

**BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT**

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 92-1693
THE EXECUTIVE OFFICER TO EXECUTE)	
THE ACQUISITION OF LAND IN THE)	Introduced by Rena Cusma,
SMITH AND BYBEE LAKES MANAGEMENT)	Executive Officer
AREA)	

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 landowners 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, expedition of the land acquisition process will avoid undue tax burdens on owners who are willing to sell and will permit timely implementation of management responsibilities by Metro; and

WHEREAS, executing closure on in-fee purchase of land parcels as they become available would be most expeditious; and

WHEREAS, funds have been budgeted within the Trust Fund for the acquisition of land parcels at fair market value; and

WHEREAS, Metro's liaison for property purchases for Smith and Bybee Lakes has negotiated acceptable purchase agreements with several landowners who are anxious to sell; and

WHEREAS, guidelines for negotiating terms of land purchases were developed by the Smith and Bybee Lakes Management Committee and presented to Council in Executive Session; and


WHEREAS, Metro's Office of General Counsel has approved purchase and sale agreements for Smith and Bybee Lakes properties; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District hereby authorizes the Executive Officer to execute purchase and sale agreements, as well as any other documents necessary to obtain closure on land properties in the Smith and Bybee Lakes Management Area as they become available, and within guidelines established by the Smith and Bybee Lakes Management Committee.

2. That the Executive Officer or designee is authorized to make any disbursements from the Lakes Trust Fund that are necessary to comply with the terms of the purchase and sale agreements.

ADOPTED by the Council of the Metropolitan Service District this 22nd day of October, 1992.



Jim Gardner, Presiding Officer

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1693, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE THE ACQUISITION OF LAND IN THE SMITH AND BYBEE LAKES MANAGEMENT AREA

Date: October 15, 1992

Presented by: Councilor Washington

Committee Recommendation: At the October 13 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1693. Voting in favor: Councilors Devlin, McLain, Buchanan, Moore, and Washington.

Committee Issues/Discussion: Jim Morgan, Senior Regional Planner, presented the staff report. He briefly reviewed the history of the development of the Smith and Bybee Lakes project. Metro is the Trust Fund Manager and, as such, is required to acquire property within the management area from willing land owners. The acquisition process has been developed by a special task force of the Smith and Bybee Lakes Management Committee. The process provides for both full purchase agreements and conservation easement agreements of nearly 400 acres of land.

The purchase agreements for many of the parcels have been finalized, while others are still in negotiation. Confidentiality is necessary regarding the remaining negotiations until agreements have been signed, at which time, all agreements become public record. So far, the total amount is within the amount budgeted by the Council. If for any reason this changes, the Council will need to consider the option through the budget amendment process.

There is one portion of land within the management area that is currently in an annexation process with the Boundary Commission. The property is entirely surrounded by incorporated land and is being annexed under "island annexation" procedures. This issue will be decided by the Boundary Commission on October 18, 1992. When this annexation is completed, hunting within the area will cease because the city of incorporation has an ordinance banning the discharge of firearms. This change may impact the decision to sell of some of the now reluctant land owners.

The process for closure of sales agreements can be protracted. If it were necessary to hold up all agreements until the entire package was completed, the process would become extremely cumbersome. This resolution would allow the Executive Officer to act on each individual sale as closure is completed.

Councilor Washington asked about the use of "eminent domain". Mr. Morgan explained that Metro's policy is to deal with "willing sellers" whenever possible. "Eminent domain" is possible in extreme cases, but the hope is to never use it. In fact, the

subject has not been discussed with any of the potential sellers. There are cases where conservation easements will be utilized rather than outright purchase, as well as other options. In these cases, no trail improvements will be made to the land but Metro retains the option to flood the land periodically to enhance the wildlife.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO.92-1693 FOR THE PURPOSE OF AUTHORIZING EXECUTIVE OFFICER TO EXECUTE LAND PURCHASES IN SMITH AND BYBEE LAKES MANAGEMENT AREA

Date: October 5, 1992

Presented by: Jim Morgan

FACTUAL BACKGROUND AND ANALYSIS

In the November 8, 1990 joint session of the Councils of Metropolitan Service District and the City of Portland, the Natural Resources Management Plan for Smith and Bybee Lakes was adopted. The Councils jointly established the Lakes Trust Fund, designating Metro as the Trust Fund Manager. In this role, Metro is responsible for implementation of the plan. An early activity outlined in the plan is the acquisition of private property remaining in the Management Area from land owners willing to sell.

Acquisition of private property in the lakes area has been proceeding for the past 18 months, including the following activities:

- 1) the land acquisition program was announced to all landowners;
- 2) two independent land appraisal firms were contracted to conduct appraisal of subject properties with the intent of establishing fair market value;
- 3) Metro Council authorized Jim Morgan through Resolution No. 92-1558 to serve as the principal liaison for negotiations;
- 4) Smith and Bybee Lakes Management Committee established guidelines for terms of acquisition;
- 5) offers were made on all parcels owned by those willing to sell;
- 6) purchase and sale agreements were developed;
- 7) a title insurance company has been contacted to establish escrow account and title insurance on properties; and,
- 8) preliminary environmental site assessments were conducted.

Guidelines for negotiation were outlined by a sub-committee from the Smith and Bybee Lakes Management Committee. These guidelines focussed exclusively on prices as which offers would be made. All offers made to willing sellers were within these guidelines. The guidelines will be presented to Council in Executive Session since negotiations with other property owners are continuing.

Presently, seven owners have accepted offers on seven parcels. Some parcels have multiple owners with undivided interests. Purchase and sale agreements have been sent to those six owners, and one has been returned signed to date. The remaining seven parcels with owners who are willing to sell are still in negotiation. There are two parcels in which the owners may not sell but are willing to discuss easements.

One party with full ownership of a small parcel has refused to sell, wishing to retain the land for game hunting. With the impending annexation of this and surrounding properties into the

City of Portland, hunting will no longer be allowed. The owners may be willing to sell in the future.

Another owner of an undivided interest in a parcel who is unwilling to sell currently resides on the subject parcel. Changing conditions that may affect the owners position include Metro's acquisition of the remaining 3/4 interests in the parcel, increased activity in the area that eliminates its isolation, and annexation of the parcels that will affect any future development capabilities. Negotiations with the owner will continue as conditions change.

Expedition of the land acquisition process is needed to avoid additional tax burdens on owners who are willing to sell and to proceed with other management activities in the area, such as trail development. Closure on individual parcels should proceed as they become available. Granting the Executive Officer the authority to execute closure on properties as they become available would be most expeditious. Resolution No. grants that authority.

BUDGET IMPACTS

As stated in the Natural Resources Management Plan for Smith and Bybee Lakes, funds for land acquisition would come from the Lakes Trust Fund. Up to \$200,000 was allocated for land acquisition in the FY92-93 budget approved by the Council. The total amount offered to potential sellers that have been accepted to date is \$193,760. To date, no expenditures for in-fee purchase of land has occurred.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 92-1693, authorizing the Executive Officer to execute closure on land purchases in the Smith and Bybee Lakes Management Area and make disbursements to comply with purchase and sale agreements.