

Metro | Agenda

Meeting: Metro Council
Date: Thursday, May 7, 2015
Time: 2 p.m.
Place: Metro Regional Center, Council Chamber

REVISED 5/7/15

CALL TO ORDER AND ROLL CALL

1. CITIZEN COMMUNICATION

**2. CELEBRATING ASIAN PACIFIC ISLANDER
COMMUNITY DEVELOPMENT PRESENTATION**

**Lisa Hasegawa, National Coalition
for Asian Pacific American
Community Development**

**TBA, Asian Pacific American
Network of Oregon**

3. CONSENT AGENDA

3.1 Resolution No. 15-4625, For the Purpose of
Authorizing the Chief Operating Officer to Issue a
New Non-System License to Swan Island Dairy for
Delivery of Non-Recoverable Non-Putrescible
Waste and Putrescible Waste to the Covanta
Waste-To-Energy Facility in Marion County,
Oregon

3.2 Resolution No. 15-4626, For the Purpose of
Authorizing the Chief Operating Officer to Issue a
new Non-System License to the Troutdale
Transfer Station for Delivery of Residential Yard
Debris Mixed with Food Waste to the Dirt Hugger
Composting Facility Located in Dallesport,
Washington

3.3 Resolution No. 15-4627, For the Purpose of
Authorizing the Chief Operating Officer to Enter
Into an Employment Agreement with the General
Manager of Visitor Venues

3.4 Consideration of Council Meeting Minutes for
April 16, 2015

4. RESOLUTIONS

4.1 Resolution No. 15-4619, For the Purpose of
Authorizing the Chief Operating Officer to Sell
Certain Real Property as Part of the Natural Areas
Program

Dan Moeller, Metro

- 4.2 **Resolution No. 15-4612**, For the Purpose of
Adopting the Annual Budget for Fiscal Year 2015-
16, Making Appropriations, Levying Ad Valorem
Taxes, and Reauthorizing an Interfund Loan

4.2.1 **Public Hearing on Resolution No. 15-4612**

- 4.3 **Resolution No. 15-4613**, For the Purpose of **Tim Collier, Metro**
Approving the Fiscal Year 2015-16 Budget, Setting
Property Tax Levies and Transmitting the
Approved Budget to the Multnomah County Tax
Supervising and Conservation Commission

- 4.4 **Resolution No. 15-4629**, For the Purpose of **Michelle Bellia, Metro**
Authorizing the Metro Attorney to Defend, Appeal,
or Commence Litigation Related to Ownership of
Burial Rights at Metro's Historic Cemeteries

5. **CHIEF OPERATING OFFICER COMMUNICATION** **Martha Bennett, Metro**

6. **COUNCILOR COMMUNICATION**

ADJOURN

Television schedule for May 7, 2015 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.	Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 Call or visit web site for program times.
Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 Call or visit web site for program times.	Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 Call or visit web site for program times.
Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.	

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ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានក្បួនលើសអើងសូមចូលទស្សនាការបោះពុម្ពផ្សាយ www.oregonmetro.gov/civilrights។
បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1890 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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Agenda Item No. 3.1

Resolution No. 15-4625, For the Purpose of Authorizing the
Chief Operating Officer to Issue a New Non-System License to
Swan Island Dairy for Delivery of Non-Recoverable Non-
Putrescible Waste and Putrescible Waste to the Covanta Waste-
To-Energy Facility in Marion County, Oregon

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF) RESOLUTION NO. 15-4625
OPERATING OFFICER TO ISSUE A NEW NON-)
SYSTEM LICENSE TO SWAN ISLAND DAIRY FOR) Introduced by Martha J. Bennett,
DELIVERY OF NON-RECOVERABLE NON-) Chief Operating Officer, with the
PUTRESCIBLE WASTE MIXED WITH PUTRESCIBLE) concurrence of Tom Hughes,
WASTE TO THE COVANTA WASTE-TO-ENERGY) Council President
FACILITY IN MARION COUNTY, OREGON)

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system disposal facility; and

WHEREAS, Swan Island Dairy has filed a complete application seeking a non-system license to deliver non-recoverable non-putrescible waste mixed with putrescible waste from its Swan Island Dairy facility to the Covanta Waste-to-Energy Facility for disposal under the provisions of Metro Code Chapter 5.05, Solid Waste Flow Control; and

WHEREAS, Metro Code Chapter 5.05 provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of Swan Island Dairy is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Swan Island Dairy a Solid Waste Facility Non-System License substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 7th day of May, 2015.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1835 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-167-15

LICENSEE:
Swan Island Dairy 4950 N Basin Avenue Portland, OR 97217
CONTACT PERSON:
Michael Chizum Phone: (503) 256-2210 E-mail: michael.chizum@kroger.com
MAILING ADDRESS:
Swan Island Dairy 4950 N Basin Avenue Portland, OR 97217

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Non-recoverable non-putrescible waste mixed with putrescible waste generated at the Swan Island Dairy site located at Swan Island Dairy, 4950 N Basin Avenue, in Portland, OR.
2	CALENDAR YEAR TONNAGE LIMITATION
	Licensee is authorized to deliver to the non-system facility described in Section 3 of this license up to 85 tons per calendar year of the waste described in Section 1 of this license.
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder is authorized to deliver the waste described above in Section 1 only to the following non-system facility:</p> <p style="text-align: center;">Covanta Waste-to-Energy Facility 4850 Brooklake Road, NE Brooks, OR 97305</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Oregon Department of Environmental Quality that this non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on July 1, 2015 and expire at midnight on December 31, 2017, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of the solid waste on behalf of the Licensee.



6	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all waste that the Licensee delivers to the non-system facility described in Section 3 of this license. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ol style="list-style-type: none">Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andRemit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

7	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification, or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ol style="list-style-type: none">There has been sufficient change in any circumstances under which Metro issued this license;The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Oregon Waste Systems, Inc.; orMetro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in Section 1 of this license be transferred to, and disposed of at, a facility other than the facility listed in Section 3.



	<p>(c) This license shall, in addition to subsections (b)(i) through (b)(iii), above, be subject to amendment, modification, suspension, or termination pursuant to the Metro Code.</p> <p>(d) The Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes the delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p>
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8	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

9	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4625 AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO SWAN ISLAND DAIRY FOR DELIVERY OF NON-RECOVERABLE NON-PUTRESCIBLE WASTE MIXED WITH PUTRESCIBLE WASTE TO THE COVANTA WASTE-TO-ENERGY FACILITY IN MARION COUNTY, OREGON

April 9, 2015

Prepared by: Bill Metzler
(503) 797-1666

Approval of Resolution No. 15-4625 will authorize the Chief Operating Officer (COO) to issue a non-system license (NSL) to Swan Island Dairy to annually deliver up to 85 tons of non-recoverable non-putrescible waste mixed with putrescible waste from its facility within the Metro region to the Covanta Waste-to-Energy Facility (Covanta) in Marion County, Oregon.

BACKGROUND

The applicant is Swan Island Dairy, a Kroger Company owned dairy plant, located at 4950 N. Basin Avenue in Portland, Oregon (Metro District 5). The facility is a dairy product processing plant.

Swan Island Dairy routinely generates miscellaneous non-recoverable non-putrescible mixed with putrescible wastes which consist primarily of non-recyclable ingredient bags, label backings, excess ingredient powders, garbage bags, plastics and non-recoverable food wastes. The facility makes efforts to reduce, reuse, and recycle waste whenever possible. For example, the facility separates out HDPE and PET plastics, cardboard, shrink wrap and wood wastes which are delivered to recycling operations. As part of these sustainability efforts, Swan Island Dairy prefers to send its non-recoverable wastes to waste-to-energy facilities instead of landfills for disposal.

On March 31, 2015, Swan Island Dairy filed a complete application seeking an NSL authorizing the delivery of up to 85 tons per calendar year of miscellaneous non-recoverable non-putrescible waste mixed with putrescible waste, generated at its facility to Covanta. The proposed license is subject to approval or denial by the Metro Council because, in addition to the non-recoverable waste, it also authorizes the delivery of putrescible waste to a non-system facility.¹

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed NSL.

2. Legal Antecedents

Section 5.05.043 of the Metro Code provides that, when determining whether or not to approve an NSL application, the Metro Council shall consider the following factors to the extent relevant to such determination.

¹ Metro Code Section 5.05.040

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal site is a waste-to-energy facility rather than a landfill and thus does not pose the same potential environmental risk from waste delivered from users. Air emissions from the facility are controlled through the use of high efficiency combustion within the furnace/boiler as well as by selective non-catalytic reduction, spray dryer absorbers, fabric filter baghouses and an activated carbon injection system. The ash generated at the facility is then disposed at a monofill that is permitted by the Oregon Department of Environmental Quality (DEQ) and later processed to recover metal.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;*

Covanta is permitted by the DEQ. Metro staff received verbal confirmation from the DEQ and Marion County that Covanta is in compliance with federal, state, and local requirements. Staff has also received confirmation that Covanta has a good compliance record with respect to public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Covanta screens incoming waste for hazardous, radioactive, and other unacceptable materials and has a state-of-the-art emissions control system to minimize the risk of future environmental contamination. In addition, Covanta uses operational practices and management controls that are considered by the DEQ to be appropriate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Swan Island Dairy has a sustainability program and it seeks to deliver only its non-recyclable non-putrescible waste mixed with putrescible waste, to Covanta instead of a landfill. The Metro-area waste that is delivered to Covanta is not included in Metro's recovery rate calculation because state statute² stipulates that only those wastesheds that burn mixed solid waste for energy recovery within their watershed boundaries may count a portion of it towards their DEQ recovery rate calculation. Marion County is the only watershed within Oregon that hosts a waste-to-energy facility within its boundaries; therefore, it is the only watershed that is currently allowed to include a portion of the in-County waste that is delivered to Covanta in its recovery rate. Approval of the proposed license is not expected to impact the Metro region's recycling and waste reduction efforts.

- (5) *The consistency of issuing the license with Metro's existing contractual arrangements;*

Metro has a contractual obligation to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Waste Management. The waste subject to this proposed license will not be disposed at a general-purpose landfill. Thus, approval of the proposed license will not conflict with Metro's disposal contract.

In addition, Metro has a contract with Marion County for the delivery of solid waste from Metro's transfer stations to Covanta. Issuing this NSL is consistent with this existing contractual arrangement.

² ORS 465A.010(4)(f)(B)

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and*

This factor is not relevant to this application because Swan Island Dairy (the applicant) is not a solid waste facility.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Covanta is the primary disposal site for solid waste generated within Marion County. At certain times during the year, in order to operate more efficiently, the facility requires more solid waste than is generated within the County. During these times, Marion County supports the Metro-authorized flow of solid waste to Covanta.

The proposed license includes a 30-month term, commencing on July 1, 2015, and expiring on December 31, 2017. Although new NSLs are typically issued for up to a three-year period (up to 36 months) to align it with other similar NSLs or renewal cycles, staff recommends that the Metro Council establish a 30-month term in this instance in order to align the license with a calendar year renewal cycle. The Metro Code stipulates that new NSLs may be issued for up to a three-year period.³

3. Anticipated Effects

The effect of Resolution No. 15-4625 will be to issue a new NSL authorizing Swan Island Dairy to deliver up to 85 tons per calendar year of miscellaneous non-putrescible non-recoverable waste mixed with putrescible waste, to Covanta. The proposed NSL would commence on July 1, 2015 and expire on December 31, 2017.

4. Budget/Rate Impacts

The waste covered under the proposed NSL will be delivered to Covanta. Covanta is not a general-purpose landfill and the proposed tonnage will not impact Metro's obligations under its disposal contract. The tonnage that Swan Island Dairy seeks to deliver to Covanta under this proposed NSL will most likely be diverted away from the Metro Central Transfer Station. This tonnage shift of 85 tons per year will have a negligible impact on the cost of disposal for Metro's customers. Furthermore, the regional system fee and excise tax will continue to be collected on the waste covered by this license.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 15-4625, finding that the license satisfies the requirements of Metro Code Section 5.05.043, and issuance of a new NSL substantially similar to the license attached to the resolution as Exhibit A.

BM:bjl:
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³ Metro Code Section 5.05.045(5)(B)

Agenda Item No. 3.2

Resolution No. 15-4626, For the Purpose of Authorizing the Chief Operating Officer to Issue a New Non-System License to the Troutdale Transfer Station for Delivery of Residential Yard Debris Mixed with Food Waste to the Dirt Hugger Composting Facility Located in Dallesport, Washington

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 15-4626
OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM)	
LICENSE TO THE TROUTDALE TRANSFER STATION	)	Introduced by Martha J. Bennett,
FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED	)	Chief Operating Officer, with the
WITH FOOD WASTE TO THE DIRT HUGGER	)	concurrence of Tom Hughes, Council
COMPOSTING FACILITY LOCATED IN DALLESPOUR,	)	President
WASHINGTON)	

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro Region to a non-system facility; and

WHEREAS, Waste Management of Oregon, Inc. has filed a complete application seeking a non-system license to deliver residential yard debris mixed with food waste from its Troutdale Transfer Station to the Dirt Hugger composting facility located in Dallesport, Washington, under the provisions of Metro Code Chapter 5.05, Solid Waste Flow Control; and

WHEREAS, such residential yard debris mixed with food waste will be collected from the Metro area and delivered to the Troutdale Transfer Station for consolidation, reload and transport to the Dirt Hugger composting facility; and

WHEREAS, the Dirt Hugger composting facility is authorized by the Klickitat County Health Department and the State of Washington Department of Ecology to accept and compost food wastes that includes post-consumer meat and dairy products; and

WHEREAS, Metro Code Chapter 5.05 provides that applications for non-system licenses for putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council; and

WHEREAS, the Chief Operating Officer has analyzed the application and considered the relevant factors under the Metro Code; and

WHEREAS, the Chief Operating Officer recommends that the non-system license be issued together with specific conditions as provided in Exhibit A to this Resolution; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

1. The non-system license application of Troutdale Transfer Station is approved subject to the terms, conditions, and limitations contained in Exhibit A to this Resolution.
2. The Chief Operating Officer is authorized to issue to Troutdale Transfer Station a non-system license substantially similar to the one attached as Exhibit A.

ADOPTED by the Metro Council this 7th day of May, 2015.

Approved as to Form:

Tom Hughes, Council President

Alison R. Kean, Metro Attorney

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1650 | FAX 503 813 7544



METRO

**METRO SOLID WASTE FACILITY
NON-SYSTEM LICENSE**

No. N-001-15(2)

LICENSEE:
Troutdale Transfer Station Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, OR 97060
CONTACT PERSON:
William Carr Phone: (503) 956-4739 Fax: (866) 666-3809 E-mail: WCarr@wm.com
MAILING ADDRESS:
Troutdale Transfer Station Waste Management of Oregon, Inc. 869 NW Eastwind Drive Troutdale, OR 97060

ISSUED BY METRO:

Scott Robinson, Deputy Chief Operating Officer

Date



1	NATURE OF WASTE COVERED BY LICENSE
	Source-separated yard debris mixed with food waste that is generated by residential customers within the Metro region and delivered to the Troutdale Transfer Station.
2	CALENDAR YEAR TONNAGE LIMITATION
	<p>a) Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 10,000 tons during calendar year 2015 of the waste described in Section 1 of this license.</p> <p>b) Effective January 1, 2016 through December 31, 2017, Licensee is authorized to deliver to the non-system facility listed in Section 3 of this license up to 20,000 tons per each calendar year of the waste described in Section 1 of this license.</p>
3	NON-SYSTEM FACILITY
	<p>The Licensee hereunder may deliver the waste described in Section 1, above, only to the following non-system facility for composting</p> <p style="padding-left: 40px;">Dirt Hugger 168 US 197 Dallesport, Washington 98617</p> <p>This license is issued on condition that the non-system facility named in this section is authorized to accept the type of waste described in Section 1. If Metro receives notice from the Washington Department of Ecology or local regulatory authority that the non-system facility is not authorized to accept such waste, Metro may immediately terminate this license pursuant to Section 7 of this license.</p>
4	TERM OF LICENSE
	The term of this license will commence on June 1, 2015 and expire at midnight on December 31, 2017, unless terminated sooner under Section 7 of this license.
5	REPORTING OF ACCIDENTS AND CITATIONS
	Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles transporting the solid waste authorized by this license.



6	MATERIAL MANAGEMENT
	<p>The Licensee is authorized to deliver the waste described in Section 1 of this license to the non-system facility listed in Section 3 under the following conditions:</p> <ul style="list-style-type: none">a) The non-system facility shall accept all solid waste that is delivered under authority of this license for the sole purpose of processing and composting on site. The licensee shall not dispose of any source-separated recyclable material, except as provided in Section 7;b) The non-system facility shall receive, manage, process, and compost all solid waste that is delivered under authority of this license in accordance with all applicable local, state and federal laws, rules, regulations, ordinances, orders, and permits.

7	REGIONAL SYSTEM FEE AND EXCISE TAX
	<p>The Licensee shall be subject to the following conditions:</p> <ul style="list-style-type: none">(a) Source-separated yard debris mixed with food waste described in Section 1 that is delivered under authority of this license and is accepted and composted in accordance with all applicable regulations at the Dirt Hugger composting facility listed in Section 3 is exempt from Regional System Fees and Excise Tax.(b) If the Licensee delivers source-separated food waste mixed with yard debris under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Regional System Fee, as provided in Metro Code Title V, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site.(c) If the Licensee delivers source-separated yard debris mixed with food waste under this license to the non-system facility listed in Section 3 but the material does not meet the facility's acceptance criteria (for example, the material is too contaminated for processing or composting) or the non-system facility fails to process and compost the material as required as a condition of this license, the Licensee shall pay to Metro an amount equal to the Excise Tax, as provided in Metro Code Title VII, for each ton or portion thereof of waste delivered to the non-system facility that is ultimately delivered to a disposal site.



8	RECORD KEEPING AND REPORTING
	<p>(a) The Licensee shall keep and maintain accurate records of the amount of all source-separated food waste that the Licensee delivers to the non-system facility described in Section 3 of this license. These records include the information specified in <u>Reporting Requirements and Data Standards for Metro Solid Waste Licensees, Franchisees, and Parties to Designated Facility Agreements</u>.</p> <p>(b) No later than the fifteenth (15th) day of each month, beginning with the first month following the commencement date of this license, Licensee shall:</p> <ul style="list-style-type: none">i. Transmit the records required under Section 6(a) above to Metro in an electronic format prescribed by Metro;ii. Submit to Metro a Regional System Fee and Excise Tax Report, that covers the preceding month; andiii. Remit to Metro the requisite Regional System Fees and Excise Tax in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes. <p>(c) Licensee shall make all records from which Sections 6(a) and 6(b) above are derived available to Metro (or Metro's designated agent) for its inspection or copying, as long as Metro provides no less than three (3) business days written notice of an intent to inspect or copy documents. Licensee shall, in addition, sign or otherwise provide to Metro any consent or waiver necessary for Metro to obtain information or data from a third party, including the non-system facility named in Section 3, above.</p>

9	ADDITIONAL LICENSE CONDITIONS
	<p>This license shall be subject to the following conditions:</p> <p>(a) The permissive transfer of solid waste to the non-system facility, listed in Section 3, authorized by this license shall be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to any other facility.</p> <p>(b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer (the "COO") in the event that the COO determines that:</p> <ul style="list-style-type: none">i. There has been sufficient change in any circumstances under which Metro issued this license;ii. The provisions of this license are actually or potentially in conflict with any provision in Metro's disposal contract with Waste Management Disposal Services of Oregon, Inc., dba Oregon Waste Systems, Inc.; oriii. Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in



	<p>Section 1 of this license be transferred to, and disposed of at, a facility other than the facility described in Section 3.</p> <p>(c) This license shall, in addition to subsections (b)(i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.</p> <p>(d) Licensee shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.</p> <p>(e) This license shall terminate upon the execution of a designated facility agreement with the facility listed in Section 3 that authorizes the facility to accept the waste described in Section 1 of this license.</p> <p>(f) This license authorizes delivery of solid waste to the facility listed in Section 3. Transfer of waste generated from within the Metro boundary to any non-system facility other than that specified in this license is prohibited unless authorized in writing by Metro.</p> <p>(g) If the Licensee exceeds the calendar year limitation set forth in Section 2 of this license, each ton or portion thereof by which the Licensee exceeds the limitation constitutes a separate violation subject to a penalty of up to \$500.</p>
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10	COMPLIANCE WITH LAW
	<p>Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the Licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the Licensee shall be deemed part of this license as if specifically set forth herein.</p>

11	INDEMNIFICATION
	<p>Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.</p>

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4626 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NEW NON-SYSTEM LICENSE TO THE TROUTDALE TRANSFER STATION FOR DELIVERY OF RESIDENTIAL YARD DEBRIS MIXED WITH FOOD WASTE TO THE DIRT HUGGER COMPOSTING FACILITY LOCATED IN DALLESFORT, WASHINGTON

April 9, 2015

Prepared by: Bill Metzler
(503) 797-1666

Approval of Resolution No. 15-4626 will authorize the Chief Operating Officer (COO) to issue a non-system license (NSL), similar to the proposed license attached to this resolution as Exhibit A, to the Troutdale Transfer Station (TTS). The proposed NSL will authorize TTS to annually deliver a up to 10,000 tons of residential yard debris mixed with food waste during calendar year 2015 and up to 20,000 tons of residential yard debris mixed with food waste during calendars 2016 and 2017 to the Dirt Hugger composting facility located in Dallesport, Washington. TTS is a Metro franchised transfer station located at 869 Eastwind Drive, Troutdale Oregon.

BACKGROUND

1. Overview

The applicant seeks authorization to transport residential yard debris mixed with food waste generated within the Metro region to a non-system facility, the Dirt Hugger facility for composting. Metro Code Section 5.05.025 prohibits any person from transporting solid waste to non-system facilities without an appropriate license from Metro. The proposed NSL is subject to Metro Council approval because it involves putrescible waste (food waste).

The TTS is located at 869 Eastwind Drive, in Troutdale Oregon (Metro District 1) and is owned and operated by Waste Management of Oregon, Inc. located at 7227 NE 55th Avenue in Portland Oregon. On April 2, 2015, TTS submitted a revised application request (based on confirmation from Dirt Hugger) to Metro seeking authorization to transport up to 10,000 tons of residential yard debris mixed with food waste during calendar year 2015 and up to 20,000 tons of residential yard debris mixed with food waste during 2016 and 2017 for transfer to the Dirt Hugger facility for composting.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Metro Code Section 5.05.040 provides that a waste hauler may transport solid waste generated within Metro to any non-system facility only by obtaining an NSL. Metro Code further requires applications for NSLs for putrescible waste (such as food waste) to be reviewed by the COO and are subject to approval or denial by the Metro Council. Under Metro Code Subsection 5.05.043, the Council shall consider the following factors to the extent relevant to determine whether or not to issue an NSL:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The non-system facility, the Dirt Hugger composting facility, is authorized to accept for composting, source-separated pre-consumer and post-consumer food waste (including vegetables, fruits, grains, meats, dairy, eggs and fats), manure from herbivorous animals, crop residue, wood waste and yard debris. Although Dirt Hugger is a relatively new facility in Dallesport, receiving approval in late 2014, the facility operated successfully in The Dalles, since 2010 with no significant compliance issues. Staff is not aware of any wastes accepted at the Dirt Hugger composting facility that could pose a risk of environmental contamination. The environmental risk from the use of this non-system facility is presumed to be minimal because the facility is fully regulated and monitored by the appropriate local and state authorities.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations;*

According to the Klickitat County Health Department and Washington State Department of Ecology, the Dirt Hugger composting facility operates in compliance with all federal, state, and local requirements, rules and regulations and has had no violations related to public health, safety or environmental regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

Dirt Hugger uses operational practices and management controls that are typical of a food waste composting facility and that Metro considers adequate for the protection of health and the environment. In 2014, Dirt Hugger obtained all necessary composting and air quality permits from the Klickitat County Health Department and Washington State Department of Ecology.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The proposed license covers source-separated food waste from the Metro region that is delivered to other composting facilities. Therefore, approval of the proposed NSL will maintain a positive to neutral impact on the region's recycling and waste reduction efforts. The food waste is most likely generated within the City of Portland's residential program.

- (5) *The consistency of issuing the license with Metro's existing contractual arrangements;*

Metro is contractually obligated to deliver a minimum of 90 percent of the region's putrescible waste that is delivered to general purpose landfills during the calendar year, to landfills owned by Metro's disposal contractor, Waste Management of Oregon. The waste subject to the proposed license will be delivered to a composting facility rather than disposed at a general-purpose landfill. Thus, approval of the requested license does not conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including, but not limited to, public health, safety and environmental rules and regulations; and*

TTS has a good record of compliance with local and state agencies responsible for public health, safety, and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Reloading source separated yard debris mixed with food waste at TTS for delivery to the Dirt Hugger facility for composting will provide additional recovery capacity which benefits the region's organics recovery program. Further, the Dirt Hugger composting facility provides an additional option for food waste composting to the region.

The proposed license includes a 31-month term, commencing on June 1, 2015, and expiring on December 31, 2017. Although new NSLs are typically issued for up to a three-year period (up to 36 months) to align with other similar NSLs or renewal cycles, staff recommends that the Metro Council establish a 31-month term in this instance in order to align the license with a calendar year renewal cycle. The Metro Code stipulates that new NSLs may be issued for up to a three-year period.¹

3. Anticipated Effects

The effect of Resolution No. 15-4626 will be to issue an NSL to TTS authorizing the delivery of up to 10,000 tons of residential yard debris mixed with food waste during calendar year 2015 and up to 20,000 tons of residential yard debris mixed with food waste during calendars 2016 and 2017 to the Dirt Hugger composting facility located in Dallesport, Washington. .

4. Budget Impacts

The source-separated residential yard debris mixed with food waste proposed to be transported under authority of this NSL is exempt from the Metro Regional System Fee and Excise Tax (RSF and ET) and is already going to other compost facilities. The food waste that will be delivered to TTS will mostly be tonnage diverted away from the Metro Central Transfer Station. This tonnage shift will cause a small increase in the per-ton cost of disposal for Metro's customers mainly because Metro's fixed operating costs will be spread over fewer tons. The impact of the tonnage shift away from Metro's transfer station to Dirt Hugger would decrease the Parks and Environmental Services budget in the future because Metro would no longer incur the cost of transferring, transporting, and composting the residential compostable materials diverted to TTS. The impact of the diverted tons will be fully factored into the budget and rates for FY 2015-16.

RECOMMENDED ACTION

The COO recommends approval of Resolution No. 15-4626 finding that the license application satisfies the requirements of Metro Code Section 5.05.043, and issuance of an NSL substantially similar to the proposed NSL attached to the resolution as Exhibit A.

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¹ Metro Code Section 5.05.045(5)(B)

Agenda Item No. 3.3

Resolution No. 15-4627, For the Purpose of Authorizing the
Chief Operating Officer to Enter Into an Employment
Agreement with the General Manager of Visitor Venues

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DELEGATING	)	RESOLUTION NO. 15-4627
AUTHORITY TO THE CHIEF OPERATING)	
OFFICER TO EXECUTE AN EMPLOYMENT	)	Introduced by Chief Operating Officer Martha
AGREEMENT WITH THE GENERAL	)	Bennett in concurrence with Council
MANAGER OF VISITOR VENUES	)	President Tom Hughes
)	

WHEREAS, Personnel Code, Section 2.02.010, as amended, provides that the Metro Council may delegate authority to the Chief Operating Officer (“COO”) by resolution to execute written employment agreements on a case by case basis; and

WHEREAS, the Metro Council believes it is in the best interests of Metro for the COO to directly negotiate and execute a written employment agreement with the General Manager of Visitor Venues; now therefore

BE IT RESOLVED that the Metro Council hereby delegates authority to the Chief Operating Officer to execute a written employment agreement with the General Manager of Visitor Venues.

ADOPTED by the Metro Council this 7th day of May 2015.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4627, FOR THE PURPOSE OF DELEGATING AUTHORITY TO THE CHIEF OPERATING OFFICER TO EXECUTE AN EMPLOYMENT AGREEMENT WITH THE GENERAL MANAGER OF VISITOR VENUES

Date: April 29, 2015

Prepared by: Martha Bennett
Chief Operating Officer, 503-797-1541

BACKGROUND

The Metro Council adopted Ordinance No. 14-1350 on December 18, 2014 that amended Metro Code Section 2.02.010 by allowing the Metro Council to delegate authority to the Chief Operating Officer (“COO”) by resolution to execute written employment agreements on a case by case basis, or as a group for Director level employment agreements. The COO believes it is in the best interest of Metro to delegate the authority to enter into an employment agreement with the General Manager of Visitor Venues.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code Section 2.02.010; Metro Council Ordinance No. 14-1350.
3. **Anticipated Effects:** The COO will negotiate and enter into an employment agreement with the General Manager of Visitor Venues.
4. **Budget Impacts:** This agreement replaces a previous employment agreement under resolution 15-4600 that was approved by the Metro Council on January 15, 2015, and therefore the overall financial impact is the same.
- 5.

RECOMMENDED ACTION

Approve the resolution delegating authority to the COO to execute an employment agreement with the General Manager of Visitor Venues.

Agenda Item No. 3.4

Consideration of Council Meeting Minutes for April 16, 2015

Consent Agenda

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Resolution No. 15-4619, For the Purpose of Authorizing the
Chief Operating Officer to Sell Certain Real Property as Part of
the Natural Areas Program

Resolutions

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 15-4619
CHIEF OPERATING OFFICER TO SELL	)	Introduced by Chief Operating Officer
CERTAIN REAL PROPERTY AS PART OF THE	)	Martha Bennett in concurrence with
NATURAL AREAS PROGRAM	)	Council President Tom Hughes

WHEREAS, on July 23, 1992, via Resolution No. 92-1637 (“For the Purpose of Considering Adoption of the Metropolitan Greenspaces Master Plan”), the Metro Council adopted the Metropolitan Greenspaces Master Plan which identified a desired system of natural areas interconnected with greenways and trails;

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

WHEREAS, using funds from the 1995 Open Spaces Bond Measure, Metro acquired over 8,000 acres of property in over 270 transactions;

WHEREAS, in November 2006, the voters of the Metro region approved ballot measure 26-80, authorizing Metro to issue \$227.4 million for bonds for Natural Area Acquisition and Water Quality Protection (the 2006 Metro Natural Areas Bond Measure, and together with the 1995 Open Spaces Bond Measure, the “Bond Measures ”);

WHEREAS, in September 2006, via Resolution No. 06-3727 (“For the Purpose of Establishing Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure”), the Metro Council adopted a policy that allowed for the disposition of qualifying properties in certain areas covered by future refinement plans approved by the Metro Council;

WHEREAS, since the passage of the 2006 Metro Natural Areas Bond Measure, Metro has acquired an additional 4,900 acres of property in over 140 transactions;

WHEREAS, as a result of the necessity to acquire entire parcels from willing sellers, Metro now manages and leases a number of rental homes, some of which are not needed to protect the natural resources on the properties and could be divided from the original parcel Metro acquired;

WHEREAS, staff has analyzed the bond acquisition portfolio of properties and identified properties or portions thereof (the “Metro Parcels”), set forth on Exhibit A to this Resolution No. 15-4619, where the goals and objectives of the Bond Measures are not furthered by continued ownership of the Metro Parcels;

WHEREAS, in October 2009, via Resolution No. 09-4079 (“For the Purpose of Authorizing the Chief Operating Officer to Sell Certain Real Property in the Cooper Mountain Target Area”), the Metro Council adopted Disposition Guidelines that applied to a single parcel in that target area;

WHEREAS, the Metro Council finds that the Disposition Guidelines, as revised and attached to this Resolution No. 15-4619 as Exhibit B, establish a fair and open process and procedure that will allow the Natural Areas program to dispose of the Metro Parcels to better achieve the goals and objectives of

the Bond Measures;

WHEREAS, sale of the Metro Parcels using the process set forth in the revised Disposition Guidelines, will allow Metro to use the sale proceeds from these surplus properties to acquire additional natural areas properties and interests, and is considered the best resolution for the future of the Metro Parcels and the Natural Areas Program;

WHEREAS, there may be more land included in Exhibit A (whole tax lots to be declared as surplus) than will be actually disposed of after necessary land use processes to separate parts of the parcels for sale; now therefore,

BE IT RESOLVED that the Metro Council concludes that the Metro Parcels, as described in Exhibit A, are not needed for public use and that the public interest will be furthered by the sale of the Metro Parcels, and hereby authorizes the Chief Operating Officer to sell the Metro Parcels using an equitable, commercially reasonable, and appropriate process, as determined by the Chief Operating Officer in her sole discretion, in accordance with the Disposition Guidelines set forth in Exhibit B.

Adopted by the Metro Council this 7th day of May 2015.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

PROPERTIES TO BE DECLARED SURPLUS

Target Area	Address	Tax Lot ID ¹	Comment
Forest Park	Burlington lots-above Rte. 30	Several	Several unbuildable subdivision lots were acquired in a 300 acre acquisition. A land use action is needed to separate them from the larger property.
Dairy and McKay Creeks	3270 NW Susbauer Rd.	1N3 27 01000	Small, isolated property with minimal creek frontage.
Lower Tualatin Headwaters	20050 SW Kruger Rd.	2S236 00700	This parcel is isolated from other holdings. Metro will preserve the natural resource with a 25-acre Conservation Easement.
Willamette Narrows	27850 SW Petes Mountain Rd.	31E10 02004	The house is not needed for resource protection. The strategy is to partition it.
Willamette Narrows	30636 SW Peach Cove Rd.	3S1E 22 00306	The house is not needed for resource protection. The strategy is to divide the lot by a property line adjustment.
Johnson Creek and Watershed	25673 SW McNutt Rd.	1S3E23D 02200	The house is not needed for resource protection. The strategy is to divide the lot by a property line adjustment.

¹ The portions of properties identified as surplus in this Exhibit A are subject to minor modification during the land division or property line adjustment process.

METRO SURPLUS PROPERTY DISPOSITION GUIDELINES

The following procedures are the elements of analysis, outreach and sale that will be followed by Metro staff in the disposition of real property owned by Metro that is determined to be surplus (“Surplus Property”). These properties were acquired with funding from either the 1995 Open Spaces Bond Measure or 2006 Natural Areas Bond Measure. These guidelines apply where Metro staff determines that a property (and/or in some cases, residence(s) associated with it) is no longer needed to meet Metro’s natural areas program objectives and there are compelling reasons to dispose of the property. In certain 2006 Natural Areas Bond Measure target areas, Metro may dispose of agricultural land after protecting water and habitat areas via easements, as approved by the Metro Council via Resolution No. 06-3727. These guidelines assure fair and honest dealings with potential purchasers, as well as the protection of public investment in these natural area properties. Metro is committed to ensuring that this process is consistent with agency goals to consider equity when implementing policy.

Pursuant to Metro Code 2.04.026(a)(2), staff will not proceed to Outreach and Sale of Surplus Property, as outlined below, until the Metro Council has authorized the disposition. Where Metro Council has determined a property is surplus, it will so declare by resolution and authorize staff to dispose of the property in accordance with these guidelines, or as amended by the Metro Council.

PROCEDURE FOR DISPOSING OF SURPLUS PROPERTY

Analysis

1. Original Acquisition The first step in the disposition process is a thorough review of the original acquisition file and stabilization efforts since Metro’s acquisition of the property. Staff will ensure that sale of the Surplus Property would not conflict with the restrictions imposed by the original acquisition funding (1995 Open Spaces bond funds or 2006 Natural Areas bond funds).
2. Title Review Staff will review a current title report to make sure the Surplus Property is free and clear of liens that could interfere with a transfer of title.
3. Physical Inspection Staff will physically inspect the Surplus Property to identify possible hazards, unrecorded easements or other conditions that could impede the disposition, and will make a preliminary evaluation of the condition of any structures and improvements. Staff will inspect the property boundaries to identify any encroachments and take measures to correct them, if possible.
4. Tenant-Occupied Property If the Surplus Property has a leased residence or agricultural field, staff will review the current lease to ensure compliance with the terms. Surplus Properties will be sold subject to existing leases.
5. Preparation for Disposition The Surplus Property may require a land use action at the county level in order to separate residences or other property to be disposed from the portion of the property that Metro will keep. In these cases, staff will meet with county planners to determine the process that will result in Metro’s ability to transfer the title to the legally created parcels.

Outreach

1. Stakeholder and Public Notice The Natural Areas Public Affairs Specialist will develop recommendations for stakeholder and public notice for the sale of the Surplus Property. The

Natural Areas Program Director will review these recommendations. Notice may include, but is not limited to, outreach to adjacent landowners to notify of Metro's intention to dispose of the property. Staff will assess the community impact of disposing of the Surplus Property, if any. Where opportunities are available, Metro will engage community based organizations with an equity focus to contract aspects of property dispositions such as: real estate sales, property demolition, and property renovation and remodeling.

Sale Process

1. Market Value and Negotiated Sale Price The market value of the Surplus Property will be established by an appraisal completed by an independent certified appraiser that states a conclusion of the market value of the property or, if appropriate, a range of value. The appraisal will be completed in accordance with the Uniform Standards of Professional Appraisal Practice and may be a summary format report.
2. Sale Price The negotiated sale price of the Surplus Property, or the total value of money and real property received, shall be: not greater than that which will ensure that Metro does not violate the terms of its bond covenants, including any applicable bond arbitrage limitations, as determined by the Metro Attorney in consultation with the Metro Chief Financial Officer; and
 - a. Except when limited by the foregoing provision, not less than:
 - i. The market value as established by the appraisal process described below; or
 - ii. 90% of such market value, with the authorization of the Chief Operating Officer upon review of a recommendation from the Natural Areas Program Director finding that:
 1. The property has been on the market for a reasonable exposure period and a disposition transaction has not been completed; and
 2. It is in the public interest to sell the property at the reduced value.
3. Marketing and Sale of Property Metro or its authorized agents will advertise the Surplus Property for sale by commercially reasonable means which may include signage, direct marketing, newspaper advertising, or listing on public real estate listing services. Contracting agents for the sale of the Surplus Property will be at the discretion of the Natural Areas Program Director and in compliance with the Metro Code.

Marketing specifications include, but are not limited to, the following:

- a. The Surplus Property may be offered for sale 'as is' directly by Metro or by a real estate broker.
- b. A detailed information package, including a title report, the form of purchase and sale agreement, and any other information deemed relevant to the transaction will be provided to interested parties electronically.
- c. If there is more than one offer for a Surplus Property, the winning bid shall be determined by customary real estate practices in Oregon and may include the following factors: the date the bid was received by Metro, offer price, and other terms deemed to be relevant to

a successful transaction as determined by the Metro Chief Operating Officer, in her sole discretion.

Exemption to Outreach and Sale Requirements

Surplus Property may be exempted from the Outreach and Sale process set forth in sections 2 and 3 above if sold at fair market value and where the Natural Area Program Director has made a determination that it is in the best interest of Metro and the public interest. Examples where this exemption might apply include:

1. Where a tenant(s) currently occupies the Surplus Property, Metro may offer to sell the property directly to the tenant(s), with significant notice and opportunity for the tenant(s) to respond to the offer.
2. Metro may offer to sell the property directly to the adjacent landowners, with significant notice and opportunity for the landowners to respond to the offer.
3. Metro may offer the Surplus Property to other local government agencies that have jurisdiction or interest in the area, as well as to not-for-profit or other stakeholder groups.

Post-Closing

1. Distribution of Proceeds From Sale The Metro Chief Financial Officer shall determine the distribution of the proceeds from the disposition transaction, in consultation with the Metro Attorney, in order to ensure that such distribution is consistent with bond covenants and the intent of the bond measures approved by the voters.
2. Notice to Metro Council The Natural Areas Bond Program Director or his/her designees shall notify the Council promptly following the closing of any disposition transaction.
3. Document Retention Documents related to disposition transactions shall be retained as determined appropriate by the Metro Attorney, consistent with Metro's records retention policies.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15- 4619, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO SELL CERTAIN REAL PROPERTY AS PART OF THE NATURAL AREAS PROGRAM

Date: April 6, 2015

Prepared by: Kathleen Brennan-Hunter, 503-797-1948

BACKGROUND

Resolution No. 15-4619 requests authorization for the Chief Operating Officer to declare surplus and sell certain real property, described in Exhibit A to the Resolution (the “Metro Parcels”). These properties were purchased by Metro with 1995 Open Spaces Bond Measure (the “1995 Bond Measure”) or 2006 Natural Areas Bond Measure (the “2006 Bond Measure”) funds (collectively, the “Bond Measures”). Proceeds from such sales shall be restricted to natural area acquisition consistent with the requirements of the Bond Measures.

In 1995 and again in 2006, voters in the Metro Area approved the Bond Measures authorizing Metro to acquire property, including the Metro Parcels, in designated regional target areas. The acquisition areas within the target areas were identified for their natural resources and habitat value. The goals for the target areas vary according to the nature of the intrinsic resources and public feedback received during the refinement planning process. Results of this process are documented in a Refinement Plan for each target area. Acquired properties are stabilized and held until such time as the properties can be part of a site conservation and master planning process, which will set forth a desired future condition for each significant holding.

Metro acquired some residences as part of larger natural resource areas when it was not possible to separate the houses. In some cases, the houses were occupied by tenants at the time of closing, necessitating Metro’s continued leasing and providing “eyes and ears” on some more remote properties. Metro’s natural areas property management operations consists of these rented houses and leased agricultural fields, providing better security and additional revenues.

Staff has analyzed Metro’s portfolio of over 400 properties acquired as part of the Bond Measures and identified six candidates for disposition at this time for reasons including, but not limited to, the following:

- The property was acquired to be part of a larger complex that would fulfill one or more of the target area objectives, but subsequent acquisitions did not occur. Development patterns or lack of willing sellers in the immediate area of the acquired properties make it improbable that more progress is feasible.
- In some cases, a conservation easement may be attached to the resource area, providing continued protection if the entire property is transferred to a purchaser.
- Metro staff have determined that the residence can be separated from the habitat/resource portion of a property and sold, thereby freeing up financial and personnel resources for more effective land management.

- Continued or deferred maintenance or significant repairs are needed to safely maintain the homes, and these do not make sense for Metro from an economic perspective. It would not be in the public interest to expend funds for this purpose if the house is not needed to protect the property.
- In one case, an approximate 2-acre section of a 332-acre acquisition is separated by a rail line from the resource property, adds no resource value and is very problematic from a management perspective.

The Metro Parcels referenced above and associated residences are no longer viable as part of the Natural Areas Program, and are described further in Exhibit A to Resolution No. 15-4619. In some cases, a portion of the property containing the structures must be split off from a larger Metro property through a land use process before disposition.

State law [ORS 271.310(1)] authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is “not needed for public use, or whenever the public interest may be furthered.” Metro Code section 2.04.026(a)(2) requires that the Chief Operating Office obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro. Metro’s procedures for the disposition of surplus property are outlined in the “Metro Surplus Property Disposition Guidelines,” included as Exhibit B to the attached resolution. Research provided by a comparison of eight Oregon state and local government agency surplus property policies found that the proposed Metro guidelines are similar to and consistent with similar guidelines in regard to valuation, notifications and the sale processes. Staff also researched diversity and equity policies around the disposition of real property. None of the eight agencies include specific references in their written policies. Staff will continue to work toward ensuring that the disposition of property is open and transparent and addresses inequities as much as possible while ensuring that the 1995 and 2006 bond purposes are upheld. The Metro guidelines are summarized below:

The Natural Areas Program intends to conduct the disposition process in a fair and transparent manner. A public agency planning to sell real property may sometimes first offer such property to other agencies that have jurisdiction or interest in the area, and some agencies are required to make such an offer (but Metro is not so required). Notwithstanding, notice of the sale of the Metro Parcels will be provided to Metro departments and the relevant counties and park districts before the property is marketed to the general public. Additionally, staff may first offer the properties for sale directly to occupying tenants or to not for profit organizations with Chief Operating Officer’s approval. Staff may also hire real estate brokers through an RFP process to enhance the marketing effort on some or all of the Metro Parcels.

Staff requests Council authorization to declare the Metro Parcels surplus and authorize staff to dispose of them as outlined in the disposition guidelines.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

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

Metro Code section 2.04.026(a)(2) requires that the Chief Operating Office obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro.

The tax-exempt status of the bonds sold to finance the purchase of the Metro Parcels imposes some limitations and requirements on whether and how the property may be sold, and on the use of the proceeds of such sale. Staff has consulted with the Office of Metro Attorney, which has consulted with Metro's bond counsel regarding this issue. The sale of property will be in compliance with the advice of the Metro Attorney and bond counsel to ensure that the tax-exempt status of the bonds is maintained.

Metro Resolution No. 06-3727, "For the Purpose of Establishing Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure."

Metro Resolution No. 09-4079, "For the Purpose of Authorizing the Chief Operating Officer to Sell Certain Real Property in the Cooper Mountain Target Area."

3. Anticipated Effects

The Metro Parcels will be declared surplus and not needed for public use, and will be offered for sale. Disposition of the Metro Parcels are consistent with the covenants of the Bond Measure, whose funds were used to acquire and stabilize the property, provided that the anticipated proceeds will be administered within the guidelines of the Bond Measure rules. The sale of property will relieve Metro of maintenance obligations and property taxes for the residences.

4. Budget Impacts

Net revenues from sale of the properties, after payment of any appraisal, brokerage, closing, land use applications for partitioning properties, or other out-of-pocket costs associated with the sale, will be returned to the appropriate 1995 or 2006 Bond Measure account, for use to acquire other real property consistent with the goals and requirements of such measure.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 15-4619.

Agenda Item No. 4.2

Resolution No. 15-4612, For the Purpose of Adopting the Annual Budget for Fiscal Year 2015-16, Making Appropriations, Levying Ad Valorem Taxes, and Authorizing an Interfund Loan

Resolutions

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE ANNUAL) RESOLUTION NO 15-4612
BUDGET FOR FISCAL YEAR 2015-16, MAKING)
APPROPRIATIONS, LEVYING AD VALOREM) Introduced by Martha Bennett, Chief
TAXES, AND AUTHORIZING AN INTERFUND) Operating Officer, with the concurrence of
LOAN) Council President Tom Hughes

WHEREAS, the Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 2015, and ending June 30, 2016; and

WHEREAS, recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit A and made a part of the Resolution) and considered; now, therefore,

BE IT RESOLVED,

1. The "Fiscal Year 2015-16 Metro Budget," in the total amount of SIX HUNDRED SIX MILLION FOUR HUNDRED EIGHTY EIGHT THOUSAND THREE HUNDRED SIXTY FOUR DOLLARS (\$606,488,364), attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Resolution, at the rate of \$0.0966 per ONE THOUSAND DOLLARS (\$1,000) of assessed value for operating rate levy; at the rate of \$0.0960 per ONE THOUSAND DOLLARS (\$1,000) of assessed values for local option rate levy and in the amount of TWENTY NINE MILLION SIX HUNDRED FIFTY NINE THOUSAND SEVENTY FOUR DOLLARS (\$29,659,074) for general obligation bond debt, said taxes to be levied upon taxable properties within the Metro District for the fiscal year 2015-16. The following allocation and categorization subject to the limits of Section 11b, Article XI of the Oregon Constitution constitute the above aggregate levy.

SUMMARY OF AD VALOREM TAX LEVY

	Subject to the General Government <u>Limitation</u>	Excluded from <u>the Limitation</u>
Operating Tax Rate Levy	\$0.0966/\$1,000	
Local Option Tax Rate Levy	\$0.0960/\$1,000	
General Obligation Bond Levy		\$29,659,074

3. In accordance with Section 2.02.040 of the Metro Code, the Metro Council hereby authorizes positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Resolution, and hereby appropriates funds for the fiscal year beginning July 1, 2015, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

4. The Oregon Zoo Operating Fund is hereby established. Major sources of revenue will be enterprise revenues generated by the Oregon Zoo and contribution from Metro's General Fund. In the event this fund is eliminated any remaining fund balance will be returned to the General Fund.

5. The Oregon Zoo Capital Asset Management Fund is hereby established. Major sources of revenue will be capital donations and grant funds. This fund may also receive contributions from the Oregon Zoo Operating Fund or Metro's General Fund. In the event this fund is eliminated any remaining fund balance will be returned to the Oregon Zoo Operating Fund, or in the absence of that fund, the General Fund.

6. An interfund loan from the Solid Waste Revenue Fund to the Oregon Zoo Capital Asset Management Fund is hereby reauthorized. The loan was originally authorized in FY 2014-15 for an amount not to exceed \$3.5 million. The first installment of the loan in the amount of \$1.5 million was made January 1, 2015 leaving the balance of the loan to be made in FY 2015-16. The loan will be made to fund two large capital projects at the Oregon Zoo. The loan, including interest at a rate equal to the average yield on Metro's pooled investments, will be repaid from Oregon Zoo operating revenues. Repayment for both installments of the loan will be made over a period not to exceed ten years beginning FY 2014-15. Annual interest only payments will be made until such time as the Oregon Zoo's commitment to debt service on the FY 2013 Full Faith & Credit bonds expires on 8/1/2016. Thereafter, annual principal payments will be due no later than June 30th of each fiscal year.

7. The Chief Operating Officer shall make the filings as required by ORS 294.458 and ORS 310.060, or as requested by the Assessor's Office of Clackamas, Multnomah, and Washington Counties.

ADOPTED by the Metro Council on this 18th day of June 2015.

Tom Hughes, Council President

APPROVED AS TO FORM:

Alison Kean, Metro Attorney

STAFF REPORT

CONSIDERATION OF RESOLUTION 15-4612 ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2015-16, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND AUTHORIZING AN INTERFUND LOAN

Date: March 24, 2015

Presented by: Martha Bennett
Chief Operating Officer

BACKGROUND

I am forwarding to the Metro Council for consideration and approval my proposed budget for fiscal year 2015-16.

Metro Council action, through Resolution No. 15-4612 is the final step in the process for the adoption of Metro's operating financial plan for the forthcoming fiscal year. Final action by the Metro Council to adopt this plan must be completed by June 30, 2015.

Once the budget plan for fiscal year 2015-16 is approved by the Metro Council on May 7, 2015, the number of funds and the maximum tax levy cannot be amended without review and certification by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Metro Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of any fund's expenditures in the period between Metro Council approval in early May 2015 and adoption in June 2015.

Exhibit A to this Resolution will be available subsequent to the Tax Supervising and Conservation Commission hearing June 4, 2015. Exhibits B and C of the Resolution will be available at the public hearing on April 16, 2015.

ANALYSIS/INFORMATION

1. **Known Opposition** – Metro Council hearings will be held on the Proposed Budget on April 16, 2015 and May 7, 2015. Opportunities for public comments will be provided. Opposition to any portion of the budget will be identified during that time.
2. **Legal Antecedents** – The preparation, review and adoption of Metro's annual budget is subject to the requirements of Oregon Budget Law, ORS Chapter 294. Oregon Revised Statutes 294.635 requires that Metro prepare and submit its approved budget to the Tax Supervising and Conservation Commission by May 15, 2015. The Commission will conduct a hearing on June 4, 2015 for the purpose of receiving information from the public regarding the Metro Council's approved budget. Following the hearing, the Commission will certify the budget to the Metro Council for adoption and may provide recommendations to the Metro Council regarding any aspect of the budget.
3. **Anticipated Effects** – Adoption of this Resolution will put into effect the annual FY 2015-16 budget, effective July 1, 2015.
4. **Budget Impacts** – The total amount of the proposed FY 2015-16 annual budget is \$606,488,364 and 836.70 FTE.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 15-4612

Agenda Item No. 4.3

Resolution No. 15-4613, For the Purpose of Approving the
Fiscal Year 2015-16 Budget, Setting Property Tax Levies and
Transmitting the Approved Budget to the Multnomah County
Tax Supervising and Conservation Commission

Resolutions

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

APPROVING THE FY 2015-16 BUDGET, SETTING)
PROPERTY TAX LEVIES AND TRANSMITTING)
THE APPROVED BUDGET TO THE MULTNOMAH)
COUNTY TAX SUPERVISING AND)
CONSERVATION COMMISSION)

RESOLUTION NO 15-4613

Introduced by
Tom Hughes, Council President

WHEREAS, the Metro Council, convened as the Budget Committee, has reviewed the FY 2015-16 Proposed Budget; and

WHEREAS, the Council, convened as the Budget Committee, has conducted a public hearing on the FY 2015-16 Proposed Budget; and

WHEREAS, pursuant to Oregon Budget Law, the Council, convened as the Budget Committee, must approve the FY 2015-16 Budget, and said approved budget must be transmitted to the Multnomah County Tax Supervising and Conservation Commission for public hearing and review; now, therefore,

BE IT RESOLVED,

1. That the Proposed FY 2015-16 Budget as amended by the Metro Council, convened as the Budget Committee, which is on file at the Metro offices, is hereby approved.

2. That property tax levies for FY 2015-16 are approved as follows:

SUMMARY OF AD VALOREM TAX LEVY

	Subject to the General Government <u>Limitation</u>	Excluded from <u>the Limitation</u>
Permanent Tax Rate	\$0.0966/\$1,000	
Local Option Tax Rate	\$0.0960/\$1,000	
General Obligation Bond Levy		\$29,659,074

3. That the Chief Operating Officer is hereby directed to submit the Approved FY 2015-16 Budget and Appropriations Schedule to the Multnomah County Tax Supervising and Conservation Commission for public hearing and review.

ADOPTED by the Metro Council this 7th day of May, 2015.

Tom Hughes, Council President

APPROVED AS TO FORM:

Alison Kean, Metro Attorney

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 15-4613 APPROVING THE FY 2015-16 BUDGET, SETTING PROPERTY TAX LEVIES AND TRANSMITTING THE APPROVED BUDGET TO THE MULTNOMAH COUNTY TAX SUPERVISING AND CONSERVATION COMMISSION

Date: April 2, 2015

Presented by: Tim Collier
Director, Finance and Regulatory Services

BACKGROUND

On April 16, 2015, Martha Bennett, the Chief Operating Officer, presented the FY 2015-16 Proposed Budget to the Metro Council sitting as Budget Committee. A public hearing on the budget was held where the Council, sitting as Metro's Budget Committee, received testimony from interested members of the general public and Metro stakeholders.

The action taken by this resolution is the interim step between initial proposal of the budget and final adoption of the budget in June. Oregon Budget Law requires that Metro approve and transmit its budget to the Multnomah County Tax Supervising and Conservation Commission (TSCC). Members of the TSCC are appointed by the Governor to supervise local government budgeting and taxing activities in Multnomah County. The TSCC will hold a public hearing on Metro's budget scheduled for Thursday, June 4, 2015 at 12:30 p.m. in the Metro Council Chamber Annex. Following the meeting, the TSCC will provide a letter of certification for Metro's budget at which time the Council will formally adopt the final budget for FY 2015-16. The adoption of the budget is currently scheduled for Thursday, June 18, 2015.

Oregon Budget Law requires the Budget Committee of each local jurisdiction to set the property tax levies for the ensuing year at the time the budget is approved. Under budget law the Metro Council sits as the Budget Committee for this action. The tax levies must be summarized in the resolution that approves the budget and cannot be increased beyond this amount following approval. Metro's levy for general obligation debt reflects actual debt service levies for all outstanding general obligation bonds. The levy authorization for FY 2015-16 also includes year 3 of the 5-year local option levy for Parks and Natural Areas support as well as the levy for Metro's permanent tax rate for general operations.

ANALYSIS/INFORMATION

1. **Known Opposition** – None known at this time.
2. **Legal Antecedents** – The preparation, review and adoption of Metro's annual budget is subject to the requirements of Oregon Budget Law, ORS Chapter 294. Oregon Revised Statutes 294.635 requires that Metro prepare and submit its approved budget to the Multnomah County Tax Supervising and Conservation Commission by May 15, 2014. The Commission will conduct a hearing on June 5, 2014 for the purpose of receiving information from the public regarding the Council's approved budget. Following the hearing, the Commission will certify the budget to the Council for adoption and may provide recommendations to the Council regarding any aspect of the budget.

3. **Anticipated Effects** – Adoption of this resolution will set the maximum tax levies for FY 2015-16 and authorize the transmittal of the approved budget to the Multnomah County Tax Supervising and Conservation Commission.
4. **Budget Impacts** – The total amount of the proposed FY 2015-16 annual budget was \$606,488,364. Any changes approved by the Council at the time of approval were incorporated into the budget prior to transmittal to the TSCC.

RECOMMENDED ACTION

The Council President recommends adoption of Resolution No. 15-4613 approving the FY 2015-16 budget and authorizing the Chief Operating Officer to submit the approved budget to the Multnomah County Tax Supervising and Conservation Commission.

Agenda Item No. 4.4

Resolution No. 15-4629, For the Purpose of Authorizing the
Metro Attorney to Defend, Appeal, or Commence Litigation
Related to Ownership of Burial Rights at Metro's Historic
Cemeteries

Resolutions

Metro Council Meeting
Thursday, May 7, 2015
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)
METRO ATTORNEY TO DEFEND, APPEAL, OR)
COMMENCE LITIGATION RELATED TO)
OWNERSHIP OF BURIAL RIGHTS AT
METRO'S HISTORIC CEMETERIES

RESOLUTION NO. 15-4629

Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

WHEREAS, in 1994 Metro assumed stewardship over fourteen historic cemeteries from Multnomah County; and

WHEREAS, the historic cemeteries were established between 1848 and 1914 and originated under private ownership, each with its own distinct management style and system of records; and

WHEREAS, due to antiquated and incomplete records, Metro staff faces challenges distinguishing owned burial spaces from those that are not owned; and

WHEREAS, Metro is aware of burial spaces that have, or may have, two owners; and

WHEREAS, Metro desires to initiate a legal action to resolve the ownership conflict; and

WHEREAS, pursuant to the Metro Charter, Section 25(2), the Metro Council has created by ordinance the Office of Metro Attorney, as codified in the Metro Code Chapter 2.08; and

WHEREAS, the Metro Code provides in Section 2.08.030 and Section 2.08.040 that the Metro Attorney is charged with general control and supervision of all civil actions and legal proceedings, and to appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding as requested in the district's interest and in the discretion of the Metro Attorney; and

WHEREAS, it is in the district's interest to appear, commence, prosecute, defend or appeal an action, suit, matter, cause or proceeding related to Metro's historic cemeteries; now therefore

BE IT RESOLVED that the Metro Council hereby requests and authorizes the Metro Attorney to appear, commence, prosecute, defend or appeal any action, suit, matter, cause or proceeding in any court or tribunal, whether in the name of Metro or the Metro Council, when, in the discretion of the Metro Attorney, the same may be necessary or advisable to protect Metro's rights and interests related to Metro's historic cemeteries.

ADOPTED by the Metro Council this 7th day of May 2015.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO.15-4629, FOR THE PURPOSE OF AUTHORIZING THE METRO ATTORNEY TO DEFEND, APPEAL, OR COMMENCE LITIGATION RELATED TO OWNERSHIP OF BURIAL RIGHTS AT METRO'S HISTORIC CEMETERIES

Date: May 7, 2015
(503)

Prepared

by: Melisa McDonald
797-1856

BACKGROUND

In 1994, Metro assumed stewardship over fourteen Historic Cemeteries from Multnomah County. Each cemetery has its own unique system of historic records, leading to significant challenges distinguishing owned and unowned burial spaces. In 2008, a report by independent auditor Moss Adams cited two instances where Metro cemetery employees had resold owned but unused burial spaces to unrelated third parties. Upon subsequent review of cemetery records, Metro staff discovered additional resolds and confirmed that Metro did not follow the appropriate legal process prior to resale, creating a conflict between historic and modern purchasers.

In 2012, the Oregon legislature passed Senate Bill 1537 (SB1537), since codified as ORS 97.725, which allows cemetery authorities to utilize an administrative process to recapture interment rights to burial spaces that are "unclaimed." Between July 2013 and June 2014, Metro undertook an extensive notification and outreach effort aimed at resolving burial right conflicts through the SB1537 process. These efforts culminated with the passage of Resolution No. 14-4528 (For the Purpose of Declaring Certain Unclaimed Burial Spaces Abandoned Pursuant to Senate Bill 1537), through which 517 conflicts were resolved in favor of modern purchasers.

The passage of Resolution No. 14-4528 represented a significant milestone, but it did not address all of the ownership conflicts caused by resold interment rights. Many affected burial spaces are not currently eligible for reclamation through the SB1537 process because Metro has record of contact with the historic purchaser's family within the last seventy-five years. Furthermore, Metro staff continue to meticulously review and scrutinize historic cemetery records, which has led to the discovery of additional, previously unknown historic purchases that are in conflict with modern sales. As a result of these limitations, Metro requires this more all-encompassing strategy in order to ensure that modern purchasers' rights are honored.

This resolution authorizes the Metro Attorney to participate in legal actions, on behalf of Metro and the Metro Council, related to Metro's Historic Cemeteries. Before initiating any action, Metro staff will conduct an extensive notification and outreach effort, similar to the one undertaken for the SB1537 process, to identify original owners of conflicted burial rights. Specifically, Metro will post notice at affected cemeteries and in the Oregonian for at least four successive weeks. Metro will also individually reach out to historic purchasers or their descendants in interest if contact information is available.

ANALYSIS/INFORMATION

1. Known Opposition

There are no known opponents to the proposed legislation.

2. Legal Antecedents

Metro Code Sections 2.08.030 and 2.08.040.

3. Anticipated Effects

The proposed legislation would authorize the Metro Attorney to participate in legal actions related to ownership of burial rights at Metro's Historic Cemeteries. Metro staff will engage in notification and outreach measures targeted at historic purchasers and their descendants prior to undertaking any such action.

4. Budget Impacts

All costs are currently budgeted.

RECOMMENDED ACTION

Metro staff recommend approval of Resolution No. 15-4629.

Materials following this page were distributed at the meeting.



EXECUTIVE SUMMARY

With the recent attention to Asians in the United States as a relatively economically successful population (e.g., the recently released *The Rise of Asian Americans*, Pew Research Center, 2012), it is easy to overlook the nearly **two million** Asian Americans and Pacific Islanders (AAPIs collectively—AAs for the category of Asian Americans and NHPIs for the subcategory of Native Hawaiians and other Pacific Islanders) who live in poverty. This report is an attempt to focus attention on people in need and to broaden the conversation about what it means to be AAPI in America.

Findings Part I — An Overview of AAPI Poverty

Population Growth/Nativity

- *AAPI poor are one of the fastest growing poverty populations in the wake of the Recession.* From 2007 to 2011, the number of AAPI poor increased by more than half a million, representing an increase of 38% (37% increase for AAs in poverty and a 60% increase for NHOPIs in poverty). The general poverty population grew by 27%. The only other racial/ethnic group with a larger percentage increase was Hispanic, with a 42% increase.
- *Dramatic increases in AAPI poverty have not been reflected in the poverty rate.* Despite an increase of over 50% in the number of AAPIs living in poverty from 2000, the AAPI poverty rate has changed little from 2000 (12.8% in 2000, 13.1% in 2011). Large increases in the numbers of AAPI poor have been accompanied by large increases in the overall AAPI population base, including large numbers of highly skilled, highly educated immigrants.
- *The AAPI poverty population is increasingly native born.* Almost 60% of the net increase in AAPI poverty was in the native born segment of the population. The proportion of native born poverty is higher for NHPIs than for AAs; however, for both populations, the rate of increase and the net numeric increase was higher for native born poor than for immigrant poor. This is in contrast to the AAPI non-poor population—particularly for AA non-poor—where immigration accounts for the majority of net population growth.

Ethnicity

- *The ethnic composition of AAPI poverty is diverse.* The US Census shows significant numbers of poor people from over two dozen AAPI sub-populations.
- *The ethnic mix of the AAPI poverty population changed only slightly from 2000.* Measured against the entire AAPI poverty population, no single sub-population's share increased or decreased more than 2%.

National-Level Geographic Distribution and Political Representation

- *AAPI poor are concentrated in the Western United States.* Over 40% of all poor AAs and over 75% of all poor NHPIs are in the Western Region (regions as defined by the US Census), with the highest populations in the Pacific sub-region (consists of California, Hawaii, Washington, Oregon and Alaska). AAs have a secondary concentration in the Northeast (almost 25% of the AA poor population). NHPIs have a secondary concentration in the South (over 15% of the NHPI poor population).
- *From 2000 to 2010, AAPI poverty has increased in every region of the country except for NHPIs in the Northeast, with some of the largest increases in the South.* In the South, AA poverty populations grew by over 50% and NHPIs by over 100%.



- *AAPI poor are concentrated in Congressional Districts in the West and in New York.* Of the 25 Congressional Districts (per the 111th Congress) with the highest numbers of AA poor, 21 are in California or New York. The Congressional Districts with the most poor NHPs are in Hawaii (both districts), Utah (2 of the 3 Utah districts), California and Washington.

Other Demographic Traits

- *Age Profile:* Compared to the age profile of the general poverty population, the AA poor population is older with higher rates of senior poverty while the NHPI poor population is younger, with higher rates of children in poverty;
- *Household Formation:* Correlated with their respective age profiles, the AA poor population has a lower rate of family household formation and households with fewer children per household, while the NHPI population has a higher rate of family household formation with more children per household;
- *Employment:* Poor AAPs, with slight variation by ethnicity and by household type, generally have slightly higher rates of unemployment and underemployment than the general poverty population;
- *Language:* AAPs, particularly AAs, have high rates of households where a language other than English is spoken at home and high rates of people who speak English "less than very well."

Findings Part II — A Metropolitan Analysis of the Geography of AAPI Poverty

Metro-Level Concentration

- *AAPs in poverty are more concentrated in a limited number of metropolitan areas than any other racial/ethnic poverty population.* The top 10 largest metropolitan statistical areas (MSAs) in terms of AA poor population contain over 50% of the entire population of AA poor. The top 10 largest MSAs in terms of NHPI poor population contain over 55% of all NHPI poor. By comparison, the top 10 largest populations in terms of overall poor population contain only 25% of the nation's poor population.
- *Poor AAPs are disproportionately concentrated in metro areas with the highest housing costs.* Almost 50% of all poor AAPs (47% for poor AAs, 40% for poor NHPs) live in the 20 most expensive real estate markets in the country. 17% of the general poverty population lives in the 20 most expensive housing markets.

Neighborhood-Level Concentration

- *Relative to each ethnic group's respective national concentrations, AAPI poor are more concentrated at the neighborhood level than almost any other racial/ethnic group.* Relative to each ethnic groups' national populations — i.e., as a measure of skewness against a projected normal distribution, poor NHPs are more concentrated at a neighborhood level than any racial/ethnic group. By the same measure, poor AAs are relatively concentrated at a neighborhood level greater than all other ethnic groups except American Indians and Alaska Natives and NHPs.
- *AAPI poor tend to live in mixed-race/multi-cultural neighborhoods.* While most poor people (over 55%) live in majority non-Hispanic White neighborhoods, most AAPI poor (57% for AAs, 62% for NHPs) live in "majority minority" neighborhoods where a minority group — or a mix of minority groups — compose more than 50% of the population. For AAs living in these neighborhoods, more than half (over 54%) live in neighborhoods where no single racial/ethnic group is more than 50% of the population. They are next most likely to live in a majority AA neighborhood, followed closely by a Hispanic majority neighborhood. Most poor NHPs living in a majority minority neighborhood live in a no-majority neighborhood (65%), followed by a Hispanic majority neighborhood, followed by an AA majority neighborhood.



Metropolitan Statistical Area (MSA) Types

- *In some MSAs, poor AAPIs are clustered near other AAPIs.* Of the 153 MSAs with more than 1,000 poor AAPIs, approximately 58% of all poor AAs live in MSAs where poor AAs tend to be clustered around other AAs. Approximately 34% of all poor NHPIs live in MSAs where NHPIs tend to be clustered around other NHPIs. By size of AAPI poverty population, the largest MSAs in this category are New York City, Los Angeles and San Francisco. Thirty five MSAs have this characteristic (26 for AAs, 9 for NHPIs) and represent a large proportion of the AAPI poor population.
- *Poor AAPIs also have secondary clustering around other poor people.* Approximately 25% of all poor AAs live in MSAs where poor AAs tend to be clustered around other poor people (there is some overlap with the MSA type described directly above) and approximately 33% of all NHPIs live in MSAs where poor NHPIs are clustered around other poor people (some overlap with the high concentration NHPI clustering described above). By AAPI poverty, the largest MSAs in this category are Philadelphia and Detroit. There are a larger number of MSAs in this category (67 for AAs, 58 for NHPIs) but the total number of poor AAPIs in these MSAs is smaller than those in the above category.
- *In some MSAs, poor AAPIs show diffuse residential patterns.* Approximately 26% of all poor AAs and 32% of all poor NHPIs live in MSAs where fewer poor AAPIs live in identifiable clusters. For AAs, the majority of this population is in the South. For NHPIs, 49% of this population is in California with the next largest concentration (13%) in Utah. By AAPI poverty, the largest MSAs in this category are Houston, Dallas, Washington DC and Atlanta. There are the most MSAs in this category (74 for AAs, 92 for NHPIs), but the total number of poor AAPIs in this MSA type is less than the first category.

Recommendations

- *Growing Need:* There is a growing need for attention and resources to serve AAPI poor.
- *Geographic Approach:* Neighborhood-based AND regional approaches are both legitimate strategies to serve the AAPI poor.
- *Diversity:* A multicultural, multi-ethnic, multi-racial approach is important.
- *Housing Costs:* Lowering housing costs is particularly important for poor AAPIs.
- *Age Profile:* Seniors and youth are both high need segments of the AAPI population, depending partially upon the specific AAPI ethnic group.
- *High Concentrations:* High concentrations of poor AAPIs in a limited number of geographies, meaning that a large proportion of the population can be served with focused resources.
- *Local Empowerment, Local Solutions:* Because the AAPI poverty population is diverse in so many different ways (diversity of ethnicities, languages, cultures, family structure, how and when a family/ancestors came to this country, different residential patterns in different regions of the country), there are no "one size fits all" solutions; Local communities know best how to define and implement their own solutions and should be empowered and resourced to do so.
- *Network Building:* Networks should be supported in a way in which local institutions are respected, while also creating economies of scale to share information, and strengthen joint advocacy and education of policymakers.
- *Capacity Building:* Capacity building is critical to building new, local, community-based infrastructure that will serve as the foundation for stronger regional and national institutions.

Visioning Results



Throughout the summer of 2014, The Jade District held a community led visioning for nearly 200 participants in Cantonese, Vietnamese, Russian, Spanish, and English. This process focused on our built environment but touched upon health, education, and transportation. This included individual community workshops followed by a community wide charette.

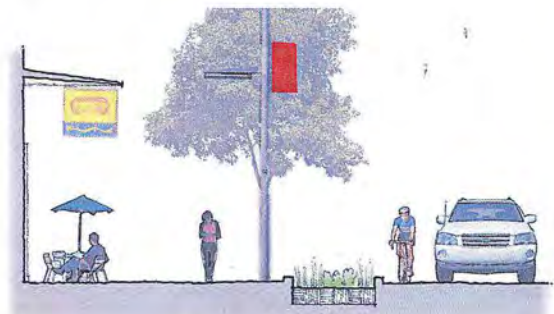
Alignment between the individual communities include:

- Safety, need for safe places to cross to access retail, services, transit.
- Improvements to intersection of 82nd/Division.
- Need for community gathering spaces.
- Need for greenspace.

Opportunity 1: Traffic/Safety Improvements

NE Corner of SE 82nd and Division:

- Add wide sidewalks that connect to existing sidewalk network.
- Stormwater planting strips to manage water pooling.
- Multi-lingual signage.
- Street trees on SE Division St.



Add East-West Pedestrian Crossing across 82nd:

- SE Harrison St.
- PCC to East side of 82nd.
- SE Clinton St.
- SE Tibbets St.

Improve safety in SE residential quadrant across 82nd:

- Connect pedestrians and bicyclists to SE 87th Ave, north-south from SE Powell St to SE Division St.

Opportunity 2: 82nd & Division

- Safety Improvements (ODOT).
- Community Driven Transit Stops (Trimet).
- Community Identifiers (Public art).
- Opportunity for Community Space.
- Opportunity for Affordable housing at Furniture site.
- Expectations for greater engagement and local economic development opportunities for this area.
- Community benefit agreements.



Opportunity 3: Community Space



- Metro purchased the Furniture Store on 82nd/ Division in Dec, 2014 for a TOD development.
- Jade District can use that space (8,200 sq ft) as community space for 18-24 months until construction begins.
- Opportunity for affordable housing units as part of the TOD project. (PHB).
- Opportunities for micro-enterprise development.

Opportunity 4: Green Space

- Numerous open lots throughout Jade District.
- BES owned land at 89th and Brooklyn for a nature park.
- Opportunities with Parks & Rec.
- Site aggregation opportunities (PDC)





Jade District Portland, Oregon

The Jade District, a business district located in outer southeast Portland, addresses historic under-investment through community-driven action. The district is highly diverse and nearly half of its residents are people of color.

Project: Permanent location for Jade Night Market Funds needed: \$1 million

Night markets are the center of social life and commerce throughout Asia. Markets in locations such as Taiwan, Hong Kong, Macau, Singapore, Malaysia, China, Thailand, and the Philippines have been well-documented as engines of development.

A permanent Night Market will make the Jade District a destination within the city, with new jobs, improved safety, reduced crime and positive energy from people walking about the district in the evenings.

The inaugural Night Market event in August 2014 drew more than 5,000 attendees from across the Portland metro area. ▼



JADE
DISTRICT



METRO COUNCIL MEETING
Meeting Minutes
Apr. 16, 2015
Metro Regional Center, Council Chamber

Councilors Present: Deputy Council President Bob Stacey, and Councilors Sam Chase, Kathryn Harrington, Carlotta Collette, Shirley Craddick and Craig Dirksen

Councilors Excused: Council President Tom Hughes

Deputy Council President Bob Stacey called the regular council meeting to order at 2:02 p.m.

1. CITIZEN COMMUNICATIONS

Courtney Scott, Portland: Ms. Scott addressed the Metro Council on Rama the elephant, who recently passed away at the Oregon Zoo. She showed a brief video taken by her of Rama, expressing concern over his behavior. Ms. Scott requested that the Oregon Zoo stop the breeding program and for the elephants to be sent to a sanctuary.

Mars Green, Portland: Ms. Green addressed the Metro Council on the elephants at the Oregon Zoo, expressing concern for their health and welfare, and requesting that they be sent to a sanctuary.

2. CONSIDERATION OF CONSENT AGENDA

Motion:	Councilor Shirley Craddick moved to adopt items on the consent agenda.
Second:	Councilor Kathryn Harrington seconded the motion.

Vote:	Deputy Council President Stacey, and Councilors Harrington, Chase, Collette, Craddick, and Dirksen voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> .
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3. RESOLUTIONS

3.1 Resolution No. 15-4617, For the Purpose of Reallocating Unspent Transit Project Development Funds to Current Regional Priority Projects

Motion:	Councilor Craig Dirksen moved to approve Resolution 15-4617.
Second:	Councilor Carlotta Collette seconded the motion.

Deputy Council President Stacey introduced Malu Wilkinson, Metro staff, to provide a brief staff report on the resolution. Ms. Wilkinson explained that this resolution had been unanimously

recommended by the Joint Policy Advisory Committee on Transportation (JPACT) at the April 9th meeting and that this resolution would be keeping with the original agreement that Metro and TriMet had signed previously. Ms. Wilkinson also introduced Neil McFarlane, General Manager of TriMet, to provide additional background and comments. Mr. McFarlane noted that funds have been reallocated in the past and the program has been really successful with making critical investments, moving projects along, securing federal and other partner investments to achieve even better investments for the region. He also commented that the recommendation from JPACT came with a very broad regional conversation.

Council discussion

Councilor Craig Dirksen (and JPACT Chair) also echoed Mr. McFarlane's comments about JPACT's support, as well as stating that this resolution was vetted and full supported by Metro's technical committee on transportation. As Co-Chair of the Powell-Division Transit Development project, Councilor Shirley Craddick asked if Ms. Wilkinson, Mr. McFarlane or Councilor Dirksen could address a question that she'd been asked previously, regarding why the funds were not allocated to other forms of projects outside of transit. Mr. McFarlane explained that the money was bonded, so there are parameters of the bond measure, as well as limits about how the money can be used (engineering or construction, but not project planning). In addition, Ms. Wilkinson also mentioned that there is a timeline of when these funds can be spent, emphasizing again that the bond funds can only be used on project construction or project development.

Vote:

Deputy Council President Stacey, and Councilors Harrington, Craddick, Collette, Dirksen, and Chase voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> .
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3.2 Resolution No. 15-4612, For the Purpose of Adopting the Annual Budget for Fiscal Year 2015-16, Making Appropriations, Levying Ad Valorem Taxes, and Authorizing an Interfund Loan

Deputy Council President Stacey stated that Martha Bennett, Metro Chief Operating Officer, in her capacity as Metro's Budget Officer, would present the proposed budget and budget message to the Metro Council, sitting as the Metro Budget Committee, then the resolution would be read into the record, he would open a public hearing for anyone that wished to comment on the proposed budget, and finally the resolution would be read again and have an additional public hearing on May 7th before a final vote in June. He called on Ms. Bennett to provide her presentation along with Tim Collier, Director of Finance and Regulatory Services, and Metro Auditor Brian Evans.

Ms. Bennett explained that this was the end of the first phase of the three-phase budget process. She presented the overview of the proposed budget highlighting key points, including:

- the budget being aligned with the Metro Council's strategic direction and goals
- more stability in this budget (on both the revenue and operational sides)
- focus on the agency's infrastructure
- continued implementation of the Council's initiatives, and
- high prioritizing and investment in equity and diversity.

Ms. Bennett noted the four major tools that she used to make decisions about the budget were using the Metro Council's six desired regional outcomes, the Metro Compass, guidance from the goal-setting sessions that the Council does throughout the year, and each department's five-year mission critical plan. Next, Mr. Collier discussed the high-level numbers in the budget (both in the Metro

funds and the MERC funds), breaking down any major changes by fund, and Auditor Evans presented his department's budget. Ms. Bennett followed up by explaining the next parts of the process including a budget work session on Tuesday, April 21st, another public hearing at Council on May 7th, a final budget submittal by May 15th, a public hearing held by the Tax Supervising and Conservation Commission (TSCC) on June 4th to review the budget, and finally the budget will come back for final consideration by the Metro Council on June 18th.

Deputy Council President Stacey requested that the resolution be read into the record by title only and then opened up a public hearing on the resolution. There were no public comments.

Council discussion

Councilors asked clarifying questions about the charts in the PowerPoint presentation, relating to specific department budget changes, which Ms. Bennett responded that these questions would be worked through at the next work session in more detail. Councilor Harrington inquired about a potential audit of the Nature In Neighborhoods program, specifically whether the audit would be on the whole umbrella program (including the restoration and enhancement grants), to which Auditor Evans replied that it was still early in the process and that his office would be scoping the audit to get it to something more manageable (and that it wouldn't be necessarily the entire program).

4. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Martha Bennett provided an update on the following events or items: Port of Portland luncheon honoring Teri Dresler, 32nd Annual Craft Brewers Convention at the Oregon Convention Center currently going on, a visit to the Oregon Zoo by the Director of the US Fish and Wildlife Service, Oregon Convention Center Hotel bill has been postponed until Friday, April 17th, and updates on bills of interest currently in hearings in Salem.

5. COUNCILOR COMMUNICATION

Councilors provided updates on the following meetings or events: BioCycle Conference, EPA "Food Too Good to Waste" documentary on MSNBC on April 22nd, Community Enhancement Grant programs update, visit from Senator Wyden's office to Willamette Falls, a new art installation at Tillicum Bridget, Parks System planning meeting on engagement and inclusion, and a day of remembrance for the Holocaust.

6. ADJOURN

There being no further business, Deputy Council President Stacey adjourned the regular meeting at 3: 27pm. The Metro Council will convene the next regular council meeting on Thursday, April 30, 2015 at 2 p.m. at the Metro Regional Center, Council Chamber.

Respectfully submitted,



Alexandra Eldridge, Regional Engagement & Legislative Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF APR. 16, 2015

Item	Topic	Doc. Date	Document Description	Doc. Number
2.2	Minutes	04/09/2015	Council Meeting Minutes from Apr. 9, 2015	041615c-01
3.2	Handout	04/16/2015	FY 15-16 Proposed Budget By the Numbers factsheet	041615c-02
3.2	Handout	04/16/2015	Proposed Budget Presentation	041615c-03



**Project: Build/retrofit an existing building
into a community center and green space**
Funds needed: \$2 million

At our community visioning events, each cultural group expressed a desire for a community center and green space where everyone—teens, families and elders—could congregate, celebrate, play and socialize.



CONTACT US

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