



**METRO**

**Agenda**

MEETING: METRO COUNCIL  
DATE: August 06, 2009  
DAY: Thursday  
TIME: 2:00 p.m.  
PLACE: Fairview City Hall Council Chamber, 1300 NE Village Street, Fairview, 97024

**CALL TO ORDER AND ROLL CALL**

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATIONS**
3. **END OF FISCAL YEAR MANAGEMENT REPORT** Jordan/Robinson
4. **SUNRISE PROJECT D.E.I.S. BRIEFING** Collins
5. **LEGISLATURE UPDATE** Tucker
6. **CONSENT AGENDA**
  - 6.1 Consideration of Minutes for the July 30, 2009 Metro Council Regular Meeting.
  - 6.2 **Resolution No. 09-4067**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into an Intergovernmental Agreement with the City of Durham Related to Enforcement of the Business Recycling Requirement.
  - 6.3 **Resolution No. 09-4068**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into an Intergovernmental Agreement with the City of Wilsonville Related to Enforcement of the Business Recycling Requirement.
  - 6.4 **Resolution No. 09-4046**, For the Purpose of Confirming the Reappointment of Pre-existing Members and Appointment of New Members to the Natural Areas Program Performance Oversight Committee.
7. **RESOLUTIONS**
  - 7.1 **Resolution No. 09-4064**, For the Purpose of Confirming the Council President's Appointment of Chris Erickson to the Metropolitan Exposition-Recreation Commission. Bragdon

7.2 **Resolution No. 09-4066**, For the Purpose of Creating and Appointing Members of a Task Force to Recommend Three Active Transportation Pilot Projects – One Urban, One Suburban, and One Urban to Nature – For the Federal TIGER Grant.

Burkholder

**8. CHIEF OPERATING OFFICER COMMUNICATION**

**9. COUNCILOR COMMUNICATION**

**ADJOURN**

**Television schedule for August 6, 2009 Metro Council meeting**

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

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

Agenda items may not be considered in the exact order in which they are listed. If you have questions about the agenda, please call the Council Office at (503) 797-1540. 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 Council Office to be included in the decision record. Documents may be submitted by e-mail, fax, mail or in person at the Council Office. For additional information about testifying before the Metro Council, and for other public comment opportunities, please go to this section of the Metro website [www.oregonmetro.gov/participate](http://www.oregonmetro.gov/participate). For assistance per the American Disabilities Act (ADA), dial Metro’s TDD line (503) 797-1804 or (503) 797-1540 for the Council Office.

Agenda Item Number 3.0

**END OF FISCAL YEAR MANAGEMENT REPORT**

PRESENTED BY MICHAEL JORDAN AND SCOTT ROBINSON

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

Agenda Item Number 4.0

**SUNRISE PROJECT D.E.I.S. BRIEFING**

PRESENTED BY TIM COLLINS AND PLANNING AND DEVELOPMENT  
STAFF

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

Agenda Item Number 5.0

**LEGISLATURE UPDATE**

PRESENTED BY RANDY TUCKER

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

Agenda Item Number 6.1

**Consideration of Minutes for the July 30, 2009 Metro Council Regular Meeting.**

*Consent Agenda*

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

Agenda Item Number 6.2

**Resolution No. 09-4067**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into an Intergovernmental Agreement with the City of Durham Related to Enforcement of the Business Recycling Requirement.

*Consent Agenda*

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 09-4067
CHIEF OPERATING OFFICER TO ENTER INTO	)	
AN INTERGOVERNMENTAL AGREEMENT	)	Introduced by Michael Jordan,
WITH THE CITY OF DURHAM RELATED TO	)	Chief Operating Officer, with the concurrence
ENFORCEMENT OF THE BUSINESS	)	of David Bragdon, Council President
RECYCLING REQUIREMENT	)	

WHEREAS, on September 18, 2008, the Metro Council adopted Ordinance No. 08-1200 (For The Purpose of Amending Metro Code Chapter 5.10, Regional Solid Waste Management Plan, by Adding Provisions to Implement the Business Recycling Requirement); and

WHEREAS, Metro Code Section 5.10.320 requires local governments to implement the Business Recycling Requirement; and

WHEREAS, Metro Code Section 5.10.320 provides that a local government may implement the compliance portion of the Business Recycling Requirement by entering into an intergovernmental agreement with Metro that provides for Metro to establish business compliance with the Business Recycling Requirement for the local government; and

WHEREAS, the City of Durham has asked Metro to perform the compliance function for the Business Recycling Requirement; and

WHEREAS, Metro and the City of Durham have agreed on a form of intergovernmental agreement; and

WHEREAS, Metro Code Section 2.04.026 requires the Chief Operating Officer to seek approval from the Metro Council before executing an intergovernmental agreement by which Metro assumes any function or duty of another governmental body; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute an intergovernmental agreement between Metro and the City of Durham substantially similar to the one attached as Exhibit A

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 09-4067, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF DURHAM RELATED TO ENFORCEMENT OF THE BUSINESS RECYCLING REQUIREMENT

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Date: July 28, 2009

Prepared by: Matt Korot, Resource Conservation  
and Recycling Program Director  
Ext. 1760

## BACKGROUND

In September 2008, the Metro Council adopted the Business Recycling Requirement (BRR) program. The program directs all local governments in the region to establish recycling requirements for businesses and property managers and an associated compliance program. Under the program, a local government has an option of entering into an intergovernmental agreement (IGA) with Metro to perform certain compliance services on its behalf. The City of Durham (City) has elected to enter into an agreement with Metro to perform these functions. The IGA covers services to be delivered beginning July 1, 2009 through July 1, 2011 and will transfer authority to Metro to implement compliance functions of the Business Recycling Requirement as provided under Metro Code Section 5.10.340.

Under the terms of the IGA, compliance responsibilities will be split between the City and Metro. The City will be responsible for identifying and offering assistance to any non-compliant businesses and for reporting the ongoing compliance status of those businesses to Metro. Durham may refer businesses that remain out of compliance to Metro with a request for enforcement action. Metro will ensure that the City has provided sufficient evidence and will send notification to businesses with a requirement to cure the violation or be subject to fines established by the City. Metro will provide assistance to the City should a business contest the fine. Metro will retain any fines collected under this agreement.

## ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code Section 5.10.320 and 5.10.340
3. **Anticipated Effects:** The IGAs will transfer authority to Metro to implement and enforce compliance with the Business Recycling Requirement as provided under provided under Metro Code Section 5.10.340.
4. **Budget Impacts:** Metro is dedicating staff time to perform the compliance activities and Metro has agreed to provide hearings officer services as needed. The IGA allows Metro to retain any fees collected.

## RECOMMENDED ACTION

Metro Council adoption of Resolution No. 09-4067.

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), under the provisions of ORS Chapter 190, is entered into between METRO, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, and the City of Durham, hereinafter referred to as the "City," located at 17160 SW Upper Boones Ferry Road, Durham, Oregon 97224.

#### RECITALS

WHEREAS, the City is a political subdivision of the state of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, METRO is an Oregon municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, pursuant to Metro Code Chapter 5.10 (Regional Solid Waste Management Plan), Metro Code Section 5.10.340 (Metro Enforcement of Business Recycling Requirement), the City desires to contract with METRO for the performance of the City's function to ensure compliance with the Business Recycling Requirement; and

WHEREAS, METRO is able and prepared to provide the services to the City under the terms and conditions set forth in this Agreement; now therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter and pursuant to the provisions of ORS Chapter 190, the Parties agree to be bound as follows:

1. Purpose. The purpose of this Agreement is for the City to transfer the City's authority under Ordinance 247-09 to METRO, specifically to METRO's Deputy Chief Operating Officer or the Deputy Chief Operating Officer's designee, as provided under Metro Code Section 5.10.340.
2. Term. This Agreement shall be effective July 1, 2009 and shall remain in effect through July 1, 2011 unless earlier terminated in conformance with this Agreement.
3. Responsibilities of the City. The City shall, through its own forces or through partnership with Community Environmental Services, shall:
  - (a) Adopt Metro's Business Recycling Requirement Model Ordinance and legislation substantially similar to Metro Code Sections 5.09.050, 5.09.090, 5.09.130, 5.09.150, 5.09.160, and 5.10.340;

- (b) Provide a fine schedule for METRO to use when assessing a fine under Section 4d. (Attachment A) that is consistent with fine schedules for like offenses under the City's code;
- (c) Identify and offer assistance to any non-compliant businesses to assist the business in complying with the Business Recycling Requirement;
- (d) Using a non-compliance verification form ("verification form") provided by METRO, refer businesses that remain non-compliant to Metro for enforcement action;
- (e) Within 60 days of receiving an electronic copy of a written notice of noncompliance under Metro Code Section 5.10.340(a): (1) provide compliance assistance to the business; and (2) inform METRO whether the business achieved compliance with the Business Recycling Requirement or request in writing that METRO issue a citation to the noncompliant business;
- (f) Within 60 days of receiving an electronic copy of a citation under Metro Code Section 5.10.340(b): (1) provide compliance assistance to the business; and (2) inform METRO whether the business achieved compliance with the Business Recycling Requirement or request in writing that METRO assess a fine on the noncompliant business; and
- (g) Provide a witness who is an employee or agent of the City and who has personal knowledge of the compliance history of a business and the fine imposed to testify at any contested case matter.

4. Responsibilities of METRO. METRO shall:

- (a) Provide the City with a standard verification form;
- (b) If Metro determines evidence is insufficient, Metro will notify the City;
- (c) If the City provides sufficient evidence in a completed verification form, send written notice of noncompliance pursuant to Metro Code Section 5.10.340(a) to a noncompliant business that provides 30 days for business to cure violation, with an electronic copy to the City;
- (d) Upon written request and a showing of sufficient evidence from the City, issue a citation pursuant to Metro Code Section 5.10.340(b) to a noncompliant business that provides 30 days for business to cure violation, with an electronic copy to the City;
- (e) Upon written request and a showing of sufficient evidence from the City, assess a fine on a noncompliant business consistent with a fine schedule provided by the City (see Attachment A), with an electronic copy to the City;
- (f) Assist the City if a business contests the assessment of a fine, including without limitation providing a location and a hearings officer for the matter at no cost to the City; and
- (g) Retain any fine collected under this Agreement.
- (h) Engage and coordinate with Community Environmental Services with respect to the responsibilities detailed in (a) – (e) above.

5. Contract Costs. METRO shall be responsible for the costs it incurs in the performance of its responsibilities described in this Agreement and for all other costs related to this Agreement that METRO directly incurs. The City shall be responsible for all costs it incurs in the performance of its responsibilities described in this Agreement and for all other costs related to this Agreement that the City directly incurs.

6. Insurance. The City agrees to maintain insurance levels, or self-insurance in accordance

with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as specified in ORS 30.270. The City also agrees to maintain for the duration of this Agreement, Workers' Compensation Insurance coverage for all its employees as a self-insured employer, as provided by ORS Chapter 656, or disability coverage under its Disability, Retirement and Death Benefits Plan.

7. Indemnification. Subject to the limits of the Oregon Constitution and Oregon Tort Claims Act, the City shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney fees, arising out of or in any way connected with this Agreement.

8. Termination. This Agreement may be terminated by either Party without cause upon giving 90 days' written notice of intent to terminate. This Agreement may be terminated with less than 60 days' notice if either Party is in default of the terms of this Agreement. In the case of a default, the Party alleging the default shall give the other Party at least 30 days' written notice of the alleged default, with opportunity to cure within the 30-day period.

9. State Law Constraints. Both Parties shall comply with the public contracting provisions of ORS Chapter 279 A, B, and C, and to the extent those provisions apply, they are incorporated into this Agreement by reference. Specifically, it is a condition of this Contract that all employers working under this Agreement are subject employers that will comply with ORS 656.017.

10. Notices. Legal notice provided under this Agreement shall be delivered personally or by certified mail to the following individuals for the City and METRO:

**For City:**

Roland Signett, City Administrator  
17160 SW Upper Boones Ferry Rd.  
Durham, Oregon 97224  
503-639-6851  
cityofdurham@comcast.net

**For Metro**

Matt Korot, Program Director  
Metro  
600 NE Grand Ave.  
Portland, OR 97232  
matt.korot@oregonmetro.gov

Informal coordination of this Agreement will be conducted by the following designated Project Managers:

**For City:**

Roland Signett, City Administrator  
17160 SW Upper Boones Ferry Rd.  
Durham, Oregon 97224  
503-639-6851  
cityofdurham@comcast.net

**For Metro;**

Matt Korot, Program Director  
Metro  
600 NE Grand Ave.  
Portland, OR 97232  
matt.korot@oregonmetro.gov

The City may change the above-designated Project Manager by written notice to Metro. Metro may change the above-designated Project Managers by written notice to the City.

The City shall submit all requests for Metro to conduct compliance actions in writing, preferably by e-mail, to:

Steven Kraten, Enforcement Coordinator  
Metro  
600 NE Grand Ave.  
Portland, OR 97232  
[steve.kraten@oregonmetro.gov](mailto:steve.kraten@oregonmetro.gov)  
503-797-1678

11. Assignment. This Agreement is binding on each Party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either Party without prior written approval by the other Party.

12. Integration. This writing contains the entire Agreement between the Parties, and may only be amended by written instrument, signed by both Parties.

13. Severability. If any portion of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken.

14. Third-Party Rights. This Agreement shall not be deemed to vest in any third party any rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding.

CITY OF DURHAM

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Attachment A

City of Durham Ordinance 224-05 provides as follows:

**6. Fines for Violations.** A violation of a city ordinance shall be a Class A Violation and shall be punishable by a fine not exceeding \$720 for each violation in addition to any other penalties provided for in that ordinance.

T:\Remfma\contracts\929354 Compliance Function IGA durham.docx

Agenda Item Number 6.3

**Resolution No. 09-4068**, For the Purpose of Authorizing the Chief Operating Officer to Enter Into an Intergovernmental Agreement with the City of Wilsonville Related to Enforcement of the Business Recycling Requirement.

*Consent Agenda*

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 09-4068
CHIEF OPERATING OFFICER TO ENTER INTO	)	
AN INTERGOVERNMENTAL AGREEMENT	)	Introduced by Michael Jordan,
WITH THE CITY OF WILSONVILLE RELATED	)	Chief Operating Officer, with the concurrence
TO ENFORCEMENT OF THE BUSINESS	)	of David Bragdon, Council President
RECYCLING REQUIREMENT	)	

WHEREAS, on September 18, 2008, the Metro Council adopted Ordinance No. 08-1200 (For The Purpose of Amending Metro Code Chapter 5.10, Regional Solid Waste Management Plan, by Adding Provisions to Implement the Business Recycling Requirement); and

WHEREAS, Metro Code Section 5.10.320 requires local governments to implement the Business Recycling Requirement; and

WHEREAS, Metro Code Section 5.10.320 provides that a local government may implement the compliance portion of the Business Recycling Requirement by entering into an intergovernmental agreement with Metro that provides for Metro to establish business compliance with the Business Recycling Requirement for the local government; and

WHEREAS, the City of Wilsonville has asked Metro to perform the compliance function for the Business Recycling Requirement; and

WHEREAS, Metro and the City of Wilsonville have agreed on a form of intergovernmental agreement and the City of Wilsonville Council has approved the agreement; and

WHEREAS, Metro Code Section 2.04.026 requires the Chief Operating Officer to seek approval from the Metro Council before executing an intergovernmental agreement by which Metro assumes any function or duty of another governmental body; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to execute an intergovernmental agreement between Metro and the City of Wilsonville substantially similar to the one attached as Exhibit A

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 09-4068, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF WILSONVILLE RELATED TO ENFORCEMENT OF THE BUSINESS RECYCLING REQUIREMENT

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Date: July 28, 2009

Prepared by: Matt Korot, Resource Conservation  
and Recycling Program Director  
Ext. 1760

## BACKGROUND

In September 2008, the Metro Council adopted the Business Recycling Requirement (BRR) program. The program directs all local governments in the region to establish recycling requirements for businesses and property managers and an associated compliance program. Under the program, a local government has an option of entering into an intergovernmental agreement (IGA) with Metro to perform certain compliance services on its behalf. The City of Wilsonville (City) has elected to enter into an agreement with Metro to perform these functions. The IGA covers services to be delivered beginning July 1, 2009 through July 1, 2011 and will transfer authority to Metro to implement compliance functions of the Business Recycling Requirement as provided under Metro Code Section 5.10.340. The City of Wilsonville Council has reviewed and approved the agreement through City of Wilsonville Ordinance No. 664, adopted May 21, 2009.

Under the terms of the IGA, compliance responsibilities will be split between the City and Metro. The City will be responsible for identifying and offering assistance to any non-compliant businesses and for reporting the ongoing compliance status of those businesses to Metro. Wilsonville may refer businesses that remain out of compliance to Metro with a request for enforcement action. Metro will ensure that the City has provided sufficient evidence and will send notification to businesses with a requirement to cure the violation or be subject to fines established by the City. Metro will provide assistance to the City should a business contest the fine. Metro will retain any fines collected under this agreement.

## ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code Section 5.10.320 and 5.10.340, City of Wilsonville Ordinance No. 664.
3. **Anticipated Effects:** The IGAs will transfer authority to Metro to implement and enforce compliance with the Business Recycling Requirement as provided under provided under Metro Code Section 5.10.340.
4. **Budget Impacts:** Metro is dedicating staff time to perform the compliance activities and Metro has agreed to provide hearings officer services as needed. The IGA allows Metro to retain any fees collected.

## RECOMMENDED ACTION

Metro Council adoption of Resolution No. 09-4068.

# Intergovernmental Agreement

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Metro Contract No. 929355

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement"), under the provisions of ORS Chapter 190, is entered into between METRO, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, and the City of Wilsonville, hereinafter referred to as the "City," located at 29799 Town Center Loop E, Wilsonville, Oregon 97035.

## RECITALS

WHEREAS, the City is a political subdivision of the state of Oregon and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, METRO is an Oregon municipal corporation formed and operating under state law and the Metro Charter, and is a unit of local government authorized to enter into intergovernmental agreements pursuant to ORS 190.010, et seq.; and

WHEREAS, pursuant to Metro Code Chapter 5.10 (Regional Solid Waste Management Plan), Metro Code Section 5.10.340 (Metro Enforcement of Business Recycling Requirement), the City desires to contract with METRO for the performance of the City's function to ensure compliance with the Business Recycling Requirement; and

WHEREAS, METRO is able and prepared to provide the services to the City under the terms and conditions set forth in this Agreement; now therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereafter and pursuant to the provisions of ORS Chapter 190, the Parties agree to be bound as follows:

1. Purpose. The purpose of this Agreement is for the City to transfer the City's authority under W.C. 8.740 to METRO, specifically to METRO's Deputy Chief Operating Officer or the Deputy Chief Operating Officer's designee, as provided under Metro Code Section 5.10.340.

2. Term. This Agreement shall be effective July 1, 2009 and shall remain in effect through July 1, 2011 unless earlier terminated in conformance with this Agreement.

## Intergovernmental Agreement

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3. Responsibilities of the City. The City shall, through its own forces or through partnership with Clackamas County, shall:
  - (a) Adopt Metro's Business Recycling Requirement Model Ordinance and legislation substantially similar to Metro Code Sections 5.09.050, 5.09.090, 5.09.130, 5.09.150, 5.09.160, and 5.10.340;
  - (b) Provide a fine schedule for METRO to use when assessing a fine under Section 4d. (Attachment A) that is consistent with fine schedules for like offenses under the City's code;
  - (c) Identify and offer assistance to any non-compliant businesses to assist the business in complying with the Business Recycling Requirement;
  - (d) Using a non-compliance verification form ("verification form") provided by METRO, refer businesses that remain non-compliant to Metro for enforcement action;
  - (e) Within 60 days of receiving an electronic copy of a written notice of noncompliance under Metro Code Section 5.10.340(a): (1) provide compliance assistance to the business; and (2) inform METRO whether the business achieved compliance with the Business Recycling Requirement or request in writing that METRO issue a citation to the noncompliant business;
  - (f) Within 60 days of receiving an electronic copy of a citation under Metro Code Section 5.10.340(b): (1) provide compliance assistance to the business; and (2) inform METRO whether the business achieved compliance with the Business Recycling Requirement or request in writing that METRO assess a fine on the noncompliant business; and
  - (g) Provide a witness who is an employee or agent of the City and who has personal knowledge of the compliance history of a business and the fine imposed to testify at any contested case matter.
  
4. Responsibilities of METRO. METRO shall:
  - (a) Provide the City with a standard verification form;
  - (b) If Metro determines evidence is insufficient, Metro will notify the City;
  - (c) If the City provides sufficient evidence in a completed verification form, send written notice of noncompliance pursuant to Metro Code Section 5.10.340(a) to a noncompliant business that provides 30 days for business to cure violation, with an electronic copy to the City;
  - (d) Upon written request and a showing of sufficient evidence from the City, issue a citation pursuant to Metro Code Section 5.10.340(b) to a noncompliant business that provides 30 days for business to cure violation, with an electronic copy to the City;
  - (e) Beginning November 18, 2010, upon written request and a showing of sufficient evidence from the City, assess a fine on a noncompliant business consistent with a fine schedule provided by the City (see Attachment A), with an electronic copy to the City;
  - (f) Assist the City if a business contests the assessment of a fine, including without limitation providing a location and a hearings officer for the matter at no cost to the City; and

# Intergovernmental Agreement

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- (g) Retain any fine collected under this Agreement.
- (h) Engage and coordinate with Clackamas County with respect to the responsibilities detailed in (a) – (e) above.

5. Contract Costs. METRO shall be responsible for the costs it incurs in the performance of its responsibilities described in this Agreement and for all other costs related to this Agreement that METRO directly incurs. The City shall be responsible for all costs it incurs in the performance of its responsibilities described in this Agreement and for all other costs related to this Agreement that the City directly incurs.

6. Insurance. The City agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this Agreement to levels necessary to protect against public body liability as specified in ORS 30.270. The City also agrees to maintain for the duration of this Agreement, Workers' Compensation Insurance coverage for all its employees as a self-insured employer, as provided by ORS Chapter 656, or disability coverage under its Disability, Retirement and Death Benefits Plan.

7. Indemnification. Subject to the limits of the Oregon Constitution and Oregon Tort Claims Act, the City shall indemnify, defend, and hold Metro and Metro's agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney fees, arising out of or in any way connected with this Agreement.

8. Termination. This Agreement may be terminated by either Party without cause upon giving 90 days' written notice of intent to terminate. This Agreement may be terminated with less than 60 days' notice if either Party is in default of the terms of this Agreement. In the case of a default, the Party alleging the default shall give the other Party at least 30 days' written notice of the alleged default, with opportunity to cure within the 30-day period.

9. State Law Constraints. Both Parties shall comply with the public contracting provisions of ORS Chapter 279 A, B, and C, and to the extent those provisions apply, they are incorporated into this Agreement by reference. Specifically, it is a condition of this Contract that all employers working under this Agreement are subject employers that will comply with ORS 656.017.

10. Notices. Legal notice provided under this Agreement shall be delivered personally or by

# Intergovernmental Agreement

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certified mail to the following individuals for the City and METRO:

**For City:**

Paul Lee, Assistant City Attorney  
City of Wilsonville  
29799 SW Town Center Loop E.  
Wilsonville, OR 97070  
lee@ci.wilsonville.or.us

**For Metro:**

Matt Korot, Program Director  
Metro, Resource Conservation & Recycling  
600 NE Grand Ave.  
Portland, OR 97232  
Matt.korot@oregonmetro.gov

Informal coordination of this Agreement will be conducted by the following designated Project Managers:

**For City:**

Paul Lee, Assistant City Attorney  
City of Wilsonville  
29799 SW Town Center Loop E.  
Wilsonville, OR 97070  
lee@ci.wilsonville.or.us

**For Metro:**

Matt Korot, Program Director  
Metro, Resource Conservation & Recycling  
600 NE Grand Ave.  
Portland, OR 97232  
Matt.korot@oregonmetro.gov

The City may change the above-designated Project Manager by written notice to Metro. Metro may change the above-designated Project Managers by written notice to the City.

The City shall submit all requests for Metro to conduct compliance actions in writing, preferably by e-mail, to:

Steve Kraten, Enforcement Coordinator  
Metro  
600 NE Grand Ave.  
Portland, OR 97232  
Steve.kraten@oregonmetro.gov  
503-797-1678

11. **Assignment.** This Agreement is binding on each Party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either Party without prior written approval by the other Party.

12. **Integration.** This writing contains the entire Agreement between the Parties, and may only be amended by written instrument, signed by both Parties.

13. **Severability.** If any portion of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken.

14. **Third-Party Rights.** This Agreement shall not be deemed to vest in any third party any

# Intergovernmental Agreement

rights, nor shall it be deemed to be enforceable by any third party in any legal, equitable, or administrative proceeding.

CITY OF WILSONVILLE

METRO

By: \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Print name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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Attachment A

ORDINANCE NO. 664

**AN ORDINANCE OF THE CITY OF WILSONVILLE AMENDING CHAPTER 8 OF THE WILSONVILLE CODE BY ADDING SECTIONS 8.700-8.750, RELATING TO BUSINESS RECYCLING REQUIREMENTS.**

WHEREAS, Metro, the regional government, adopted an amendment to the Regional Solid Waste Management Plan to include a requirement that businesses in the region source separate recyclable materials and provide recycling containers to allow all recyclable materials be to be collected and stored; and

WHEREAS, Metro amended its code to require all local governments in the region implement a Business Recycling Requirements (BRR) Program; and

WHEREAS, Chapter 5.10.340 of the Metro code provides that cities may contract with Metro for the performance of the city's function to ensure compliance with the BRR; and

WHEREAS, the City of Wilsonville has a strong commitment to recycling and supports efforts to reduce the solid waste generated in the city sources through recycling activities; and

WHEREAS, the city may comply with Metro's BRR requirements by 1) adopting an ordinance mandating business recycling in the city, 2) entering into a Intergovernmental Agreement with Metro to enforce the city's ordinance pursuant to Metro Code and 3) relying on an existing Letter of Understanding with Clackamas County to implement the program aspects of the BRR through coordination with the city's Solid Waste hauler, waste reduction planning, education, reporting and other non-enforcement aspects of the BRR; and

WHEREAS, given the relative resources available to the city, county and Metro, this cooperative approach would be the most economical, efficient and productive method to achieve business recycling requirements;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

**Section 1.** That Chapter 8 of the Wilsonville code is amended to add the following new sections:

## BUSINESS RECYCLING REQUIREMENTS

### 8.700. Definitions.

For the purposes of this Chapter, the following terms shall mean:

(1). Business. Any person or persons, or any entity, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational or other activity that is non-residential in nature, including public bodies. The terms shall not apply to businesses whose primary office is located in a residence, conducted as a home occupation. A residence is the place where a person lives.

~~(2). Business recycling service customer. A person who enters into a service agreement with a waste hauler or recycler for business recycling services.~~

(32). Source separate. To separate recyclable material from other solid waste.

### 8.710. Purpose.

The purpose of sections 8.700 through 8.750 is to comply with Business Recycling Requirements set forth in Metro Code chapter 5.10. A significant increase in business recycling will assist the Metro region in achieving waste reduction goals, conserving natural resources and reducing greenhouse gas emissions.

### 8.720. Business Recycling Requirements.

1. Businesses shall source separate from other solid waste all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling.
2. ~~Businesses and business recycling customers~~ shall ensure the provision of recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both.
3. ~~Businesses and business recycling customers~~ shall post accurate signs where recyclable materials are collected, stored or both that identify the materials that the business must source separate for reuse or recycling and that provide recycling instructions.
4. Persons and entities that own, manage or operate premises with Business tenants, and that provide garbage collection service to those Business tenants, shall provide



recycling collection systems adequate to enable the Business tenants to comply with the requirement of this section.

**8.730. Exemption from Business Recycling Requirements.**

A business may seek exemption from the business recycling requirement by providing access to a recycling specialist for a site visit and establishing that it cannot comply with the business recycling requirement for reasons that include, without limitation, space constraints and extenuating circumstances.

**8.740. Compliance with Business Recycling Requirements.**

A business or business recycling service customer that does not, in the determination of the City or the City's agent, comply with the business recycling requirement may receive a written notice of noncompliance. The notice of noncompliance shall describe the violation, provide the business or business recycling service customer an opportunity to cure the violation within the time specified in the notice and offer assistance with compliance.

A business or business recycling service customer that does not, in the determination of the City or the City's agent, cure a violation within the time specified in the notice of noncompliance may receive a written citation. The citation shall provide an additional opportunity to cure the violation within the time specified in the citation and shall notify the business or business recycling service customer that it may be subject to a fine.

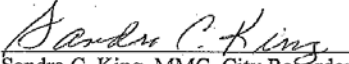
**8.750 Violations.**

A business or business recycling service customer that does not cure a violation within the time specified in the citation may be subject to a fine, pursuant to W.C. 1.012, of up to \$250.00 for the first violation and up to \$500.00 for subsequent violations in a calendar year.

**Section 2. Cooperative Agreements.**

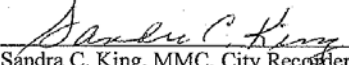
The city manager is hereby authorized to sign an Intergovernmental Agreement ~~and~~ Letter of Understanding with Metro ~~and Clackamas County~~, substantially similar to the drafts, as amended, described in and attached hereto as Exhibit A to the staff report in the matter dated April 20, 2009.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 20th day of April 2009, and scheduled for second reading at the May 18, 2009, Council meeting, commencing at the hour of 7 p.m. at the Wilsonville City Hall.


  
Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 18<sup>th</sup> day of May, 2009 by the following votes:

Yes: 4      No: -0-

  
Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 21 day of May, 2009.

  
TIM KNAPP, MAYOR

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Kirk	Yes
Councilor Nunez	Excused
Councilor Ripple	Yes
Councilor Hurst	Yes

Attachment:

Exhibit A. Draft IGA with Metro

**ORDINANCE NO. 664**  
N:\City Recorder\Ordinances\Ord664.doc

**PAGE 4 OF 10**

Agenda Item Number 6.4

**Resolution No. 09-4046**, For the Purpose of Confirming the Reappointment of Pre-existing Members and Appointment of New Members to the Natural Areas Program Performance Oversight Committee.

*Consent Agenda*

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE	)	RESOLUTION NO. 09-4046
REAPPOINTMENT OF PRE-EXISTING MEMBERS	)	
AND THE APPOINTMENT OF NEW MEMBERS TO	)	Introduced by Council
THE NATURAL AREAS PROGRAM	)	President David L. Bragdon
PERFORMANCE OVERSIGHT COMMITTEE	)	

WHEREAS, the Metro Code Chapter 2.19 establishes the Natural Areas Program Performance Oversight Committee (the "Committee"); and

WHEREAS, the initial terms of several of the Committee members expired June 30, 2009; and

WHEREAS, Peter Krainock has expressed his willingness to continue serving as chair of the Committee, but only for one more year at which point he will leave the Committee due to other volunteer commitments; and

WHEREAS, the Council President has reappointed several members for additional full two-year terms, one member to an additional one-year term, and appointed several new members to full two-year terms as set forth in Exhibit "A" attached hereto; and

WHEREAS, the Council desires to confirm these reappointments and appointments; now, therefore,

BE IT RESOLVED, that the Metro Council confirms the reappointments and appointments to the Natural Areas Program Performance Oversight Committee as set forth in Exhibit "A" attached hereto.

ADOPTED by the Metro Council this 6<sup>th</sup> day of August, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel Cooper, Metro Attorney

**Exhibit A to Resolution No. 09-4046**

**Natural Areas Program  
Performance Oversight Committee**

**Member Reappointments**

The following persons each are reappointed to serve a two-year term from July 1, 2009 until June 30, 2011, their final term of eligibility for consecutive service on this Committee:

Linda Craig

Rocky Dixon

The following person is reappointed to serve a one-year term from July 1, 2009 until June 30, 2010, during which time he shall serve as Committee chair:

Peter Krainock

**New Member Appointments**

The following persons each are appointed to serve a two-year term from July 1, 2009 until June 30, 2011, and shall be eligible thereafter to serve one additional two-year term:

Steve Yarosh; Mr. Yarosh is a real estate broker and attorney. He was an Assistant U.S. Attorney and federal prosecutor and served as a lead trial attorney in the Waco, Texas case involving the Branch Davidians. He also represented the City of Chicago, where he investigated civil rights cases. While in Chicago, Steve led a fight to save a neighborhood park. Steve has taught business, accounting and law at the college level, and also served as a federal comptroller, contracting officer and budget officer with the U.S Navy. Steve served on board the battleship U.S.S. New Jersey for three years, and with the United Nations Peacekeeping Force for Beirut, Lebanon for one year.

Dietra Stivahtis: Ms. Stivahtis is Vice President of the Commercial Division of Fidelity National Title Insurance Company. She has been with Fidelity for over 14 years, participating in thousands of successful real estate transactions. She chairs the Commercial Association of Realtors' Community Service Committee and is active in the National Association of Industrial and Office Properties.

Norman Penner: Mr. Penner served the U.S. Air Force for 22 years, retiring as a Lt. Colonel in the Medical Services Corps. He then joined the staff of the American Psychiatric Association as the director of a utilization and quality assurance program. Now retired, he is active in the Friends of the Tualatin River National Wildlife Refuge and has served several terms as a Commissioner on the Tigard Water District Board. He has a Master's in Public Health from Yale University's medical school.

Tricia Martin: Ms. Martin recently received her Master of Fine Arts degree at the Pacific Northwest College of Art. She manages "Pietopia" and related events which connect the public's awareness of what we eat to what is produced in the landscapes which surround the city. Her undergraduate degree is in the field of city and regional planning.

Sindy M. Maher: Ms. Maher is a real estate attorney specializing in assisting buyers and sellers in sales, purchases and exchange transactions. Prior to law school she worked in commercial and residential property management.

Kay Hutchinson: Ms. Hutchinson is Director of Programs for Reach Community Development Inc., which develops, manages and owns apartment buildings and commercial properties. Her past experience includes financial development and tenant relations.

John Esler: Mr. Esler is Project Manager for Hydro Licensing for Portland General Electric. He leads the company's riparian natural area restoration programs in watersheds such as the Sandy River and Clackamas River and is involved in managing some of the company's land holdings.

Christine Dupres: Ms. Dupres is Sustainability Officer for the Native American Youth and Family Center (N.A.Y.A.). She earned a Ph.D. in Folklore from the University of Pennsylvania, and her career has included work as a film documentarian, writer and fundraiser. The N.A.Y.A. Center is located near Whitaker Ponds and the Columbia Slough and the organization has plans to help restore those natural areas.

Bridget Cooke: Ms. Cooke is Executive Director of Adelante Mujeres, an organization dedicated to the education and empowerment of low-income Latina women in the Tualatin Valley. In addition to providing job training and leadership development, Adelante Mujeres manages the Forest Grove Farmers' Market.

Dean N. Alterman: Mr. Alterman has practiced real estate and land use law in Oregon for the past twenty years. Prior to practicing law he spent eight years as a real estate agent. He has served three terms as the chair of a County Planning Commission. His other civic involvements include being the current President-elect of the Japanese Garden Society of Oregon.

## STAFF REPORT

### RESOLUTION NO. 09-4046, FOR THE PURPOSE OF CONFIRMING THE REAPPOINTMENT OF PRE-EXISTING MEMBERS AND THE APPOINTMENT OF NEW MEMBERS TO THE NATURAL AREAS PROGRAM PERFORMANCE OVERSIGHT COMMITTEE

---

Date: August 6, 2009

Prepared by: Kathleen Brennan-Hunter  
503-797-1948

## BACKGROUND

The 2006 Natural Areas Bond Measure included a provision for the establishment of a citizen oversight committee in order to review and suggest improvements to the administration and implementation of the Natural Areas Program. Members of the committee have two year terms, some of which expire at the end of June in odd numbered years and some of which expire at the end of June in even-numbered years. This resolution confirms the reappointment of several members who served on the Committee during the previous years and are willing to serve new terms and confirms the appointment of several new members who would begin new terms.

The purpose of the Committee is to provide the Metro Council and the citizens of the region outside third party review that will help the region achieve the best results for clean water, fish and wildlife, and future generations. Specifically, the Committee will review program performance and report to the Metro Council regarding the program's progress in implementing the strategies, goals and objectives approved by the Metro Council for property acquisition and protection in each of the 27 target areas, as described in Council-approved refinement plans, local share projects and the Nature in Neighborhoods Capital Grants Program. In addition, the Committee may make recommendations regarding the Natural Areas Implementation Work Plan to improve program efficiency, administration and performance.

Members of the Committee are drawn from all areas of the region and from a variety of technical and professional disciplines, including finance, auditing, accounting, real estate, banking and law. Committee members share their technical and professional expertise to ensure that expenditure of the bond measure satisfies the requirements of the program.

Metro staff assist the Committee as necessary. Staff performs such duties as making technical presentations and preparing reports to the committee, coordinating and staffing meetings and drafting an annual report for the Committee's consideration and adoption.

The Natural Areas Program Performance Oversight Committee has met several times over the past two years and produced their first annual report in the fall of 2008. They have divided the program into elements so that members may immerse in specific program areas to develop meaningful recommendations. Thus far they have led staff in development of a new regional acquisition performance measurement system and advised on the Capital Grants Program. They will be presenting a second annual report in Fall 2009.

## ANALYSIS/INFORMATION

### 1. **Known Opposition**

None.

2. **Legal Antecedents**

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

Metro Code Chapter 2.19, "Metro Advisory Committees," providing generally applicable rules for the creation of committees providing advice to the Metro Council and appointment of members to such committees

Ordinance 07-1155 amending Metro code chapter 2.19 to establish the Natural Areas Program Performance Oversight Committee, and declaring an emergency, approved May 31, 2007

Resolution 07-3817 Confirming the Appointment of Members to the Natural Areas Program Performance Oversight Committee, approved May 31, 2007

Resolution 08-3953, Confirming the Re-appointment of Members to the Natural Areas Program Performance Oversight Committee, approved June 26, 2008

3. **Anticipated Effects**

By approving Resolution No. 09-4046, the Metro Council will reappoint some members and appoint new members to a committee as directed by the region's voters in November 2006. The expertise of the Committee will help ensure that the funds voters have authorized provide the greatest possible benefit to the region.

4. **Budget Impacts**

Staff time to staff the committee meetings and prepare reports.

**RECOMMENDED ACTION**

The Council President recommends adoption of Resolution 09-4046.



Agenda Item Number 7.1

**Resolution No. 09-4064**, For the Purpose of Confirming the Council  
President's Appointment of Chris Erickson to the Metropolitan  
Exposition-Recreation Commission.

COUNCIL PRESIDENT BRAGDON

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE	)	RESOLUTION NO. 09-4064
COUNCIL PRESIDENT’S APPOINTMENT OF	)	
CHRIS ERICKSON TO THE METROPOLITAN	)	Introduced by David Bragdon, Council
EXPOSITION-RECREATION COMMISSION		President

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

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

WHEREAS, the City of Portland has nominated Chris Erickson to serve as a member of the Commission; and

WHEREAS, pursuant to Metro Code, Section 6.01.030(d)(3) and (g) the Metro Council President has appointed Chris Erickson as a candidate to replace Janice Marquis as a member on the Commission due to her resignation from the Commission as of June 30, 2009, for the remainder of Ms. Marquis’s term; and

WHEREAS, the Metro Council President submitted his appointment of Chris Erickson to the Metro Council for confirmation; and

WHEREAS, the Council finds that Chris Erickson has the experience and expertise to make a substantial contribution to the Commission’s work; now therefore,

BE IT RESOLVED that the Metro Council hereby confirms the Council President’s appointment of Chris Erickson as a member of the Metropolitan Exposition Recreation Commission beginning on July 9, 2009, and ending December 31, 2010,

ADOPTED by the Metro Council this \_\_\_\_ day of June, 2009.

\_\_\_\_\_  
David Bragdon, Council President

Approved as to Form:

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 09-4064, FOR THE PURPOSE OF CONFIRMING THE COUNCIL PRESIDENT'S APPOINTMENT OF CHRIS ERICKSON TO THE METROPOLITAN EXPOSITION-RECREATION COMMISSION

---

Date: July 9, 2009

Prepared by: Scott Hand,  
(503)797-1853

## BACKGROUND

The Metro Code, Section 6.01.030(a), gives Metro Council President sole authority to appoint all members of the Metropolitan Exposition Recreation Commission, subject to confirmation by the Council. Section 6.01.030(d)(2) of the Code allows the City of Portland to nominate a candidate for appointment for the Council President's consideration. Under Section 6.01.030(e)(1) of the Metro Code the Metro Council President has the authority to concur with the City of Portland's nomination and submit it to the Council for confirmation, or reject it. Under Section 6.01.030(g) of the Metro Code, vacancies are filled pursuant to the procedure governing initial appointments.

Commissioner Janice Marquis, originally appointed by the Metro Council President, resigned from the Commission June 30, 2009. Subsequently a spot remains vacant on the Commission. The Metro Council President has appointed Chris Erickson as a candidate for membership on the Commission to replace Janice Marquis. The Council President has concurred with this nomination and accordingly submitted his appointment of Mr. Erickson to the Council for confirmation. If confirmed, Mr. Erickson would, pursuant to Metro Code, Section 6.01.030(g) serve the remainder of Ms. Marquis' term, beginning July 9, 2009 and ending December 31, 2010.

Mr. Erickson is currently the General Manager of the Heathman Hotel in Portland.

## ANALYSIS/INFORMATION

### 1. Known Opposition

None

### 2. Legal Antecedents

Metro Code, as referenced above.

### 3. Anticipated Effects

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

### 4. Budget Impacts

None

## RECOMMENDED ACTION

The Council President David Bradgon recommends approval of Resolution 09-4064 to confirm the appointment of Chris Erickson to the Metropolitan Exposition Recreation Commission and to begin serving July 9, 2009.

Agenda Item Number 7.2

**Resolution No. 09-4066**, For the Purpose of Creating and Appointing Members of a Task Force to Recommend Three Active Transportation Pilot Projects – One Urban, One Suburban, and One Urban to Nature – For the Federal TIGER Grant.

COUNCILOR BURKHOLDER

Metro Council Meeting  
Thursday, August 6, 2009  
Fairview City Hall

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CREATING AND APPOINTING	)	RESOLUTION NO. 09-4066
MEMBERS OF A TASK FORCE TO RECOMMEND	)	
THREE ACTIVE TRANSPORTATION PILOT	)	Introduced by Council
PROJECTS—ONE URBAN, ONE SUBURBAN, AND ONE	)	President David L. Bragdon
URBAN TO NATURE—FOR THE FEDERAL TIGER	)	
GRANT	)	

WHEREAS, the Metro Council is committed to the principle and practice of sustainability in the region; and

WHEREAS, sustainability can be expressed in terms of the triple bottom line of equity, environment, and economy; and

WHEREAS, bicycling and walking trails, bike boulevards, cycletracks, and other facilities add to the social equity of the region by providing mobility and reducing congestion; offering access for children, low income residents and other non-drivers; contributing to physical health and well being; offering opportunities for fun and recreation; and helping ensure safe travel for cyclists and pedestrians; and

WHEREAS, bicycling and walking facilities contribute to the environment by reducing auto emissions and greenhouse gases; keeping oil and other pollutants out of the region’s streams and waterways; and cultivating stewardship and appreciation for nature; and

WHEREAS, bicycling and walking trails contribute to the economy by increasing tourism; reducing congestion; increasing the speed of freight movement; providing transportation infrastructure at a lower cost to the public; and reinforcing the Portland Metropolitan Region’s brand and image worldwide as the leader in sustainability; and

WHEREAS, the Metro Council has expressed continued support for the completion of the regional walking and biking network, including the 950-mile network of regional trails that includes all 25 cities and four counties within the Portland/Vancouver metropolitan region; and

WHEREAS, the Metro Council has supported this effort through the appointment of the Blue Ribbon Committee for Trails (RESOLUTION NO. 08-3936); and

WHEREAS, upon its conclusion the Blue Ribbon Committee for Trails recommended an active transportation strategy by which to complete the regional walking and biking network, including the development of demonstration projects; and

WHEREAS, eleven members of the Blue Ribbon Committee formed an Executive Council for Active Transportation to further develop and implement the strategy; and

WHEREAS, Metro issued a call for active transportation demonstration projects in May 2008; and

WHEREAS, under the Recovery Act program, up to \$1.5 billion was made available through September 30, 2011, for the Secretary of Transportation to make TIGER Discretionary Grants (Transportation Investment Generating Economic Recovery) on a competitive basis for capital investments in surface transportation infrastructure projects that will have a significant impact on the Nation, a metropolitan area, or a region; and

WHEREAS, at its July 21, 2009 Council Work Session the Metro Council unanimously expressed support, including the dedication of financial resources, to take advantage of opportunities to further active transportation and build projects, including the TIGER Grant; and

WHEREAS, the Metro Council identified the need for an advisory Task Force to identify and recommend three Active Transportation Pilot Projects from among the proposals submitted through the call for active transportation projects for inclusion in the TIGER Grant; and

WHEREAS, the Metro Code, Section 2.19.060 provides for the creation of Task Forces, which are Advisory Committees of limited duration; and

WHEREAS, the Metro Code, Section 2.19.030(b)(1) provides that the Metro Council President shall appoint all members of Advisory Committees and that these appointments are subject to confirmation by the Metro Council; and

WHEREAS, the federal government has created a grant program named the Transportation Investment Generating Economic Recovery Discretionary Grants Opportunity (the “TIGER grant”); and

WHEREAS, during its July 21, 2009 Council Work Session the Metro Council expressed interest in creating a Task Force to identify and recommend three Active Transportation Pilot Projects to apply for the federal TIGER grant; and

WHEREAS, the 15-member Executive Council for Active Transportation was formed by the Metro Council to promote a regional transportation strategy that includes trails and other modes of encouraging residents to take a more active role in traveling across the region; and

WHEREAS, the Metro Council finds that the current 15-member Executive Council is highly qualified to serve as a Task Force to consider regional active transportation projects; now, therefore,

BE IT RESOLVED, that the Metro Council creates the Transportation Investment Generating Economic Recovery Discretionary Grants Opportunity (TIGER Grants) Task Force to recommend three active transportation pilot projects—one urban, one suburban, and one urban to nature, and confirms the appointments of: Jonathan Nicholas, Christopher Achterman, Eileen Brady, David Bragdon, Scott Bricker, Rex Burkholder, Chris Enlow, Nick Fish, Jay Graves, Richard Kidd, Randy Miller, Lynn Peterson, Rick Potestio, Dick Schouten, Philip Wu, and David Yaden, who together compose the current Executive Council for Active Transportation members, as set forth in Exhibits “A” and “B” attached hereto.

ADOPTED by the Metro Council this 6<sup>th</sup> day of August, 2009.

---

David Bragdon, Council President

Approved as to Form:

---

Daniel Cooper, Metro Attorney

**Exhibit A to Resolution No. 09-4066**

**Executive Council for Active Transportation Members**

Following are current members of the Executive Council for Active Transportation, which is being appointed to identify and recommend the three pilot projects for inclusion in the TIGER Grant.

**Member Information**

Jonathan Nicholas  
Chair  
Vice President  
Branding & Corporate Communications  
ODS

Christopher Achterman, MD  
Legacy Joint & Bone Clinic  
Legacy Health System

Eileen Brady  
Co-owner  
New Seasons Market

David Bragdon  
President  
Metro Council

Scott Bricker  
Executive Director  
Bicycle Transportation Alliance

Rex Burkholder  
Councilor  
Metro Council

Chris Enlow  
Foundation Manager  
KEEN Footwear

Nick Fish  
Commissioner  
City of Portland

Jay Graves, CEO  
The Bike Gallery

Richard Kidd  
Mayor  
City of Forest Grove

Randy Miller  
Moore Co.

Lynn Peterson  
Chair  
Clackamas County Board of Commissioners

Rick Potestio  
Architect

Dick Schouten  
Commissioner  
Washington County Board of  
Commissioners

Philip Wu, MD  
Clinical Pediatric Lead, CMI Weight  
Department of Pediatrics  
Kaiser Permanente Northwest

David Yaden  
past chair of the Blue Ribbon Committee for  
Trails

**Exhibit B to Resolution No. 09-4066**

**TIMELINE:**

- Thurs. Aug. 6            The Metro Council will formally appoint the Executive Council for Active Transportation to serve as the Task Force to evaluate, prioritize and recommend three projects for the TIGER Grant.
- Week of Aug. 17        Identify projects: Task Force meets with Metro staff (meeting will be public) to evaluate project proposals and come to a recommendation. This will be a working meeting (minimum of 2 hours) and all members would be invited to participate. Staff will have surveyed the projects and sorted them. The Task Force will submit a letter recommending three of these projects to the Metro Council for development in the grant application.
- Aug. 17-Sept. 15       Staff will move forward to develop the application with recommended projects.
- Thurs. Sept. 10        The Metro Council will vote on a resolution to endorse the TIGER Grant application for submittal.



## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 09-4066, FOR THE PURPOSE OF APPOINTING MEMBERS OF A TASK FORCE TO RECOMMEND THREE ACTIVE TRANSPORTATION PILOT PROJECTS—ONE URBAN, ONE SUBURBAN, AND ONE URBAN TO NATURE—FOR THE FEDERAL TIGER GRANT

---

Date: August 6, 2009

Prepared by: Lake McTighe  
(503) 707-1660  
Luc Schuster  
(503) 813-7513

## BACKGROUND

Under the federal Recovery Act program, up to \$1.5 billion was made available through September 30, 2011, for the Secretary of Transportation to make grants on a competitive basis for capital investments in surface transportation infrastructure projects that will have a significant impact on the nation, a metropolitan area, or a region.

The Metro Senior Leadership Team has identified the Active Transportation Project as a candidate for the TIGER Discretionary Grants Opportunity (Transportation Investment Generating Economic Recovery). The Active Transportation Project would serve as a pilot project for the nation outlining a new strategy for investing in biking and walking in order to triple the biking and walking mode share in the Portland metropolitan region by 2035 and to make communities more livable. The proposed strategy for completing the region's biking and walking network would be modeled after the light rail investment strategy, which has worked well for the region. Using a focused and targeted investment strategy to complete entire biking and walking routes will enable users to complete seamless biking and walking trips comfortably, safely, and efficiently.

Cities and counties in the Portland metropolitan region, in partnership with non-profit organizations and businesses, are currently developing proposed active transportation demonstration projects in response to a "call for demonstration projects" and Metro anticipates that over 25 project proposals will be submitted by August 14, 2008. From the pool of project submissions three projects – an urban, a suburban, and an urban to nature project – will be selected to be included in the TIGER Grant.

During its July 21, 2009 Council Work Session the Metro Council expressed interest in identifying and recommending three Active Transportation Pilot Projects to apply for the federal TIGER grant. The three categories that will be represented are:

1. A corridor operating within or adjacent to a single, urban "commute shed" with connections to housing and commerce.
2. A lower density area corridor, where biking and walking facilities are integrated with transit to become effective travel options.
3. An urban to nature corridor linking significant natural areas and attractions. All three projects would be developed with all supporting facilities, amenities, education and marketing.

**Attachment A**  
**Members of the Executive Council for Active Transportation**

Following are current members of the Executive Council for Active Transportation, which is being appointed to identify and recommend the three pilot projects for inclusion in the TIGER Grant.

Jonathan Nicholas  
Executive Council Chair  
Vice President  
Branding & Corporate Communications  
ODS

Jay Graves, CEO  
The Bike Gallery

Richard Kidd  
Mayor  
City of Forest Grove

Christopher Achterman, MD  
Legacy Joint & Bone Clinic  
Legacy Health System

Randy Miller  
Moore Co.

Eileen Brady  
Co-owner  
New Seasons Market

Lynn Peterson  
Chair  
Clackamas County Board of Commissioners

David Bragdon  
President  
Metro Council

Rick Potestio  
Architect

Scott Bricker  
Executive Director  
Bicycle Transportation Alliance

Dick Schouten  
Commissioner  
Washington County Board of Commissioners

Rex Burkholder  
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David Yaden  
past chair of the Blue Ribbon Committee for  
Trails

Nick Fish  
Commissioner  
City of Portland

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

None

### **2. Legal Antecedents**

Metro Code, Section 2.19.060 provides for the creation of Task Forces, which are Advisory Committees of limited duration

### **3. Anticipated Effects**

Executive Council members will be appointed to the Task Force and go through a five week process of recommending three active transportation grants. The Task Force recommendation will come forward for approval by the Metro Council at its meeting on Thursday, September 10, 2009.

### **4. Budget Impacts**

\$10,000 plus staff time and resources.

## **RECOMMENDED ACTION**

Council President David Bragdon recommends approval of resolution 09-4066 for the purpose of appointing members of the Executive Council to compose a Task Force to participate in identifying and recommending three active transportation pilot projects—one urban, one suburban, and one urban to nature—for the federal TIGER grant.