

develop and recommends the Smith and Bybee Lakes Management Plan for adoption by Metro, the City of Portland and the Port of Portland; and

WHEREAS, the Saint John's Landfill is wholly located within the proposed Smith and Bybee Lakes Management Area; and

WHEREAS, the Advisory Committee has recommended that the Smith and Bybee Lakes Management Plan supersede the City-adopted End Use Plan for the Saint John's Landfill; and

WHEREAS, the City of Portland and Metro are currently negotiating a new lease/ownership agreement for the Saint John's Landfill which will likely affect the demarcation of responsibilities for implementing the Smith and Bybee Lakes Management Plan approved by the City Planning Commission on May 8, 1990 and recommended for adoption by the City Council as well as the available funding for implementation of the Management Plan; and

WHEREAS, the unfinished nature of the landfill lease agreement/ownership negotiations precludes the Metro Council from fully adopting the Management Plan as approved by the City Planning Commission at this time, specifically as proposed Policies and Actions designate implementation responsibilities of the City and Metro, implementation timeframes identified in Figure 8 of the Plan, and the amount and sources of funding to be included in the proposed Smith and Bybee Lakes Trust Fund; and

WHEREAS, notwithstanding the landfill lease agreement/ownership negotiations, the Metro Council wishes to assure the regional community, the City of Portland, the Port of Portland, and the Saint John's Community in particular, that Metro supports the land use concept for the Smith and Bybee Lakes Management Plan and the intent of the specific management Policies and implementing Actions proposed in the Smith and Bybee Lakes Management Plan.

NOW THEREFORE BE IT RESOLVED THAT

1. The Metro Council hereby approves the Smith and Bybee Lakes Management Plan (3-12-90 version as amended by the Portland Planning Commission on 5-8-90) in concept, the approval to include the following components:

a. The Goal Statement (p. 5 of the Management Plan);

b. Objectives 1-11 and 13 (pp. 5-6). Objective 12 is a desirable objective to work toward, although it must be considered advisory in light of the numerous government jurisdictions involved in the Management Area and their distinct authorities and functions as well as the significant number of private property ownerships within the Management Area;

c. The Potential Environmental Projects listed on pp. 18-23 and depicted on Figure 5;

d. The proposed recreational Development Projects listed on pp. 27-28 and depicted on Figure 5;

2. The Metro Council finds that the interdependence between the Saint John's landfill lease/ownership agreement and implementation responsibilities and funding for The Smith and Bybee Lakes Management Plan precludes designation of specific implementation responsibilities and funding allocations at this time and hereby directs staff to ensure that appropriate roles, responsibilities, and funding sources affecting the Management Plan are addressed in the landfill lease/ownership agreement.

3. The Metro Council finds that fiscal matters such as estimated project costs, priority of action items, and final action regarding recommendations from the Management Committee are subject to budget constraints of the Smith and Bybee Lakes Trust Fund as determined by the public body responsible for that Fund (i.e. "Trust Fund manager") and cannot be detailed in the Management Plan at this time.

4. The Metro Council directs staff to forward a letter, including Attachment A, to the City identifying language changes to the Smith and Bybee Lakes Management Plan that would be necessary for the document to move through the approval process prior to conclusion of the landfill lease/ownership agreement and designation of the Smith and Bybee Lakes Trust Fund manager.

ADOPTED by the Council of the Metropolitan Service District this
28th day of June, 1990.


Tanya Collier, Presiding Officer

attachment: Attachment A

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INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT

RESOLUTION NO. 90-1282, APPROVAL IN CONCEPT OF THE SMITH AND BYBEE LAKE MANAGEMENT PLAN

Date: June 15, 1990

Presented by: Richard Devlin

COMMITTEE RECOMMENDATION: At the June 12, 1990 Intergovernmental Relations Committee meeting, Councilors McFarland, Ragsdale and myself voted unanimously to recommend Council adopt Resolution No. 90-1282 as amended. Councilors Bauer and Gardner were excused.

COMMITTEE DISCUSSION/ISSUES: As noted in the Staff Report Background, the Committee first considered the Smith and Bybee Lake Management Plan at its regular meeting May 8, 1990 and directed staff to prepare a resolution to adopt the Plan in concept. In response, Planning & Development department staff prepared Resolution No. 90-1282 which approves the Smith & Bybee Lake Management Plan concepts. Staff also created Attachment A to the resolution to outline recommended language changes to the Plan. The Committee unanimously supported Council approval of Attachment A as a part of the resolution.

In discussing the resolution, the Committee noted, and staff concurred, an underlying Plan assumption with staff's proposed amendments was ownership of the landfill would be linked to control of the Smith and Bybee Lakes Management Trust Fund. Metro Legal Counsel Larry Shaw said the City of Portland staff probably was not aware that Metro staff's proposed language was essential to Plan implementation because the Plan is a land-use plan.

The Committee asked Mr. Shaw to incorporate a definition of Trust Fund Manager into the proposed amendments in Exhibit A; the definition based on landfill ownership tied to fund management. The Committee further requested Council staff to send a memo to the Presiding Officer notifying her of the landfill ownership negotiations underway at a staff level between Portland's Bureau of Environmental Services and Metro's Solid Waste Department. There was consensus the Council should develop some guidelines for negotiating and be apprised of the discussions' progress.

Jim Sjulín, City of Portland, and Brian Campbell, Port of Portland, testified on Metro staff's proposed amendments, both noting concerns that the Smith and Bybee Lakes Management Committee had assumed a more subsidiary and advisory role than envisioned. According to Mr. Sjulín and Mr. Campbell, the Plan's original intent was to have the Management Committee be the focal point for policy development, funding and trust fund management. They felt it will be more difficult to gain Plan consensus with the proposed Trust Fund Manager amendments.

Mikey Jones of North Portland also testified, noting the Management Plan will not work unless the Management Committee develops the area budget. He stated his preference for the City of Portland Parks Department to administer the budget because of concerns that Metro might use some Smith and Bybee Lakes funds for landfill liabilities. The Committee noted a special Trust Fund could be set up, restricting expenditures of Smith and Bybee Lakes monies to that area -- maintenance, management and operation -- only.

Attachment A

POLICIES

The following Policies developed as part of the Smith and Bybee Lakes Management Plan provide the basis for implementation and management of the lakes area in a manner consistent with and supportive of the goals and objectives of the Plan. The Policies provide the basis for the specific management Actions which immediately follow.

Policy 1

~~The City shall assign the management of the St. Johns Landfill site to the Bureau of Environmental Services, shall be subject to the terms and conditions of any in-force landfill lease or ownership agreement between the City and the Metropolitan Service District, and subject to any in-force permit from the State of Oregon.~~

Policy 2

Except the St. Johns Landfill site, the City of Portland shall assign all City-owned and/or City-managed properties within the Smith-Bybee Management Area to the Bureau of Parks and Recreation.

Policy 3

The Plan recognizes the Oregon Department of Fish & Wildlife's Non-Game Management Plan and shall meet the goals and objectives of the Plan through ~~the City's~~ management of the Smith-Bybee area.

Policy 4

~~The City of Portland Smith and Bybee Lakes Trust Fund Manager~~ may enter into agreement with landowners for the purpose of obtaining public recreational use of lands within the Smith-Bybee area. ~~The Superintendent of Parks is authorized to execute such agreements.~~ Such agreements are limited to a term of 5 years but may be renewed.

Policy 5

~~The City of Portland Trust Fund Manager~~ may negotiate with owners of land within the Smith-Bybee area for the purpose of acquiring such land in order to better achieve the goals and objectives of the Smith and Bybee Lakes Management Plan. Such negotiations shall be limited to willing sellers with every effort being made to accommodate sellers without delay. Funds reserved for the implementation of the St. Johns Landfill End Use Plan shall be made available to accomplish these acquisitions.

Policy 6

The City of Portland, ~~as authorized by the Trust Fund~~

Manager, shall construct the projects designated in this plan which facilitate recreation access to Smith Lake and its periphery. These include a parking lot, canoe/small boat launch facilities, trails, and an interpretive center. Funds originally reserved for the construction of facilities as part of the implementation of the St. Johns Landfill End Use Plan shall be made available to accomplish these projects, to the extent funding limitations allow.

Policy 7

The City of Portland or Metro shall establish and manage a trust fund entitled the "Smith and Bybee Lakes Trust Fund" for acquisition of land within the Smith-Bybee Lakes Management Area; and for the development, operation, and ongoing maintenance of the recreational, educational, and environmental facilities and programs proposed by the Smith and Bybee Lakes Management Plan.

The agency with appropriation authority over the Smith and Bybee Lakes Trust Fund, the City of Portland or Metro, will be the Trust Fund Manager.

Money for the Trust Fund shall be made available from funds reserved for implementation of the St. Johns Landfill End Use Plan. The Trust Fund may be augmented by contributions and appropriations from other sources.

Interest earned by the Trust Fund's principle shall be appropriated to the Trust Fund.

The Trust Fund shall be maintained as an endowment fund to provide for the ongoing maintenance and operation of recreational, educational, and environmental facilities and programs. Appropriations from the Trust Fund may also be made for acquisition of land and for development of facilities called for by the Management Plan provided that these appropriations do not endanger the facilities and programs dependent on the endowment income. It shall be the responsibility of the Management Committee to develop and submit to the Portland City Council or the Metro Council for approval annual budgets for the Trust Fund.

Policy 8

The Port of Portland shall construct certain projects designated in this plan which facilitate environmental enhancement of the Smith-Bybee area. The exact projects shall be determined by the Cooperative Agreement to Establish a Rivergate Development Program and an Acceptable Mitigation Program for Wetlands Impacts (also known as the "Rivergate Fill Agreement").

Policy 9

The Metropolitan Service District (Metro) shall develop, manage and maintain certain environmental monitoring and enhancement projects constructed as part of the implementation of both the Revised Closure and Financial Assurance Plan, St. Johns Landfill (Sept., 1989) and the Smith and Bybee Lakes Management Plan, including mitigation projects constructed by the Port and others. Funding for these activities shall come from the Trust Fund except for monitoring the impacts of the St. Johns Landfill which shall be provided by funds reserved by Metro for landfill closure.

Policy 10

The City of Portland or Metro shall form a Management Committee to oversee implementation of this Plan. The Committee will ~~be composed of~~ include but not be limited to the following, or their representatives:

- * Superintendent of Parks and Recreation
- * Administrator of the Bureau of Environmental Services
- * Director of the Port of Portland
- * Director of the Oregon Department of Fish and Wildlife
- * Executive Officer of Metro
- * Metro Councilor
- * President of Portland General Electric
- * President of the Friends of Smith and Bybee Lakes
- * President of the 40 Mile Loop Land Trust
- * President of the Board of the Portland Audubon Society.
- * A representative of other private landowners within the Management Plan boundary, if any.
- * Peninsula Neighbors

The Management Committee is the principal advisory body to the Trust Fund Manager. Duties of the Management Committee shall include the development of recommendations to the Smith-Bybee Lakes Trust Fund manager for appropriation of funds: for the acquisition of land within the Management Area; for development, maintenance, and operation of recreational and educational facilities within the Management Area; and for environmental monitoring programs within the Management Area except as provided for or required elsewhere (e.g., the Revised Closure and Financial

Assurance Plan, St. Johns Landfill, by Oregon D.E.Q. permit, etc.).

~~Initially the Superintendent of Parks and Recreation shall serve as The Trust Fund Manager will be responsible for designating the chair of the Management Committee but others may serve as chair if elected by the Committee or the process through which the chair will be determined.~~

Policy 11

The City of Portland or Metro shall form a Wetland Technical Advisory Committee to assist the City and Metro in implementing the Management Plan's projects and programs. This group will be composed of people with technical, environmental, and recreational expertise.

Policy 12

The City of Portland and Metro will work with State and Federal resource agencies to establish the Smith-Bybee Management Area as a potential site for mitigation projects. The Management Committee shall evaluate proposed mitigation projects against the goal statement and objectives of the Management Plan before they are accepted for implementation in the Management Area.

Policy 13

The Portland Bureau of Parks and Recreation shall develop a detailed recreation policy and facility development plan in conformance with the provision of this Management Plan, for review by the Management Committee and approval by the Trust Fund Manager.

Policy 14

The following policy statements shall apply to the St. Johns Landfill site subject to compatibility with the St. Johns Landfill Closure Plan:

- * The landfill cover and gas and leachate collection system installed, operated, and maintained by Metro.
- * Environmental monitoring wells and stations installed, operated, and maintained by Metro.
- * The 40 Mile Loop Recreational Trail shall be constructed and maintained by the Parks Bureau (see Figure 7).
- * Model airplane and archery facilities may be located on sites immediately north of the landfill bridge.
- * No vehicles shall be allowed across the landfill

bridge, except maintenance vehicles.

- * A parking lot and trailhead facilities shall be provided immediately south of the landfill bridge.
- * The primary use of the landfill site (north of the slough) shall be open meadow habitat, which is complementary to the wetland habitat in the balance of the Smith-Bybee area.

Policy 15

Smith Lake will be the principal area for water-related recreational activities such as canoeing, rowing, fishing, and bird watching. Smith Lake will also be managed as a wildlife habitat and preservation area. No hunting, motorized boating, or other obtrusive forms of recreation will be allowed. This balance of recreation and habitat preservation has been carefully considered in proposing the access facilities discussed in the Recreation Assessment of the Management Plan.

Policy 16

Bybee Lake and surrounding wetlands will be managed primarily as an environmental preserve. Bybee Lake will be available for recreational use, although access by foot and boat will be more difficult than Smith Lake. No vehicular access will be provided to Bybee Lake. It may be appropriate to carry out environmental modification projects following a period of observation and monitoring (see list of possible long term projects).

Policy 17

All areas not specifically identified for some form of recreational or educational use in other policies shall be designated as wildlife habitat and preservation areas. Use shall be limited to pedestrian access to other recreation and education areas. Development shall be limited to access trails, signing (directional and advising of prohibited uses), and interpretive signing at significant environmental and habitat features.

Policy 18

The Smith-Bybee Management Area includes the Columbia Slough from North Portland Road north and west (downstream) to Lombard and any and all management actions, plans, or policies developed for this portion of the Columbia Slough and not specifically included elsewhere in the Management Plan shall be treated as an amendment to the Plan. Upstream projects shall take into account adverse effects to Smith and Bybee Lakes and the principle of "no net loss" shall apply.

Policy 19

The Smith-Bybee Management Area includes the St. Johns Landfill. The September, 1989, published edition of the Revised Closure Plan, St. Johns Landfill is part of this Management Plan and is included as Appendix A. The exceptions procedure outlined in the Plan shall be used to cover differences between the September, 1989, edition of the Closure Plan and what is accepted and permitted by DEQ.

Management actions and activities required by the Closure Plan or the DEQ permit within the following areas and which do not have a significant adverse impact on the Management Plan will not require an amendment to the Management Plan:

- a) Modifications of the St. Johns Landfill closure construction schedule.
- b) Modifications of the groundwater or surface water monitoring program.
- c) Changes in the costs of the St. Johns Landfill closure and post-closure care.

The exceptions procedure outlined by the Management Plan shall be utilized to address other modifications and changes to the September, 1989, edition of the Revised Closure Plan, St. Johns Landfill.

Policy 20

Properties may be added to the Smith-Bybee Management Area provided ~~that the Management Committee determines there is~~ sufficient rationale for their addition on an environmental, educational, and/or recreational basis.

Policy 21

Water-based commercial and industrial uses of the Columbia Slough from properties on the south side of the Slough shall be permitted provided that adverse impacts are taken into account and the "no net loss" principle is applied.

Policy 22

Future land development bordering the Smith and Bybee Lakes Management Area will be subject to the following standards:

- A. New storm water outfalls that flow into the lakes or the Columbia Slough system will be designed to minimize their potential impact on water quality within the guidelines of the NPDES permit process. Drainage systems will include such features as settling ponds, sumps, or filters to assure adequate treatment of runoff before it can have a significant negative impact on the lakes' ecosystem. Natural features, such as

cattail marshes, should be designed into the pollution control system. See Figure 5 for the location of outfalls known at the time of the Plan's adoption.

B. The following will apply to development adjacent to the resource area:

1. Where planting is practicable (i.e., the slope is 1:3 or less, soil conditions are appropriate), fill slopes will be seeded and/or planted with appropriate species present in the adjacent lakes area. Where plantings are not practicable, other methods will be employed to prevent erosion.
2. A vegetative screen (for examples see Figure 6) of native trees and/or plants, or other species present in the lakes area, will be provided where necessary so that visually displeasing or disruptive industrial development (e.g., outdoor storage yard, 24-hour truck loading area) will not be visible from the lakes or the trail system. The screen will be at least 6 feet high and 75 percent opaque within 3 years of planting. Because of the extensive size and nature of the resource area, and the built-in buffers provided by the fill slope and slough buffer areas, a visual screen will only need to be planted in those instances where the natural vegetation does not provide an adequate screen. The screen may be located inside the boundary of the Management Area if no significant existing vegetation will be disturbed, as in cross-section B.
3. Where no reasonable opportunity exists to otherwise buffer industrial activity from the resource (i.e., development could be placed immediately adjacent to the resource as in cross-section C), a minimum 10 foot wide vegetative screen will be planted and maintained at an L3 level adjacent to the resource area.
4. Lights adjacent to the natural area will be cut-off type fixtures that do not cast direct light beyond the development/fill boundary.

Policy 23

The recommendations adopted by the City (resolution #34295, June 10, 1987) through the St. Johns Landfill End Use Plan are replaced by the general recommendations, specific Policies, and specific Actions included in this Management Plan.

Policy 24

Extension of a rail line through Rivergate which crosses or infringes upon the management area shall be permitted provided that adverse impacts are taken into account and the "no net loss" principle is applied. (Figure 5 shows the approximate location of the future rail line.)

Policy 25

Habitat enhancement projects, and projects associated with construction of a wetlands nursery or laboratory, shall be permitted provided that any adverse impacts are taken into account and the "no net loss" principle is applied.

Policy 26

Facilities and projects shown in the St. Johns Landfill End Use Plan may be considered for funding but may be replaced by other projects after due consideration of public health and safety and other community needs has been made.

ACTIONS

Specific management actions have been identified, prioritized, and assigned with an identified funding source in order that implementation of the Management Plan might begin without delay. Actions not authorized here should be developed by the Management Committee as recommendations for consideration approval of the Trust Fund Manager by the Management Committee. It is the responsibility of the Management Committee that All Policies developed and Actions taken shall be consistent with the Management Plan as approved by the City of Portland. Figure 5 indicates the approximate location for many of the Plan's activities and projects.

Action 1

Establishment of "Smith and Bybee Lakes Trust Fund", which implements Policy 7. Includes an appropriations consistent with the terms and conditions of any in-force St. Johns Landfill lease or ownership agreement between the City of Portland and Metro at such time as Metro adopts the Smith and Bybee Lake Management Plan by Ordinance and the Ordinance becomes effective. from the City of \$2,861,559 as of March, 1990, all subsequent payments from Metro collected as "tipping fees" (\$.40 per ton) dedicated to St. Johns Landfill End Use, and 40% of all subsequent St. Johns Landfill lease payments from Metro to the City (or an equal amount if lease payments cease) until solid waste disposal ceases at St. Johns Landfill, and any Interest earned on the aforementioned funds until made a part of the Trust Fund will become part of the Trust Fund.

Priority/Timing: Highest/Immediate.

Responsible Organization: City of Portland, Bureau of Environmental Services or Metro.

Funding Sources: As described in any landfill/lease or ownership agreement between the City of Portland and Metro in effect on the effective date of a Metro Ordinance adopting the Smith and Bybee Lakes Management Plan. ~~City of Portland Refuse Disposal Fund, payments from Metro to City as provided.~~

Action 2

Establish a Smith and Bybee Lakes Management Committee which is responsible for the overall management of the Management Area, for the execution of the Management Plan, and for the development of budgets for ~~City Council~~ approval of the ~~Trust Fund Manager~~ which implements Policy 10.

Priority/Timing: Very high/Immediate.

Responsible Organization: City of Portland, Bureau of Parks or Metro as determined by the Trust Fund Manager.

Action 3

~~Establish one full-time staff position or equivalent to~~ Provide staff support for the Management Committee and to carry out specific actions authorized by the ~~Committee~~ Trust Fund Manager through this Management Plan.

~~Cost Estimate: \$55,000.~~

Priority/Timing: Very high/Immediate.

Responsible Organization: City of Portland, Bureau of Parks or Metro as determined by the Trust Fund Manager.

Funding Source: Smith and Bybee Lakes Trust Fund.

Action 4

Acquisition of property from willing sellers, which implements Policy 5. Property to be acquired includes all parcels which are needed for public recreational use.

Estimated Cost: \$250,000 to \$500,000.

Priority/Timing: Very High/Immediate.

Responsible Organization: City of Portland, Bureau of Parks, or Metro as determined by the Trust Fund Manager.

Funding Source: Smith and Bybee Lakes Trust Fund (noted as from sources "A" and "B" in the "Issues" section of this Plan).

Action 5

Secure agreements with owners of property not owned by the City, the Port, or Metro to enable management and public use as provided by the Management Plan.

Estimated Cost: \$0.

Priority/Timing: High/Immediate.

Responsible Organization: City of Portland, Bureau of Parks or Metro.

Funding Source: not required.

Action 6

Development of recreation facilities (planning and construction), which implements Policy 6. Projects to be constructed include those listed as REC 2-16 in the "Recreational Assessment" section.

Estimated Cost: no estimate available.

Priority/Timing: High/After needed property acquisition and property agreements completed.

Responsible Organization: City of Portland, Bureau of Parks as authorized by the Trust Fund Manager.

Funding Source: Smith and Bybee Lakes Trust Fund; Parks Levy (\$20,000 for trails development from the Levy); Grants.

Action 7

Operation and maintenance of recreational and educational facilities, which implements Policies 2 and 7.

Estimated Cost: \$100,000 to \$250,000 per year, depending upon the level of facilities and programs assumed. Cost amount will move toward the high end of the range over time as facilities and programs are developed.

Priority/Timing: High/Small amount immediately, increasing over time.

Responsible Organization: City of Portland, Bureau of Parks as authorized by the Trust Fund Manager.

Funding Source: Smith and Bybee Lakes Trust Fund. This cost is a major ongoing funding need for the Trust Fund and should be funded from the interest earnings of the Trust Fund in order to provide stable and secure facilities and programs. ~~For example, if the Trust Fund realizes 7%~~

~~interest earnings, \$1,400,000 would need to remain untouched as an endowment fund for \$100,000 annual operation and maintenance expenditure needs. Nearly \$3,600,000 would be required as an endowment to realize \$250,000 expenditure needs.~~

Action 8

Development of environmental improvement projects, which implement Policy 8. Projects to be constructed by the Port of Portland include ENV 2 in the "Environmental Assessment" section. Facilities agreed to as part of the Rivergate Fill Agreement will be added to this responsibility.

Estimated Cost: no estimate available.

Priority/Timing: Within 2-3 years.

Responsible Organization: Port of Portland.

Funding Source: Port of Portland.

Action 9

Development and management of environmental facilities and environmental monitoring programs which are designed to protect and improve the Smith and Bybee Lakes Management Area ecosystem, which implements Policy 9. Projects to be implemented by Metro include ENV 1 in the "Environmental Assessment" section. Facilities and programs recommended and approved later may be added to this responsibility. This Action shall be funded from monies reserved to implement the Revised Closure and Financial Assurance Plan, St. Johns Landfill, as approved by DEQ, and the Smith and Bybee Lakes Trust Fund.

Estimated Cost: no estimate available.

Priority/Timing: As determined by the DEQ approved closure plan and as funding is available from the Smith and Bybee Lakes Trust Fund.

Responsible Organization: Metropolitan Service District (Metro).

Funding Sources: Metro's Landfill Reserve Fund and the Smith and Bybee Lakes Trust Fund. The Landfill Reserve Fund shall be applied to the operation and maintenance of facilities and programs constructed by Metro as part of the Closure Plan for the St. Johns Landfill and to the operation and maintenance of facilities constructed by others which enhance environmental quality that would otherwise be degraded by landfill impacts. The Trust Fund will fund

~~operation and maintenance of all other environmental facilities, projects, and programs.~~

INTERGOVERNMENTAL RELATIONS COMMITTEE

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 90-1282 APPROVING
THE SMITH AND BYBEE LAKES MANAGEMENT PLAN IN CONCEPT

June 12, 1990

Presented by: Patrick Lee

BACKGROUND

An informational Council briefing on the Smith and Bybee Lakes Management Plan was conducted at the February 22, 1990 meeting. The Council referred the item to the Intergovernmental Relations Committee for further consideration. The IGR Committee first considered the item on May 8, 1990 and directed staff to explore the policy issues further and to prepare the attached Draft Resolution 90-1282 approving the Management Plan in concept for consideration by the Committee. Attachment A suggesting language changes to Policies and Actions in the Management Plan is also proposed as a companion to the draft resolution.

A series of Memorandums to the Portland Planning Commission from the City of Portland Parks Bureau (two dated April 10, 1990) and the City Planning Bureau (one dated April 25, 1990 and one dated May 4, 1990) amending the Management Plan (3-20-90 draft) are also attached. Copies of the 3-20-90 draft of the Management Plan were provided to the IGR Committee for the May 8, 1990 hearing.

The Management Plan, (3-20-90 draft as amended by the four memos from the City Parks and Planning Bureaus) has been approved by the City of Portland Planning Commission and will shortly be forwarded to the City Council. Adoption of the Management Plan by the City of Portland, the Port of Portland, and the Metropolitan Service District is sought in order to confirm proposed responsibilities and to authorize the needed financial base for implementation.

POLICY ISSUES

The Smith and Bybee Lakes Management Plan raises a number of policy issues. The May 8, 1990 staff report summarized a number of these. As requested by the IGR Committee, this report will review the issues in more detail. For ease of reference, page numbers are cited where issues are raised in the Management Plan (3/20/90 document as amended).

Role of the Management Committee

The Executive Officer supports creation of a Management Committee as proposed in the Management Plan. However, clarification of the

Committee's authorities and functions is needed. Specifically, the document should clearly state that the Management Committee is an advisory body to the agency with appropriation authority over the Smith and Bybee Lakes Trust Fund (heretofore "Trust Fund manager"). The Executive Officer concurs with the statement on page 4, fifth paragraph of the Management Plan that:

"The Management Committee shall develop and recommend annual budgets for the Smith and Bybee Lakes Trust Fund..."

and the following statements on pages 32 and 39 of the proposed Plan:

"The Management Committee should recommend assignment or contracting with the appropriate public agencies for plan implementation."

"The Committee should be responsible for recommending appropriation of funds from resources dedicated to the Smith-Bybee-Lakes Management Area."

but recommends rewording of the second paragraph on page 4:

"...development plans for environmental projects and recreation facilities will be developed by the Management Committee...";

the statement on the bottom two lines of page 3 of the Management Plan:

"Overall management responsibility...will rest with a Management Committee...";

and on the bottom of page 38:

"...the Plan places the responsibility for expenditures...from the proposed Smith and Bybee Lakes Trust Fund...with the Management Committee."

to clearly indicate review and appropriation authority of the Trust Fund manager.

A policy option that the Council may wish to pursue to clarify the role of the Management Committee is to endorse the two-tiered authorization system implied in the last paragraph of the Plan Organization and Format subsection on page 3 of the document. That paragraph states that:

"The Policies & Actions section is a collection of specific policies and actions recommended as part of the Management Plan. When adopted, the Policies become effective and the Actions can be authorized by the (proposed) Management

Committee..."

The Policies (contained on pages 42-48 of the Plan) are relatively complete and are applicable through implementation of the Management Plan. The Actions (contained on pages 48-51 of the Plan) are more limited in scope and are the implementing actions for specific Policies. Adoption of the Management Plan by the Metro Council (and the City Council and the Port) will effectuate the Policies and the specific list of Actions contained in the current version of the Management Plan. In the future, a list of Actions to implement Policies could be authorized annually during the Trust Fund manager's budget process or on some other periodic basis to ensure appropriate oversight of the Committee, but to minimize the need for the Management Committee to return frequently to the Trust Fund manager for authorization of individual Actions.

Smith and Bybee Lakes Management Plan

The Executive Officer supports the Goal Statement and Objectives proposed on pages 5-6 of the Management Plan document and the management concepts articulated in Policies 3,12,15-17 on pages 44-45 and recommends adoption by the Council. Objective 12 on page 6 is a desirable objective but must be considered in the context of the fragmentation of ownership of the Management Plan Study Area. Determining the appropriate owner and physically consolidating ownership are issues that cannot be resolved at this time.

The Executive Officer also supports the proposed Environmental Projects listed on pages 18-23 of the document and the proposed Recreational Development Projects listed on pages 27-28. Both the Environmental and Recreational projects are depicted on Figure 5 (following page 23). The relative priority of any specific project should be considered advisory at this time. The implementation schedule will depend on the availability of funding. Designating the appropriate entities for implementing these projects is also impossible at this time but is discussed in later sections of this staff report.

Landfill Ownership and Plan Implementation Funding

These two issues are closely intertwined. According to the Plan document, most of the funds recommended for implementation of the Plan are related to St. Johns Landfill. As discussed in the Financial Responsibility subsection, page 37, and in specific Policies and Actions proposed in the Smith and Bybee Lakes Management Plan, logical implementation responsibilities for the City, the Port, and Metro, assuming current land ownership patterns and existing governmental responsibilities and programs, include the following:

City of Portland, Parks Bureau - The Parks Bureau is proposed

as the lead agency for implementation and management of the recreational facilities proposed in the plan, developing, operating and maintaining recreational and educational facilities (Policies 2, 6, 11-14,21-23,26; Actions 3,6,7,) including responsibilities for establishing and staffing of Smith and Bybee Lakes Management Committee (Policy 10; Actions 2,3) acquiring property and/or securing agreements with property owners to enable management and public use as proposed in the Plan (Policies 4,5,20; Actions 4,5).

City of Portland, Environmental Services Bureau - Ownership of the St. John's Landfill, and establishment of the Smith and Bybee Lakes Trust Fund which will be utilized to fund implementation, operation and maintenance of the Plan (Policies 1,7,14,18; Action 1).

Port of Portland - Development of environmental improvement and mitigation projects in compensation for filling of wetlands in Rivergate Industrial Park (Policies 8,24; Action 8).

Metro - Management of environmental facilities, including St. John's Landfill and mitigation projects constructed by the Port, and environmental monitoring of the entire Smith and Bybee Lakes Management Area ecosystem (Policies 9,11,14,19,25; Action 9).

However, the City Environmental Services Bureau has proposed that Metro assume ownership of the St. John's Landfill after closure contrary to the existing End Use Agreement between the City and Metro. The outcome of negotiations will affect implementation responsibilities. In recognition of the ongoing status of negotiations, policies 7, and 10-12 already designate "The City of Portland or Metro" as the responsible agency for carrying out the policies. However, if Metro obtains title to the landfill, it would be appropriate for Metro to control the St. John's Landfill End Use Fund now controlled by the City Environmental Services Bureau. Funding control of Smith and Bybee Lake Management Plan implementation would then rest with Metro (i.e. establishing and administering the Trust Fund instead of ESB). This would affect virtually all implementation Policies and Actions involving any Bureau of the City. Specific policy questions that are raised include:

- o Is the proposal to use St. John's Landfill-related funds for implementation of the Smith and Bybee Lakes Management Plan appropriate as proposed?

The Executive Officer supports creation of the Smith and Bybee Lakes Trust Fund as articulated in the Financing subsection of the Management Plan (pages 35-38), Policy 7 (p. 43) and Action 1 (p.48). Actual dollar amounts cited for inclusion

in the Trust Fund may be affected by ongoing landfill lease agreement/ownership negotiations and landfill closure needs and, therefore, are not binding but subject to change. Timeframes cited for implementation of all recommended Actions (see Figure 8 following page 60 of the Management Plan) must also be considered non-binding, only advisory.

- o Does Metro wish to assume the role of environmental steward, as proposed, and be responsible for environmental monitoring of the Smith and Bybee Lake Management Area?

The Executive Officer believes this is an appropriate role for Metro that complements both the District's desire to close St John's Landfill in an environmentally responsible manner and the District's evolving programs in natural areas and water resources management and recommends its endorsement by the Council whether or not legal title to the landfill is taken.

- o Does Metro aspire to a "hands-on" role in the construction, operation, and maintenance of recreational and educational facilities constructed in the Management Area?

While this is an option to consider, the Executive Officer recommends that the Portland Parks Bureau is best equipped to carry out these responsibilities at the present time. Were Metro to take legal title to the Landfill and control the Trust Fund, an interagency agreement with the Parks Bureau should be pursued toward that end, including provisions authorizing funding from the Trust Fund to the Parks Bureau to implement recreational components of the Management Plan. Actual appropriations to the Parks Bureau would be allocated through Metro's budget process. A stipulation in any new or amended landfill agreement with the City that the Parks Bureau would have first right of refusal to develop, operate and maintain recreational and educational facilities in the Smith and Bybee Lakes Management Area would also be appropriate.

- o If Metro were to control the Trust Fund, would Metro also have primary responsibility for acquiring private property for inclusion in the Management Area and negotiating user agreements with property "in-holders"?

As the entity with appropriation authority over the Trust Fund, Metro would be obligated to exercise fiscal control over use of Trust Fund monies and approve legal agreements with private property owners for public use of their land. It may be possible to delegate property acquisition and public use negotiations to designated agents of Metro, the Parks Bureau being a likely candidate in this instance. The Executive Officer recommends that this issue be fully discussed in the ongoing landfill lease agreement/ownership negotiations. A

~~first right of refusal provision for the Parks Bureau to assume negotiating responsibilities as an agent of Metro may be an option to consider.~~

- o If Metro were to control the Trust Fund, would Metro also have primary responsibility for appointing and staffing the Management Committee?

Appointing and staffing the Management Committee would be an appropriate Metro responsibility, as the Committee would be the principal advisory body to the Council regarding the Management Area were Metro to be the Trust Fund manager. The Executive Officer also supports the Management Committee responsibilities and membership as proposed in Policy 10 with the addition of a representative(s) from the Metro Council and designation of the Chair as the Council deems appropriate were Metro to be the Trust Fund Manager.

Specific Language of Policies and Actions

Attachment A presents changes to the language of some of the 26 Policies and 9 Actions proposed in the Smith and Bybee Lakes Management Plan (3-12-90 draft) to be transmitted to the City for consideration in accordance with the above policy recommendations were the Metro Council to approve the attached draft resolution. Recommended deletions to existing language are lined-out and recommended additions shaded. The intent of the language changes is to retain flexibility for either Metro or the Portland Park Bureau to implement specific provisions of the Management Plan pending final resolution of implementation responsibilities through conclusion of the negotiations regarding the St. John's Landfill lease/ownership agreement. References to specific dollar amounts available for funding implementation of the Management Plan have also been eliminated as these ,too, may be affected by the lease negotiations.

The language changes also have the effect of altering Figure 8, "Smith & Bybee Lakes Management Plan Implementation Schedule" as Responsible Organizations become less clearly defined. As stated earlier in the staff report, the Time Frames cited for implementation Actions are understood to be advisory rather than binding.

RECOMMENDATION

The Executive Officer recommends approval of Resolution 90-1282 which accomplishes the following:

- o Approves the Smith and Bybee Lakes Management Plan in concept, and;
- o Recognizes the close relationship of the landfill lease

agreement/ownership negotiations and delineation of respective Metro and City responsibilities for implementing the Management Plan and for defining financial resources earmarked for implementation. Directs staff to ensure that appropriate roles, responsibilities and funding sources associated with the Management Plan are also addressed in the landfill lease/ownership agreement.

- o Directs staff to forward a letter, including Attachment A, to the City identifying language changes to the Smith and Bybee Lakes Management Plan that would be necessary for the document to move through the approval process prior to conclusion of landfill lease agreement/ownership negotiations.

attachments: Resolution 90-1282
Attachment A
Memorandums to Portland Planning Commission from
Portland Parks Bureau and Portland Planning Bureau

PL/pl:S&BLKS.SR2



CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

1120 S.W. 5TH, ROOM 502
PORTLAND, OREGON 97204-1976
(503) 796-5193



MIKE LINDBERG, Commissioner

CHARLES JORDAN, Superintendent

M E M O R A N D U M

April 10, 1990

To: Portland Planning Commission

From: Jim Sjulín, Bureau of Parks *JMS*

Re: Smith and Bybee Lakes Management Plan
"Planning Commission Final Draft, March 12, 1990"

As with most documents submitted for your consideration, a few unintended errors have slipped through. I call your attention to the following and pledge to keep you informed of any subsequent errors brought to my attention.

Page 30, first paragraph below "Problems and Needs" heading. Change "Recommendations" to "Policies and Actions."

Page 48, Policy 24. The incomplete reference to a figure should be completed as "Figure 5."



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PORTLAND, OREGON 97204-1976
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MIKE LINDBERG, Commissioner

CHARLES JORDAN, Superintendent

MEMORANDUM

April 10, 1990

To: Portland Planning Commission
From: Jim Sjulín, Bureau of Parks *JMS*
Re: Smith and Bybee Lakes Management Plan

In order to better accommodate expected legitimate needs (e.g., model airplane flying, archery) and yet preserve needed controls at the landfill site, the following language is proposed as a change in the Smith and Bybee Lakes Management Plan:

Policy 14 (5th point)(page 45)

No vehicles shall be allowed across the landfill bridge, except maintenance vehicles and vehicles authorized by permit issued by the landfill owner or operator. Such permitted access shall not be unreasonably withheld.

and

REC 7 (page 27)

Delete "but on the south side of the landfill bridge."

I respectfully submit these changes as "friendly amendments" to the "March 12, 1990, Planning Commission Final Draft."

Jim Sjulín



CITY OF

PORTLAND, OREGON

BUREAU OF PLANNING

Earl Blumenauer, Commissioner
Robert E. Stacey, Jr., Acting Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
(503) 796-7700

Current Planning

Housing

Long Range Planning and Urban Design

Land Use Permits

April 25, 1990

MEMORANDUM

TO: Planning Commission

FROM: Duncan Brown, Senior Planner **D.B.**

SUBJECT: Natural Resources Management Plan for Smith and Bybee Lakes

As a result of public testimony taken on April 10th before the Planning Commission, several minor changes to the Natural Resources Management Plan were directed prior to final approval. Following is a summary of the changes:

- Page 31, paragraph 6. Add the following sentence:
Protection of remaining private property from unwanted access will be considered prior to construction of facilities and as levels of use increase over time.
- Page 33, after the Environmental Issues section. Add the following section:
ECONOMIC ISSUES
Implementation of the Natural Resources Management Plan will result in economic impacts to private properties within and adjacent to the plan area, when compared to existing environmental regulations. The possibility of increased levels of trespass is one of the major negative impacts. This is addressed in two ways: (1) placing the recreation trails and planned activity areas north of the slough, away from industrial property south of the slough, and (2) addressing various protection measures for remaining private properties within Smith Lake as recreation facilities are constructed and levels of use increase.

Positive impacts include allowance of water dependent uses on industrial lands along the south bank of the slough, subject to a determination of no net loss of resource value (Policy 21, page 46). This will provide more flexibility than the existing E zone approval criteria, which requires a property owner to first minimize adverse impacts and then meet specific standards, in addition to the requirement to mitigate in a manner which results in "no net loss" (City Code subsection 33.635.080.B). If the slough is developed in the future to allow navigation, property owners will be able to take advantage of this provision.

There are a number of privately-owned lands within Smith Lake which are totally wetlands, some of which have no access. As such, development cannot take place without costly and lengthy approval processes with local, state, and federal agencies. Plans for purchasing property within Smith Lake will result in a positive economic impact for those property owners who have been unable to fill and develop the wetlands (policy 5, page 42).

Other positive economic benefits include amenity values which will be reflected in increased values of nearby properties, decreased costs for recreation due to nearness to population centers, fisheries enhancement for anadromous as well as warm-water fish, increased sales of sporting equipment for fishing, wildlife observation, and other planned recreation activities, and the potential for use of the resource area for education and research.

- **Page 27, Development Project REC 7:
Delete "...but on the south side of the landfill bridge."**
- **Page 30, first paragraph below Problems and Needs section:
Change "Recommendations" to "Policies and Actions."**
- **Page 45, fifth point under Policy 14. Change to read:
No vehicles shall be allowed accross the landfill bridge, except maintenance vehicles and vehicles authorized by permit issued by the landfill owner or operator. Such permitted access shall not be unreasonably withheld.**
- **Page 46, Policy 21:
Change "Water-based" to "Water-dependent."**
- **Page 48, Policy 24:
The incomplete reference to a figure should be completed as "Figure 5."**

- Page 48, after Policy 26. Add two new policies to read:

Policy 27

Archaeological resources shall be included as a major feature of the Management Area. Interpretation of archaeological resources and the prehistoric ways of life of the native peoples of the Portland area shall be integrated into educational programs developed for the Smith and Bybee Lakes area.

Policy 28

When any development within the Management Area is planned, the following steps will be taken in the area affected by the proposed development to insure protection of archaeological resources:

- (a) **Obtain information on recorded sites within the area affected from the State Historic Preservation Office;**
 - (b) **Evaluate the current status of the known sites;**
 - (c) **Conduct reconnaissance surveys in areas affected by proposed projects which include dredging, excavation, fill, or possible changes in the hydrological regime of the lakes and Columbia Slough;**
 - (d) **Evaluate potential impacts of the proposed project on the archaeological resource; and**
 - (e) **In cases where significant archaeological resources are identified, take appropriate measures to avoid impact or to develop appropriate mitigation measures through consultation with the Oregon Historic Preservation Office.**
- Page 56, Special Management Areas subsection. Add the following objective:
 - **Follow guidelines for activities within transmission line easements and rights-of-way as established by the BPA, specifically:**
 - (a) **No buildings or structures are allowed on the rights-of-way.**
 - (b) **No parking is allowed within 50 feet of any tower legs.**
 - (c) **A minimum distance of 50 feet is required from the edge of any road to the nearest tower leg.**
 - (d) **Storage of flammable materials is prohibited.**
 - (e) **Fill or excavation is prohibited within 50 feet of any tower legs. Maximum slope allowed is 1:2 (50%). Any change of ground elevations must be approved by BPA.**
 - (f) **Any underground facilities must not cross transmission line grounding systems and are to be kept a minimum of 15 feet from the end of any grounding system.**
 - (g) **Access to towers by BPA maintenance crews must be available at all times and must not be impaired.**

- (h) **Trees and shrubs must be kept trimmed to a maximum height of ten feet.**
 - (i) **Installation of warning signs against climbing of towers and flying kites and model airplanes within the vicinity of the power lines shall be considered.**
 - (j) **BPA is not responsible for damage to any paths, roads, buried pipes and cables, or other facilities located within rights-of-way which may occur during maintenance, reconstruction, or future construction of BPA facilities.**
- **Figure 8, following Page 60, the fourth box down in the "Action/Policy" column:
Change "Policy" to "Property."**

Staff Recommendation

It is recommended that the Planning Commission take the following action:

1. **Amend the Natural Resources Management Plan for Smith and Bybee Lakes to incorporate the changes contained in this memo;**
2. **Adopt the Natural Resources Management Plan for Smith and Bybee Lakes as amended; and**
3. **Forward the Natural Resources Management Plan for Smith and Bybee Lakes to the City Council with a recommendation for adoption.**

DB/♣



CITY OF
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Earl Blumenauer, Commissioner
Robert E. Stacey, Jr., Acting Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
(503) 796-7700

Current Planning

Housing

Long Range Planning and Urban Design

Land Use Permits

May 4, 1990

MEMORANDUM

TO: Planning Commission

FROM: Duncan Brown, Planning Commission

SUBJECT: Proposed Amendments to the Natural Resource Management Plan for Smith and Bybee Lakes

On May 3rd Vivian Dunkle from the Land Management Section of the Bonneville Power Administration contacted me concerning changes proposed by Planning Bureau staff concerning activities within transmission line easements (page 56, Special Management Areas subsection of the Management Plan, found on page 3 of the April 25th memo from the Planning Bureau to the Planning Commission). She commented that the ten guidelines included in her April 10th letter to the Planning Commission were only examples, and incorporation of them into the Management Plan might unnecessarily restrict planned activities. The Bonneville Power Administration simply wished to be consulted prior to any decision-making actions regarding specific uses near the transmission lines. It was suggested that actions outlined in paragraph 3 in her letter be incorporated into the Management Plan instead of the ten guidelines for activities.

The Planning Bureau recommends that guidelines for activities proposed for addition to the Management Plan in the April 25th memo be replaced by the following objective:

Consult the Bonneville Power Administration (BPA) prior to decision-making or actions taken by the Management Committee regarding specific uses of the BPA rights-of-way or easements, such as increasing or fluctuating water levels. Detailed drawings or plans for specific uses or actions must be reviewed by the BPA to determine whether proposed uses would interfere with the BPA's use of its rights-of-way, and to determine whether such actions will create safety hazards. This requirement includes underground pipes and cables, as well as above-ground lighting standards.