

BEFORE THE COUNCIL OF
THE METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING STAFF)
OF SMITH AND BYBEE LAKES TRUST FUND)
TO SERVE AS LIAISON FOR ACQUISITION)
OF LAND IN THE LAKES MANAGEMENT AREA)

RESOLUTION NO. 92-1558

INTRODUCED BY EXECUTIVE
OFFICER RENA CUSMA

WHEREAS, On November 8, 1990, the Council of the
Metropolitan Service District adopted Ordinance No. 90-367
approving the Natural Resources Management Plan for Smith and
Bybee Lakes; and

WHEREAS, Metro is identified as the Trust Fund Manager of
the Lakes Trust Fund as established by the Management Plan and
the 1990 St. Johns Landfill Agreement; and

WHEREAS, The Management Plan identifies acquisition of
private property in the Management Area from land owners willing
to sell as critical to successful management of the area; and

WHEREAS, The Management Plan identifies the Trust Fund
Manager as responsible for property acquisition; and

WHEREAS, Procedures for the land acquisition program as
proposed by the Smith and Bybee Lakes Management Committee
recommends that Trust Fund Manager staff serve as liaison between
private landowners and the Management Committee and Council; now
therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District hereby
authorizes Jim Morgan serve as principal liaison between private
landowners of property within the Smith and Bybee Lakes
Management Area and the Trust Fund Manager and Management

Committee. As principal liaison, Mr. Morgan's responsibilities include negotiating for in-fee acquisition of privately-held properties under guidelines established by the Trust Fund Manager and the Management Committee (Exhibit A). Prior to acquisition of any land parcel, an environmental site assessment will be conducted according to procedures to be established by the Council.

ADOPTED by the Council of the Metropolitan Service District
this 27th day of February, 1992.



Jim Gardner, Presiding Officer

EXHIBIT A

SMITH AND BYBEE LAKES MANAGEMENT COMMITTEE GUIDELINES FOR PROPERTY ACQUISITION

To ensure impartiality and fairness in acquisition of land parcels from private property owners in the Smith and Bybee Lakes Management Area, the Smith and Bybee Lakes Management Committee has established guidelines for negotiations. The Management Plan stated that private land owners who are willing to sell will be compensated at "fair market value". Land appraisal companies evaluated those properties and submitted reports on each available land parcel. Since there were some significant differences between tax assessed value, appraised value, and value perceived by the owners, uniform guidelines were needed for negotiating purchase of properties.

In an Executive Session on the December 19, 1991, the Management Committee established these guidelines for use by the principal liaison. The principal liaison appointed by the Committee was Jim Morgan, Metro staff to the Management Committee. The specific guidelines established by the Committee can be discussed with the Metro Council only under Executive Session. The guidelines are designed to fairly compensate private landowners while protecting public funds.

PROCEDURE FOR LAND ACQUISITION

1. **Land parcels to be acquired are identified.**
All private property owners willing to sell are included.
2. **Land parcels are appraised by independent appraisal company.**
3. **An environmental site assessment is conducted.**
Environmental site assessment for real estate transactions has become a fundamental component of the commercial real estate transfer process. Metro staff is currently drafting an environmental evaluation procedure for Council consideration. This procedure will be included in all acquisitions of real estate.
4. **Using guidelines established by the Management Committee and Council, Metro staff negotiates with sellers.**
5. **Results of negotiations are submitted to the Committee and Council for approval.**
Prior to completing acquisition of any property or rights to property, each potential sale will be approved by the Management Committee and forwarded to the Council for consideration for approval.
6. **Metro staff completes acquisition of property, with deed transfer signed by METRO Executive Officer. The Council must approve all potential sales prior to signing.**

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1558, FOR THE PURPOSE OF AUTHORIZING STAFF OF SMITH AND BYBEE LAKES TRUST FUND TO SERVE AS LIAISON FOR ACQUISITION OF LAND IN THE LAKES MANAGEMENT AREA

Date: February 26, 1992

Presented by: Councilor Washington

Committee Recommendation: At the February 25 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1558. Voting in favor: Councilors Devlin, Buchanan, McLain and Washington. Excused: Councilor Bauer.

Committee Issues/Discussion: Jim Morgan, Planning Department, reviewed the staff report which includes a history of the project and discusses recent activities leading toward actual acquisition of property in the Smith and Bybee Lakes Natural Area.

He explained that the properties have been appraised by two independent land appraisal companies having extensive experience in examining wetland properties. Most of these properties are inundated with water most of the year. Once the appraisals have been completed, the next set is to enter into negotiations.

Currently, there is no procedure within the Metro Code to serve as a guide to this type of negotiation. The Smith and Bybee Lakes Management Committee has endorsed this resolution which assigns Mr. Morgan to act as Metro's liaison with the land owners on an "in house" basis rather than hiring a private party. They believe that hiring a private party to act on Metro's behalf would drain resources and not result in any price savings. The Director of the Regional Facilities Department concurs with this appointment.

The Smith and Bybee Lakes Management Committee was set up by the Natural Resources Management Plan and is composed of members and of the Council, Metro staff, the Portland Parks Bureau, the Oregon Fish and Wildlife Service, Friends of Smith and Bybee Lakes and the Portland Audubon Society. The method for property acquisition and actual negotiation procedure has been set up by the management committee. The opportunity to discuss the procedures in executive session was offered and declined by the committee.

All acquisitions will be brought to the Metro Council for final approval prior to signature by the Executive Officer.

Councilor Washington asked how many parcels were involved and for the names of the two consultant groups. There are a total of sixteen parcels, totalling 413 acres of land. The two appraisal companies are Moscato Otner and Associates, in Portland, and Spencer Powell and Associates, in Salem.

Councilor McLain asked what is involved in an environmental site assessment. Mr. Morgan explained that prior to acquisition of commercial properties, environmental site assessments are commonly done. Most banks require such assessment. He believes that such a step is prudent prior to acquisition by a governmental entity. The assessment itself varies from property to property but generally entails a review of the records and site inspection for soil discoloration, underground storage tanks, etc. More thorough review is then undertaken as necessary to determine how the site was used historically.

Metro does not have an established procedure for such assessment. It is currently under development by the Planning Department and legal counsel. The procedure, once developed, will lay the groundwork for other potential purchases (i.e. Greenspaces) being anticipated in the future. In the meantime, what would be represented to potential sellers is the fact that a procedure is in the process of being developed and that Metro intends to operate in "good faith" toward acquisition of their land. Mr. Morgan hopes to have the procedure ready for Transportation and Planning Committee review before the end of the month.

Council Staff Note: Discussions with Larry Shaw, legal counsel, indicate that the resolution is necessary to protect Metro's position in writing from being misinterpreted by potential sellers. The anticipated procedures are to set parameters for the liaison for limited authority to act on behalf of the Council. It should alleviate misunderstandings and potential legal battles.

STAFF REPORT

FOR THE PURPOSE OF AUTHORIZING STAFF OF SMITH AND BYBEE LAKES TRUST FUND MANAGEMENT TO SERVE AS LIAISON FOR THE PROCUREMENT OF PROPERTY WITHIN THE SMITH AND LAKES MANAGEMENT AREA.

Date: February 25, 1992

Presented by: Jim Morgan

FACTUAL BACKGROUND AND ANALYSIS

Metro and City of Portland Councils, in a joint session on November 8, 1990, approved and adopted the Natural Resources Management Plan for Smith and Bybee Lakes. At the same session, the Lakes Trust Fund was established. According to the Management Plan, Metro will serve as Trust Fund Manager and environmental monitor for the Management Area.

The Plan identifies public ownership of property as a critical step in successful management of the area. The property in the area will be under ownership of Metro, Port of Portland, and City of Portland. The acquisition and consolidation of those land parcels now remaining in private ownership needs to be completed to ensure coordinated management of the environment.

Most of the private property owners have indicated a willingness to sell. It has been made known to owners that a land acquisition program exists to acquire property from willing sellers on a fair market basis. Contact with the property owners has been maintained by staff, alerting owners of the program's status. The Plan identifies Metro, as the Trust Fund Manager, as responsible for acquiring property.

Activities toward property acquisition to date include title search on properties identified for sale, mapping of those properties, and appraisal of those properties by two independent land appraisal companies. Two appraisal companies with extensive experience in appraising wetland parcels were selected. The appraisal reports have been completed and reviewed by the Smith and Bybee Lakes Management Committee. The Committee has recommended guidelines for land acquisition negotiation with landowners. These guidelines can be discussed in executive session if desired.

On December 19, 1991, the Management Committee endorsed that Jim Morgan serve as liaison between the Management Committee and property owners and as chief negotiator for land acquisition of properties in the Management Area. The Committee endorsement was based on the following reasons:

- (1) Mr. Morgan has initiated and maintained discussions with property owners;
- (2) Mr. Morgan is knowledgeable of Management Committee and Trust Fund Manager concerns, priorities, and procedures;

- and,
(3) property owners have indicated an acceptance of Mr. Morgan's representation of the public welfare.

An environmental site assessment has become a fundamental component of the commercial real estate transfer process. Currently, Metro has no policy on procedures for environmental site assessment of property potentially to be acquired. This procedure is currently being developed and will be presented to the Council for consideration for approval prior to acquisition of any land parcels.

Plans for minimal development appropriate to passive recreational use and wildlife enhancement of the properties will be developed by the Management Committee and presented to the Council.

Management of acquired lands will be coordinated with Metro's Risk Management Division. The Director of Regional Facilities Department concurs with this appointment.

BUDGET IMPACTS

According to the Management Plan, funds for the acquisition program covering costs of property and transaction costs should be appropriated by the Trust Fund Manager (Metro). In FY91-92 budget for Smith and Bybee Lakes Trust Fund, \$400,000 was appropriated for expenditure on the land acquisition program. No expenditures have incurred against this appropriation at this time.

The total taxed value of all parcels identified for sale in the Management Area is \$399,000. The appraised fair market values on these properties total less than this sum. The total expenditure for in-fee acquisition of property is not expected to exceed the total taxed value. Therefore, the expected expenditure is within the appropriated amount.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 92-1558.