

Metro | Agenda

MEETING: METRO COUNCIL
DATE: August 5, 2010
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of Minutes for the July 22, 2010 Metro Council Regular Meeting.

4. ORDINANCES – FIRST READING

4.1 **Ordinance No. 10-1245**, Amending the FY 2010-11 Budget and Appropriations Schedule to Add 1.0 FTE for a Records and Information Analyst to Support the Oregon Zoo's Veterinary Unit and Satisfy the AZA Accreditation Requirements, and Declaring an Emergency

5. RESOLUTIONS

5.1 **Resolution No. 10-4173**, Authorizing the Chief Operating Officer to Purchase a Quitclaim and Release of Certain Real Property Interests, Partly In Exchange for Real Property Owned by Metro, in the Springwater Corridor Target Area TBD

6. CONTRACT REVIEW BOARD

6.1 Deliberation on Appeal by Hattenhauer Energy Co., LLC of Chief Operating Officer's Rejection of Initial Appeal Regarding Award of Contract for the Provision of Diesel Fuel for Solid Waste Transport Operations under Metro RFB No. 10-1564.

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for August 5, 2010 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 – Community Access Network www.tvctv.org – (503) 629-8534 2 p.m. Thursday, August 5 (Live)</p>	<p>Portland Channel 30 (CityNet 30) – Portland Community Media www.pcmv.org – (503) 288-1515 8:30 p.m. Sunday, August 8 2 p.m. Monday, August 9</p>
<p>Gresham Channel 30 – MCTV www.mctv.org – (503) 491-7636 2 p.m. Monday, August 9</p>	<p>Washington County Channel 30 – TVC-TV www.tvctv.org – (503) 629-8534 11 p.m. Saturday, August 7 11 p.m. Sunday, August 8 6 a.m. Tuesday, August 10 4 p.m. Wednesday, August 11</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television www.wftvaccess.com – (503) 650-0275 Call or visit website for program times.</p>

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

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office @ (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 Clerk of the Council to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 3.1

Consideration of Minutes for the July 22, 2010 Metro Council Regular Meeting.

Consent Agenda

Metro Council Meeting
Thursday, August 5, 2010
Metro Council Chamber

Agenda Item Number 4.1

Ordinance No. 10-1245, Amending the FY 2010-11 Budget and Appropriations Schedule to Add 1.0 FTE for a Records and Information Analyst to Support the Oregon Zoo's Veterinary Unit and Satisfy the AZA Accreditation Requirements, and Declaring an Emergency

ORDINANCES – FIRST READING
COUNCIL CARRIER TO BE DETERMINED

Metro Council Meeting
Thursday, August 5, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2010-11 BUDGET AND) ORDINANCE NO. 10-1245
APPROPRIATIONS SCHEDULE TO ADD 1.0 FTE)
FOR A RECORDS AND INFORMATION) Introduced by Michael Jordan, Chief
ANALYST TO SUPPORT THE OREGON ZOO'S) Operating Officer, with the concurrence of
VETERINARY DIVISION AND SATISFY THE) Council President David Bragdon
AZA ACCREDITATION REQUIREMENTS, AND)
DECLARING AN EMERGENCY)

WHEREAS, Metro Code chapter 2.02.040 requires Metro Council approval to add any new position to the budget; and

WHEREAS, the Metro Council has reviewed and considered the need to add FTE within the FY 2010-11 Budget; and

WHEREAS, the need for the additional FTE has been justified; and

WHEREAS, adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2010-11 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance to add 1.0 FTE to the Oregon Zoo to provide records and information support to the veterinary unit and satisfy the AZA accreditation requirements.
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 _____ 2010.

David Bragdon, Council President

Attest:

Approved as to Form:

Anthony Andersen, Recording Secretary

Daniel B. Cooper, Metro Attorney

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
<i>Personal Services</i>							
<i>SALWGE Salaries & Wages</i>							
5010	Reg Employees-Full Time-Exempt						
	Director	1.00	145,000	-	0	1.00	145,000
	Deputy Director	2.00	233,870	-	0	2.00	233,870
	Education Coordinator II	1.00	51,804	-	0	1.00	51,804
	Events Coordinator	1.00	56,064	-	0	1.00	56,064
	Manager I	1.00	77,801	-	0	1.00	77,801
	Manager II	3.75	327,324	-	0	3.75	327,324
	Program Analyst II	2.00	109,345	-	0	2.00	109,345
	Program Analyst III	1.00	71,190	-	0	1.00	71,190
	Program Analyst IV	1.00	66,305	-	0	1.00	66,305
	Program Supervisor II	2.00	152,196	-	0	2.00	152,196
	Project Coordinator	1.00	73,466	-	0	1.00	73,466
	Records & Information Analyst	-	0	1.00	42,770	1.00	42,770
	Registrar	1.00	51,804	-	0	1.00	51,804
	Research Coordinator II	1.00	66,305	-	0	1.00	66,305
	Senior Public Affairs Specialist	1.00	76,440	-	0	1.00	76,440
	Service Supervisor I	4.00	198,042	-	0	4.00	198,042
	Service Supervisor II	9.00	486,738	-	0	9.00	486,738
	Service Supervisor III	5.00	333,894	-	0	5.00	333,894
	Service Supervisor IV	1.00	72,807	-	0	1.00	72,807
	Veterinarian I	1.00	77,801	-	0	1.00	77,801
	Veterinarian II	1.00	92,998	-	0	1.00	92,998
	Volunteer Coordinator II	1.00	51,804	-	0	1.00	51,804
5015	Reg Empl-Full Time-Non-Exempt						
	Administrative Assistant III	1.00	45,039	-	0	1.00	45,039
	Administrative Specialist I	1.00	36,895	-	0	1.00	36,895
	Administrative Specialist II	1.00	40,612	-	0	1.00	40,612
	Administrative Specialist III	4.00	183,829	-	0	4.00	183,829
	Animal Keeper	30.00	1,459,500	-	0	30.00	1,459,500
	Custodian	6.00	257,972	-	0	6.00	257,972
	Education Coordinator I	2.00	103,524	-	0	2.00	103,524
	Gardener 1	7.00	327,838	-	0	7.00	327,838
	Maintenance Electrician	1.00	72,809	-	0	1.00	72,809
	Maintenance Lead	1.00	64,310	-	0	1.00	64,310
	Maintenance Technician	2.00	123,150	-	0	2.00	123,150
	Maintenance Worker 2	12.00	628,908	-	0	12.00	628,908
	Nutrition Technician	1.00	46,834	-	0	1.00	46,834
	Program Assistant 1	2.00	75,753	-	0	2.00	75,753
	Program Assistant 2	2.00	79,115	-	0	2.00	79,115
	Safety and Security Officer	4.00	149,606	-	0	4.00	149,606
	Senior Animal Keeper	6.00	318,960	-	0	6.00	318,960
	Senior Gardener	1.00	55,875	-	0	1.00	55,875
	Storekeeper	1.00	49,319	-	0	1.00	49,319
	Typist/Receptionist-Lead	1.00	36,874	-	0	1.00	36,874
	Veterinary Technician	2.00	97,300	-	0	2.00	97,300
	Volunteer Coordinator I	1.00	59,946	-	0	1.00	59,946
5020	Reg Emp-Part Time-Exempt						
	Assistant Public Affairs Specialist	0.63	35,971	-	0	0.63	35,971
	Associate Visual Communications	0.50	29,969	-	0	0.50	29,969
	Video/Photography Technician	0.50	28,548	-	0	0.50	28,548

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
5025	Reg Employees-Part Time-Non-Exempt						
	Animal Keeper-PT	1.50	72,975	-	0	1.50	72,975
	Clerk/Bookkeeper	0.75	28,031	-	0	0.75	28,031
	Food Service/Retail Specialist	3.90	160,483	-	0	3.90	160,483
	Lead Cash Office Clerk	0.85	33,331	-	0	0.85	33,331
	Nutrition Technician I	0.50	23,417	-	0	0.50	23,417
	Nutrition Technician II	0.50	24,325	-	0	0.50	24,325
	Program Assistant 1	0.75	30,459	-	0	0.75	30,459
	Program Assistant 2	0.75	33,575	-	0	0.75	33,575
	Security Officer I	0.50	16,746	-	0	0.50	16,746
	Veterinary Technician	0.50	24,325	-	0	0.50	24,325
	Visitor Service Worker 3-reg	0.85	27,119	-	0	0.85	27,119
5030	Temporary Employees		1,834,109		0		1,834,109
5040	Seasonal Employees		1,614,377		0		1,614,377
5080	Overtime		388,908		0		388,908
5089	Salary Adjustments						
	Merit Adjustment Pool (non-represented)		78,381		0		78,381
	Merit Adjustment Pool (LIUNA)		22,621		0		22,621
	Step Increases (AFSCME)		18,374		0		18,374
	COLA (represented employees)		62,758		0		62,758
	Other Adjustments (non-represented)		13,065		0		13,065
	Other Adjustments (AFSCME)		8,352		0		8,352
	Other Adjustments (Class & Comp Study)		131,957		0		131,957
<i>FRINGE</i>	<i>Fringe Benefits</i>						
5100	Fringe Benefits						
	Base Fringe (variable & fixed)		3,647,377		19,947		3,667,324
5190	PERS Bond Recovery		317,586		1,283		318,869
Total Personal Services		148.73	\$16,191,128	1.00	\$64,000	149.73	\$16,255,128
<u>Materials & Services</u>							
<i>GOODS</i>	<i>Goods</i>						
5201	Office Supplies		114,288		0		114,288
5205	Operating Supplies		1,409,242		0		1,409,242
5210	Subscriptions and Dues		56,154		0		56,154
5214	Fuels and Lubricants		133,000		0		133,000
5215	Maintenance & Repairs Supplies		388,100		0		388,100
5220	Food		1,333,720		0		1,333,720
<i>SVCS</i>	<i>Services</i>						
5245	Marketing		6,125		0		6,125
5240	Contracted Professional Svcs		1,370,952		0		1,370,952
5251	Utility Services		2,326,620		(64,000)		2,262,620
5255	Cleaning Services		39,600		0		39,600
5260	Maintenance & Repair Services		243,125		0		243,125
5265	Rentals		197,930		0		197,930
5280	Other Purchased Services		904,809		0		904,809
5290	Operations Contracts		1,835,709		0		1,835,709
<i>CAPMNT</i>	<i>Capital Maintenance</i>						
5262	Capital Maintenance - Non-CIP		327,000		0		327,000
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
5300	Payments to Other Agencies		83,535		0		83,535
5315	Grants to Other Governments		26,000		0		26,000

**Exhibit A
Ordinance No. 10-1245**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Oregon Zoo							
<i>OTHEXP Other Expenditures</i>							
	5445 Grants		20,000		0		20,000
	5450 Travel		91,185		0		91,185
	5455 Staff Development		43,020		0		43,020
	5490 Miscellaneous Expenditures		62,950		0		62,950
	Total Materials & Services		\$11,013,064		(\$64,000)		\$10,949,064
TOTAL REQUIREMENTS		148.73	\$27,204,192	1.00	\$0	149.73	\$27,204,192

Exhibit B
Ordinance 10-1245
Schedule of Appropriations

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
GENERAL FUND			
Communications	2,514,675	0	2,514,675
Council Office	3,496,913	0	3,496,913
Finance & Regulatory Services	3,358,417	0	3,358,417
Human Resources	1,836,807	0	1,836,807
Information Services	3,058,380	0	3,058,380
Metro Auditor	671,433	0	671,433
Office of Metro Attorney	2,012,886	0	2,012,886
Oregon Zoo	27,204,192	0	27,204,192
Parks & Environmental Services	6,942,305	0	6,942,305
Planning and Development	15,414,229	0	15,414,229
Research Center	4,631,745	0	4,631,745
Sustainability Center	5,470,794	0	5,470,794
Former ORS 197.352 Claims & Judgments	100	0	100
Special Appropriations	5,201,637	0	5,201,637
Non-Departmental			
Debt Service	1,529,472	0	1,529,472
Interfund Transfers	4,313,554	0	4,313,554
Contingency	3,478,646	0	3,478,646
Unappropriated Balance	13,191,950	0	13,191,950
Total Fund Requirements	\$104,328,135	\$0	\$104,328,135

*NOTE : No change in the appropriation schedule is necessary as a result of this amendment.
All appropriations remain as previously adopted*

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2010-11 BUDGET AND APPROPRIATIONS SCHEDULE TO ADD 1.0 FTE FOR A RECORDS AND INFORMATION ANALYST TO SUPPORT THE OREGON ZOO'S VETERINARY DIVISION AND SATISFY THE AZA ACCREDITATION REQUIREMENTS, AND DECLARING AN EMERGENCY

Date: July 19, 2010

Presented by: Joanne Ossanna 503-220-5705

BACKGROUND

The Oregon Zoo's veterinary division consists of two full-time veterinarians, two full-time veterinary technicians and one part-time hospital keeper who is also a veterinary technician. The division is responsible for the health of the animal collection which numbers over 1200; in addition they oversee the preventative health program for the Zoo's animal collection and 60 staff. Preventative health includes the annual staff TB testing, rabies serum titer checks, zoonotic training and animal exams. The veterinary division also oversees the animal nutrition program by managing the commissary which employs two full-time staff and one part-time animal nutritionist. They generate records from all animal procedures and treatments, veterinary supply purchases, animal food and bedding purchases and medical testing, and transports as well as other support tasks for the division.

During the American Zoo and Aquarium (AZA) accreditation inspection in 2004 the visiting team noted as a concern that there wasn't any clerical support assigned to the veterinary division. This concern came to the new Zoo Director's attention during a review of current staff. This issue needs to be addressed immediately, because the zoo will be inspected by the AZA accreditation team this month. Currently, the staff of the veterinary division must enter data into the medical records system (MedARKS), process purchase orders, write contracts and perform the duties of a medical records specialist, in addition to meeting the medical and nutritional needs of the animal collection.

The addition of this full-time Records & Information Analyst position will satisfy AZA accreditation requirements by providing the needed clerical and records support that is required for a veterinary department in an AZA accredited Zoo of this size and stature. This position will be responsible for data entry, filing, scheduling, coordinating animal shipments, processing purchasing card and purchase order information and general clerical support. These are just a few of the tasks this position will perform for not only the veterinary division but the living collections division as a whole. The addition of the Records & Information Analyst will allow for the veterinary staff to focus more intently on the care and well-being of the animal collection while ensuring the veterinary division is organized and functioning efficiently.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.450 provides for transfers of appropriations within a fund, including transfers from contingency, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget.

3. **Anticipated Effects:** This action authorizes the addition of 1.0 FTE full-time regular Records and Information Analyst at the Oregon Zoo to provide needed clerical and records support for the veterinary unit and to satisfy AZA accreditation requirements.
4. **Budget Impacts:** This ordinance provides for two actions:
 - a. Authorizes the addition of 1.0 FTE full-time regular Records & Information Analyst for the Oregon Zoo's veterinary division. The additional estimated impact on the General Fund in FY 2010-11 for salary and fringe benefits is estimated to be approximately \$64,000.
 - b. Authorizes the budget transfer of \$64,000 from the Oregon Zoo's water utility budget to personal services to provide budget authority for the new position. This reduction in the water utility budget is possible due to the cost savings realized from conservation efforts and significant repairs of water lines.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of this Ordinance.

Agenda Item Number 5.1

Resolution No. 10-4173, Authorizing the Chief Operating Officer to Purchase a Quitclaim and Release of Certain Real Property Interests, Partly In Exchange for Real Property Owned by Metro, in the Springwater Corridor Target Area

RESOLUTIONS
COUNCIL CARRIER TO BE DETERMINED

Metro Council Meeting
Thursday, August 5, 2010
Metro Council Chamber

BEFORE THE METRO COUNCIL

AUTHORIZING THE CHIEF OPERATING) RESOLUTION NO. 10-4173
OFFICER TO PURCHASE A QUITCLAIM AND)
RELEASE OF CERTAIN REAL PROPERTY) Introduced by Chief Operating Officer
INTERESTS, PARTLY IN EXCHANGE FOR) Michael Jordan with the concurrence of
REAL PROPERTY OWNED BY METRO, IN) Council President David Bragdon
THE SPRINGWATER CORRIDOR TARGET)
AREA)

WHEREAS, in July 1992, via Resolution No. 92-1637 (“For the Purpose of Considering Adoption of the Metropolitan Greenspaces master Plan”), the Metro Council adopted the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails; and

WHEREAS, in May 1995 Ballot Measure 26-26 was approved, authorizing Metro to issue \$135.6 million for bonds for Open Spaces, Parks and Streams (the “1995 Open Spaces Bond Measure”); and

WHEREAS, on July 25, 1996, via Resolution 96-2362, the Metro Council adopted a refinement plan for the OMSI to Springwater Corridor target area with objectives to “acquire land and easements to connect the OMSI to the Sellwood Bridge greenway to the existing Springwater Corridor Trail” and “provide the opportunity to develop a mostly off-street trail connection between OMSI and the Springwater Corridor”; and

WHEREAS, on December 19, 2001, Metro acquired five parcels of land for trail purposes located within the trail corridor designated in the OMSI to Springwater Corridor Target Area Refinement Plan (the “Metro Parcels”). Said parcels were also identified as “essential acquisitions” in presentations made by staff to the Metro Council in December 1999 and September 2001 where the expenditure of remaining bond funds was reviewed in detail. The Metro Parcels are encumbered by a railroad easement held by the Oregon Pacific Railroad Company (the “OPRR”) and the purchase was part of a larger purchase from the Union Pacific Railroad and authorized by Resolution No. 01-3134 “For the Purpose of Authorizing the Executive Officer to Purchase Property in the OMSI to Springwater Corridor Target Area”; and

WHEREAS, on March 9, 2006, the Metro Council adopted Resolution No. 06-3672B, “For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection,” recommending submission for voter approval a general obligation bond to preserve and protect natural areas, clean water, and fish and wildlife (the “2006 Natural Areas Bond Measure”); and

WHEREAS, in June 2006, Metro and Alta Planning + Design completed a report with graphics titled the “Springwater Missing Gap” describing the optimal alignment to connect the built trail segments, resulting in a recommendation for a rail-with-trail shared-use path; and

WHEREAS, on March 1, 2007, the Metro Council adopted Resolution No. 07-3766A “Authorizing the Chief Operating Officer to Purchase property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan” which included acquisition parameters for a pre-approved set of criteria under which the Chief Operating Officer and his/her designees are authorized to negotiate and complete land acquisition transactions; and

WHEREAS, on September 6, 2007, the Metro Council adopted Resolution No. 07-3841, “Approving the Natural Areas Acquisition Refinement Plan for the Springwater Corridor Target Area” (the “Refinement Plan”), with a goal to “Complete the 1-mile corridor between the existing Springwater on the Willamette Trail and Three Bridges project at Southeast 19th Avenue in Portland east through Milwaukie and Gresham to Boring”; and

WHEREAS, because the trail alignment recommended in the Springwater Missing Gap report and the Refinement Plan is within an operating railroad corridor it is necessary to acquire the rights to build a trail within the corridor from the railroad operator and easement holder, the OPRR; and

WHEREAS, in November 2009, Metro commissioned an appraisal on the portion of the rail corridor running through the Metro Parcels and used the appraisal to estimate value on other sections of the rail corridor for use in negotiating with the OPRR; and

WHEREAS, Metro staff have negotiated agreements with the OPRR (the “Agreements”) wherein Metro will reimburse the OPRR to relinquish its rights through a portion of the trail corridor, which transaction requires Metro Council approval under the Work Plan; and

WHEREAS, the Agreements also contain a commitment by Metro to fund certain railroad street-crossings and track improvements to reduce the likelihood of train derailments, to make the railroad crossings as safe as possible for trail users, and to facilitate future trail construction, which commitment requires Metro Council approval, as it will be partially funded using 2006 Natural Areas Bond Measure funds; and

WHEREAS, the Agreements also provide for the sale to the OPRR of an approximately 5,000 square foot portion of one of the Metro Parcels adjacent to the rail line, further described in Exhibit A to this Resolution (the “Linn Street Property”), requiring the Metro Council to declare such property as surplus and authorize its sale; and

WHEREAS, the nature of the compensation and other terms of the Agreements for OPRR to quitclaim its railroad use rights represent unusual circumstances under the 2006 Natural Areas Implementation Work Plan, and therefore require Metro Council approval; and

WHEREAS, the successful completion of the Agreements is in the public interest as it facilitates construction of an important segment of the Springwater Corridor Trail, one of the most heavily used bicycle and pedestrian trails in the Metro region; now therefore

BE IT RESOLVED that the Metro Council (a) concludes that the Linn Street Property, as described in Exhibit A, is not needed for public use and that the public interest will be furthered by its sale and (b) hereby authorizes the Chief Operating Officer to proceed with the property transaction that Metro has executed with OPRR, subject to unusual circumstances, which provides for OPRR to quitclaim and release certain of its railroad use rights to allow for future trail construction between Southeast Umatilla Street and Southeast 13th Avenue and to undertake certain street crossing and other railroad improvements, in return for compensation from Metro to include Metro's payment for such railroad improvements and Metro's transfer of the Linn Street Property to OPRR.

ADOPTED by the Metro Council this _____ day of August, 2010.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Exhibit A
Metro Property Legal Description

PARCEL V:

All of Lot 6, a portion of Lots 5, 9 and 10, Block "O", and all of Lots 7 and 8, and a portion of Lots 6 and 9, Block "P", TOWN OF SELLWOOD, TOGETHER WITH a portion of East 12th Street, now vacated, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at the Northwest corner of said Block "O", running thence South on the East line of SE 11th Avenue, 200 feet to the Northwest corner of Lot 5; thence South on the same line 9.87 feet to a point being 147.55 feet North of an iron pipe marking the Southwest corner of Block "O", said point also being the true point of beginning of the tract herein to be described; thence Southeasterly across Lots 5, 10 and 9 of Block "O", East 12th Street vacated, and part of Lot 6 of Block "P", on a curve with a radius of 1,879.53 feet, which is approximated by the following chords; South 72° 29' 10" East 50 feet; South 74° 00' 30" East 50 feet; South 75° 32' 00" East 50 feet; South 77° 03' 30" East 50 feet; South 78° 35' 00" East 50 feet; South 79° 54' 30" East 36.95 feet, a distance of 286.95 measured on the curve to a point on the Westerly extension of the South wall of the Sellwood Carhouse; thence East on said extension and wall across Lots 6 and 9 of Block "P", 171.73 feet to the West line of SE 13th Avenue; thence South along the West line of SE 13th Avenue to the Southeast corner of Block "P"; thence West along the South lines of Blocks "P" and "O", to a point in the center of vacated East 12th Street; thence North along the center of vacated East 12th Street to the Easterly extension of the North line of Lot 8, Block "O"; thence West along the Easterly extension of the North line of said Lot 8, and along the North line of Lots 8 and 7 of Block "O", to the West line of said Block "O"; thence North along the West line of said Block "O" to the point of beginning.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 10-4173, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE A QUITCLAIM AND RELEASE OF CERTAIN REAL PROPERTY INTERESTS, PARTLY IN EXCHANGE FOR REAL PROPERTY OWNED BY METRO, IN THE SPRINGWATER CORRIDOR TARGET AREA

Date: August 5, 2010

Prepared by: Hillary Wilton
503-797-1845

BACKGROUND

The Springwater Corridor is the southeast segment of the 40-Mile Loop Trail, which was inspired by John Charles Olmsted's 1903 plan for a parkway and boulevard loop connecting park sites in the Portland area. Its proposed route stretches from downtown Portland and continues southeast through the Sellwood neighborhood, through Gresham toward Damascus and Boring. In the past decade, great strides have been made in creating multi-use trail segments in the Springwater Corridor nearer to the Portland downtown core area. The OMSI to Springwater Corridor was a target area in Metro's 1995 Open Spaces, Parks and Streams bond measure and bond funds contributed \$1,360,000 toward trail acquisition. Those funds were leveraged by funds spent by the City of Portland for trail construction. The Springwater Corridor's "Three Bridges" project, funded by federal transportation funds, was completed in Fall 2006 with the construction of bridges over McLoughlin Boulevard, the Southern and Union Pacific railroads and Johnson Creek.

The remaining unbuilt portion of the trail in the Portland core area, known as the Sellwood Gap, extends south from the Sellwood Bridge and Southeast Umatilla Street to Southeast 19th Avenue to connect with the Three Bridges portion of the Trail. Trains have been operating along this corridor for at least 100 years and currently the Oregon Pacific Railroad Company (the "OPRR") has rights to operate freight and recreational passenger (SamTrak) trains along the Sellwood Gap. In June 2006, Metro and Alta Planning + Design ("Alta") completed a report about the unbuilt portion of the Springwater Corridor Trail titled, "Springwater Missing Gap - Linking the Springwater on the Willamette to the Springwater Corridor Trail," breaking the Gap into ten sections and detailing placement, construction and issues of constructing the trail and the existing railroad use in the right-of-way down to the level of relocating utility poles and road/train/trail intersection concerns.

The 2006 Natural Areas bond measure includes the Springwater Corridor as a target area and the Refinement Plan goals and objectives focus entirely on acquiring "property necessary to complete the one-mile corridor gap between the existing Springwater on the Willamette trail and the Three Bridges project on Southeast 19th Avenue in Portland" (the "Sellwood Gap"). In June 2009, Alta prepared an updated report ("2009 Alta Report") on the Sellwood Gap, in which they interviewed stakeholders such as representatives from the City of Portland's Bureau of Environmental Science, Bureau of Transportation, and Parks and Recreation Department; the Oregon Department of Transportation (ODOT); ODOT Rail; TriMet; the owner of the OPRR; and Metro. This 2009 Alta Report identified current challenges and opportunities, funding sources, safety issues and necessary steps to a finished trail. Collectively, the studies mentioned here have been the guidelines in negotiations between Metro staff and the OPRR.

Trail Corridor Description

There are four distinct sections of the gap area and proposed trail corridor in the Southeast Portland Sellwood neighborhood that, if acquired and built, would close this critical gap to create a continuous corridor of approximately 20 miles of off-street trails for bikes and pedestrians. Two of the four sections

are highlighted in Attachment 1. Section 1 on the attached map is a three block area that starts where the completed Springwater Trail (the "Trail") terminates south of the Sellwood Bridge, roughly from Southeast Umatilla to Southeast Clatsop Streets. It runs through an unimproved section of the Southeast Grand Avenue street right-of-way parallel to a rail line operated by the OPRR. Section 2 follows the rail route through five residential blocks partially owned by Metro, and across the intervening street right-of-way, from Southeast Clatsop to Southeast 13th Avenue at a point known as Golf Junction. The OPRR has an easement across the Metro parcels in this section. Section 3 continues east from Golf Junction following the unimproved Southeast Ochoco Street right-of-way until Southeast 17th Avenue. Section 4 follows along Southeast Ochoco Street for one block from Southeast 17th Avenue to join the existing trail at Southeast 19th Avenue, leading to the Three Bridges portion of the trail.

The right-of-way in Sections 1 through 3 is currently used by the OPRR for rail freight and chartered excursions. In Section 1, the OPRR has a single track rail line and maintains that it has the right to build and operate a parallel second track in the right-of-way. The OPRR's rights originated with a 1902 railroad franchise. Currently, the exact rights of the OPRR to build and operate a second track in the Section 1 right-of-way are uncertain, although there are other areas in the Sellwood Gap portion of the rail right-of-way that have spur lines where a second track would be placed. Therefore, the matter of constructing a trail in the same right-of-way as a potential second rail line leads to the issue of just compensation to the OPRR for permanently depriving it of the ability to construct and use the second rail line.

Agreements between Metro and OPRR

Metro staff and OPRR have entered into two agreements (the "Agreements") that will result in a relinquishment by OPRR of its rights to a portion of the Springwater Corridor in Sections 1 and 2, permitting the continuation of the Springwater Trail (the "Trail") from Southeast Umatilla Street to Southeast 13th Avenue. The OPRR has agreed to relinquish its rights to an area defined as everything south and west of a line that is parallel to and nine feet southwest of the centerline of its existing rail road track. Metro attempted to obtain the rights for the continuation of the Trail through Section 3, but the owner of the OPRR was not willing to negotiate for a sale of rights along that segment at this time. Section 4 of the Sellwood Gap is controlled by a different property owner. In addition to monetary compensation for OPRR to relinquish its easement and other rights to expand its railroad operations, the Agreements also provide for Metro (a) to pay OPRR to make certain safety-related improvements to the railroad street crossings within those segments, and (b) to transfer to OPRR an approximately 5,000 square foot portion of the Metro property located at the corner of Southeast Linn Street and Southeast 10th Avenue (the "Linn Street Property").

Acquisition of Easement Rights

For the acquisition of trail segments where it is anticipated that federal funds may be used for trail construction, Metro is following the Federal right-of-way acquisition guidelines. Metro obtained an appraisal on Section 2 that calculated the area (by square feet) of the OPRR easement that OPRR would need to quitclaim in order to allow trail development. The appraiser then valued that area and concluded a value of \$20.93 per square foot of the easement area based on the worth of the adjacent residential land of \$23.25 per square foot (concluding that the value of the easement was 90% of fee value), for a total value of \$269,200 for 12,860 square feet of quitclaimed easement area. Following the federal guidelines for acquisition of trails wherein federal funds may be used, Metro made an offer for the appraisal amount to OPRR to relinquish that portion of its easement through the five residential blocks in the section. In the course of subsequent negotiations, the value per square foot figure was then used to extrapolate the value of OPRR's rights to operate its railroad within the right-of-way in Section 1, but discounted the value by 25% from fee value to account for the fact that OPRR's legal rights in Section 1 are somewhat more diluted than its easement rights in Section 2. Metro calculated the equivalent area to be quitclaimed

within Section 1 to be 20,000 square feet, at a negotiated value of \$17.4375 per square foot, for a total of \$348,750. The owner of the OPRR has agreed to this valuation of its rights and has accepted Metro's total offer of \$617,950.

Improvements to Street/Railroad Tracks/Future Trail Intersection Areas

When the trail is expanded between its current terminus and Southeast 13th Avenue (at "Golf Junction"), the new trail will increase bicycle traffic across four intersections to access the trail (Southeast Marion Street, Southeast Linn Street, Southeast 11th Avenue, and Southeast 13th Avenue). In addition, the new trail will need to cross a set of railroad spur tracks at Golf Junction, and several other track changes will be necessary to accommodate the trail, such as moving the locations of some other spur tracks and switches. In order to ensure the greatest degree of safety possible where bicycle traffic will cross the railroad tracks, the Agreement includes a commitment to enter into a separate contract with OPRR to provide \$358,292 for such railroad improvements, in order to prevent possible train derailments and to make the railroad crossings as safe as possible for trail users (the "Public Contract for Railroad Improvements"). These improvements were contemplated in the 2006 and 2009 Alta Reports noted above and Metro staff have identified the availability of \$210,000 from a grant from the Portland Bureau of Environmental Services, resulting in a contribution of \$148,292 from Metro for the construction work.

Sale of Metro Property

The negotiated Agreements between Metro and OPRR include an agreement for Metro to sell the Linn Street Property to OPRR for \$75,000 (to be subtracted from Metro's total compensation described above, such that Metro's total payments to OPRR will be \$691,242 plus the Linn Street Property, including Metro's portion of the payment for the railroad improvements described above). OPRR has told Metro staff that it intends to use the triangular site for the purpose of constructing a railroad office accessory building, though the future use of the site is not a condition of the Agreements between Metro and OPRR.

The Linn Street Property, adjacent to the existing rail line between Southeast Linn Street and Southeast 10th Avenue, next to Section 2 on the attached map, is an approximately 5,000 square foot triangular portion of a 25,000 square foot lot (the "Metro Parcel") that Metro acquired from the Union Pacific Railroad Company in 2001 as part of Metro's acquisition of five blocks along the OPRR railroad line. The Metro Parcel is encumbered by the OPRR easement, and OPRR's single set of railroad tracks crosses the property. The Metro Parcel has been managed by the City of Portland under an Intergovernmental Agreement. Because the Metro Parcel is currently a single tax lot, a partition of the property must be approved by the City before it can be sold to OPRR. This part of the transaction, therefore, will not be completed until OPRR's quitclaim of its easement rights has been recorded.

Metro acquired the Metro Parcel in order to facilitate the construction of the Springwater Corridor Trail. As discussed herein and shown on the attached maps, the trail will be located to the west and south of the OPRR railroad tracks. The Linn Street Property is on the northeast side of the railroad tracks. Neither Metro nor the City had developed any particular plans to use or develop that portion of the Metro Parcel. Metro staff believes that the Linn Street Property is not needed for public use and that the public interest will be furthered by its sale as part of this transaction.

The Agreements require the approval of the Metro Council for several reasons. This transaction is not a standard property acquisition, as it involves compensation in return for the quitclaim and release of certain easement and other use rights within both Metro-owned property and public right-of-way. The compensation for such rights includes the appraised value for certain rights, and a negotiated value for other rights, based on that appraisal. The Agreements also include Metro's commitment to fund certain safety-related railroad crossing and track improvements. The nature of the compensation for OPRR to quitclaim its railroad use rights therefore represent unusual circumstances under the 2006 Natural Areas

Implementation Work Plan. In addition, the sale of Metro-owned property also requires Council approval.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to this Resolution No. 10-4173.

2. Legal Antecedents

The voters' approved Metro's 2006 Natural Areas Bond Measure at the general election held on November 7, 2006.

Resolution No. 07-3766A, "Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan," was adopted by the Metro Council on March 1, 2007, and established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

Resolution No. 07-3841, "Approving the Natural Areas Acquisition Refinement Plan for the Springwater Corridor Target Area," was adopted by the Metro Council on September 6, 2007.

ORS 271.310(1) authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is "not needed for public use, or whenever the public interest may be furthered."

Metro Code section 2.04.026(a)(2) requires that the Chief Operating Officer obtain the authorization of the Metro Council in order to sell real property owned by Metro.

3. Anticipated Effects

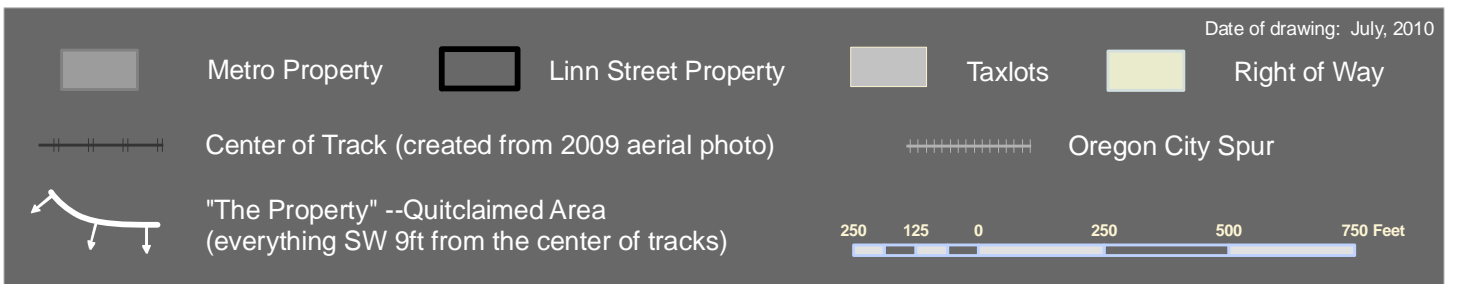
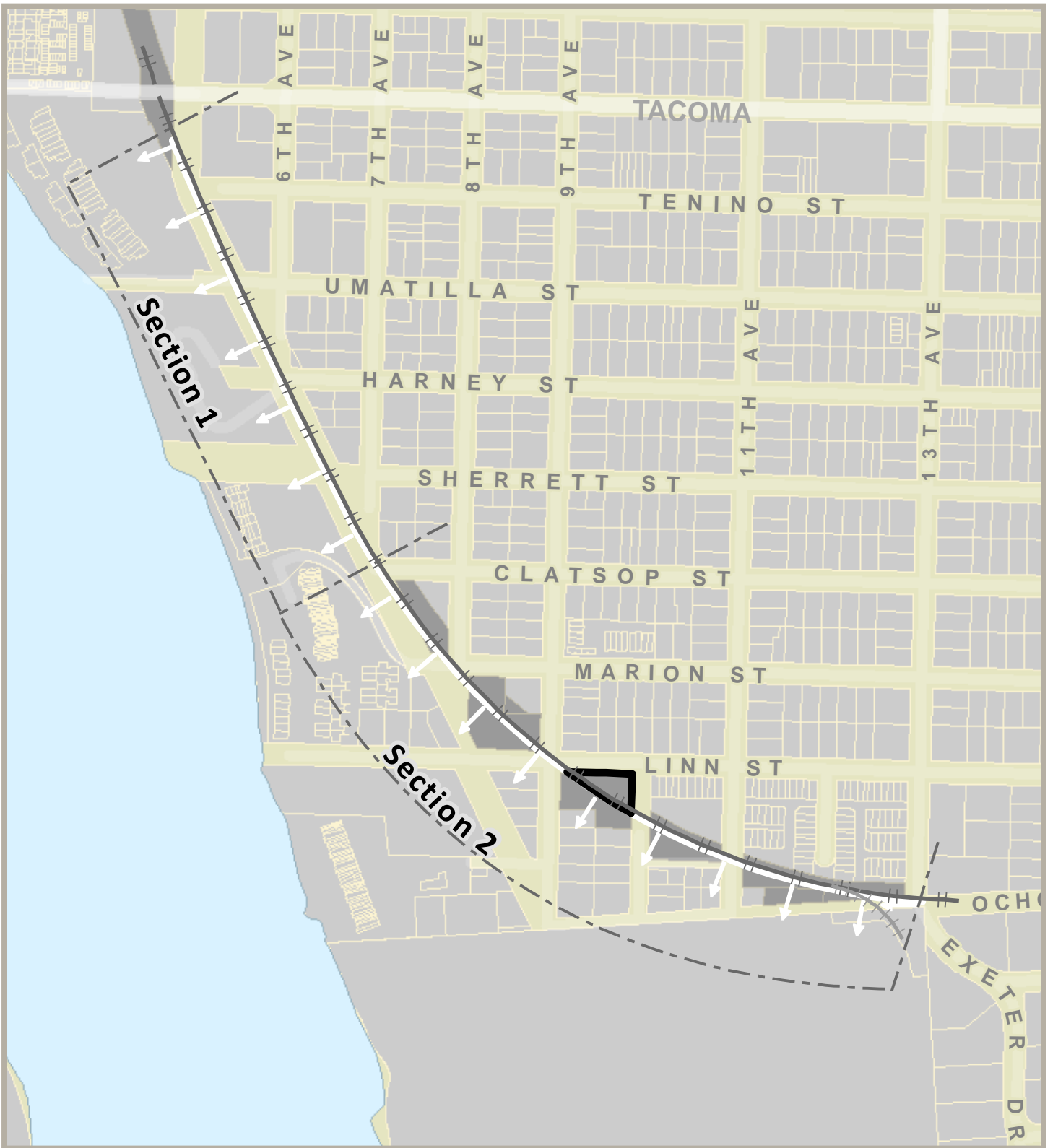
OPRR will quitclaim and release all of its rights to use any portion of the public right-of-way and Metro-owned properties that is more than nine feet from the centerline of its current railroad tracks between Southeast Tacoma Street and Southeast 13th Avenue, which will allow for the City of Portland to construct a new portion of the Springwater Corridor Trail between Southeast Umatilla Street and Southeast 13th Avenue. OPRR will undertake certain street crossing and other railroad improvements to allow for trail construction and improve the safety of the street crossings for trail users. The Linn Street Property will be declared surplus and not needed for public use, and will be sold to OPRR.

4. Budget Impacts

Metro will fund this transaction, including compensation to OPRR in return for its quitclaim and release of a portion of its railroad use rights and for its construction of safety-related improvements under the terms of the Public Contract for Railroad Improvements, using 2006 Natural Areas Bond Measure regional-share proceeds. The sale of the Linn Street Property will partially offset Metro's compensation to OPRR.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 10-4173.



Agenda Item Number 6.1

Deliberation on Appeal by Hattenhauer Energy Co., LLC of Chief Operating Officer's Rejection of Initial Appeal Regarding Award of Contract for the Provision of Diesel Fuel for Solid Waste Transport Operations under Metro RFB No. 10-1564.

Metro Council Meeting
Thursday, August 5, 2010
Metro Council Chamber