



Meeting: Natural Areas Program Performance Oversight Committee
Date: December 8, 2009
Time: 7:30 to 10:30 a.m.
Location: Metro Regional Center, Council Chambers

7:30 to 7:35	Welcome	Peter Krainock
7:35 to 7:55	Natural Areas Audit	Metro Auditor Suzanne Flynn
7:55 to 8:00	Natural Areas ethics letter	Paul Garrahan
8:00 to 8:15	Natural Areas program updates	Kathleen Brennan-Hunter
8:15 to 9:15	Capital Grants	Kathleen Brennan-Hunter
9:15 to 9:25	Break	
9:25 to 10:30	Annual report	Peter Krainock
10:30	Adjourn	

Coffee, pastries and fruit will be provided

Validated parking is available in parking structure accessed from Northeast Irving Street Please have parking ticket validated at Metro reception desk as you leave



Natural Areas Program Performance Oversight Committee

December 8, 2009

Committee members in attendance: Dean Alterman, Bridget Cook, Linda Craig, Christine Dupres, John Esler, Dave Evans, Helena Huang, Don Jones, Peter Krainock (Committee Chair), Cindy Maher, Tricia Martin, Segeni Mungai, David Pollock, Steve Yarosh

Committee members excused: Rocky Dixon, Kay Hutchinson, Anil Krishnamurthy, Jacquenette McIntire, Norman Penner, Dietra Stivahtis

Metro management: Council President David Bragdon, Councilor Kathryn Harrington, Kathleen Brennan-Hunter, Jim Desmond

Metro staff: Tim Collier, Paul Garrahan, Marybeth Haliski, Heather Kent, Kristin Lieber, Mary Rose Navarro, Laura Oppenheimer Odom, Pam Peck

Guests: Todd Alsbury, Nancy Jerrick, Sue Marshall

Welcome

Peter Krainock welcomed the committee and thanked them for coming. He introduced Nancy Jerrick, who will again write the committee's annual report. Nancy will meet with committee members individually in the coming weeks to get their feedback on the program.

Natural Areas program audit

Kristin Lieber, senior management auditor, briefly discussed the 2007 audit of the Natural Areas program and indicated that the auditor's office is currently preparing a follow-up audit. She distributed a brief survey asking for the committee's feedback and comments relating to the Natural Areas program (attached).

Natural Areas program ethics letter

Paul Garrahan, Senior Attorney, discussed the November 2009 letter from the Metro Attorney to David Bragdon and Michael Jordan summarizing ethical responsibilities for everyone involved in the Natural Areas program. This letter is distributed to all employees who work on the program, as well as Metro's public officials. "Public officials" include all appointed committee members. Paul asked that members read the letter, sign the last page and return it to the Metro Attorney's office. Questions can be directed to Paul or to the Oregon Ethics Board. Paul asked that everyone sign the letter, even those members who may have signed it previously, as there have been recent changes to the ethics law.

Program updates

Kathleen Brennan-Hunter introduced Pam Peck, communications manager and Laura Oppenheim Odom, the new Natural Areas communications coordinator. Kathleen noted that former communications coordinator Heather Kent has taken a new position managing the Nature in Neighborhoods program.

Kathleen discussed two property acquisitions since the last meeting. The Pratt property is located in the Clackamas River Bluffs target area, where Metro and partners are hoping to acquire enough land to open a future regional park. The other property is adjacent to the Cazadero Trail in the Deep Creek target area, and is

the first acquisition in that target area. Another property, in the Sandy River target area, just closed on Dec. 4 and the closing memo will be distributed soon. Kathleen expects this will be the final acquisition of the year. She also indicated that staff will soon schedule tours of some of Metro's recent acquisitions.

Kathleen reminded the committee that, in order to protect confidentiality, pending acquisitions are usually not discussed with the public until they are final. However, there is a large and very special acquisition that will be discussed at the Dec. 10 Metro Council meeting and she wanted the committee to know that there may be some press about the matter. (Due to those same confidentiality issues, Kathleen could not provide the committee with additional details about the acquisition.) Kathleen will update the committee in the future.

Capital Grants program

Kathleen introduced Capital Grants Committee member Todd Alsbury, and added that Helena Huang is also a member of the committee. Kathleen presented a slideshow detailing the program's objectives, processes and the grant awards to date (see attached). She reported there has been an increase in the number of applications each reporting cycle, in part due to improved outreach. Sue Marshall added that the community is also more informed about the application process because the program has already been through two award cycles and the criteria is becoming more defined. Kathleen indicated the geographic distribution of applications is more equitable this round.

Discussion was held about the grant awards and whether there is a funding limit each year and if any unspent funds are carried over to the next funding cycle. According to the bond measure, the expenditure of funds is limited to no more than 15% of the total program amount in any given year (\$2.25 million). Peter inquired if additional funds are available if there are multiple deserving applications. Sue replied that in this situation the committee would present the matter to the Metro Council for a determination. The committee strives to fund the projects that best match the program criteria. Peter asked if \$2.25 million is an appropriate funding level or if it is too restrictive. Sue feels it is the appropriate amount at this time. She noted it creates competition among applicants, thereby increasing the quality of the proposals. The grants committee will review the matter if the number of applications considerably increases. Peter asked Council President Bragdon if he felt the Council would be flexible if requested to increase the program's funding level. President Bragdon replied that he was comfortable with how the program has evolved, but that it must continue to be driven by the criteria set out in the bond legislation. Councilor Harrington added that the interplay between the capital grants committee and the Metro Council is positive and felt the Council could make adjustments to the program as needed, based on how those changes would benefit the community.

Bridget Cooke asked what assurance Metro has that the grantee will complete and maintain the project once it receives funding. Sue indicated that the committee reviews the applicant's proposed management plan, assesses match partners, etc. to determine long term commitment.

Kathleen shared new performance measures for the capital grant program, formulated by members of both the oversight and capital grant committees. Brief discussion was held about the various criteria; David Pollock suggested more "output"-based measures. Kathleen said she may add a qualitative review of staff work as an additional performance measure. Steve Yarosh asked if the money is tracked once it is awarded to the applicant (i.e., payments to contractors). Kathleen said it is not formally tracked, but staff often knows due to the in-kind contributions listed in the application. Todd Alsbury added that the committee scrutinizes each project's budget to ensure costs are legitimate and not inflated. Kathleen will refine the performance measure criteria and distribute it to the committee.

Annual report

Peter recalled the areas identified by the committee in the 2008 report where the committee and Metro should direct their attention:

1. Strive for equitable distribution
2. Strengthen outreach
3. Learn from every contact
4. Develop additional tools and metrics
5. Think big

He added that President Bragdon also asked the committee to review capital grants program criteria, ensure appropriate overhead and staffing levels, and evaluate the current economic climate as it relates to land acquisition and the real estate market.

Peter asked for the committee's observations on the capital grants program regarding its effectiveness and progress made over the past year. Committee comments included:

- David Pollock – A terrific example of a diverse group of people focused on achieving the program's goals. Progress is being made. Momentum is building and the program seems to be heading in the right direction. Staff is doing an excellent job.
- Linda Craig – Encouraged by committee members and staff feeling that the increased level of outreach has been effective and as a result there are now several applications from Washington County.
- Segeni Mungai – People are applying for the grants, which is a very positive reinforcement of Metro's goals. Feels equitable distribution is getting better, staff has done a lot in outreach.
- Helena Huang – Was initially concerned that some of the criteria was confusing and felt the 2:1 match was too much, but now feels the program has turned the corner and appreciates the flexibility shown by staff.
- Christine Dupres – Still concerned about equity, and feels tacit approval has been given to organizations that have more access to grant administration and funding. Finding ways to access other organizations through expanded outreach should continue to be a priority.
- Tricia Martin – Concerned with outreach and equity, but is encouraged by smaller projects such as the one proposed by Buckman School.
- Sindy Maher – The committee seems to be staffed appropriately, and members have appropriate backgrounds. Adding someone who has perspective on how lenders follow up on projects may benefit the committee.
- Steve Yarosh – Impressed overall with Metro's commitment and expertise, including the capital grant committee members. Thinks the program is a fantastic model – models the foundation style, how it requires commitment from the participants, thinks there are opportunities to enhance the program via contractor choice etc. Kathleen is doing an excellent job leading the program.
- John Esler – Appreciates staff working with non-traditional applications to develop proposals to meet the program's criteria.
- Dean Alterman – Staff should continue outreach to solicit applications. Suggests posting "winning" applications on the website to help future applicants and other granting organizations know that the program is available.
- Peter Krainock – Had numerous concerns about the program, thought it was struggling and seemed to cause the greatest anxiety among staff. Wondered if the structure was appropriate, and if the 2:1 match was the correct ratio. Feels there has been progress, and sees momentum with more applications this year. Concerned that there is sufficient flexibility to ensure projects can go forward because of the \$2.25 million award cap per year. Noticed staff's willingness to learn and grow and their pursuit of excellence. Enthusiasm is very encouraging and is contagious. Outreach is clearly a concern and communication is a never-ending process.

Peter said the public may assume that acquiring property would be very easy during the economic downturn, but that is not necessarily the case. He asked how the economic crisis affected negotiations. Kathleen indicated staff are targeting specific properties due to the quality of habitat and not pursuing the type of properties commonly on the market. She agreed that the negotiators have had to initiate more conversations

with land owners in recent months. The successful acquisitions over the past year reflect the staff's talent and commitment. John Esler agreed the public is holding onto land right now and that successful sales are due to good negotiating. He said the public wants to receive the same money they would have received several years ago. He asked if Metro has found that its purchase power is driving up the market. Jim Desmond responded that although Metro is conscious of the potential for that, he has not seen any evidence of it. Cindy Maher also agrees that the public perception of the acquisition process is unfair. If anything, it has probably been more difficult as appraisals have gone down over past year. Metro's is a different market than housing or retail. John Esler asked if the public is resistant to selling to a government agency. Kathleen replied there is some initial resistance, but it usually dissipates when the seller talks to the negotiators and learns Metro's plans to steward the property. John Esler noted the challenge of ongoing maintenance for the properties. Jim Desmond believes the purchases are on track with the program's overall acquisition goal and does sense any public angst that the market has hindered the program.

Peter asked if Metro learned from every contact this year. Kathleen said yes, and that recommendation has led the team to discuss their potential contracts more actively, and learn from those that didn't work out.

Peter asked if staffing is at an appropriate level. He feels if overhead is less than 5% than the program is either understaffed or a very efficient team is in place. Kathleen feels the staffing level is appropriate, although she agrees there are probably a few areas that could use extra help, i.e. stabilization. Jim Desmond added that he would split the staff into two sections. The negotiators and legal team is one group, and he feels the staffing level is appropriate. The support element (secretarial, database, communications, finance, etc.) could be increased, but he is hesitant to create a "golden" program in one sector, when other divisions at Metro have much less staff.

Linda Craig asked if there was any vulnerability in allocating staff costs and what guidelines exist on how direct staff costs are allocated. Kathleen replied that staff costs are allocated by job function. For instance, Jim Desmond, as department director, is allocated to administrative costs, but Kathleen, as the program's director, is allocated half to administrative and half to acquisition costs. Linda said that in this economy, when the private sector is hurting in so many ways, the fact that the program is right-sized is a gift.

Peter asked Kathleen what her greatest challenge is for the next year. Kathleen replied that she will keep pushing on the target areas that have been difficult to break into, as well as making sure staff continues to be reflective and strategic in making choices going forward.

Peter asked for an example of how Metros has "thought big" in the last year. Kathleen replied that the Intertwine initiative is a good example of Metro working more strategically and collaboratively with its partners and the public.

David Pollock would like to see a dashboard at every meeting of the program's progress to date – a big look at Tier I and Tier II acquisitions, etc.

Peter noted that the next year will be interesting as President Bragdon completes his final year as Metro president. Jim Desmond said the bond measure was tightly written and he is confident that the program will progressively grow, even with a change in leadership. He said the bigger question is how to take care of the land in the future. President Bragdon has been such a champion of the program and it is not a given that the next president will feel that way. Jim suggested Peter may want to eventually meet with the president-elect about long term funding to make good on the bigger promise to the public about protecting the land.

Adjournment

The meeting adjourned at 10:30 a.m.

2009 Follow-up Audit Survey

Office of the Metro Auditor

Suzanne.Flynn@oregonmetro.gov

(503) 797-1891

The Metro Auditor issued a report on the Natural Areas Program in October 2007. At that time, the Natural Areas Program Performance Oversight Committee had recently held its first meeting. As part of our follow-up to the 2007 audit, we would like your feedback on the committee's effectiveness.

Please take a moment to complete this survey. Thank you for giving us your input.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
The committee's role and responsibilities are clear.					
The committee has access to information it needs.					
The committee has sufficient staff support and resources to do its job.					
The committee is an appropriate size.					
Committee members have sufficient expertise to provide oversight.					
I am able to be an effective committee member.					
Please comment on any statements where you disagree:					
Additional comments:					

Name (Optional): _____



Metro | Office of Metro Attorney

November 13, 2009

David Bragdon
Metro Council President
600 N.E. Grand Avenue
Portland, OR 97232

Michael Jordan
Metro Chief Operating Officer
600 NE Grand Avenue
Portland, OR 97232

Re: Metro's Natural Areas Acquisition Program and the Updated Requirements of Oregon Ethics Law

Dear President Bragdon and Chief Operating Officer Jordan:

This letter explains the requirements of the Oregon ethics laws as applied to Metro officials and employees working on the 2006 Natural Areas Acquisition Program, in light of the recent amendments to the Oregon law adopted this year, which generally become effective on January 1, 2010. This letter summarizes Oregon law regarding ethical standards for public officials, including employees, and addresses several factual circumstances in which ethical considerations are raised, as those issues relate to the Natural Areas Acquisition Program. This Office will revise its more comprehensive memorandum regarding public officials' ethical obligations and the "ethics chart" summarizing those obligations, and will propose changes to the Metro Code to make it consistent with state ethics laws, after the Oregon Government Ethics Commission (the "Ethics Commission"), formerly known as the Oregon Government Standards and Practices Commission, completes its rulemaking for recent amendments, anticipated to occur before the end of the year. This communication addresses the specific requirements of the Oregon statutes, including noting which of these requirements were adopted with the 2009 amendments. I note that this is only a summary of what I believe to be the most relevant and applicable provisions of the ethics law as it applies in the context of Metro's Natural Areas Acquisition Program. Depending on factual circumstances in any given situation, other provisions of Oregon law not discussed herein may also apply. Any Metro employee, elected official, appointed official or candidate with general questions regarding the ethics law may seek further advice from the Office of the Metro Attorney. Any Metro employee, elected official, appointed official or candidate with questions about specific fact circumstances should seek further advice from the Ethics Commission.

In addition, as in 1995 in association with the Open Spaces Bond Measure, and in 2007 in association with the Natural Areas Bond Measure, a copy of this letter will be provided to all Metro employees working on the Natural Areas Acquisition Program, as well as to all members of the

Natural Areas Program Performance Oversight Committee, and they will be asked to sign a copy of the attached "Acknowledgment of Ethical Obligations" form to acknowledge that they received a copy of this letter and that they understand their ethical obligations as public employees, elected officials, appointed officials or candidates.

Oregon Ethics Law in General

1. Oregon Ethics Law Applies to All Elected Officials, Candidates¹, Appointed Officials and Employees

Oregon's statutory ethical requirements created in ORS chapter 244 apply to all "public officials." This includes all elected officials, candidates for elective office¹, appointed officials, employees and agents of public bodies of the state, regardless of whether that person is compensated. Thus, all Metro elected officials and employees are subject to the requirements of the law, as are appointed members of advisory and oversight committees. (Note that the term "public official" as used throughout this memorandum therefore includes all Metro elected officials, candidates for elective office¹, appointed officials, and employees.)

2. Prohibited Actions

ORS 244.040 sets forth activities that are prohibited, regardless of whether an actual conflict of interest or potential conflict of interest as defined in the statutes is announced or disclosed. The following three prohibitions are particularly applicable in this context.

- a. Public officials may not use or attempt to use official position or office to obtain financial gain or avoid financial detriment for the public official, for the public official's relative or household member, or for any business for which the public official, relative, or household member is associated. ORS 244.040(1).

Relevant exceptions:

- Official compensation and expense reimbursements;
- Honorarium of less than \$50 or in association with the public official's private profession or occupation;
- Unsolicited awards for professional achievement;
- Gifts to a public official, or to a public official's relative or member of household, from a person who does not have an economic interest (distinct from that of the general public) in a matter subject to the action or vote of the public official or employee; and
- Gifts from one person to the public official, or to the public official's relative or member of household, of not more than \$50 total value in a calendar year from a person who has an economic interest (distinct from that of the general public) in a matter subject to the action or vote of the public official. Note that, until January 1, 2010, entertainment

¹ Effective January 1, 2010. See Section 5, chapter 689, Oregon Laws 2009 (Enrolled HB 2518C). Given this change, the Office of the Metro Attorney will provide information generally summarizing Oregon ethics law, which may include a copy of this letter, to all persons who file as candidates for Metro elective offices.

expenses in any amount are prohibited, but after that date entertainment expenses are treated like any other gifts, i.e. subject to the \$50 calendar year limit.

"Relatives" of a public official include the public official's spouse or domestic partner; children of the public official and of the public official's spouse; siblings, siblings' spouses, and parents of the public official and the public official's spouse; any individual for whom the public official has a legal support obligation; and any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment. ORS 244.020(15).

"Member of household" of a public official includes any person who resides with the public official. ORS 244.020(10).

"Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, or any other legal entity operated for economic gain, except for 501(c) corporations to the extent that the official is associated with such a charitable corporation in a non-paid capacity. ORS 244.020(2). To be associated with a business means that the official or the person's relative is a director, officer, owner, or employee, or agent of the business, or if the business is a corporation if the person or person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year. ORS 244.020(3).

"Gifts" include anything of economic value given to a public official or a public official's relative or household member without the public official providing equivalent-value consideration in return (i.e., paying for it). The exceptions to the "gift" rule are very situation-specific and have been set forth by this office in an "ethics chart," and a separate legal memorandum explaining those exceptions (an updated chart and an updated memorandum will be completed and distributed after the Ethics Commission adopts its final rules, hopefully not later than January 2010), but they are summarized as follows:

- Campaign and legal defense fund contributions;
- Unsolicited tokens or awards of appreciation with reasonably expected resale value of less than \$25;
- Informational material related to the person's official duties;
- Admission, food and beverages at an event at which the public official appears as a representative of the government²;
- Certain reasonable travel expenses paid in association with a public official making an officially-authorized trip in order to give a speech, presentation, or otherwise represent the government (for the public official and a staff person, relative or household member accompanying the public official);
- Incidental food and beverage provided at a reception; and entertainment provided that is incidental to the main purpose of another event that the public official attends; and

² Effective January 1, 2010. See Section 5, chapter 689, Oregon Laws 2009 (Enrolled HB 2518C). Prior to that time, this provision applies only when the public official will be speaking at the event.

- Anything of economic value received as part of the usual and customary practice of the public official's private business, employment, or volunteer activities, provided such gift bears no relationship to the public official's position as a public official or to his or her public office³. ORS 244.020(6).
 - b. Public officials may not solicit or receive any pledge or promise of future employment based on an understanding regarding any vote, official action, or judgment that would be influenced thereby. ORS 244.040(3).
 - c. A public official may not use confidential information gained in the course, or by reason, of being a public official for their own personal gain. ORS 244.040(4). This requirement continues after the person ceases to be a public official, and includes a prohibition on using such information for any person's personal gain, not just the public official's personal gain. ORS 244.040(5).
3. Disclosure of Conflicts of Interest

In addition to the prohibitions described above, Oregon Law also requires the disclosure of actual or potential conflicts of interests by a public official. ORS 244.120. A "potential conflict of interest" exists when a public official is faced with taking an action or making a decision which "could be" to the private benefit or detriment of the official, the official's relative, or a business with which the official or official's relative is associated. ORS 244.020(12). An "actual conflict of interest" exists when a public official is faced with taking an action or decision which "would be" to the private benefit or detriment of the official, the official's relative, or a business with the official or official's relative is associated. ORS 244.020(1).

Employees who have a potential or actual conflict must disclose the conflict directly to the person that hired them (i.e., their supervisor) in writing, and their supervisor must then designate an alternate to dispose of the matter or direct the employee to dispose of the matter in a manner specified by the supervisor (i.e., the employee with the conflict of interest should not make a decision regarding the subject matter).

Elected officials and members of boards and commissions who have a potential conflict of interest must disclose it on the record before the official takes action or votes on the matter. In the case of an actual conflict of interest, elected officials and board/commission members must refrain from any discussion or debate on the issue and not vote on the issue, unless the official's vote is necessary to meet a requirement of a minimum number of votes to take the official action.

How the Ethics Law Relates to the Natural Areas Acquisition Program

The prohibition against using office for personal gain means that if Metro seeks to buy land in which any Metro public official, relative, or household member has an interest, the public official

³ Effective January 1, 2010. See Section 5, chapter 689, Oregon Laws 2009 (Enrolled HB 2518C).

must not in any way participate, internally or externally, either on behalf of Metro or in discussion of the acquisition among Metro officials and employees.

There is a further area of concern, however, regarding Metro's confidential identification of targeted properties that the Chief Operating Officer is empowered to purchase, consistent with the Council-approved Acquisition Parameters and Due Diligence Guidelines. The Council adopted refinement plans and approved identification of such confidential targeted properties in September 2007 for each of the 27 regional acquisition target areas.

Metro's activities in the real estate market in purchasing Natural Areas land will have a presumably beneficial impact on nearby properties. In the event a Metro public official owns property located on a final, confidential target area map, then an actual conflict of interest would exist. Moreover, if a Metro public official owns property located near properties identified on a final, confidential target area map, then a potential conflict of interest could easily arise out of Metro's decision to purchase nearby property. In either circumstance, the public official owning the property must make the proper declaration of the conflict once they are aware of the conflict and the fact that they may be asked to take action in this regard. For employees, there is no distinction between potential or actual conflict of interest because in either event the law requires them to declare the conflict and then requires the appointing authority to either name another person to take action or to direct the action of the employee. For councilors, the difference between an actual and potential conflict of interest is significant. In the event of a potential conflict of interest, i.e., the action "could be" to the financial advantage of the councilor, there is only a requirement for a declaration of the potential conflict on the record. If the conflict is an actual conflict of interest, in that Metro's action "would be" to the financial benefit of the councilor, then the councilor not only must disclose the conflict, but not take part in the decision unless their vote is absolutely necessary to render a decision. In the case of owned property the difference between whether an actual or potential conflict of interest exists will be a factual question that will be determined on a case-by-case basis.

Also important in the context of the Natural Areas Acquisition Program is the prohibition against the use of confidential information for private gain, both while a person is a public official and thereafter. Councilors and Natural Areas Acquisition Program staff will have access to confidential information regarding Metro's intentions to purchase property. Any subsequent purchase or sale of property in one of the confidential, identified target areas may lead to serious questions being raised regarding the potential use of confidential information for private gain.

One critical factual issue that arises regarding all of the above prohibitions is whether and under what circumstances a Metro action actually affects property values of adjacent or nearby property. My views on this matter are that if, as a factual matter, the property is close enough to the Metro acquisition so that a reasonable person would believe that the property value is actually increased by Metro's activity, then an actual conflict of interest exists. If there is merely a potential that a property's value could be considered to be increased by Metro's activity, then the conflict is a potential conflict of interest. Unless the property is far enough away so that there is no connection between the Metro action and the value of the property, there is a potential that a conflict of interest could exist. It is true that many factors affect the value of land, and that all individual parcels of land have a unique value based on their own characteristics. Whether any individual parcel's value is increased by a Metro action is a question that ultimately can be answered only by an evidentiary

hearing. Persons facing such fact-specific situations should address any questions they may have to the Ethics Commission.

Another area of concern is the prohibition against the receipt of gifts of more than \$50.00 in any one calendar year from persons who have a legislative or administrative interest with Metro. Clearly, potential sellers of land, as well as consultants, appraisers and others who may be contracting with Metro for carrying out the Natural Areas Acquisition Program are persons who have such an interest. Metro staff, in particular, as well as Council members and other elected officials should be cautious regarding any gifts from such persons.

The above is intended as general guidance for Metro employees and elected and appointed officials. The Oregon Ethics Code is enforced by the Ethics Commission. The Commission has the authority to investigate matters and may impose fines for violations as well as requiring the repayment of any financial gain derived by a public official in violation of the statutory provisions. Metro public officials should be aware that the Office of the Metro Attorney cannot represent any person charged with such a violation.

Anyone having further questions should feel free to contact this Office.

Yours very truly,



Daniel B. Cooper
Metro Attorney

Enclosure

cc: Metro Council
Metro Auditor Suzanne Flynn
Jim Desmond
Kathleen Brennan-Hunter

Natural Areas Acquisition Program

ACKNOWLEDGMENT OF ETHICAL OBLIGATIONS

By my signature below, I acknowledge that I received the attached letter explaining the Oregon Government Ethics Law as it may apply to me as a member of the Metro Natural Areas Program Oversight Committee. I fully understand and agree to follow the letter and spirit of these ethics laws.

With respect to the Natural Areas Acquisition Program specifically, I understand that I must not in any way participate, internally or externally, either on behalf of Metro or in discussions among Metro officials and employees, regarding any real estate transaction in which I or any of my relatives or household members, or a business with which I or any of my relatives or household members are affiliated, have an economic interest. I understand that if I or any of my relatives or household members, or a business with which I or any of my relatives or household members are affiliated, own property located in or near properties confidentially identified as part of an acquisition target area, then I must notify the appropriate parties in writing of this potential or actual conflict of interest. I understand that I am prohibited from using confidential information for private gain, both during and after my appointment with Metro. I understand that I may not receive gifts or entertainment (after January 1, 2010 – before that date, all entertainment is prohibited) valued at more than \$50 in a calendar year from any person who has a potential economic interest in Natural Areas acquisitions. Finally, I understand that if I have any questions regarding the application of these prohibitions, or the Oregon Government Ethics Law generally, in any specific factual situation, then I may contact the Office of the Metro Attorney or the Oregon Ethics Commission for further guidance.

Dated: _____

Signature

Print Name

Attachment:

November 13, 2009 Letter from Dan Cooper, Metro Attorney, to David Bragdon and Michael Jordan, Re: Metro's Natural Areas Acquisition Program and the Requirements of Oregon Ethics Law

Nature in Neighborhoods Capital Grant Program



Purpose of grant program

- "...complement the regional and local share portions of the 2006 bond measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality near where people live and work."
- "...increase the presence of natural features and their ecological functions in neighborhoods throughout the region."

Program basics

- Capital improvements to publicly owned land
- Land acquisition/easements held by public agency
- \$15 million over life of the bond; 15% per year (approximately \$2.25 million annually)
- 2:1 match required



Roles

- Staff
 - Facilitators
 - Ensure projects meet program goals
 - Follow policy direction set by the Metro Council
- Grant Review Committee (GRC)
 - Review applications and make recommendation to the Metro Council
 - Engaged in program development
- The Metro Council
 - Set policy
 - Approve grant awards



Application process

- Actively engaged model
- Potential applicants meet with Metro staff
- Letter of Interest submitted at any time
- Reviewed by team of Metro staff to ensure program fit, appropriate expenditures, match status, etc.
- Invitation for application
- Full application submitted



Grant review process

- Preliminary review by GRC
- GRC meets to flag concerns/highlight question
- Comments/questions conveyed to applicants prior to site visit
- Site visit (staff, GRC members, applicants)
- GRC meeting to discuss responses, site visit
- GRC makes recommendation to the Metro Council



Project success factors & accountability

- Feasibility
- Implementation
- Budget
- Project evaluation/monitoring
- Benchmarks
- Performance measures



Key criteria

1. “Re-nature” neighborhoods by increasing and/or recovering the presence and function of ecological features and processes in them to protect water quality and animal and plant habitat.
2. “Re-green” urban neighborhoods by increasing the presence of water, trees and other vegetation to improve their appearance, enrich peoples’ experience of nature and help strengthen a physical connection to the region’s ecology.



Key criteria

3. Demonstrate multiple benefits for people and natural systems.
4. Demonstrate cost-efficient ecological design solutions.
5. Increase the region's fish and wildlife inventory through techniques that restore diverse riparian vegetation structure and stream character and increase fish passages and/or wildlife crossings.



Key criteria

6. Restore and/or improve habitats of concern such as eligible lands identified under the land acquisition criteria for the program and/or headwaters and confluences of the region's important urban stream and river corridors.
7. Improve natural amenities to provide universal access to the public (meets the Americans with Disabilities Act requirements).



2008 capital grant awards

- Crystal Springs Creek restoration and nature play at Westmoreland Park [**\$150,000**]
- Conservation Corner [**\$99,500**]
- Hawthorne Grove park acquisition and development [**\$140,000**]



Crystal Springs Creek restoration and nature play at Westmoreland Park

Portland Parks and Recreation,
Johnson Creek Watershed
Council and Sellwood-Moreland
Improvement League

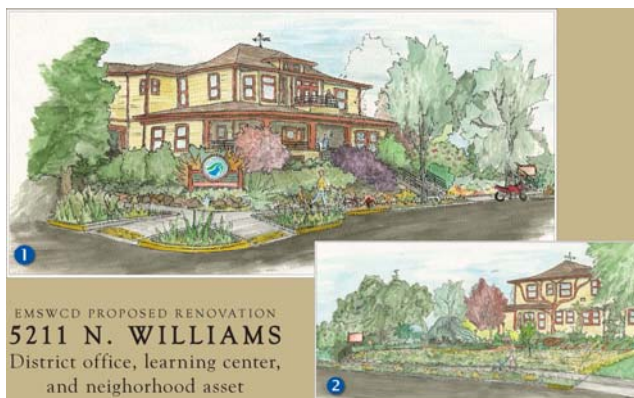
\$150,000



Conservation Corner

East Multnomah Soil and Water Conservation District and Humboldt Neighborhood Association

- \$99,500



Hawthorne Grove park acquisition and development

Clackamas County Development Agency, Developer Nick Stearns, Clackamas County Land Trust, North Clackamas Parks and Recreation District, and Clackamas County Soil and Water Conservation District

- \$140,000



2009 capital grant awards

- Nadaka Nature Park expansion [\$220,000]
- White Oak Savanna acquisition [\$334,000]
- Humboldt Learning Garden [\$33,686]
- Greening the I-205 Corridor [\$415,436]



Nadaka Nature Park expansion

City of Gresham and Wilkes East Neighborhood Association

- \$220,000



White oak savanna acquisition

City of West Linn and Tannler Basin Neighborhood Association

- \$334,000



Humboldt learning garden

Lower Columbia River Estuary Partnership and Portland Public Schools

- \$33,686



I-205 corridor enhancements

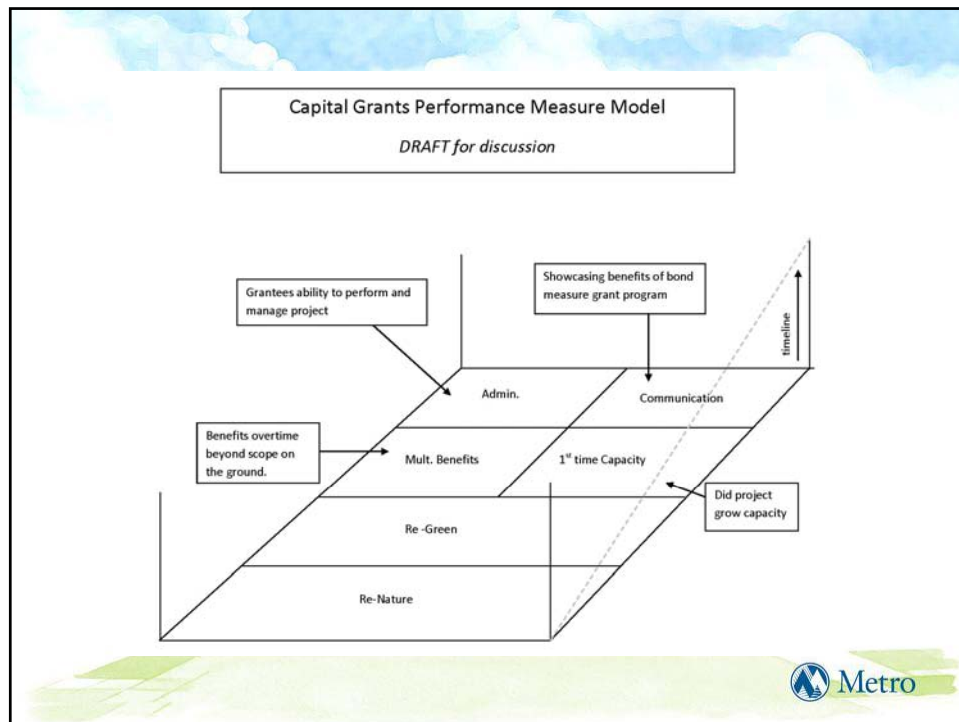
Friends of Trees and Oregon Department of Transportation

- \$416,436



Performance measures

- Keeping track of data for leverage, etc.
- Concept: information to support evaluation and understanding if projects are achieving program goals
- Results post project: thus system with rating part pre- and post- award



Performance measures

- Approach similar to regional acquisition
- Criteria based on primary program goals
- Includes narrative assessment for documentation
 - Project performance measures
 - Risk assessment
 - Partnerships
 - Resources leveraged
 - Administrative assessment
 - Lessons learned/precedents

