park, Burkholder, McLain and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.
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**6. RESOLUTIONS**

**6.1 Resolution No. 02-3192A, For the purpose of Amending the Greenspaces Master Plan and Updating the Regional Trails and Greenways Plan and Map.**

Motion	Councilor McLain moved to adopt Resolution No. 02-3192 with the updated map.
Seconded:	Councilor Atherton seconded the motion



Councilor McLain said this type of work took years, this was an updating of the Regional Trails and Greenways Plan and Map. She noted the amended map, Exhibit B, and that they would need to amend this resolution to include the updated map. She said they were adding 19 trails that were proposed by Greenspace Technical Advisory Committee (GTAC) in Exhibit A and five technical amendments. Exhibit B mapped the recommendations. They were showing the interconnectedness on land and water that were important for regional trails and greenspace plan. She gave an overview of the history of the work. This was the first amendment that had been made to the document. Presiding Officer Hosticka asked about the amendment. Councilor McLain said that amendment was made at committee but they only had a draft map.

Heather Nelson Kent, Department of Parks and Greenspaces, said they did not have the updated Exhibit B before committee although Exhibit A included the addition of number 19. They had a draft of Exhibit B. The current Exhibit B was the final revised map with all 19 of the new trails and 5 amended trails. She wasn't sure if that required a formal amendment to the resolution. Dan Cooper, General Counsel, clarified the committee took an action without having the final map in front of it. If the motion she made was to adopt the resolution with the final map then that was a proper motion for her to make. The resolution would then not need to be amended to adopt the final map. Councilor McLain said her motion read that they would be carrying out Resolution No. 02-3192 with the corrected map.

Councilor Burkholder asked about the next steps and how they would be implemented. What was our fiscally constrained trail list? What was the time schedule? Councilor McLain said this was a vision inventory of the most important, necessary trails. The next step would be to work with a component piece, which would be to update the rest of the system. Then, they would begin a dialogue with Council, through the Natural Resource Committee, about the next step for the whole system, not just the trails system but other important greenspace sites. Once the vision was completed, they would begin talking about the implementation plan. She noted Councilor Bragdon's leadership concerning the Green Ribbon process. This inventory would give them an opportunity to prioritize what they wanted to find a way to implement. Councilor Bragdon said Councilor Burkholder had put his finger on the real question, which was; now what and how do we make this a reality. Green Ribbon Committee had put an emphasis on trails for that very reason. He felt there was a growing sentiment in favor of funding those trails. The map gave them the vision that put a responsibility on them to go out and fulfill it. There were portions of these trails that local jurisdictions were already working on. Metro's role was to stitch these together. Councilor Atherton said this was a vision. We were filling in holes, many jurisdictions were working on these already. This vision had life, people in the region supported this. He noted the Willamette Shore Trolley trail, most of the right of way was in public ownership.

Councilor McLain closed by reminding everyone that every time we polled the public, one of top three livability issues was access to nature. She looked forward to this resolution passing.

Vote:	Councilors Atherton, Park, Burkholder, McLain, Bragdon and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.
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**6.2 Resolution No. 02-3206, For the Purpose of Adopting the Policy Direction, Program Objectives, Procedures and Criteria for the Priorities 2003 Metropolitan Transportation Improvement Program (MTIP) and Allocation of Flexible Funds.**

Motion	Councilor Burkholder moved to adopt Resolution No. 02-3206.
Seconded:	Councilor Bragdon seconded the motion

Councilor Burkholder said, every year we spent about \$640 million on transportation projects, maintenance and operations. This included transit, highways, bikeways and anything that assists with moving people around the region. This resolution set policy direction for the \$26 million that we receive every year in federal transportation dollars that Metro helps make decisions about how it is being spent. These tax dollars play a critical role in achieve the regional transportation and land use goals. The action being taken today was to try to refine the process to improve how that worked. All federal dollars received were flexible in how they were spent, most other transportation dollars they receive were very tied to specific purposes. About half of the money that was allocated in this process couldn't be spent on projects that increase highway capacity, they need to be spent on projects that increased other modes of mobility, improved our air quality or reduced the need for people to travel. These policies were developed in cooperation with all of the organizations and agencies that Metro works with as well as other stakeholders. This action directed these resources to achieve our regional economic and community development goals as laid out in the 2040 Plan. The action itself set new policy goals and guidelines for the Metropolitan Transportation Improvement Program (MTIP) which was adopted every two years. He gave further detail on the MTIP process and the history of this recommended policy in looking at leveraging these dollars more strategically. He noted the key policy objective tying transportation to land use planning. He gave an overview of what happened next. He recognized staff for their good work. He urged adoption.

Councilor Bragdon added that this was a great step. It made them think far more strategically about the small amount of money we received and explained why. He thanked Councilor Burkholder for his leadership.

Councilor Park said this resolution helped them in the other policies that Council would be adopting concerning the Urban Growth Boundary decision. The key was, by targeting these limited dollars we could have that economic development that we all wanted to have for the quality of life issues to be able to afford the other environmental things. We wanted to do this in such a way as to have as much support from the jurisdictions as Metro could get. There would be give and take in the projects. He thanked Councilor Burkholder and staff for the good work.

Presiding Officer Hosticka said this was a further positive step in the evolution of transportation planning and the integration of transportation planning and land use planning. In the past we have often had to use our transportation money to solve problems that were created by land use rather than having investments in the future and in the vision. He also thanked Councilor Burkholder and staff.

Councilor Burkholder said this was refining and helping set up criteria, he explained their goals. It will encourage local partners to craft winning projects.

Vote:	Councilors Park, Burkholder, McLain, Bragdon, Atherton and Presiding Officer Hosticka voted aye. The vote was 6 aye, the motion passed.
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**6.3 Resolution No. 02-3211, For the Purpose of Authorizing the Executive Officer to Grant a Metro Solid Waste Facility License for Yard Debris Reloading to S&H Logging, Inc., dba Landscape Products & Supply.**

Motion	Councilor Atherton moved to adopt Resolution No. 02-3211.
Seconded:	Councilor McLain seconded the motion

Councilor Atherton said this resolution would be to grant a solid waste facility license for yard debris reloading. The staff reviewed the license. They found everything was in order with the application. He urged support.

Vote:	Councilors McLain, Bragdon, Atherton, Park and Presiding Officer Hosticka voted aye. The vote was 5 aye, the motion passed with Council Burkholder absent from the vote.
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6.4     **Resolution No. 02-3207, For the Purpose of Authorizing the Executive Officer to Purchase Conservation and Trail Easements Over the Luckow and White Properties in the Newell Creek Canyon Target Areas**

Motion	Councilor McLain moved to adopt Resolution No. 02-3207.
Seconded:	Councilor Park seconded the motion

Councilor McLain said this item was voted 4/0 recommending adoption at the Natural Resources Committee. This resolution allowed for two conservation trail easements. They were on the eastside and would provide for wildlife protection. She further explained the easements. She talked about the existing law in Metro Code. She spoke to the budget impacts. It was a win/win situation. Charles Ciecko, Director of Parks and Greenspaces, clarified this was part of the regional pot of money not Multnomah County local share. Councilor Park talked about matching funds and cross-jurisdictional funding. Councilor McLain urged support.

Vote on the Main Motion:	Councilors McLain, Bragdon, Atherton, Park, and Presiding Officer Hosticka voted aye. The vote was 5 aye, the motion passed with Councilor Burkholder absent from vote.
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## 7.     **COUNCILOR COMMUNICATION**

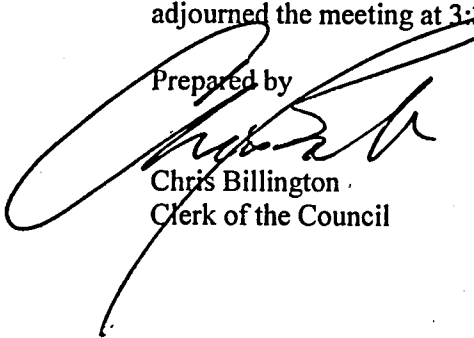
Presiding Officer Hosticka announced that there would be a special meeting next week, Community Planning Committee meeting on Tuesday at 2:00 p.m. Councilor McLain said there would also be a special meeting of the Natural Resources Committee on Wednesday at 6:00 p.m.

Councilor Park announced that the Executive Officer would be presenting his recommendation for the Urban Growth Boundary on August 1<sup>st</sup> at Metro Council meeting at 2:00 p.m.

## 8.     **ADJOURN**

There being no further business to come before the Metro Council, Presiding Officer Hosticka adjourned the meeting at 3:30 p.m.

Prepared by

  
Chris Billington  
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JULY 25, 2002**

ITEM #	TOPIC	DOC DATE	DOCUMENT DESCRIPTION	DOC. NUMBER
5.1	COMMITTEE REPORT	7/22/02	ORDINANCE NO. 02-945A TO METRO COUNCIL FROM MICHAEL MORRISSEY	072502C-01
6.3	COMMITTEE REPORT	7/24/02	RESOLUTION NO. 02-3211 TO METRO COUNCIL FROM MICHAEL MORRISSEY	072502C-02
5.2	AMENDMENT	NO DATE	MCLAIN AMENDMENT TO ORDINANCE NO. 02-951A	072502C-03
5.1	AMENDMENT	NO DATE	MCLAIN AMENDMENT TO ORDINANCE NO. 02-950A	072502C-04
6.1	LETTER	7/25/02	LETTER TO METRO COUNCIL FROM JIM GRIFFITH, MAYOR CITY OF TIGARD IN SUPPORT OF RESOLUTION NO. 02-3192	072502C-05
6.1	LETTER	7/25/02	LETTER TO REX BURKHOLDER AND ROD MONROE FROM GREGG EVERHART PORTLAND PARKS AND RECREATION IN SUPPORT OF RESOLUTION NO. 02-3192, INCLUDES SOME RECOMMENDATIONS	072502C-06
6.1	MAP	7/25/02	EXHIBIT B OF RESOLUTION NO. 02-3193 REGIONAL TRAILS AND GREENWAYS	072502C-07

# Metro Report

## **Growth Management of the Metropolitan Region**

Executive Officer  
Recommendation

August 2002



**METRO**

PEOPLE PLACES  
OPEN SPACES

## **Metro**

### **People places • open spaces**

Metro serves 1.3 million people who live in Clackamas, Multnomah and Washington counties and the 24 cities in the Portland metropolitan area. The regional government provides transportation and land-use planning services and oversees regional garbage disposal and recycling and waste reduction programs.

Metro manages regional parks and greenspaces and owns the Oregon Zoo. It also oversees operation of the Oregon Convention Center, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition (Expo) Center, all managed by the Metropolitan Exposition Recreation Commission.

For more information about Metro or to schedule a speaker for a community group, call (503) 797-1510 (public affairs) or (503) 797-1540 (council).

### **Your Metro representatives**

Executive Officer – Mike Burton; Auditor – Alexis Dow, CPA; Metro Council – Presiding Officer Carl Hosticka, District 3; Deputy Presiding Officer Susan McLain, District 4; Rod Park, District 1; Bill Atherton, District 2; Rex Burkholder, District 5; Rod Monroe, District 6; David Bragdon, District 7.

**Web site: [www.metro-region.org](http://www.metro-region.org)**

## **Executive Officer Recommendation**

### **SUMMARY**

The 2040 Growth Concept was envisioned to continue to evolve as the region matures and changes. Beyond implementing the Growth Concept, a vision needs to be developed for the region that looks out far beyond the 2040 planning horizon and the five-year review process. This broad vision should center on providing answers to questions regarding urban form, protection of farm land and natural resource areas while maintaining the characteristics that make this region unique. Answers to these questions require making difficult decisions that will be before the Metro Council this year and in succeeding years.

To continue to allow our region to evolve, I am recommending a combination of actions to address growth, protect neighborhoods and meet regional economic objectives. Some of these actions require further discussion and debate and therefore are recommended to be completed in an amendment to our Periodic Review Work Program. However, in keeping with the December 2002 deadline, I am recommending that the supply of land inside of the urban growth boundary (UGB) be increased by making strategic boundary expansions as well as making policy changes to increase the efficiency of providing employment and housing in regional and town centers. Boundary expansions are recommended to include approximately 17,000 acres in Damascus, Oregon City and limited areas around Wilsonville, along the western boundary of Tigard and Beaverton and in the Bethany area to accommodate approximately 38,000 dwelling units and 2,200 acres for employment.

Proposed policy changes to Metro's Functional Plan, which establishes specific requirements and tools to help local governments meet 2040 goals, are in response to the lifecycle changes of our region. These changes will enhance the effectiveness of the 2040 Growth Concept Plan. In addition, a policy change to the Metro Code is being proposed to immediately implement Ballot Measure 26-29 to ensure neighborhood stability.

The balance sheet for employment has purposely been left unbalanced. My recommendation accommodates approximately 39 percent (2,234 acres) of the unmet (5,684 acres) long-term need for employment land by expanding the boundary onto exception land and some surrounded resource lands. To meet the full need, the region seems to have no choice but to expand the boundary on to farmland. This is a dilemma because agriculture itself is a critical industry in the region. Should the region make this tradeoff?

Local governments in the region are not of the same mind about which direction to go to find large tracts of industrial land. Hillsboro wants to take Tualatin Valley farmland for high-tech sites. Gresham wants to take land east of Highway 26 that may adversely affect farming in east Multnomah County. Should the next wave of high-tech development happen near the Hillsboro high-tech cluster? Should it happen along the Washington County high-tech "crescent" that runs from Hillsboro southeast to Wilsonville? Should it happen in Gresham, which already has a foothold in the industry?

The region has no long-term economic development strategy that provides a basis for Metro to make these critical choices. Therefore, I recommend that the Council ask the Land Conservation and Development Commission to modify Metro's periodic review work program to add a new task that would accommodate the remainder of the unmet employment need after

the region sets forth a long-term economic development policy. Metro should answer these questions raised here and others, and, if necessary, then decide whether to convert farmland over to industrial use.

The work outlined in this recommendation will complete Task 2 of the Periodic Review work program – determining the 20-year land supply need. In addition to completing Task 2 by the December 20, 2002 deadline I am recommending that the work program be amended to include several tasks that include implementation of a regional Goal 5 program for natural resource protection, application of the subregional rule to address housing and employment needs in specific areas of the region and the designation of urban reserves.

Although the size of the proposed boundary expansion is large relative to previous expansions, there are other factors to consider than just the number of acres. All of the areas, and particularly those on the east side of the region, contain sizable natural resource areas. These areas have natural features such as the buttes and wildlife habitat that are high priorities for protection. Protection of these resource areas should be incorporated into the concepts for how these lands will be developed into urban areas. By including them inside the boundary, the size of the expansion increases. In addition, strategic expansions in key areas are important for town and regional center development.

To preserve important natural resource areas we need a comprehensive greenspaces strategy. To implement this vision I want to refer a Greenspaces II bond measure to voters for protection of natural areas both inside and outside of the existing boundary and for urban reserve areas to finish the work we have started through the 1995 Bond Measure. This bond measure will begin to address the needs of the region for the long term and will be designed to acquire land to increase the connections between habitat areas and protect habitat diversity. Some of the most critical habitat areas may be located outside of the boundary and expansion areas. Key stream corridors connecting regional anchor sites need to be protected to provide links to the rural landscape.

To provide a blueprint for defining the 50-year urban form of the region we need to study more than 75,000 acres (Alternative Analysis Area). In order to plan for the next century we may need to study as much as 100,000 acres. It took us 150 years for the region to develop to this point and because of the nature of population growth that magnitude of change will come quicker than 150 years into the future. We should focus our planning by looking from outside the urban growth boundary inward rather than incrementally expanding the boundary at the edges. By continuing this work, questions pertaining to urban form, employment, productivity of agricultural lands and protection of natural resources can be discussed more fully with the cities and counties in the metro region and the northern Willamette Valley. I also am directing staff to begin drafting a work plan to implement a more aggressive strategy to enhance regional and town centers. Regional and town centers (such as Beaverton, Washington Square and Lake Oswego) are the cornerstones of the 2040 Growth Concept because they define communities and provide retail services and jobs.

#### **State-Mandated Requirements**

State law found in ORS 197.296 requires that Metro periodically update its boundary by computing a capacity analysis to ensure that a 20-year supply of land for housing exists. This review must be completed at least every five years. This task includes the comparison of the inventory of buildable lands for housing within the boundary and the demand for dwelling units. This statute provides a framework for how much and where we grow as a region. ORS 197.299



requires Metro to implement necessary boundary amendments or take action to increase the capacity of the existing urban area within two years of identifying a residential land need.

Unlike the residential land assessment, where Metro is required to maintain a 20-year land supply and has a limited time to fulfill any shortfall, we only need to provide a long-term supply of employment land. My recommendation will address provision of a long-term land supply for employment needs for the region.

The capacity inside the boundary has been reviewed several times during the last five years. The most recent boundary expansion occurred in 1998. A portion of that decision was appealed and returned to the Metro Council for reconsideration. As a result, 934 acres were removed from the urban area; that shortfall is added to our current analysis.

In reviewing the current capacity inside the boundary, a number of factors and assumptions are made pertaining to the amount of growth we capture within our region through redevelopment and infill. Policy changes can be used to justify or substantiate changes in these Urban Growth Report factors. The future demand for dwelling units is obtained from the Regional Economic and Population Forecast and is balanced against the available supply of land according to current zoning.

The shortfall in capacity within the boundary can be rectified by expanding the boundary by the number of acres necessary to meet employment or housing needs, creating additional capacity inside the boundary, by adopting additional regulations or measures, or combining an expansion of the boundary and policy changes to meet the shortfall. Goal 14, Factor 4 requires consideration of the maximum efficiency of land located within the boundary. Goal 2, Exceptions (OAR 660-004-0010(c)(B)(ii)) requires that Metro demonstrate that the existing boundary cannot reasonably accommodate the need before expanding the boundary. Policy changes could take the form of upzoning, minimum floor area ratio requirements or other regulations or incentives that increase efficiency of land uses located within the boundary. In order to take credit for such policy measures to increase the capacity of the existing urban growth boundary, Metro must show the measures will demonstrably increase the likelihood that the expected development will occur (ORS 197.296(6)(b)).

ORS 197.301 requires that Metro develop performance measures to evaluate how the region is performing and report these results to the Department of Land Conservation and Development every two years. If after preparing a performance measure report, the actions taken from the previous periodic review process are not working, Metro is required to take corrective action. This requirement is an important part of determining whether the capacity inside the boundary is adequate and whether there are additional measures that could be taken to make up a shortfall in capacity for dwelling units or employment. To fulfill this state requirement, the Performance Measures report will be completed in the fall of 2002 (see appendix).

The Performance Measures Report distilled the 2040 growth concept policies into eight fundamental values.

**2040 Fundamental Values:**

- encourage the efficient use of land
- protect and restore the natural environment
- provide a balanced transportation system
- maintain separation between the Metro region and neighboring cities
- enable communities within Metro to preserve their physical sense of place

- ensure diverse housing options for all residents
- create a vibrant place to live and work
- encourage a strong economy.

These fundamentals are useful as broad benchmarks to evaluate whether policy changes are needed or are appropriate. The full report provides performance measures on 74 separate indicators. Each indicator is linked back to the eight fundamental values. This report will be part of Metro's Periodic Review submittal to the Department of Land Conservation and Development.

### **Technical Process**

The technical analysis consists of three exercises to develop the data necessary to satisfy Goal 14 and complete an amendment to the UGB. The first is a land-accounting exercise – called the Urban Growth Report (UGR) – conducted for both housing and employment within the boundary. Because the residential and employment capacity analyses use different methods, they have been separated into two documents (see appendix: Urban Growth Report – Residential Land Needs, Urban Growth Report – Employment Land Needs). This supply-and-demand analysis is essential for determining how much land needs to be added to the boundary or how extensive policy changes would be needed to provide additional capacity. The second analysis is contained in the 2002 Alternative Analysis of available land located outside of the boundary to determine where urbanization is most suitable. The third analysis is an examination of Metro's current policies and how they apply to our capacity inside the boundary.

### **Urban Growth Reports**

A balance sheet of the available land supply is contrasted with the expected demand for employment and housing. The Regional Economic and Population Forecast 2000-2030 estimates the demand for housing and employment during the 20-year period (see appendix). The forecast for the period from July 2000 to December 2022 anticipates a population increase of 506,056 people, which require 222,800 dwelling units.<sup>1</sup> This anticipated need for dwelling units assumes a capture rate of 68 percent for the four-county region located within the Metro UGB. This is the housing need for which Metro must provide a supply of buildable land. Metro may find that supply by expanding the urban growth boundary, using land inside the existing boundary more efficiently, or some combination of both. Whatever decision Metro makes, it must provide information from the recent past to support assumptions about how the capacity will accommodate the housing need. Metro can use information from a past period longer than five years if the data would provide a more accurate and reliable picture.

The 2002-2022 Urban Growth Report – Residential Land Need Analysis is a technical and policy document that outlines the methodology for estimating the current capacity inside the boundary, and compares this capacity with the forecasted growth for the next 20 years. The report uses the best available information about development capacity on land inside the boundary for comparison to forecast economic growth to estimate regional employment and housing needs (demand). The supply or inventory estimates in this report are to the maximum extent possible grounded in technical research and up-to-date geographic information system data.<sup>2</sup> The Vacant Land Analysis (see appendix – Map Atlas) has been produced to provide an illustration of the buildable land supply and the various deductions:

<sup>1</sup> The 2000-2030 Regional Economic Forecast has been sized to fulfill the requirements for the Periodic Review period through 2022.

<sup>2</sup> Land Market Monitoring for Smart Growth, edited by Gerrit Knaap, contributions by Carol Hall and Wilber (Sonny) Condor.

- parks and environmental resources
- government owned lands
- churches and fraternal organizations
- major utility easements.

These deductions are made to the vacant land supply to produce buildable lands. Deductions also are made for schools and streets.

### **2002-2022 Urban Growth Report – Residential Land Need Analysis**

<b>Residential Urban Growth Report Summary</b>	
<b>Dwelling unit need</b>	222,800 dwelling units
<b>Capture rate assumed</b>	68 percent
<b>Refill rate assumed</b>	28.5 percent
<b>Dwelling unit shortfall</b>	38,700 dwelling units

Once the buildable land supply has been determined, the zoning that local jurisdictions have adopted is applied to determine the number of dwelling units of capacity that are possible to be achieved. Two substantial adjustments have been made to account for units lost from underbuild and units that are gained from refill activity. Refill is the amount of development that occurs on land previously considered developed in our analysis consists of redevelopment and infill. The historic rate for refill activity has been 26.3 percent. This report assumes a rate of 28.5 percent due to increased emphasis on centers through the regional transportation funding process, greater implementation of 2040 through incentives and to account for accessory dwelling units. Since Metro requires that single-family development meet an 80 percent minimum density requirement the underbuild assumed in the Urban Growth Report is 20 percent. The net result is the calculation of the number of residential dwelling units needed within the 20-year period.

- ♦ The 2002-2022 Urban Growth Report – Residential Need Analysis produced a net need for 38,700 additional dwelling units.<sup>3</sup>

### **2002-2022 Urban Growth Report – Employment Land Need Analysis**

Metro has evaluated the need for employment land in the region based on market conditions and a specialized analysis according to the firms that do business in our region. Metro reviewed the economic development elements of local comprehensive plans. These plan elements have helpful information about local conditions and contain policies and objectives for future economic growth and development. But most local plans do not have up-to-date information about sites and long-term supply.

Metro, with the aid of others, has obtained current information about both the supply of and the long-term need for employment land. The long-term need for employment land is determined differently from the need for residential land because employment is more size-dependent and location-dependent. As with the need for residential land, the need for employment land is highly dependent upon the "refill" (redevelopment and infill) rate, zoning, capture rate and other variables during the 20-year planning period.

<sup>3</sup> Assumes a 68 percent capture rate, 28.5 percent refill rate and a 20 percent underbuild factor.

Employment land needs (unlike the more generic nature of residential land needs), is business sector specific and is based on the importance of access, location of suppliers and the types of buildings required to produce a product or service. The 2002 Urban Growth Report – Employment Land Need analysis is derived from the 2000-2030 Regional Population and Economic Forecast. The forecast produces an employment projection by standard industrial classification. These employment needs are stratified by firm and parcel size and by six real estate types. The commercial building types are office, retail and medical/government uses. The industrial building types are warehouse and distribution, general industrial and tech/flex space.

The future land demand is estimated by aggregating similar types of employment into commercial and industrial categories for six building types. Because the forecast is computed for the five-county region, it must be reduced to account only for Metro's share of employment growth. The capture rate for employment is estimated to be an average of 75 percent based upon historical levels. The demand forecast anticipates approximately 500,000 additional jobs.

The number of parcels and acreage needed for industrial real estate purposes is determined for building type and size based on average regional employment densities.<sup>4</sup> Refill factors are computed for commercial and industrial development because not all development takes place on vacant land. A factor also is included for relocation of "vintage" industrial employers to new industrial areas. Vintage industrial relocation refers to industrial firms that abandon an existing facility for a larger more efficient facility. This provides opportunities for commercial development to take place on underused industrial land and helps fulfill commercial demand whereas industrial demand can only be satisfied on industrial land.

After computing the number of lots required and the total net acres by the six building type categories, this is compared to the available supply of land within the boundary. The 2002 Urban Growth Report – Employment Land Need report estimates there is a surplus of approximately 760 net acres of commercial land and a deficit of 5,684 net acres of industrial land (see appendix). Although a small surplus of commercial land is projected on a regional basis there is an anticipated shortfall of lots in the less than one-acre category. The shortage of industrial lots is projected across all lot sizes. More significant is the shortage of approximately 14 large lots (greater than 50 acres) because these lots are the most difficult to supply due to consolidation and topographic constraints<sup>5</sup>.

Regional Industrial Land Study suggested a range for large-lot industrial need is due to several factors. First, Phase III of the Regional Industrial Land Study examined this same issue and concluded that the need for large-lot industrial was between six and 24 lots in the six-county region, depending upon serviceability, contamination issues, land banking and market availability.<sup>6</sup> Second, although this overall industrial land need analysis is based upon the period 2000-2002, three of the remaining six large lots were committed for development during this period.

In addition to this development, three other parcels are land banked for future expansion of the firms that currently own them and therefore may or may not be available for employment growth.

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<sup>4</sup> Industrial and commercial land demand and supply are segmented into: 1) under 1 acre, 1-5 acres, 5-10 acres, 10-25 acres, 25-50 acres, 50-100 acres and 100 plus acres.

<sup>5</sup> Different studies have produced a range of the need for large lots between 6 and 24 lots.

<sup>6</sup> The six counties include: Clark, Clackamas, Columbia, Multnomah, Washington and Yamhill.

Metro is required to maintain a long-term land supply for commercial and industrial uses.

- ♦ The 2002-2022 Urban Growth Report – Employment Land Need Analysis report estimates there is a surplus of 760 net acres of commercial land and a deficit of 5,684 net acres of industrial land
- ♦ The 2002 Alternative Analysis Study includes an identification and evaluation of approximately 3,600 acres that could potentially satisfy this shortfall.

### **2002 Alternatives Analysis Study**

*The 2002 Alternative Analysis Study will be used to address the shortfall of land needed for residential and employment purposes (see appendix). The Residential and Employment Urban Growth Reports estimate that there will be a shortfall of approximately 38,700 dwelling units.*

The analysis of the land supply outside the boundary for possible expansion purposes is contained in the 2002 Alternatives Analysis Study. The Alternatives Analysis focuses on four different types of lands based upon the hierarchy established in ORS 197.298:

- exception lands located contiguous to the boundary
- limited exception areas that are not located contiguous to the boundary but are within 1 mile of the boundary to be considered in the event the intervening farm or forest land is added to the boundary
- resource lands within 1 mile of the boundary that may be deemed necessary to extend public services to exception lands
- resource lands that predominantly contain class 3 and 4 soils<sup>7</sup>.

The hierarchy contained in the study corresponds to the law that defines which land should be included within the boundary in which order of priority. The 2002 Alternatives Analysis Study did not study Class I and II agricultural soils because they are the last resort under state law for inclusion in the boundary. That law, ORS 197.298(1), tells Metro to look first to “exception land” (land already affected by residential development) before considering farm or forest land. If Metro must consider farm or forest land, it must consider lower quality land before higher quality land. The Goal 14: Where to Satisfy the Region's 20-Year Urban Land Needs Through UGB Expansion flow chart in the appendix details this system for considering lands for boundary expansion. In all, approximately 75,000 acres are part of the 2002 Alternatives Analysis.

The 2002 Alternatives Analysis Study includes an analysis to determine how productive these lands are for urban development, the relative difficulty of extending public services to the lands and an assessment of the impacts on natural resources and agriculture. The analysis is not designed to produce a ranked order list of sites that are most suitable for urban development. Rather, the analysis is designed to weigh the various factors and allow decision-makers to weigh the policy choices among the lowest priority (exception lands) to expand the boundary.

Specifically, the study includes a productivity assessment of the dwelling units that could be developed on these sites, and an assessment of the number of acres of employment land that is suitable for jobs. A public facility feasibility study was performed to assess the ease of providing sewer, water, storm water and transportation to each site. The economic, social, energy and environmental consequences of the development of each area are weighed to determine which of the study areas have the least amount of impacts. Staff also performed an agricultural

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<sup>7</sup> Note: resource land within 1 mile of the UGB that predominantly contains class I and class II soils were not authorized for study by the Metro Council because they are the lowest priority lands in the hierarchy established by ORS 197.298.

assessment of the lands within and around the study areas to quantify the impacts of urban development on farming. After completing this technical analysis, staff reviewed each site and compared its suitability to Metro policies to create a final determination of most, more or least suitable for urban development. Out of this analysis of 94 study areas, approximately 80 percent were found in the Alternatives Analysis to be most or more suitable for development based on these state-mandated criteria. The remainder of these areas fell within the least suitable category for development. These lands are detailed in the 2002 Alternative Analysis Study.

### **Applying Metro Policies to Alternative Analysis Land**

An integral part of using the technical information contained in the Alternatives Analysis project is applying Metro's policies to the decision-making process. The Regional Framework Plan contains Metro's goals and objectives to guide how the agency formulates policy. It specifically states that these goals and objectives pertain to urban growth boundary amendment actions. These Regional Framework Plan goals and objectives have been condensed into eight 2040 fundamentals. These 2040 fundamentals have been identified as part of the Performance Measures project. To facilitate this process, groupings of the sites considered in the analysis have been weighed against the 2040 fundamentals to assess the consistency with Metro's policies. The recommended urban growth boundary expansion areas have been chosen based upon 2002 Alternative Analysis results and the policies contained in the 2040 fundamentals.

### **Overview of 2040 Policies**

My staff has reviewed a variety of growth management policies contained in Metro Code and the Regional Framework Plan to determine which policies need to be updated to enhance the effectiveness of the 2040 Growth Concept and to further the region's goals. Some of these changes may not produce immediate results but will be an important component in the next five-year review cycle. The purpose of this analysis is to identify new policies that would support development in centers, possible conversion of outdated industrial areas and protection of key industrial areas.

The changes will support the maturation of the 2040 Growth Concept. A Leland/Parsons, Brinkerhoff consulting team to identify a strategy to overcome the impediments to fully achieving 2040 targets for centers, conducted an extensive centers research study.<sup>8</sup> The objectives of the policy changes are to maximize the performance of the existing regional and town centers and to create measures to determine how well these centers perform. These areas deserve increased emphasis because they have the best concentrations of transportation and other infrastructure improvements.

In addition, we have developed a better understanding of where employment locates and what lands are needed to support continued economic prosperity. Policy changes targeted at industrial areas are designed to preserve and protect these scarce land resources that are essential to the economic vitality of the region. These policy changes also are aimed at recognizing that there is an anticipated shortfall in the overall need for industrial lands. The 2002 Alternatives Analysis Study did not identify enough lands to fulfill the industrial land need shortfall of 5,684 acres.

**Centers:** Metro policies pertaining to the development of regional and town centers should focus on the evolution of these design types by recognizing the appropriate role of local governments, the state and others by continuing to develop mechanisms to support their continued growth. These changes recognize that not all centers are the

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<sup>8</sup> See appendix: "Metro Urban Centers: An Evaluation of the Density of Development."

same and that they are expected to mature at different rates. In order to facilitate the development of selected centers and recognize the maturation process of the region, the following amendments are proposed:

- refine the definition of a center, typical services it provides and its market area to create a better understanding of how it functions
- develop additional policies to strengthen center development
- develop tailored performance measures for each type of center
- develop an incentive program to assist in implementation.

**Industrial Areas Policies:** A variety of analyses have been conducted by Metro staff and other agencies to examine the demand and supply of employment land. Some of these analyses have indicated that there are areas of the region that could benefit from relaxing zoning restrictions that permit only industrial uses and allow a variety of uses that will better support market demands for redevelopment.

Conversely, because of the finite quantity of vacant lands available for industrial purposes and the fact that location decisions are often made due to transportation accessibility, these key areas should be preserved through increased zoning restrictions. Industrial land is not as substitutable as other types of employment land and therefore it is recommended that key industrial areas be protected from non-industrial uses such as, institutional uses, churches and, in some cases, commercial that does not support industrial uses. These uses encroach on the industrial viability of these areas and could be located in other more appropriate zones.

Just as protection should apply to some areas there are other areas that may appropriately be converted to other uses. Areas that may be appropriate for other uses are Willamette Cove, the Central Eastside Industrial District or areas within the 217 corridor.

Similarly, if boundary amendments are made for the specific purpose of providing industrial land, these same types of protection should apply. The following actions are recommended to efficiently use outdated industrial areas and protect key industrial areas:

- require conversion of selected out-dated industrial sanctuaries to allow mixed use development
- require protection for key industrial areas from encroachment of other non-residential development
- require preservation of industrial areas that are included in the boundary amendments so these areas do not get consumed for other purposes
- revise Title 4 – Industrial and Employment Area map as appropriate to reflect changes.

**Housing and Employment Policies:** Complete changes to Title 1 to reflect work already completed by local jurisdictions and prohibit down zoning that would reduce the estimated regional capacity for housing.

- Amend Title 1, Table 1 to reflect reported targets
- Prohibit local governments from reducing the employment capacity established in Title 1.

**Map Updates:** Complete a series of map changes. They include updates to the 2040 Growth Concept map and the Title 4 map.

**Other Policies:** Revise the Metro Code to reflect changes to emphasize increased coordination efforts with Clark County and refine our annexation process.

- Update coordination with Clark County section to reflect recommendations of the I-5 Trade Corridor Transportation Partnership
- Implement Ballot Measure 26-29.

A number of housekeeping changes are also included in these recommendations.

## MANAGING THE URBAN GROWTH BOUNDARY

### Which Lands need to be Brought Inside the Urban Growth Boundary?

The following study areas are recommended for inclusion within the boundary. These areas have been determined to be suitable for urban development according to the 2002 Alternatives Analysis Report. Based on infrastructure serviceability, impacts to natural resources and agriculture, and consistency with Metro policies, the recommended areas are rated as “most” or “more” suitable for urban development. These lands are complimentary and help carry out the 2040 plan. All of the 73,594 acres considered during the 2002 Alternative Analysis Study have some constraints to development and, to some degree, impacts on the natural systems or the agrarian economy. The recommended areas are summarized by geographic area and discussed in more detail in the 2002 Alternatives Analysis Report and Findings and the Proposed UGB Amendment Study Area Maps and Table located in the appendix.

**Table 1. Proposed Urban Growth Boundary Expansion Areas**

	Study Areas	Acres	Dwelling Units	Emp Acres
Damascus Area	10 (partial), 11, 13, 14, 15, 16, 17, 18, 19 (partial)	9,388	18,029	1,474
Gresham Area	12, 13	3,483	7,808	360
Oregon City Area	24, 26, 28, (all partials), 32	1,395	2,912	219
Wilsonville Area	45, 49 (partial)	399	660	176
Sherwood Area	59 (partial)	85	313	0
Tigard/Beaverton/King City	61, 62, 63, 64, 65, 66, 67	1,758	5,264	5
Hillsboro Area	71, 82	241	930	0
Bethany Area	84, 85, 86	592	2,845	0
<b>TOTAL</b>		<b>17,341</b>	<b>38,761</b>	<b>2,234</b>

**Damascus** – Development of a new community in the Damascus area represents an opportunity to plan a complete community instead of just adding land at the edge. The area has been sized to include enough acreage to develop a fully functional community that has a natural edge defined by the Boring Lava Domes east of Telford Road. This community should be designed to provide an employment base for industrial and office development and commercial uses that will support the population within this market area. Sufficient transportation connections should be planned to support urban development. The Carver area to the south is included to resolve groundwater discharge issues to the Clackamas River.



Includes Areas 10 (partial), 11, 13, 14, 15, 16, 17, 18 and part of Area 19. The Damascus expansion totals 9,388 acres and provides 18,029 dwelling units and 1,474 acres for employment.

**Gresham** – The area south of the City of Gresham and west of Highway 26 will provide key acreage to expand the City's employment base. The remainder of the two study areas included in the expansion will provide housing for the region.

Includes Area 12 and 13 to total 3,483 acres and provides 7,808 dwelling units and 360 acres of employment land.

**Oregon City** – The Oregon City area is geographically challenged due to steep slopes and natural resource issues. This city has experienced a tremendous amount of residential growth within the last five years. Along with the growing pains of accommodating this residential growth and the related transportation issues, the city is searching for ways to diversify its existing job base, provide more services to developing areas and improve transportation connections. Amendments to the Urban Growth Boundary in the following study areas will complete key transportation connections and provide additional employment and services for this community.

- South End Road area: add land for commercial, office and limited residential development (part of Area 32)
- Holcombe/Redland Road area: complete an important transportation connection between Holcombe and Redland roads, provide employment lands, service commercial and land for residential development (Area 24)
- Clackamas Community College and Henrici Road area: add land primarily for employment purposes (Areas 26 and 28).

Includes Areas 24 (partial), 26 (partial), 28 (partial) and 32, for a total of 1,395 acres, 2,912 dwelling units and 219 acres for employment.

**Wilsonville** – The City of Wilsonville provides an important warehouse and distribution function for the region due to its location adjacent to I-5 and its existing employment base. The city has excellent access to I-5 for freight movement. Due to the already high imbalance of jobs and the regional need for warehousing/distribution lands, it is recommended that this expansion be restricted for a low employment density. Area 49 is located adjacent to the correctional facility on Day Road. To help provide a balance between employment and housing in this community, Area 45 also is proposed to be included inside the boundary. This area will provide land for two schools (25 acres).

Includes Areas 45, 49 (partial), a total of 399 acres, 660 dwelling units and 176 acres for employment and 25 acres for two schools.

**Sherwood** – A minor addition to accommodate a future school site and limited residential use. The majority of the areas surrounding Sherwood are not ready for urbanization due to timing issues with determining the location of the Highway 99W and Interstate 5 connector and general traffic capacity issues on Highway 99W.

Includes part of Area 59, a total of 85 acres and 313 dwelling units.

**Tigard/Beaverton/King City** – There are a number of small exception areas along the western edge of the UGB that abut the Cities of Tigard (Areas 61, 62, 63, 64) and Beaverton (Areas 65,

66, 67). These areas have been developed for rural residential uses and, as a result, should come inside the boundary because of the high demand for housing in Washington County. Area 66 contains farmland but will be largely surrounded by development. A portion of this site is needed to provide water storage for the City of Beaverton to facilitate urbanization both inside the boundary and within these UGB amendment areas.

Includes Areas 61, 62, 63, 64, 65, 66, 67, a total of 1,758 acres, 5,264 dwelling units and 5 acres for employment.

**Hillsboro** – The western portion of the region is effectively land-locked by farmlands. There are very few opportunities for consideration of land for urban expansion when the statutory hierarchy of lands system that weights consideration of exception lands higher than farmland is applied. Area 71 is a small exception area that is proposed to be added to accommodate housing in this high-demand area. Area 82 is to the west of Cornelius Pass Road and contains some limited service commercial development and an opportunity for development of some housing. Other exception areas adjacent to the city of Hillsboro are awkward to develop because of the lotting pattern or because they would have more impacts on agricultural activities.

Includes Area 71 and 82 for a total of 241 acres, 930 dwelling units.

**Bethany** – This area includes a cluster of exception lands and some mostly surrounded farmlands in the vicinity of the Rock Creek Community College area off Springville Road. The Bethany area includes a portion outside of the current boundary that has grown rapidly within the last several years. These study areas have easy access to employment in the Hillsboro, Beaverton and downtown Portland areas. A portion of this area will be used for a school site (10 acres).

Includes Areas 84, 85, 86 for a total of 592 acres, 2,845 dwelling units.

*These areas recommended for boundary expansion result in the addition of 17,341 gross acres of land and provide added capacity for 38,761 dwelling units and 2,234 acres for employment.*

#### **Areas Not Selected for Inclusion Inside the Urban Growth Boundary**

Areas that have not been selected for inclusion inside the UGB at this time may be better candidates in the future. A more thorough discussion needs to happen of issues relating to the urbanization of land in agricultural production (both exception and farmland), new transportation corridors (99W connector and Sunrise Highway) and formulation of a regional economic development policy that will guide the need and location of new industrial lands. These discussions need to take place prior to the designation of urban reserves. For example, the Damascus/Gresham study areas include enough land to develop a complete community but it is questionable whether urbanization should extend beyond Highway 26 into highly productive agricultural lands. Extending the urban area to the east also creates a potential conflict with the City of Sandy and the inter-governmental agreement that establishes the county line as the ultimate boundary. The majority of these lands are designated as exception lands. By following the hierarchy of lands in Goal 14, these are lands that should be urbanized first. How do these lands compare in value to the lands surrounding Hillsboro for agriculture as an industry that creates jobs and contributes to our economy?

The Stafford basin represents an area bounded by I-205 and several communities. If allowed I would establish a freeze on development in this area so it could be planned properly. Without

the power to halt development I am recommending that a comprehensive study be undertaken to determine the type of employment that should be located in this area and how the adjoining communities will participate in its development. Development of this area should be planned through the designation of urban reserves. During this process a number of questions need to be answered. Should the highway form a hard edge to the boundary or should the boundary extend further south to take in the remainder of the exception lands? Timing also is an issue in this area in relation to providing and preserving transportation access and extending urban services.

The adjacent communities of Lake Oswego and West Linn are investing in their mixed-use centers that could be enhanced by any urban development. There is a danger in not bringing the study area adjacent to the City of West Linn because it allows rural residential development to occur without the benefit of planning that would enhance the already developing town center. Orderly urban development in this area could help avoid some of the problems that the Damascus area is facing. Bringing land into the boundary in the short term may hinder our efforts to ensure a comprehensive to urbanization.

Some of the same issues of timing and coordination that are facing the Stafford basin apply to Tualatin, Wilsonville and Sherwood. The City of Sherwood has asked that no additional land be added adjacent to their city limits until they have time to absorb the growth that has taken place over the past five years. The exception to this statement is their request for a small portion of area study area 59 that will provide land for some housing and a school site. The 99W connector is an issue that needs to be resolved prior to inclusion of these study areas inside the boundary. Other issues relate to whether Tualatin/ Wilsonville/Sherwood and Cornelius/Hillsboro and the region are best served by the existing separation of community's policies or whether the region as a whole is better served by connecting these communities. Does this separation provide a sense of place or is it an artificial barrier and at what cost do we maintain it?

Hillsboro needs additional industrial land to support the long-term investments in the westside high-tech cluster. In addition, Forest Grove and Cornelius are suffering from having an insufficient tax base to run their cities. All these communities are surrounded by farmland making expansion problematic.

#### **Technical Amendments to the Urban Growth Boundary**

A number of odd situations exist around the region where the boundary has not been consistently mapped. In some cases, these situations hamper provision of public services for urbanization or they impose a hardship on individual property owners. In some cases, the city limits extend beyond the boundary and this could create governance problems. Examples of two of these situations are location of the boundary along a drainage basin where it splits a tax lot or the failure to include all of the road right-of-way within the boundary. Staff has proposed that the boundary be amended to eliminate these vagaries and provide more consistency. The appendix refers to the technical amendments to the Urban Growth Boundary staff reports, maps, descriptions and locations of these minor changes to the boundary.

#### **Further Topics for Policy Discussion**

There are three key areas that warrant future policy discussion. Broadly they are: 1) an assessment of agricultural productivity and upon lands that have been set aside for farm and

forest protection<sup>9</sup>, 2) the ultimate urban form of the region and 3) development of a regional economic development policy. These topic areas lead to a number of questions and issues that are listed below. Some of these topic areas will be incorporated into the follow-up Periodic Review work program tasks.

- As a State we have been very provincial by separating agricultural versus urban uses and in our classification of land as exception or farmland. Do to changing agricultural practices and markets these classifications may need to be revisited. Does the productivity of land for agricultural uses need to be re-assessed; is protection located in the right places? Does the protection pertain to the areas that contribute most to the agricultural industry? Has the agricultural industry changed and will it change in the future? Do the status of exception lands need to be reviewed with each county? Perhaps there are some areas within the boundary where agricultural uses would be beneficial to the region. Other states have used transfer of development rights and covenants on land so that agricultural lands can remain in farm use. The benefit to this strategy might be better provision of farm to market opportunities, locally produced fruits and vegetables and reduced transportation costs associated with food production. Do these benefits warrant examination of mixing agricultural land uses with urban land uses?
- Should we be looking in from the boundary back to the regional and town centers to decide where the right places are to grow in the future? Does planning at the edge force us to define a geographic limit to the region? Is this a weakness in our land use system? This examination may spur development of new tools for protection of farmland and a new perspective on the form our region takes in the future. Can designation of urban reserves be used to shape our urban form and should these areas contain farmland?
- Development of a regional economic development policy would guide decisions that will support our present and future economy. We need to be forward looking to plan to support industries that will sustain the economic vitality of the region. If we have a clear picture of what those industries are and their land needs we can better preserve existing lands within our boundary, convert underutilized lands for other purposes and make the right expansion decisions.

### **Follow-up Tasks**

Due to the closing deadline of Dec. 20, 2002, to complete Task 2 of the current Periodic Review Work Program, I am recommending that the work program be amended to address a number of tasks. These tasks are due to the need for additional discussion on a regional level and/or lack of time to complete the work to fulfill these tasks. Metro has asked the Land Conservation and Development Commission to consider rule making to define the subregional issue. This is an important issue that must be approached carefully. The implications of moving ahead with a subregional decision that has not been fully considered will have lasting effects on our agricultural community, natural resources and the physical form the region takes. I recommend these follow-up tasks:

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<sup>9</sup> Protection is defined by the hierarchy of lands in Goal 14.

**1. Designation of Urban Reserves**

Evaluate designation of urban reserve areas for future urban expansion. This area could be as large as 100,000 acres. Coordinate with Metro partners as well as take a wider Willamette Valley coordination approach to discuss the future urban form of our region.

**2. Centers Implementation**

Develop a cohesive centers program to implement the proposed strategy. Develop the synergistic role of corridors in the implementation centers. Explore other ways to provide incentives for 2040 centers implementation.

**3. Follow-up Employment Research**

Evaluate targeted areas for conversion of industrial uses to allow mixed uses including residential. Require a protection program for targeted industrial and employment areas inside the boundary. Develop a strategy that includes locational criteria for targeted sectors of our economy.

**4. Employment Land Analysis**

Address the remaining employment land-need shortfall after development of a regional economic development policy. Formulation of an economic development strategy should take into consideration, location of existing industries, future growth, emerging industries as well as farm industry needs because of the importance of agriculture to our economy.

**5. Adoption of a Goal 5 Program**

Complete and adopt a Goal 5 natural resources protection program.

**6. Green Spaces Bond**

Refer a Greenspaces II bond measure to voters for protection of natural areas both inside of the existing boundary and for urban reserve areas outside of the boundary to finish the work we have started through the 1995 Bond Measure. This bond measure will address the needs of the region for the long term and will be designed to acquire land to increase the connectivity between habitat areas and protect habitat diversity. Key stream corridors connecting regional anchor sites need to be protected to provide links to the rural landscape.

**7. Subregional Need**

Pending adoption of an administrative rule by the Land Conservation and Development Commission, evaluate the need for land for housing and employment on a subregional basis.

**8. Revenue Sharing**

Initiate a discussion on equalizing tax revenues through a revenue sharing program.

**Review of the Executive Officer Recommendation**

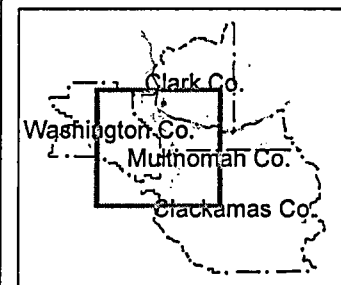
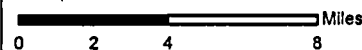
This recommendation will serve as a basis for discussion during the Metro Council public hearing process to amend the Metro Code and amend the UGB. Input from citizens, local government staff and from elected officials is both important and welcome in this review process. My recommendation is submitted for your review and action.



**TAX LOT MAP**  
County Assessment and Taxation offices, 2001. Data collection scale is 1"=100' in urban areas and 1"=200' or 1"=400' in rural areas. Horizontal accuracy is plus or minus five feet or better in Beaverton, Milwaukie, Oregon City, Tigard and Multnomah County. Other areas are plus or minus ten feet.

The information on this map was derived from digital data uploaded to Meira's GIS. Care was taken in the creation of this map. Meira cannot accept any responsibility for errors, omissions, or positional inaccuracies. There are no warranties, as provided or implied, regarding the veracity or the statistical accuracy of the data for any particular purpose, notwithstanding the use of this product. However, notification of any errors will be appreciated.

1 inch equals 5 miles



### Location Map



**METRO DATA RESOURCE CENTER**  
600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736  
TEL (503) 797-1742 | FAX (503) 797-1808  
drc@metro.dst.or.us | www.metro-region.org

## **Appendix**

The following documents are available from Metro's Planning Department by calling (503) -797-1757 for a nominal fee. A number of these reports are also available on Metro's website at [www.metro-region.org](http://www.metro-region.org) and these are designated with an asterisk.

1. Performance Measures Report
2. Regional Employment Forecast 2000 to 2030\*
3. 2002-2022 Urban Growth Report – Residential Land Need Analysis\*
4. 2002-2022 Urban Growth Report – Employment Land Need Analysis\*
5. Map Atlas Memorandum and Maps
6. 2002 Alternative Analysis Study\*
7. Goal 14: Where to Satisfy the Region's 20-Year Urban Land Needs Through UGB Expansion, flow chart
8. Specific Land Needs Report – Employment\*
9. Proposed UGB Amendment Study Area Maps and Table\*
10. 2040 Refinement Report and Policy Recommendations\*
11. Technical Amendments to the UGB Memorandum
12. Specific Land Needs for Public Facilities and School Sites Memorandum
13. Regional Industrial Land Study (RILS) Report, version III
14. Metro Urban Centers: An Evaluation of the Density of Development
15. Ten Principals for Achieving Region 2040 Centers

I:\gm\community\_development\share\EO Recommendation\Burtonrecomver1.doc

# Metro Report

## 1 **Growth Management of the Metropolitan Region**

Executive Officer  
Recommendation  
and Background  
Materials

August 2002



**METRO**

PEOPLE PLACES  
OPEN SPACES



# Metro Report

## 2 **Growth Management of the Metropolitan Region**

Background and Technical  
Information

August 2002



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PEOPLE PLACES  
OPEN SPACES

# Metro Report

## 3 **Growth Management of the Metropolitan Region**

Outreach Summaries  
and Public Correspondence

August 2002



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080102-03

METRO Regional Government  
**"IT TAKES A TEAM TO MOVE THE UGB"**

UGB Periodic Review - Team Roster 2002

**Team Owners**

Mike Burton  
Rod Park

**General Manager**

Andy Cotugno

**Coaches**

Mary Weber – Head Coach  
Sherry Oeser – Assistant Coach  
Lydia Neill – Assistant Coach

**Starters**

Tim O'Brien  
Dennis Yee  
Carol Hall  
Dick Benner

**Bench Players/Reserves**

Sonny Conder  
Brenda Bernards  
Marci LaBerge  
Ray Valone  
Amy Rose

**Rookies**

David Bragdon  
Carl Hosticka  
Rex Burkholder  
Bill Atherton  
Rex Burkholder

**Veterans**

Susan McLain  
Rod Monroe  
Jeff Stone  
Chris Billington

**Scouts**

Jim Cser  
Cindy Pederson  
Bill Stein  
Karen Larsen  
Gina Whitehill-Bazuik

**Injured Reserves**

Tom Kolster  
Kim White  
Ted Leybold  
Bill Barber  
Paul Ketcham  
Malu Wilkinson  
Carol Krigger  
Justin Houk

**Front Office**

Sherrie Blackledge, Manager  
Paulette Copperstone  
Ronney Barker  
John Donovan  
Karen Blauer  
Karen Withrow  
Teri Matias  
Cathy Thomas

**More Front Office**

Sue Gemmel  
Kathy Deal  
Marlon Warren  
Steve Erickson  
Kristin Hull  
Karen Thackston  
John Willworth  
Ron Sarver

**Vice Presidents  
of Community Relations**

Marc Zolton  
Janice Larsen  
Pam Peck

**Team Dancers**

Mike Hoglund  
Mark Turpel  
Renee Castilla  
Dick Bolen  
Gerry Uba

**Team Mascot**

Michael Morrissey

**Referees**

Pete Sandrock  
Dan Cooper

000102c-1

## COUNCILOR ROD PARK

600 NORTHEAST GRAND AVENUE  
TEL 503 797-1547

PORTLAND, OREGON 97232 2736  
FAX 503 797-1793



**METRO**

DATE: August 1, 2002  
TO: Metro Council and Council Staff  
FROM: Rod Park, Chair *RP*  
Community Planning Committee  
RE: Urban Growth Boundary Listening Posts

October 1.....Forest Grove Community Auditorium, 1915 Main St., Forest Grove  
October 3.....Beaverton Library, Room A& B 12375 SW 5<sup>th</sup>, Beaverton  
October 10.....Damascus Community Church, 14251 SE Rust Way, Boring  
October 15.....Tualatin High School, 22300 SW Boones Ferry Rd, Tualatin  
October 22.....Clackamas Community College, Gregory Forum, 19600 Molalla Oregon City  
October 24.....Gresham Council Chamber, 1333 NW Eastman Pkwy., Gresham  
October 29.....Portland Council Chamber, 1221 SW 4<sup>th</sup>, Portland

All meetings all scheduled for 6:00 p.m. with map viewing at 5:00 p.m.

**COUNCIL PROCESS FOR CONSIDERATION OF RESOLUTIONS  
02-3214 AND 02-3215  
AUGUST 1 AGENDA**

The two resolutions deal with REM enforcement actions and represent the first time that Code provisions enacted in 1998 relating to Council consideration of such an action have been utilized. The resolutions must be considered separately

Process:

Have Dan Cooper explain the process

Call on Councilor Atherton to move adoption

Councilor Atherton will call on Steve Kraten (REM Enforcement Staff) To present background information. Kraten will also review the technical changes made in the original proposed final order

The Hearings Officer (Robert Harris) should then be called on present information related to the contested case hearing and the contents of the proposed final order

Councilors may question the Hearings Officer

The Presiding Officer should then ask if the party involved or their representative wishes to offer any comments (Note: they are not expected to attend the meeting)

If they do attend and wish to comment, since they did not file any exceptions to the original proposed order, their testimony must be limited to the technical changes.

Council discussion

Council action on the proposed resolution

Repeat for the second resolution

080102c-06



**METRO**

July 26, 2002

Michael Reynolds dba Workhorse Services Inc.  
PO Box 5813  
Aloha, Oregon 97006

Dear Mr. Reynolds:

This letter is to notify you that the Resolution No. 02-3214, For the Purpose of Approving a Final Order Imposing a Monetary Fine on Michael Reynolds, dba Workhorse Services Inc., for a violation of Section 7.01 of the Metro Code will be considered at the Metro Council meeting on August 1, 2002 at 2:00 p.m. in the Metro Council Chamber, 600 NE Grand, Portland OR 97232. A copy of the agenda and its contents are included with this letter. If you have any questions, please feel free to contact Paul Garrahan, Assistant Counsel, (503) 797-1661.

Sincerely,

Chris Billington  
Clerk of the Council



**METRO**

July 26, 2002

Warren Z Biden dba Westmont Properties  
7299 SW Hunt Club Lane  
Portland OR 97223

Dear Mr. Biden:

This letter is to notify you that the Resolution No. 02-3215, For the Purpose of Approving a Final Order Imposing a Monetary Fine on Warren Z. Biden, dba Westmont Properties for a violation of Section 7.01 of the Metro Code will be considered at the Metro Council meeting on August 1, 2002 at 2:00 p.m. in the Metro Council Chamber, 600 NE Grand, Portland OR 97232. A copy of the agenda and its contents are included with this letter. If you have any questions, please feel free to contact Paul Garrahan, Assistant Counsel, (503) 797-1661.

Sincerely,

Chris Billington  
Clerk of the Council