

 Metro | Agenda

Meeting: Metro Council
Date: Thursday, January 21, 2016
Time: 2 p.m.
Place: Metro Regional Center, Council Chamber

REVISED 01/19/16

CALL TO ORDER AND ROLL CALL

- 1. CITIZEN COMMUNICATION**
- 2. COO RECOMMENDATION ON REMOTE ELEPHANT CENTER PRESENTATION** **Martha Bennett, Metro**
- 3. CONSENT AGENDA**
 - 3.1 Resolution No. 15-4669**, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property in the Chehalem Ridgetop to Refuge Target Area Under the 2006 Natural Areas Bond Measure and Subject to Unusual Circumstances
 - 3.2 Resolution No. 16-4674**, For the Purpose of Confirming Appointments to the Metro Public Engagement Review Committee
 - 3.3 Resolution No. 16-4675**, For the Purpose of Confirming the Appointment of Patricia Kepler, Charity Fain and Heidi Guenin as Citizen Representatives to the Transportation Policy Alternatives Committee
 - 3.4** Consideration of Council Meeting Minutes for January 14, 2016
- 4. ORDINANCES (FIRST READ)**
 - 4.1 Ordinance No. 15-1364**, For the Purpose of Amending Metro Code Chapter 2.03 to Approve a Schedule of Civil Penalties for Metro's Parks, Cemeteries, and Natural Areas **Dan Moeller, Metro
Hope Whitney, Metro**
 - 4.1.1 Public Hearing on Ordinance No. 15-1364**
 - 4.2 Ordinance No. 15-1366**, For the Purpose of Amending Metro Code Chapters 10.01 and 10.02 to Clarify Rule Enforcement Procedures Within Metro's Parks, Cemeteries, and Natural Areas **Dan Moeller, Metro
Hope Whitney, Metro**
 - 4.2.1 Public Hearing on Ordinance No. 15-1366**

5. CHIEF OPERATING OFFICER COMMUNICATION

6. COUNCILOR COMMUNICATION

ADJOURN

AN EXECUTIVE SESSION WILL BE HELD IMMEDIATELY FOLLOWING THE PUBLIC MEETING PURSUANT TO ORS 192.660(2)(h), TO CONSULT WITH LEGAL COUNSEL IN REGARD TO CURRENT LITIGATION OR LITIGATION THAT IS LIKELY TO BE FILED.

Television schedule for January 21, 2016 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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Agenda Item No. 2.0

COO Recommendation on Remote Elephant Center Presentation

Presentations

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ACCEPTING THE) RESOLUTION NO. 16-4683
CHIEF OPERATING OFFICER’S)
RECOMMENDATION AND ELIMINATING)
THE REMOTE ELEPHANT CENTER)
SET-ASIDE FUND FROM THE METRO)
COUNCIL’S RECOMMENDED LIST OF) Introduced by Chief Operating Officer Martha
PROJECTS TO BE FUNDED BY METRO) Bennett in concurrence with Council
BALLOT MEASURE 26-96) President Tom Hughes

WHEREAS, Metro adopted Metro Council Resolution No. 08-3945 on May 8, 2008 (“Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$125 Million to Fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of said Bonds Upon Issuance”); and

WHEREAS, at the General Election held on November 4, 2008, the voters of the Metro Area approved Oregon Zoo Bond Measure 26-96; and

WHEREAS, the Remote Elephant Center Set-Aside Fund was not specifically called for in Ballot Measure 26-96’s Ballot Title, Ballot Measure Summary, or Explanatory Statement as were other mandatory projects, but was set forth in Exhibit A to Metro Council Resolution No. 08-3945; and

WHEREAS, Exhibit A to Metro Council Resolution No. 08-3945 sets forth a general description of the recommended improvements to be funded by the Ballot Measure, including those for elephants, which among other things, recommends that a fund be “set aside for potential capital needs of off-site space” (the “Remote Elephant Center Set-Aside Fund”) pending the exploration of “the feasibility of providing an off-site area for elephants;” and

WHEREAS, from 2009-2015, Zoo staff conducted a comprehensive due diligence, property evaluation and business analysis to determine the feasibility of providing an off-site area for elephants (the “Staff Feasibility Analysis”); and

WHEREAS, in 2012, the Oregon Zoo Bond Citizens Oversight Committee recommended to the Metro Council that advancing the Remote Elephant Center project be contingent upon identifying a permanent source of funding for operations; and

WHEREAS, on April 9, 2015, the Oregon Zoo Bond Citizens Oversight Committee requested that the Metro Council make a final decision on whether or not to build and operate a Remote Elephant Center; and

WHEREAS, in response, the Metro Chief Operating Officer appointed a third party review board to assess the feasibility of constructing and operating a Remote Elephant Center and provide her with a recommendation about whether or not to proceed; and

WHEREAS, the Remote Elephant Center Task Force met from August to November 2015, conducting four meetings and providing a final recommendation to the Chief Operating Officer on November 23, 2015, and

WHEREAS, the Chief Operating Officer has shared the Remote Elephant Center Task Force recommendations with and sought feedback from various stakeholders and developed the COO's recommendation for the Metro Council to consider as set forth in Attachment 1 to the Staff Report; now therefore,

BE IT RESOLVED that the Metro Council accepts the Chief Operating Officer's recommendation and determines not to develop and operate a Remote Elephant Center; eliminates the Remote Elephant Center Set-Aside Fund from the Metro Council's recommended list of Ballot Measure 26-96 projects set forth in Metro Council Resolution No. 08-3945; and directs staff to propose alternative uses for the \$5.8 million bond funds currently allocated for that purpose.

ADOPTED by the Metro Council this ____ day of January, 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4683, FOR THE PURPOSE OF ACCEPTING THE CHIEF OPERATING OFFICER'S RECOMMENDATION AND ELIMINATING THE REMOTE ELEPHANT CENTER SET-ASIDE FUND FROM THE METRO COUNCIL'S RECOMMENDED LIST OF PROJECTS TO BE FUNDED BY METRO BALLOT MEASURE 26-96

Date: January 21, 2016

Prepared by: Martha Bennett
Chief Operating Officer

BACKGROUND

In 2008, the Metro Council approved Resolution No. 08-3945, which referred to voters of the metropolitan region a property tax measure designed to enhance animal health and safety protections, increase access to conservation education, improve water quality and conserve water and energy. Exhibit A of Resolution No. 08-3945 included the following statement: "The zoo is exploring the feasibility of providing an off-site area for elephants. Funds are set aside for potential capital needs of an off-site space."

Metro Ballot Measure 26-96 Oregon Zoo bond was passed in November 2008, and included a list of infrastructure and animal habitat improvement projects, such as the new water filtration system for the penguin habitat, a new veterinary medical center, Condors of the Columbia habitat and Elephant Lands, all of which have been completed on time and on budget. While a Remote Elephant Center was not included among the list of projects approved by voters when passing Measure 26-96, zoo and Metro staff have been conducting feasibility analysis of potential sites, operational plans and financials, per the Metro Council's direction as stated in Attachment A of Resolution No. 08-3945.

In June 2015, the Metro Council directed the Chief Operating Officer to convene a panel of third party reviewers to evaluate whether a Remote Elephant Center is feasible and provide a recommendation to the Chief Operating Officer. The Remote Elephant Center Task Force convened its first meeting on August 25, 2015, and subsequently met on September 30, October 28 and November 23. At its November 23 meeting, the Chief Operating Officer received the Remote Elephant Center's recommendation (Attachment 2) stating that, in no uncertain terms, a Remote Elephant Center is not feasible for the Oregon Zoo to undertake.

Prior to developing the Chief Operating Officer's recommendation for Metro Council's consideration regarding the Remote Elephant Center, the Task Force's recommendation and rationale was discussed among stakeholders across the zoo, including the elephant curator and elephant care team, the zoo's conservation manager, executive team and bond steering group, the Oregon Zoo Bond Citizens' Oversight Committee, Oregon Zoo Foundation Executive Committee of the Board of Trustees and other affected zoo staff and volunteers.

Feedback, ideas and input gathered from each of these stakeholders factored into the Chief Operating Officer's recommendation for Metro Council regarding the Remote Elephant Center. As explained in the Chief Operating Officer's recommendation for Metro Council regarding the Oregon Zoo Remote Elephant Center (Attachment 1), the Chief Operating Officer recommends that the Metro Council approve

Resolution No. 16-4683. Approval would effectively terminate the Remote Elephant Center project and, allow Metro and the Oregon Zoo, with the support of the Oregon Zoo Bond Citizens' Oversight Committee and Oregon Zoo Foundation Board of Trustees, and affected program staff to determine appropriate next steps for the remaining \$7.1 million in funds \$5.8 million in bond funds and \$1.3 million in OZF funds) allocated to the project.

ANALYSIS/INFORMATION

1. **Known Opposition** There is no known opposition of this resolution.
2. **Legal Antecedents** Metro Council Resolution No. 08-3945 ("Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$125 Million to Fund Oregon Zoo Capital Projects to Protect Animal Health and Safety, Conserve and Recycle Water, and Improve Access to Conservation Education; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of said Bonds Upon Issuance"), dated on May 8, 2008; Metro **Ballot** Measure 26-96, approved by voters at the November 4, 2008 general election.
3. **Anticipated Effects** Metro and Oregon Zoo staff can begin determining alternate uses for the \$7.1 million in Oregon Zoo bond funds allocated to the Remote Elephant Center. Staff will work with zoo partners and stakeholders, including the Oregon Zoo Bond Citizens' Oversight Committee and Oregon Zoo Foundation Board of Trustees, to develop options for Metro Council consideration in the near future.
4. **Budget Impacts** None. *

RECOMMENDED ACTION

Approve Resolution 16-4683 which thereby accepts the Chief Operating Officer's recommendation to terminate the Remote Elephant Center project and eliminate the Remote Elephant Center set-aside fund from the Metro Council's recommended list of projects to be funded by Metro Ballot Measure 26-96. In addition, direct Metro and Oregon Zoo staff to work with key stakeholders to identify options for alternate uses of the set-aside funds.

*Would release \$5.8 million of bond program dollars for consideration by Metro Council for reprogramming to the Zoo bond program.

Attachment 1



Date: January 21, 2016
To: Metro Council
From: Martha Bennett, Metro Chief Operating Officer
Subject: Recommendation regarding the Oregon Zoo Remote Elephant Center

Since 2009, Metro and Oregon Zoo staff have conducted thorough site, operational, financial and legal analysis to determine the feasibility of developing and operating a Remote Elephant Center. Though not an approved project included in Measure 26-96, Metro's \$125 million zoo bond measure, the concept of creating an off-site habitat for the zoo's elephant program was discussed prior to and following its passage in 2008. To that end, \$7.2 million of bond proceeds and private donations was set aside to fund due diligence, property purchase and construction if the Metro Council determined that a Remote Elephant Center were feasible.

In 2012, the Metro Council agreed with the Oregon Zoo Bond Citizens' Oversight Committee's recommendation that no additional zoo bond funds be spent on a Remote Elephant Center until a permanent operating funding source was identified.

Later that year, the Metro Council approved Resolution No. 12-4400 authorizing the Chief Operating Officer to execute an option to purchase property located in Clackamas County, commonly referred to as Roslyn Lake, by entering into a purchase agreement with the landowner, Portland General Electric. After significant site analysis deemed the property insufficient for the purposes of developing and operating an off-site elephant habitat, the Roslyn Lake property was eliminated as a potential site in August 2015.

Last June, the Metro Council called for the creation of a third party review board to evaluate whether a Remote Elephant Center is feasible and provide a recommendation to the Metro Chief Operating Officer. The Remote Elephant Center Task Force was convened in August 2015 with the charge of reviewing staff analysis collected to date, engaging experts and weighing the financial risks and benefits of developing and operating an off-site facility for the long-term.

On November 23, 2015, I received the recommendation from the Remote Elephant Center Task Force stating that construction and operation of a Remote Elephant Center is not a feasible undertaking for the Oregon Zoo (Attachment 2).

Since that time, I have discussed the Task Force's recommendation and rationale supporting it with a variety of stakeholders across the Oregon Zoo. I appreciate the honest discussions about the recommendations with the staff of the Oregon Zoo, particularly staff in the Living Collections Division. My recommendation to the Metro Council is the same: I do not believe the Remote Elephant Center is feasible in the short- to mid-term future for the Oregon Zoo.

Therefore, I recommend that the Metro Council terminate the Remote Elephant Center project and, with the support of the Oregon Zoo Bond Citizens' Oversight Committee and Oregon Zoo Foundation Board of Trustees, determine the appropriate next steps for the remaining \$7.1 million in funds allocated to the project. Below are my reasons.

1. **The financial risks are too great for the Oregon Zoo, Metro and our region, to undertake.** Financial analysis concludes that an endowment of roughly \$50 million would need to be established to fund the necessary start-up costs, estimated at \$20–30 million, and ongoing annual operational costs of \$2.3 million. As the fiduciary manager responsible for the Oregon Zoo’s budget and operations, and as steward of the bond funds allocated by the 2008 Oregon Zoo bond measure, I share the Remote Elephant Center Task Force’s finding that the financial burden of a Remote Elephant Center would seriously compromise the zoo’s primary mission of animal welfare, conservation and research.
2. **The Oregon Zoo has accomplished and continues to produce significant contributions towards the conservation of the elephant species and there are emerging opportunities to expand on this great work without a Remote Elephant Center.** More than 50 years of the zoo’s research, knowledge-sharing and support of conservation efforts has shaped elephant care and welfare across the globe. With our new state-of-the art habitat, Elephant Lands, the zoo has a unique opportunity to build upon this vast body of work and increase its reach in behavioral research, species conservation and animal welfare, while inspiring new audiences to take action on behalf of elephants. We can export this growing knowledge base to organizations in Southeast Asia and Africa who need our help while elephants, whose habitats are being destroyed at an alarming rate, are increasingly placed in human care. I believe the redirection of the private funds previously donated for the Remote Elephant Center could make a significant difference for the survival of the species. I look forward to continued conversations with our partners at the Oregon Zoo Foundation and other stakeholders to seize this opportunity for greater impact in elephant conservation and research.
3. **Even if it proved to be financially feasible, there is not appropriate property within the Metro region to locate a Remote Elephant Center.** Prior to selecting Roslyn Lake as a potential site, staff evaluated multiple locations, which, similar to Roslyn Lake, pose persistent problems such as land use restrictions that limit use, state regulations that restrict movement and activity of elephants near water sources, and challenges with neighboring properties. As a regional initiative, it isn’t prudent to search for potential locations outside of the Metro boundary.

Oregon Zoo and Metro staff and zoo bond supporters envisioned an inspiring and innovative project concept with the Remote Elephant Center in 2008 and I applaud the out-of-the-box thinking. However I am fully convinced that the financial and operational challenges far outweigh the benefits an off-site facility would generate. With Elephant Lands and a growing list of options to support elephant species conservation and research, I am convinced the Oregon Zoo can make a greater impact in these areas.

I want to thank the Metro Council for its deliberate and thoughtful considerations regarding the Oregon Zoo’s Remote Elephant Center and look forward to future conversations. I also would like to thank the members of the Remote Elephant Center Task Force for their diligence in research and analysis and for asking thought-provoking questions of our staff. Lastly, I want to share my continued thanks to the Oregon Zoo Bond Citizens’ Oversight Committee for serving as prudent advisors to staff as we continue to administer the projects outlined in the 2008 Oregon Zoo bond measure and the Oregon Zoo Foundation Board of Trustees for their ongoing partnership of support of the zoo’s mission.

Remote Elephant Center Task Force

Recommendation to Metro Chief Operating Officer Martha Bennett on the Feasibility of the Oregon Zoo Constructing and Operating a Remote Elephant Center

November 23, 2015

Background

In 2008, voters approved the Oregon Zoo bond to provide funding to enhance animal health and safety protections, increase access to conservation education, improve water quality, and conserve water and energy.

Exhibit A of Metro Council Resolution 08-3945, which approved sending this measure to voters, stated: "The zoo is exploring the feasibility of providing an off-site area for elephants. Funds are set aside for potential capital needs of an off-site space." While the purpose of the habitat was not described in the language, the zoo's intent was to create a facility for a growing herd; it was not intended as an end-of-life sanctuary for elephants. To this end, Metro Council allocated \$5.8 million in bond funds and the Oregon Zoo Foundation contributed \$1.4 million, for a total of \$7.2 million set aside for a potential off-site elephant habitat. These funds were intended to cover due diligence, potential land purchase, and partial construction of a Remote Elephant Center.

Oregon Zoo and Metro staff have been working to complete this feasibility study. In 2011, the Oregon Zoo Bond Citizens' Oversight Committee recommended that no additional bond funds be expended on the Remote Elephant Center until a permanent operating funding source had been identified. In its 2015 report, the committee recommended that Metro Council make a final determination on the feasibility of a Remote Elephant Center by the end of the calendar year.

At Metro Council's request, Metro Chief Operating Officer Martha Bennett appointed a Task Force to assess staff findings and make a recommendation on the feasibility of the Remote Elephant Center.

Task Force Charge

The Remote Elephant Center Task Force, comprised of eight civic and business leaders, met four times, on the following dates: August 25, September 30, October 28, and November 23, 2015.

The Task Force is charged with making a recommendation to the Metro Chief Operating Officer regarding the feasibility of the Oregon Zoo constructing and operating an off-site elephant facility in accordance with Metro Council Resolution No. 08-3945. The final recommendation will be presented to the Metro Chief Operating Officer, who will bring it to Metro Council along with input from the Oregon Zoo Director.

The first meeting provided an opportunity to tour the Elephant Lands habitat and discuss the proposed Remote Elephant Center and Asian elephant welfare, conservation, and research with Oregon Zoo and Metro staff. The second meeting focused on the financial outlook for the zoo and the estimated costs of building and operating the facility. In the third meeting, the Task Force discussed the key findings of these earlier meetings and came to consensus about a recommendation. The final recommendation was approved at the fourth meeting.

Recommendation and Considerations

After reviewing the materials developed by the Oregon Zoo and Metro since 2008 and engaging in direct dialogue with zoo and Metro staff, the Task Force identified the following concerns:

- **There appears to be no compelling need for a Remote Elephant Center at this time.** Conservation of the Asian elephant species aligns with the zoo's vision for a better future for wildlife, and the Asian elephant is of considerable historical significance to the Oregon Zoo. However, no compelling case has been made that a remote facility will contribute more to endangered elephant conservation than the work the zoo is currently doing.

The Oregon Zoo has a robust conservation and research program, and is responsible for much of what we now know about Asian elephants, including their capacity for infrasonic communication and their reproductive cycles. The new Elephant Lands habitat provides additional research opportunities into herd wellbeing, through encouraging movement and enrichment activities. Per zoo staff, the elephants are responding well to their new habitat, and there is space for the herd to grow. The zoo staff also indicated that if research were funded at the Remote Elephant Center (not included in operating cost estimates), it would be "more of the same."

A Remote Elephant Center would provide habitat for more animals and possibly allow for transfers from other zoos. This would benefit the Association of Zoos and Aquariums Species Survival Plan, which is focused on ensuring a genetically-viable population of elephants in accredited North American facilities. However, it is unclear how this would translate to the sustainability of Asian elephants in the wild. In fact, it is the opinion of the Task Force that the costs associated with a Remote Elephant Center could limit the ability of the zoo to contribute to other research efforts that may improve the survival of the species in their native habitats.

- **The proposed Remote Elephant Center business plan is unsustainable.** The 2011 Remote Elephant Center business plan was developed by staff with recognized expertise in Asian elephant care and welfare. However, it is largely aspirational, and in its current state does not provide for revenue-generation or guest access, nor does it identify an ongoing funding source.

The estimated cost associated with constructing and operating a Remote Elephant Center is dependent on the number of elephants and the activities that will occur on site. The proposed business plan assumes minimum levels of staffing for two male elephants with no additional budget for research, and estimates start-up costs at \$20 million with annual operating costs of \$1.6-1.8 million. However, the goal is to house a matriarchal herd; in this case, start-up costs may run to \$30 million while operating costs could increase to up to \$2.3 million annually.

A total of \$7.2 million has been allocated to the construction of the project, which leaves up to \$22.8 million unfunded. In addition, no funding source has been identified to cover operating costs. As the current Oregon Zoo budget cannot absorb an additional \$1.6-\$2.3 million annually without sacrificing existing and future programs, the zoo must look to external funding opportunities. An endowment would require a minimum investment of approximately \$50 million, which is considerably more than the Oregon Zoo Foundation's history supports. There is low confidence that donors would find operating expenses a compelling giving opportunity, especially considering that the proposed facility does not provide for public access. Another possibility is a local option levy, but we acknowledge that this is unlikely to be a Metro Council priority at this time.

- **An appropriate location for the Remote Elephant Center has yet to be identified.** At the outset of the feasibility study, Oregon Zoo staff developed a comprehensive list of requirements for any potential Remote Elephant Center property, including size, distance to Oregon Zoo, and purchase cost. Using these parameters, Metro and the zoo considered a number of sites for the remote facility, and to date, each has been eliminated. After extensive due diligence, Roslyn Lake, the strongest candidate property, was eliminated as a possibility once it became clear that restrictions associated with the Confined Animal Feeding Operation designation would severely inhibit the movement of animals on the property. In addition, while the original plans include a perimeter fence and on-site staff, security enhancements would be highly dependent on neighboring land use.

It is likely that any properties identified in the future would face similar obstacles. While some could be overcome with infrastructure enhancements, these would also increase the cost of construction and operation beyond the current estimated budget.

Given these findings, it is the decision of the Remote Elephant Center Task Force that the construction and operation of a Remote Elephant Center is not a feasible undertaking for the Oregon Zoo. In addition, the Task Force believes that moving forward with the Remote Elephant Center without adequate financial resources would have a detrimental effect on the Oregon Zoo and Oregon Zoo Foundation, putting the entire zoo and future Asian elephant conservation support at risk.

The Task Force recognizes the tremendous work the Oregon Zoo has done with its Asian elephant program, and the Remote Elephant Center was initially proposed in an effort to create a better future

for Asian elephants and to ensure the long term survival of the species. With this in mind, the zoo may wish to consider whether there are opportunities to expand relationships with conservation agencies in the elephants' native countries. The shifting mission of zoos toward conservation suggests the possibility of future partnerships with nonprofits that focus on species survival. The zoo currently contributes generous financial support and shares research findings with several of these organizations, and it should investigate additional opportunities to increase its exportation of knowledge and management expertise to those who request assistance.

In addition, though the Task Force recognizes this is somewhat beyond our scope of work, we suggest that the zoo consider more opportunities to partner with local and federal agencies to support the conservation of northwest species, as it has successfully done with California condor and Oregon silverspot butterfly.

Remote Elephant Center Task Force Members



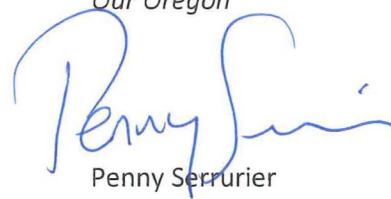
Kregg Hanson, Chair
Banfield Pet Hospitals (ret.)



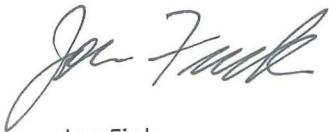
Daniel Morris
Our Oregon



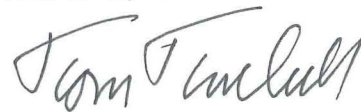
Mark Dodson
Northwest Natural Gas Co. (ret.)



Penny Serrurier
Stoel Rives, LLP



Jon Fink
Portland State University



Tom Turnbull
OpenSesame



Carter MacNichol
Shiels Oblatz Johnsen, Inc.



Karen Weylandt
Providence Health & Services

Agenda Item No. 3.1

Resolution No. 15-4669, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property in the Chehalem Ridgetop to Refuge Target Area Under the 2006 Natural Areas Bond Measure and Subject to Unusual Circumstances

Consent Agenda

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE PROPERTY IN THE CHEHALEM RIDGETOP TO REFUGE TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE AND SUBJECT TO UNUSUAL CIRCUMSTANCES

RESOLUTION NO. 15-4669

Introduced by Metro Councilor Kathryn Harrington, District 4

WHEREAS, at the general election held on November 7, 2006, the voters of the Metro region approved Measure 26-80, the 2006 Natural Areas Bond Measure submitted to the voters to preserve natural areas and clean water and protect fish and wildlife (the “Measure”); and

WHEREAS, on March 1, 2007, the Council approved Resolution No. 07-3766A “Authorizing the Chief Operating Officer to Purchase Property with Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan,” (the “Acquisition Parameters and Due Diligence Guidelines”); and

WHEREAS, on September 6, 2007, the Council approved Resolution No. 07-3857, “Approving the Natural Areas Acquisition Refinement Plan for the Chehalem Ridgetop to Refuge Target Area establishing the protection of “large, undeveloped tracts of forestland to protect water quality, wildlife habitat and connections and to provide public access opportunities” as the goal of the target area; and

WHEREAS, Resolution No. 07-3857 established as a Tier I Objective the acquisition of “upper elevation forestlands and oak woodlands on the Chehalem Ridge to enhance water quality and wildlife habitat and to provide potential public access opportunities”; and

WHEREAS, Resolution No. 07-3857 also established as a Tier II Objective the acquisition of “rare upland prairie and oak savanna habitat, as well as lands along creeks and streams on the western slope of the Chehalem Ridge to provide connections between the ridgetop and Wapato Lake Target Area...and to support future recreational trail opportunities by securing potential trail corridors... and connecting Wapato Lake and/or Gales Creek to the Chehalem Ridge”; and

WHEREAS, on August 14, 2014, the Council approved Resolution No. 14-4536, “For the Purpose of Amending and Updating the Natural Areas Implementation Work Plan”, which consolidated and revised modifications to the Natural Areas Implementation Work Plan; and

WHEREAS, staff have entered into a purchase and sale agreement with a landowner (“Seller”) to purchase 103 acres located on Chehalem Ridge, as more particularly identified and described on Exhibit A to this resolution (hereinafter, the “Property”); and

WHEREAS, the Property is identified as a Tier I property according to the Refinement Plan, and it also fulfills Tier II target area objectives; and

WHEREAS, the appraisal of the Property contracted by Metro contains an extraordinary assumption regarding a proposed property line adjustment (PLA), the resulting configuration of which would not suit Metro’s purposes; and

WHEREAS, the appraiser's conclusion of the fair market value of the Property assumed the successful completion of said PLA by the Seller, which Metro staff have determined is not needed for Metro's planning efforts and future management; and

WHEREAS, the presence of an extraordinary assumption in the appraisal is an "unusual circumstance" as defined in the Natural Areas Implementation Work Plan, requiring that the Council must approve acquisition of the Property; and

WHEREAS, the opportunity to acquire the Property provides Metro with a new and probably superior option for creating public access to the Chehalem Ridge Natural Area not available in other locations; now therefore

BE IT RESOLVED that the Metro Council hereby authorizes the Chief Operating Officer to acquire the Property, as identified in Exhibit A and discussed in the executive session on January 5th, 2016, at the negotiated purchase price, notwithstanding the unusual circumstances related to the appraisal of the Property, provided that the acquisition is otherwise in accord with all of the other Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ADOPTED by the Metro Council this ___ day of January, 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4669 AUTHORIZING THE CHIEF OPERATING OFFICER TO PURCHASE CERTAIN PROPERTY IN THE CHEHALEM RIDGETOP TO REFUGE TARGET AREA UNDER THE 2006 NATURAL AREAS BOND MEASURE AND SUBJECT TO UNUSUAL CIRCUMSTANCES

Date: January 21, 2016

Prepared by: Dan Moeller, (503) 797-1819

BACKGROUND

Metro has an opportunity to acquire a 103-acre parcel of land in the Chehalem Ridgetop to Refuge Target Area (the “Property”). The Property is adjacent to the Chehalem Ridge Natural Area (the “CRNA”), a 1,230 acre assemblage owned by Metro. A planning process to explore public access opportunities for the CRNA is scheduled to begin this year. Acquisition of the Property will serve to support the target area goal to acquire “the upper elevation forestlands and oak woodlands on the Chehalem Ridge to enhance water quality and wildlife habitat and to provide potential public access opportunities.” Metro has entered into a Purchase and Sale Agreement with the owners of the Property. The purpose of this report is to outline the importance of acquiring the Property despite the fact that the current terms for the acquisition fall outside the parameters of the Natural Areas Implementation Work Plan (the “Work Plan”), adopted by the Metro Council via Resolution 14-4536. Metro Council approval is necessary to complete the transaction. In order to acquire the Property, Metro staff is proposing to close on the Property according to terms consistent with the discussion at the Metro Council executive session on January 5th, 2016.

Goals and Objectives of the Chehalem Ridgetop to Refuge Target Area

The northern end of the Chehalem Mountains provides opportunities for the protection of large, undeveloped tracts of forestland to protect water quality and wildlife connections from this mountain range to area river bottomlands. In addition to the objective of acquiring upper elevation forestland, a Tier 2 objective is to pursue “rare upland prairie and oak savanna habitat, as well as lands along creeks and streams on the western slope of the Chehalem Ridge to provide connections between the ridgetop and Wapato Lake target area...and to support future recreational trail opportunities by securing potential trail corridors...and connecting Wapato Lake and/or Gales Creek to the Chehalem Ridge.” In December of 2009, via Resolution 09-4095, Metro acquired the largest property it has purchased, the 1,143 acres CRNA. Along with additional adjacent parcels, the CRNA represents an opportunity to continue to nurture habitat while preparing to welcome visitors. The Property will most likely help to realize the target area objectives.

UNUSUAL CIRCUMSTANCE

The Work Plan sets forth “Acquisition Parameters” which allow the COO to negotiate and close real estate transactions provided that certain criteria and conditions are met. One of the parameters is that “Due Diligence has been completed in conformance with the due diligence section of this Work Plan and no unusual circumstances have been found to exist.” Metro Council approval is required under the Work Plan when the Chief Operating Officer encounters unusual circumstances in the course of a transaction.

In this transaction, there is an unusual circumstance regarding the appraisal. The Appraisal Process section of the Work Plan states, “The appraisal may not contain any “extraordinary assumptions” that materially influence the conclusion of the property’s fair market value.” The appraisal for this Property contains an extraordinary assumption, which is considered an unusual circumstance under the Work Plan, requiring Metro Council approval of the acquisition.

A Purchase and Sale Agreement was executed between Metro and the landowner (the “Seller”) of the Property (the “Agreement”). The majority of the site was farmed, and it includes an old farm dwelling. The Seller was in the process of applying for a property line adjustment from Washington County which would rearrange the boundaries of the Property’s two tax lots. Approval of the PLA would result in a second homesite for the Property, following another land use application that would qualify for the homesite via the farm income test (the “PLA”). Preliminary meetings with Washington County development staff indicate that the application would most likely meet the county standards, and that the additional home site would be granted. Metro staff agreed that Seller need not apply for the PLA, however, because the resulting configuration would not benefit Metro’s planning efforts and future intended use for the Property.

While the appraisal and appraisal review concluded a value to the Property that meets the Agreement purchase price, the appraisal documents assumed the completion of the PLA. The independent appraisal noted that the valuation based on this incomplete land use action constituted an “extraordinary assumption.”

Metro staff are comfortable with the valuation in the appraisal and appraisal review as the Property has been operating as a farm for several years and has proven income, which is a requirement of the county for the second homesite. The future potential for farm income may be greater than previous years, as a study for the potential for vineyard crops was positive.

In addition, the failure to acquire the Property may result in undue difficulty in identifying an alternate access point for the CRNA. An independent study commissioned by Metro identified it as more cost-effective and better able to serve larger populations than other studied alternatives. Acquisition would leave Metro closer to achieving the goal of connecting the Chehalem Ridgetop to Refuge target area to the Wapato Lake target area as after this acquisition, just one property would separate the two target areas.

If the Council approves this Resolution, it will authorize the Chief Operating Officer to acquire the Property at the Agreement price, notwithstanding the unusual circumstance related to the appraisal of the Property provided that the acquisition is otherwise in accord with the Acquisition Parameters and Due Diligence Guidelines of the Natural Areas Implementation Work Plan.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

The voters' approved Metro's 2006 Natural Areas Bond Measure at the general election held on November 6, 2006.

Resolution No. 07-3766A, "Authorizing the Chief Operating Officer to Purchase Property With Accepted Acquisition Guidelines as Outlined in the Natural Areas Implementation Work Plan," was adopted by the Metro Council on March 1, 2007, and established the Acquisition Parameters and Due Diligence Guidelines for the purchase of properties as part of the 2006 Natural Areas Bond Program.

Resolution No. 07-3857, "Approving the Natural Areas Acquisition Refinement Plan for the Chehalem Ridgetop to Refuge Target Area," was adopted by the Metro Council on September 20, 2007.

Resolution No. 14-4536, "For the Purpose of Amending and Updating the Natural Areas Work Plan," was adopted by the Metro Council on August 14, 2014.

3. Anticipated Effects

The 103-acre acquisition will add to Metro's Tier I and Tier II acquisition goals for the target area, most significantly in providing potential options for future public access to the CRNA.

4. Budget Impacts

Metro's acquisition of the Property shall be funded with 2006 Regional Bond proceeds. Funds for stabilization activities would be provided from the 2006 Regional Bond proceeds.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 15-4669.

Agenda Item No. 3.2

Resolution No. 16-4674, For the Purpose of Confirming
Appointments to the Metro Public Engagement Review
Committee

Consent Agenda

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING) RESOLUTION NO. 16-4674
APPOINTMENTS TO THE METRO PUBLIC)
ENGAGEMENT REVIEW COMMITTEE.) Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

WHEREAS, in furtherance of Metro’s Principles of Citizen Involvement, set forth in Resolution No. 97-2433, adopted January 23, 1997, and Ordinance No. 12-1294 amending Metro Code Chapter 2.19.030, the Metro Council established an Advisory Committee known as the Public Engagement Review Committee (PERC) to advise the Metro Council on the development and maintenance of programs and procedures to aid communication between the public and the Metro Council; and

WHEREAS, by a fair and open process, Metro has recruited applicants for PERC and the Metro Council President has appointed selected applicants consisting of members of the public, representatives of community organizations, and public involvement staff from local jurisdictions; and

WHEREAS, Metro Code Chapter 2.19.030 requires that the Metro Council confirm appointments made by the Council President to Metro’s Advisory Committees; and now therefore

BE IT RESOLVED that:

- (a) the appointments by the Metro Council President set forth on Exhibit A to this Resolution, are hereby confirmed, each for a three year term;
- (b) the term of each member set forth on Exhibit A will run from January 2016 through December 2018; and
- (c) Staff will begin recruitment to fill PERC vacancies caused by any expiring terms starting fall 2016, working toward new appointments by December 2016.

ADOPTED by the Metro Council this [insert date] day of [insert month]

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

Exhibit A to Resolution No. 16-4674

At-large representatives from the region

- Octaviano Merecias-Cuevas – Associate Director of Outreach for the Washington County Youth Development Center, a part of the OSU Extension Program.
- Cory L. Murphy – President of Iconiqs Media LLC., an event management & non-profit consulting firm that focuses on civil rights and social justice within Oregon’s African-American and LGBT communities.
- Addie Shrodes – Oregon Hatfield Fellow, currently leading the development of a youth engagement strategy for Metro.

Community organization representative

- Justin Pabalate – Q Center executive co-director, development and community relations.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 16-4674 FOR THE PURPOSE OF CONFIRMING APPOINTMENTS TO THE METRO PUBLIC ENGAGEMENT REVIEW COMMITTEE.

Date: Jan. 11, 2016

Prepared by: Heather Coston 503-813-1552

BACKGROUND

Metro's Public Engagement Review Committee (PERC) convenes three times a year and consists of at-large community members, representatives from three community organizations, and public involvement staff from Clackamas, Multnomah and Washington counties.

ANALYSIS/INFORMATION

The PERC serves as a key component of Metro's ongoing efforts to develop and implement successful public engagement processes. Members are appointed to three-year terms on a rotating schedule.

One representative from a community organization and two-at large community representatives' terms have expired. In addition, one at-large community representative resigned from the committee.

Staff opened an application process and engaged community stakeholders, local agencies and jurisdictions to recruit committee applicants with public involvement experience, strong community connections, and a diverse geographic and demographic representation.

Staff received 25 applications and selected four that meet the following criteria:

- A commitment to community engagement
- Demonstrated skills, knowledge or experience that apply to principles of citizen involvement adopted by Metro
- Experience working with underrepresented communities.

After consulting with councilors, the communications director, and staff, the Metro Council President has appointed the following individuals to PERC for three-year terms: Octaviano Merencias, Cory L. Murphy Addie Shrodes and Justin Pabalate.

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Resolution No. 97-2433 establishing Metro's Principles of Citizen Involvement: Metro Code Chapter 2.19.030; and Ordinance No. 12-1294 amending Metro Code Chapter 2.19.030.
3. **Anticipated Effects** The appointments to the PERC will allow Metro to more successfully engage communities with Metro's initiatives, improve public engagement best practices, and prioritize projects for public outreach.

4. **Budget Impacts** No budget impacts. Program needs are accounted for in existing staff resources and accessing Communications M&S included in the COO proposed budget for FY 2016-2017.

RECOMMENDED ACTION

Confirm appointing three at-large community representatives to the PERC for three-year terms:
Octaviano Merencias, Cory L. Murphy and Addie Shrodes.

Confirm appointing one community organization representative to the PERC for a three-year term:
Justin Pabalate, executive co-director, Q Center

Agenda Item No. 3.3

Resolution No. 16-4675, For the Purpose of Confirming the Appointment of Patricia Kepler, Charity Fain and Heidi Guenin as Citizen Representatives to the Transportation Policy Alternatives Committee

Consent Agenda

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE)
APPOINTMENTS OF PATRICIA KEPLER,)
CHARITY FAIN AND HEIDI GUENIN AS)
CITIZEN REPRESENTATIVES TO THE)
TRANSPORTATION POLICY ALTERNATIVES)
COMMITTEE)

RESOLUTION NO. 16-4675

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

WHEREAS, Metro Code Sections 2.19.030(b) and 2.19.180(b)(6), and the Transportation Policy Alternatives Committee (TPAC) bylaws, provide that the Metro Council President shall appoint members of TPAC, subject to confirmation by the Metro Council; and

WHEREAS, TPAC coordinates and guides the regional transportation planning program in accordance with the policy of the Metro Council; and

WHEREAS, TPAC has three seats for citizen members currently vacant; and

WHEREAS, the Metro Council President has made the following appointments to fill the TPAC vacancies:

Appointment, Two-Year Term:

1. Patricia Kepler, independent living specialist, Independent Living Resources. (Appoint to complete Two-Year Term – January 2016 through December 2017)
2. Charity Fain, executive director, Community Energy Project. (Appoint to complete Two-Year Term – January 2016 through December 2017)
3. Heidi Guenin, executive director, Sustainable Transportation Council. (Appoint to complete Two-Year Term – January 2016 through December 2017)

BE IT RESOLVED THAT the Metro Council hereby confirms the Metro Council President’s appointment of the foregoing individuals to serve as TPAC citizen members, for the terms noted above.

ADOPTED by the Metro Council this 21st day of January 2016.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4675, FOR THE PURPOSE OF
CONFIRMING THE APPOINTMENTS OF PATRICIA KEPLER, CHARITY FAIN AND
HEIDI GUENIN AS CITIZEN REPRESENTATIVES TO THE TRANSPORTATION
POLICY ALTERNATIVES COMMITTEE

Date: January 20, 2016

Prepared by: Lisa Hunrichs
Planning & Development / TPAC Coordinator
(503) 797-1839

BACKGROUND

The Transportation Policy Alternatives Committee (TPAC) provides technical advice to the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council regarding transportation planning and policy. TPAC has 21 members: 15 technical staff from governments in the region and 6 interested community members. The community members represent various areas of transportation expertise, parts of the region and community perspectives. The selection committee sought in particular applicants with expertise in the following areas as they relate to transportation planning: economic development, freight movement, and trade; and the needs of underrepresented residents such as people of color, people with low income, people with disabilities, seniors, and youth.

Currently TPAC has three vacant citizen member seats, each for 2-year terms. All three nominees were interviewed as a part of the public recruitment process during the December of 2015.

Members nominated are as follows:

- **Patricia Kepler**

Ms. Kepler is an independent living specialist with Independent Living Resources, an advocacy organization for people with disabilities. She is a member of TriMet's Committee on Accessible Transportation; a commissioner Oregon Disabilities Commission; and a commissioner on the Oregon Commission for the Blind. She also served for 12 years on Beaverton Disability Advisory Council. She will bring to TPAC her background as both a professional advocate for people with disabilities and a person who experiences a disability herself (Ms. Kepler is legally blind). She holds an MA Organizational Leadership, and is pursuing a PH.D in Public Policy. She resides in Washington County, in the city of Aloha.

- **Charity Fain**

Ms. Fain is the executive director at Community Energy Project, Portland-based nonprofit that works to address home environmental health, comfort, and safety issues and facilitates connections to services. She works regularly with community groups and serves as the chair of the Multnomah County Healthy Homes Coalition. She has also served on the board of Metro East Community Media, a local Slavic group. She resides in SE Portland.

- **Heidi Guenin**

Ms. Guenin is the Executive Director of the Sustainable Transportation Council, which focuses on improving performance of transportation plans and projects. Her work and interests enable her to work regularly with groups focused on housing, transportation, poverty, homelessness, social justice, and economic development. She is an active volunteer with the Center for Intercultural Organizing and New Avenues for Youth. She resides in SE Portland.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code Sections 2.19.030 (a) and (b) and 2.19.180 (b)(6); Metro TPAC Bylaws.
3. **Anticipated Effects:** Approval fills all vacancies for citizen members on TPAC.
4. **Budget Impacts:** None.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 16-4675

Agenda Item No. 3.4

Consideration of Council Meeting Minutes on January 14, 2016

Consent Agenda

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Ordinance No. 15-1364, For the Purpose of Amending Metro Code Chapter 2.03 to Approve a Schedule of Civil Penalties for Metro's Parks, Cemeteries, and Natural Areas

Ordinances (First Read)

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 15-1364
CODE CHAPTER 2.03 TO APPROVE A)	
SCHEDULE OF CIVIL PENALTIES FOR)	Introduced by Metro Attorney Alison R. Kean
METRO’S PARKS, CEMETERIES AND		in concurrence with Council President Tom
NATURAL AREAS		Hughes

WHEREAS, Metro’s Department of Parks and Nature desires to enforce its rules and regulations in Metro’s parks, cemeteries, and natural areas; and

WHEREAS, in order to give notice to the public of potential civil penalties, and to clarify enforcement procedures, revisions to Metro Code Chapter 2.03 are required; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 2.03 (Civil Penalties) is amended as set forth in Exhibit A attached to this Ordinance.

ADOPTED by the Metro Council this ____ day of January, 2016.

Tom Hughes, Council President

Attest:

Approved as to Form:

Alexandra Eldridge, Recording Secretary

Alison R. Kean, Metro Attorney

EXHIBIT A TO ORDINANCE 15-1364

CHAPTER 2.03

CIVIL PENALTIES

SECTIONS	TITLE
2.03.010	Purposes
2.03.020	Definitions
2.03.030	Consolidation of Proceedings
2.03.040	Notice of Violation and Intent to Assess Civil Penalty
2.03.050	Mitigating and Aggravating Factors
2.03.060	Zoo Schedule of Civil Penalties
2.03.070	Solid Waste Schedule of Civil Penalties
<u>2.03.075</u>	<u>Parks and Nature Schedule of Civil Penalties</u>
2.03.080	Written Notice of Assessment of Civil Penalty; When Penalty Payable
2.03.090	Compromise or Settlement of Civil Penalty by Director

2.03.010 Purposes

The purpose of these rules and regulations is to prescribe the procedures and requirements for the notice, assessment, collection and enforcement of civil penalties.

(Ordinance No. 50, Sec. 1.)

2.03.020 Definitions

Unless otherwise required by context, as used in this subdivision:

(a) "Director" means the "Department Director" as defined in Section 2.17.020(d).

(b) "License" as used in this Code has the meaning given that word by ORS Chapter 183.

(c) "Order" means (i) any action satisfying the definition given in ORS Chapter 183, or (ii) any other action so designated in ORS Chapter 268.

(d) "Respondent" means the person against whom a civil penalty is assessed.

(e) "Violation" means a transgression of any provision or condition of any license and includes both acts and omissions.

(Ordinance No. 50, Sec. 2. Amended by Ordinance No. 02-967, Sec. 1.)

2.03.030 Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct offense, and in cases of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

(Ordinance No. 50, Sec. 3.)

2.03.040 Notice of Violation and Intent to Assess Civil Penalty

(a) Except as provided in subsection (d) of this section, prior to the assessment of any civil penalty the Director shall serve a written notice of violation and intent to assess civil penalties upon the respondent.

(b) The notice shall be personally delivered or sent by registered or certified mail by an employee of Metro or any other competent person over the age of 18 years to:

- (1) The respondent; or
- (2) Any person designated by law as competent to receive service of a summons or notice for the respondent; or
- (3) Following appearance of counsel for the party, the party's counsel.

(c) A notice of violation shall specify the violation and state that Metro will assess a civil penalty if the violation continues or occurs after five (5) days following service of the notice.

(d) Written notice of violation and intent to assess a civil penalty shall not be required where:

- (1) The respondent has otherwise received actual notice of violation not less than five (5) days

prior to the violation for which a penalty is assessed.

- (2) The violation is of a type that would normally not be in existence for five (5) days or the jurisdiction of Metro to prosecute the violation is liable to be interrupted within that time.

(Ordinance No. 50, Sec. 4.)

2.03.050 Mitigating and Aggravating Factors

(a) In establishing the amount of a civil penalty to be assessed, the Director or the Council shall consider the following factors:

- (1) Whether the respondent has committed any prior violation, regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefor;
- (2) The history of the respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation;
- (3) The economic and financial conditions of the respondent.

(b) In establishing whether a civil penalty should be remitted or mitigated, the Director or the Council may consider the following factors:

- (1) The gravity and magnitude of the violation;
- (2) Whether the violation was repeated or continuous;
- (3) Whether a cause of the violation was an unavoidable accident, or negligence, or an intentional act of the respondent;
- (4) The opportunity and degree of difficulty to correct the violation;
- (5) The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

- (6) The cost to Metro of investigation and correction of the cited violation prior to the time Metro receives respondent's answer to the written notice of assessment of civil penalty; or
- (7) Any other relevant factor.

(c) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Council may presume that the economic and financial conditions of respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial condition or regarding any factor urged in mitigation shall be upon the respondent.

(Ordinance No. 50, Sec. 5.)

2.03.060 Zoo Schedule of Civil Penalties

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the Zoo by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(a) Not less than \$100 nor more than \$500 for violation of an order of Metro or its Council.

(b) Not less than \$25 nor more than \$500 for any violation which causes, contributes to, or threatens the injury of any Zoo animals.

(c) Not less than \$25 nor more than \$500 for any other violation.

(Ordinance No. 50, Sec. 6.)

2.03.070 Solid Waste Schedule of Civil Penalties

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to the transferring, processing or disposal of solid waste by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(a) Not less than \$100 nor more than \$500 for violation of an order of Metro or its Council.

(b) Not less than \$25 nor more than \$500 for any other violation.

(Ordinance No. 50, Sec. 7.)

2.03.075 Parks and Nature Schedule of Civil Penalties

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to its parks, cemeteries, and natural areas by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(a) Not less than \$100 nor more than \$500 for violation of an order of Metro or its Council.

(b) Not less than \$25 nor more than \$500 for any other violation.

2.03.080 Written Notice of Assessment of Civil Penalty; When Penalty Payable

(a) A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service of the written notice of assessment of civil penalty shall be in accordance with the service provisions of Section 2.03.040.

(b) The written notice of assessment of civil penalty shall include:

- (1) A reference to the particular sections of the statute, rule, regulation, standard, order, certificate or permit involved;
- (2) A short and plain statement of the matters asserted or charged;
- (3) A statement of the amount of the penalty or penalties imposed; and

(4) A statement of the respondent's right to request a hearing.

(c) The respondent shall have 20 days from the date of mailing service of the notice in which to make written application for a hearing before the Metro.

(d) All hearings shall be conducted pursuant to the contested case hearing procedures in the Metro Code.

(e) Unless the amount of the penalty is paid within 10 days after the order becomes final, the order shall constitute a judgment and may be filed in accordance with the provisions of Oregon Law. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(Ordinance No. 50, Sec. 8. Amended by Ordinance No. 02-967, Sec. 1.)

2.03.090 Compromise or Settlement of Civil Penalty by Director

At any time subsequent to service of the written notice of assessment of civil penalty, the Director is authorized ~~to seek~~ to compromise or settle any unpaid civil penalty which ~~he~~ the Director deems appropriate. ~~Any compromise or settlement executed by the Director shall not be final until approved by the Council.~~

(Ordinance No. 50, Sec. 9.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 15-1364, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 2.03 TO APPROVE A SCHEDULE OF CIVIL PENALTIES FOR METRO'S PARKS, CEMETERIES AND NATURAL AREAS

Date: January 21, 2016

Prepared by: Dan Moeller, 503-797-1819
Suzanne Piluso, 503-797-1845

BACKGROUND

Metro Code 2.03 establishes the procedures and requirements for notice, assessment, collection and enforcement of civil penalties for violations of the Metro Code. Metro's Department of Parks and Nature desires to more actively enforce its rules and regulations in Metro's parks, cemeteries, and natural areas. Section 2.03 does not include provisions specific to enforcement of Parks and Nature rules and regulations. Accordingly, amending the code is needed to set forth a schedule of civil penalties for enforcement of parks rules. The proposed changes will also enable the Director of Parks and Nature to settle civil penalties without Metro Council approval.

These changes to the Metro Code clarify provisions in advance of the adoption of a new rule enforcement manual for Metro parks, natural areas and cemeteries.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Metro Code Chapter 2.03 (Civil Penalties)
3. **Anticipated Effects:** Metro Code 2.03 will include a provision that sets forth a schedule of civil penalties for the Parks and Nature department, and enables the Director of Parks and Nature to settle civil penalties.
4. **Budget Impacts:** None.

RECOMMENDED ACTION

The Office of Metro Attorney recommends adoption by the Metro Council of Ordinance 15-1364.

Agenda Item No. 4.2

Ordinance No. 15-1366, For the Purpose of Amending Metro
Code Chapters 10.01 and 10.02 to Clarify Rule Enforcement
Procedures Within for Metro's Parks, Cemeteries, and Natural
Areas

Ordinances (First Read)

Metro Council Meeting
Thursday, January 21, 2016
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 15-1366
CODE CHAPTERS 10.01 AND 10.02 TO)	
CLARIFY RULE ENFORCEMENT)	Introduced by Metro Attorney Alison R. Kean
PROCEDURES WITHIN METRO'S PARKS,)	in concurrence with Council President Tom
CEMETERIES AND NATURAL AREAS)	Hughes

WHEREAS, Metro Code Chapter 10 sets forth the rules governing use of Metro's parks, cemeteries, and natural areas, and gives the Parks and Nature Department Director the authority to enforce these rules and to adopt additional regulations consistent with the Metro Code;

WHEREAS, with the authority delegated by the Metro Code and the Metro Council, the Director has developed a plan and program for Metro Parks and Nature staff to enforce Metro's rules on Metro property in a manner that will, on balance, protect the public and Metro property and staff;

WHEREAS, revisions to Metro Code Chapter 10.01 and 10.02 are now required in order to clarify that Parks and Nature staff will enforce the Department's rules and regulations through civil procedures; and

WHEREAS, additional changes are necessary to refer to the new name of Metro's Parks and Nature Department, and to update and eliminate obsolete code provisions; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 10.01 (Metro Parks and Nature Regulations) and 10.02 (Park Fees) are amended as set forth in Exhibit A and Exhibit B attached to this Ordinance.

ADOPTED by the Metro Council this ____ day of January, 2016.

Tom Hughes, Council President

Attest:

Approved as to Form:

Alexandra Eldridge, Recording Secretary

Alison R. Kean, Metro Attorney

EXHIBIT A TO ORDINANCE 15-1366

TITLE X

METRO ~~REGIONAL~~-PARKS, CEMETERIES AND ~~GREENSPACES~~NATURAL AREAS

CHAPTERS

TITLE

- 10.01 Metro ~~Regional~~-Parks and ~~Greenspaces~~Nature Regulations
- 10.02 ~~Regional~~-Park Fees
- 10.03 Conservation Easements
- 10.04 Pioneer Cemetery Properties

CHAPTER 10.01

METRO ~~REGIONAL~~-PARKS AND ~~GREENSPACES~~NATURE REGULATIONS

SECTIONS	TITLE
10.01.010	Purpose
10.01.020	Definitions
10.01.030	Policy
10.01.040	Enforcement Authority/Park Rules
10.01.050	Park Property Destruction and Other Property Prohibitions
10.01.060	Trees, Shrubbery and Lawns Prohibitions
10.01.070	Animals, Birds and Fish Prohibitions
10.01.080	Pollution of Waters and Soils Prohibited
10.01.090	Refuse and Trash Prohibitions
10.01.100	Traffic Prohibitions
10.01.110	Parking Prohibitions
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10.01.010 Purpose

The purpose of this chapter is to provide for regulations governing the use of Metro owned or operated ~~Regional~~ Parks and ~~Greenspaces~~Nature facilities by members of the public in order to provide protection for wildlife, plants and property, and to protect the safety and enjoyment of any person visiting these facilities. ~~This chapter is intended to supersede and replace any Multnomah County Code provisions previously applicable to any properties formerly owned or operated by Multnomah County.~~

(Ordinance No. 96-659A, Sec. 1.)

10.01.020 Definitions

As used in this chapter, unless the context requires otherwise:

(a) "Council" shall have the meaning assigned thereto in Metro Code Section 1.01.040(a).

(b) "Director" means the person designated by the Chief Operating Officer to serve as the Director of Metro's ~~Regional~~ Parks and ~~Greenspaces~~Nature Department or the Director's designee.

(c) "Metro Code" means the Code of Metro.

(d) "Park" means a forest, reservation, playground, beach, natural area, recreation center, cemetery, or any other similar area owned, operated or managed by Metro, through its ~~Regional~~ Parks and ~~Greenspaces~~Nature Department, and devoted to active or passive recreation.

(e) "Park rules" means rules adopted by the Director pursuant to Section 10.01.040 of this chapter.

(f) "Person" shall have the meaning assigned thereto in Metro Code Section 1.01.040(f).

(g) "Public" means any person other than a ~~Regional~~ Parks and ~~Greenspaces~~Nature Department employee.

(h) "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn or self-propelled, including a bicycle, and includes any trailer in tow of any size, kind or description, but does not include baby carriages or vehicles in the service of Metro ~~Regional~~-Parks and ~~Greenspaces~~Nature.

(i) "~~Regional~~-Parks and ~~Greenspaces~~Nature Department employee" means any paid employees of the ~~Regional~~-Parks and ~~Greenspaces~~Nature Department, any other paid employees of Metro performing tasks or functions at any park at the request or direction of either the Director or the Metro Council, volunteers performing functions and duties assigned or authorized by the Director, and any contractors or agents of the ~~Regional~~-Parks and ~~Greenspaces~~Nature Department carrying out their duties or obligations to the ~~Regional~~-Parks and ~~Greenspaces~~Nature Department.

(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 02-978, Sec. 1.)

10.01.030 Policy

The Council has determined that it is necessary to adopt these Code provisions in order to insure the efficient operation, protection and maintenance of ~~Regional Parks and~~ ~~Greenspaces~~Metro's parks and to protect the health, safety and welfare of the public; therefore, this chapter shall be liberally construed to effectuate this purpose.

(Ordinance No. 96-659A, Sec. 1.)

10.01.040 Enforcement Authority/Park Rules

(a) The Director shall have the authority to enforce all of the provisions of this chapter, including but not limited to the authority to enforce any park rules adopted pursuant to this chapter.

(b) The Director shall have the authority to adopt park rules which are not inconsistent with the provisions of this chapter, including but not limited to park rules governing fees. Park rules shall be in writing, shall be posted as otherwise required by this chapter, and shall be filed with the Metro Council.

(c) No person shall violate any park rule which has been adopted by the Director pursuant to this chapter.

(Ordinance No. 96-659A, Sec. 1.)

10.01.050 Park Property Destruction and Other Property Prohibitions

No person shall, within the boundaries of any park:

(a) Willfully mark, deface, disfigure, injure, tamper with, displace or remove any buildings, rest rooms, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, other structures or equipment, recreation facilities or park property or appurtenances whatsoever, either real or personal.

(b) Dig, or remove any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.

(c) Damage or destroy any park tree, shrub, plant, structure or appurtenance through the use of a motor vehicle, whether intentional or not.

(d) Use any metal or mineral locating devices of any kind.

(Ordinance No. 96-659A, Sec. 1.)

10.01.060 Trees, Shrubbery and Lawns Prohibitions

No person shall, within the boundaries of any park:

(a) Damage, cut, carve, transplant or remove any tree or plant or any part of any tree or plant, regardless of whether the tree or plant is dead or alive. Use of chain saws is prohibited.

(b) Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences or upon any other property not designated or customarily used for those purposes.

(c) Plant any tree or shrub in a park or cemetery area without the written permission of the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.070 Animals, Birds and Fish Prohibitions

No person shall, within the boundaries of any park:

(a) Hunt, molest, harm, frighten, kill, trap, chase, shoot or throw missiles at any bird, fish or other living creature or remove or have in possession any wild animal, bird, fish, or reptile or the eggs or nest of any reptile or bird. However, angling is permitted in designated areas in accordance with applicable rules and regulations as promulgated by the Oregon Department of Fish & Wildlife.

(b) Give or offer to give food items to any animal or bird, except for those items intended for that purpose approved by the Director.

(c) Give or offer to give to any animal or bird any tobacco, alcohol or other noxious substances.

(Ordinance No. 96-659A, Sec. 1.)

10.01.080 Pollution of Waters and Soils Prohibited

No person shall throw, discharge or otherwise place or cause to be placed in the soils of any Metro park or waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park, any matter or thing, liquid or solid, which will or may result in the pollution of those waters or soils.

(Ordinance No. 96-659A, Sec. 1.)

10.01.090 Refuse and Trash Prohibitions

No person shall deposit, dump, place or leave any rubbish, bottles, cans, garbage or refuse of any type regardless of its source in a park area, except refuse, garbage or litter occasioned through use of those areas which shall be deposited in refuse receptacles provided for that purpose.

(Ordinance No. 96-659A, Sec. 1.)

10.01.100 Traffic Prohibitions

No person shall, within the boundaries of any park:

(a) Fail to comply with all applicable provisions of the state motor vehicles traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

(b) Fail to obey all authorized enforcement personnel and park employees, which persons hereby are authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent to the parks in accordance with the provisions of this chapter and such supplementary rules as may be issued by the Director.

(c) Fail to observe and obey all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.

(d) Drive any vehicle on any area except the park roads or parking areas or such other areas as may be specifically designated by the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.110 Parking Prohibitions

No person shall, within the boundaries of any park:

(a) Park a vehicle in other than an established or designated parking area or not comply with the posted directions and with instructions of any attendant who may be present at an established or designated parking area.

(b) Double park any vehicle on a road or parkway unless directed by a park attendant.

(c) Leave any vehicle parked in any park area after normal park operation hours without first obtaining permission from authorized enforcement personnel.

(d) Leave any vehicle parked on a boat ramp except while loading or unloading a boat.

(Ordinance No. 96-659A, Sec. 1.)

10.01.120 Bicycle Prohibitions

No person shall, within the boundaries of any park:

(a) Ride a bicycle on other than a vehicular road or path designed for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.

(b) Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit. Bicycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists shall at all times operate their bicycles with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking and pass to the right of any vehicles they may be meeting.

(c) Ride a bicycle on any road between 30 minutes after sunset and 30 minutes before sunrise without an attached headlight plainly visible at least 200 feet in front of, and without a red taillight or reflector plainly visible from at least 200 feet from the rear of the bicycle.

(d) Use bikes on trails or other areas not specifically designated for such use.

(Ordinance No. 96-659A, Sec. 1.)

10.01.130 Bathing and Swimming Prohibitions

No person shall, within the boundaries of any park:

(a) Swim, bathe or wade in any waters or waterways in or adjacent to Blue Lake Park, except in such waters and at such times and places as are designated and in compliance with this chapter or rules adopted under this chapter.

(b) Allow a child under the age of five (5) to swim, bathe or wade in Blue Lake.

(c) Construct or install rope swings adjacent to waterways in any park area.

(Ordinance No. 96-659A, Sec. 1.)

10.01.140 Blue Lake Boating Prohibitions

Except as provided in subsections (a) through (d), no person shall bring into or launch any watercraft of any type from Blue Lake Park. Boating activities shall be in accordance with applicable rules of the State of Oregon.

(a) Watercraft belonging to residents whose property adjoins Blue Lake. Such watercraft shall be identified by the current decal and number of the Interlachen Homeowners Association.

(b) Watercraft for rent at the park.

(c) Privately owned watercraft between October 1st and April 30th of each year provided that they shall not exceed 14 feet in length (17 feet for canoes), and 3.0 horsepower in motor capability for the purpose of angling in accordance with rules promulgated by the Oregon Department of Fish and Wildlife.

(d) As allowed by the Director for special events or other special purposes.

(Ordinance No. 96-659A, Sec. 1.)

10.01.150 Fishing Prohibited in Swimming Areas

No person shall fish, within the boundaries of any park, in any designated swimming area.

(Ordinance No. 96-659A, Sec. 1.)

10.01.160 Hunting Prohibited

Hunting is prohibited.

(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 10-1230, Sec. 3)

10.01.170 Camping Prohibitions

No person shall, within the boundaries of any park:

(a) Camp overnight or longer without first obtaining a camping permit.

(b) Camp longer than five (5) consecutive days in any specific park.

(c) Camp for more than 10 days in any 30-day period in any specific park.

(d) Camp at any time or in any place except as specifically provided for in a camping permit.

(e) Camp if he/she is under the age of 18, unless he/she is accompanied by an adult.

(f) Camp in nondesignated areas.

(g) Allow more than eight (8) people to occupy a site.

(h) Ignore the 10:00 p.m. to 6:00 a.m. quiet time period.

(i) Check out after 2:00 p.m. without paying the fee for an additional day.

(Ordinance No. 96-659A, Sec. 1.)

10.01.180 Prohibited Games

No person shall, within the boundaries of any park, take a part in or abet the playing of any games involving thrown or otherwise propelled objects such as stones, arrows, sharp objects, vehicles, javelins or power-projected model airplanes or boats except in areas set apart for those forms of recreation.

(Ordinance No. 96-659A, Sec. 1.)

10.01.190 Horseback Riding Restricted

No person shall, within the boundaries of any park, ride a horse except on designated bridle trails. Horses shall be unloaded at designated areas only, shall be thoroughly broken and properly restrained, shall be ridden with due care, and shall not be allowed to graze or go unattended. Horse waste shall be removed by the owner when such waste occurs in an area designated for horse trailer parking.

(Ordinance No. 96-659A, Sec. 1.)

10.01.200 Consumption of Alcoholic Beverages Limited

(a) Except as provided in subsections (b) and (c) of this section, no person shall bring into or consume alcoholic beverages in any park, provided, however, that the Council may, from time to time, designate certain parks or park areas where alcohol may be brought for use in meal preparation or consumption with meals.

(b) The Director may, by issuance of a permit, allow the sale of alcoholic beverages on the premises of designated

facilities when duly licensed by the Oregon Liquor Control Commission.

(c) After the proper permit(s) are secured from the Director, alcohol may be consumed in designated areas at Blue Lake Park, Oxbow Park and Howell Territorial Park.

(Ordinance No. 96-659A, Sec. 1.)

10.01.210 Fireworks and Explosives Prohibited

No person shall, within the boundaries of any park, bring, or have in possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedoes, rockets or other fireworks or explosives or inflammable material, or discharge them or throw them into any park from any adjacent land or highway. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. The Director, however, may issue a special fireworks permit in accordance with state law.

(Ordinance No. 96-659A, Sec. 1.)

10.01.220 Domestic Animals Restricted

Except for "dog guides," "dog guide trainees," "hearing aid dogs," "hearing aid dog trainees," "assistance animals," and "assistance animal trainees," all as defined by ORS Chapter ~~346.610~~659A.103 et seq., and except as required by any other law, no person shall bring a dog or other domestic animal into any park, on or off leash or within a motor vehicle, except as may be specifically allowed by the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.230 Soliciting Prohibited

No person shall, within the boundaries of any park, solicit for any public or private purpose.

(Ordinance No. 96-659A, Sec. 1.)

10.01.240 Fires Limited

No person shall, within the boundaries of any park:

(a) Build or attempt to build a fire except in such areas and under such rules as may be designated by the Director. All fires shall be completely extinguished after use.

(b) Drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material within any park or on any highway, road or street abutting and contiguous to any park.

(Ordinance No. 96-659A, Sec. 1.)

10.01.250 Games of Chance Prohibited

No person shall, within the boundaries of any park, gamble or participate in or abet any game of chance except as approved by the Director in writing and in compliance with the statutes of the State of Oregon.

(Ordinance No. 96-659A, Sec. 1.)

10.01.260 Violent and Excessively Loud Conduct Prohibited

No person shall, within the boundaries of any park, engage in, promote, instigate, encourage, aid or abet fighting or similar violent conduct which would threaten the physical well-being of the public or a park employee, or cause excessive amplified or nonverbal noise.

(Ordinance No. 96-659A, Sec. 1.)

10.01.270 Exhibiting Permits Required

No person shall:

(a) Fail to produce and exhibit any permit from the Director the person claims to have, upon request of any authorized enforcement personnel or park employee who shall desire to inspect the permit for the purpose of enforcing compliance with any ordinance or rule.

(b) Fail to clearly display at all times, while within the boundaries of any park, any required proof of entrance and/or parking fee payment on the dashboard of the person's vehicle so that such proof is plainly visible from the exterior of the vehicle.

(Ordinance No. 96-659A, Sec. 1.)

10.01.280 Interference with Permittees Prohibited

No person shall disturb or interfere unreasonably with any person or party occupying any park area or participating in any activity in a park under the authority of a permit.

(Ordinance No. 96-659A, Sec. 1.)

10.01.290 Vending and Peddling Restricted

Except as expressly provided in this chapter, no person shall, within the boundaries of any park, expose, advertise or offer for sale or rent any article or thing, or station or place any stand, cart or vehicle for the transportation, sale or display of any article or thing, unless the person is a regularly licensed concessionaire acting by and under the written authority of the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.300 Signs Restricted

No person shall, within the boundaries of any park:

(a) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatsoever, or cause to be erected any sign whatsoever, except upon permission of the Director, unless the person is a regularly licensed concessionaire acting by and under the written authority of the Director.

(b) Distribute or otherwise place any non-authorized printed material on any vehicle parked in a park facility.

(Ordinance No. 96-659A, Sec. 1.)

10.01.310 Park Hours

~~Except Park hours of operation shall be as posted, except for unusual or unforeseen circumstances and emergencies, and except as otherwise provided by any park rules, park hours. The hours of operation for Parks not posted are as follows:~~

~~(a) Blue Lake Park~~

~~Summer and Winter Hours: 8:00 a.m. to legal sunset.~~

~~(b) Oxbow Park~~

~~Summer and Winter Hours: 6:30 a.m. sunrise to legal sunset.~~

~~(c) Chinook Landing Marine Park~~

~~Summer and Winter Hours: 6:00 a.m. to legal sunset.~~

~~(d) All other parks~~

~~Summer and Winter Hours: 7:00 a.m. to legal sunset.~~

(Ordinance No. 96-659A, Sec. 1.)

10.01.320 Posting of Park Rules

The rules and provisions for use and administration of parks, notice of those rules or summaries of those rules shall be kept posted within the main entrance of each park or at suitable other locations.

(Ordinance No. 96-659A, Sec. 1.)

10.01.330 Closed Areas

All or any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals, daily or otherwise, and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(Ordinance No. 96-659A, Sec. 1.)

10.01.340 Lost and Found Articles

The finding of lost articles by park employees shall be reported to the Director or his/her designee, who shall make every reasonable effort to find and return lost articles and dispose of unclaimed articles as prescribed by law.

(Ordinance No. 96-659A, Sec. 1.)

10.01.350 Permits for Camping, Group Picnics and Vending

A permit shall be obtained as indicated before participating in the following park activities:

(a) In those parks where overnight camping is allowed, a permit shall be obtained from the park attendant at the park.

(b) A permit must be secured from the ~~Regional~~ Parks and GreenspacesNature main office for any organized event consisting of more than 25 persons.

(c) Before a person may act as a concessionaire at a park, the person shall secure an executed contract in compliance with Metro's standard contracting procedures.

(d) A permit for concessions at special events which are intended to raise funds for Metro parks purposes may be issued by the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.360 Special Use Permit

A special use permit shall be obtained prior to pursuing the following activities in any park:

(a) Movie, commercial or television filming, photography and production.

(b) Fishing, water-skiing, track or any other organized sporting event.

(c) Special educational events or festivals, except those specifically hosted by Metro.

(d) Amplified sound, pony rides, dunk tanks, use of alcohol with a reservation permit or any other type of special use.

(e) Any other organized event or activity involving 25 persons or more except for picnics where a reservation has been secured.

(Ordinance No. 96-659A, Sec. 1.)

10.01.370 Permit Revocation

The Director or his/her designee shall have the authority to revoke a permit upon a finding of violation of any rule, ordinance, statute, or any special use or reservation permit provision.

(Ordinance No. 96-659A, Sec. 1.)

10.01.380 Boats and Moorages

No person shall:

(a) Disobey any applicable signage posted in boat launching, moorage and beach areas.

(b) Moor a boat longer than 30 minutes on boarding docks or 12 hours on transient docks.

(c) Improperly secure a boat in such a manner as to cause personal injury or damage to park property or resources.

(d) Swim, fish or water ski in the immediate area of or from boat moorage docks.

(Ordinance No. 96-659A, Sec. 1.)

10.01.390 Enforcement Personnel

(a) The Director and the Director's authorized representatives shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.

(b) No person shall harass, obstruct, interfere with or disobey the direction of any authorized enforcement personnel or park employee carrying out the enforcement of this chapter or rules adopted under this chapter.

(Ordinance No. 96-659A, Sec. 1.)

10.01.400 Ejectment and Exclusion

The Director and authorized enforcement personnel shall:

(a) Have the authority to arrest, cite in lieu of arrest, cite for civil penalties or eject from the park any person acting in violation of this chapter or the laws of the State of Oregon.

(b) Exclude from the park any person acting in violation of this chapter or the laws of the State of Oregon.

(c) Exclusions exceeding one (1) year shall be approved by the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.410 Seizure of Property

The Director and any authorized enforcement personnel shall have the authority to seize and confiscate any property, thing or device, including but not limited to motor vehicles and chain saws, used in violation of this chapter.

(Ordinance No. 96-659A, Sec. 1.)

10.01.420 Hearing Regarding Seized Property

(a) Persons who have had any personal property, thing or device confiscated under Section 10.01.410 may request an immediate hearing to appeal the confiscation by filingsending a written request for hearing withto the Director by registered or certified mail.

~~(b) The Director shall, upon receipt of request for immediate hearing, set a time and place for hearing at the earliest possible time and promptly notify the person requesting hearing as to the time and place for the hearing.~~

~~(c) The person requesting the hearing and park staff may make argument, submit testimony and written briefs, cross-examine witnesses and submit rebuttal evidence on matters pertinent to the issue to be determined.~~

~~(d) All hearings shall be recorded in a manner which will allow for a written transcription to be made and all materials submitted at the hearing shall be retained by the Director for a period of at least two (2) years.~~

~~(e) Failure of the person requesting hearing to appear at the hearing shall constitute a waiver of the right to a hearing.~~

~~(f) If the Director determines there was a wrongful confiscation of property, the property shall be returned to the person requesting the hearing or, if the property has been destroyed, restitution shall be made.~~

~~(g) The Director shall issue an order within two (2) weeks after the hearing and shall mail a copy of the order to the person requesting the hearing.~~

~~(h)~~

(b) The hearing shall be conducted in accord with the applicable contested case procedures set forth in the Metro Code.

(c) Any property, thing or device which was not wrongfully confiscated shall become the property of Metro and shall be disposed of in a manner to be determined by the Director.

(Ordinance No. 96-659A, Sec. 1.)

10.01.430 Other Laws Applicable

This chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this chapter, including but not limited to City or County ordinances containing regulations and prohibitions pertaining to firearms and dangerous or deadly weapons.

(Ordinance No. 96-659A, Sec. 1.; Ordinance No. 10-1230, Sec. 4)

10.01.440 Severability

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portion of this chapter.

(Ordinance No. 96-659A, Sec. 1.)

~~10.01.600 Penalties~~

~~Any person convicted of a violation of this chapter shall be punished by a term of not more than one (1) year in jail or by a fine of not more than \$500, or both. Each day of a continuous violation of this chapter shall be considered a new, separate and distinct violation. Restitution shall be made in cases involving damage or destruction to park property or improvements.~~

~~(Ordinance No. 96-659A, Sec. 1.)~~

~~10.01.610 Bail and Fine Collection~~

~~The Circuit Court of the metropolitan region judicial districts of all three (3) Circuit Courts (District 4 Multnomah County; District No. 5 Clackamas County; or District 20 Washington County) shall be responsible for the collection of any bails and/or fines set for penalties described in this chapter. Any bail or fine remaining after disbursement through the Circuit Court shall be returned to Metro for training of authorized enforcement personnel.~~

~~(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 02-978, Sec. 1.)~~

EXHIBIT B TO ORDINANCE 15-1366

CHAPTER 10.02

~~REGIONAL~~ PARK FEES

SECTIONS	TITLE
10.02.010	Purpose and Authority
10.02.020	Park Fees
10.02.030	Suspension of Fees
10.02.040	Park Use Without Required Fee Prohibited
10.02.050	Fees for Memorials and Cemeteries (Repealed Ord. 04-1038A §2)
10.02.100	Penalties
10.02.110	Bail and Fine Collection

10.02.010 Purpose and Authority

It is the purpose of this chapter to establish park fees pursuant to Metro Code Section 10.01.010.

(Ordinance No. 96-659A, Sec. 1.)

10.02.020 Park Fees

Except as otherwise set forth herein, Park Fees shall be set and adjusted by the Metro Council.

The following fees shall be charged and collected by Metro for and prior to the following park uses and activities:

(a) ~~Entry-Parking~~ fees at Blue Lake Park and Oxbow Park shall be \$5.00 per motorized vehicle on all days and \$7.00 per bus on all days.

(b) Boat launching and/or parking fees at the M. James Gleason Boat Ramp shall be \$5.00 and fees at the Chinook Landing Marine Park shall be \$5.00 per motorized vehicle on all days.

(c) The fee for annual parking passes in lieu of daily ~~entrance-parking~~ fees, launching and/or parking fees at Blue Lake Park, Oxbow Park, Chinook Landing, and M. James Gleason Boat Ramp shall be as follows:

(1) Regular: \$40.00 per year (January 1 through December 31)

(2) Seniors: \$30.00 per year (January 1 through December 31)

(3) Low-Income/Disabled: \$10.00 per year (January 1 through December 31)

(d) Reservation fees for shelters and reservable picnic areas at Blue Lake and Oxbow Parks shall be set and adjusted by the Chief Operating Officer.

(e) Fees for alcohol permits at Blue Lake and Oxbow Parks shall be set and adjusted by the Chief Operating Officer.

(f) Overnight camping fees at Oxbow Park, including fees for nightly use of overnight group camps at Oxbow Park by nonprofit and youth organizations and fees for additional vehicles, shall be set and adjusted by the Chief Operating Officer. Permit must be displayed. Each vehicle must pay entry parking fee on initial day of entry.

(g) Fees for special events shall be set and adjusted by the Chief Operating Officer.

(h) Except for use by Metro, the rental rates and security deposit for "The Lake House" at Blue Lake Park shall be set and adjusted by the Chief Operating Officer.

(i) Entrance-Parking fees at Blue Lake Park and Oxbow Park shall be waived for any police officer (officers' fees are waived also at Chinook Landing Marine Park and the Gleason Boat Ramp) or Metro employee who presents valid current identification at the park entrance. Fee waivers shall not apply to any special events or other facilities.

(j) Entrance-Parking Fees at Blue Lake Park, Oxbow Park, Chinook Landing, and M. James Gleason Boat Ramp, and camping fees at Oxbow Park, shall be waived for any disabled veteran who presents valid current photo identification and an Oregon State Parks Special Access Pass for Veterans with Service Connected Disabilities ID Card and green placard issued by Oregon State Parks in said veteran's vehicle in full view on the dashboard or hanging from the rear-view mirror.

Fee waivers shall not apply to fees for the use of other facilities.

(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 98-722, Sec. 1; Ordinance No. 01-894, Sec. 1; Ordinance No. 02-978, Sec. 1; Ordinance No. 03-1008; Ordinance No. 04-1047, Sec. 1; Ordinance No. 06-1109; Ordinance No. 07-1166; Ordinance No. 09-1211A.)

10.02.030 Suspension of Fees

Collection of any fee under Section 10.02.020 may be waived or suspended by order of the Director of ~~Regional Parks and Greenspaces~~Parks and Nature or his/her designee for such period of time as the order may provide. The Director shall develop and implement a written policy to guide decisions related to the waiver or suspension of fees.

(Ordinance No. 96-659A, Sec. 1.)

10.02.040 Park Use Without Required Fee Prohibited

No person shall engage in a park activity for which there is a fee without first paying the required fee. Any person engaged in a park activity for which there is a fee shall be required to produce and exhibit the receipt from the Director showing fee payment, which the person claims to have, upon request of any authorized person who shall desire to inspect the receipt for the purpose of enforcing compliance with this chapter or rules promulgated pursuant thereto.

(Ordinance No. 96-659A, Sec. 1.)

~~10.02.100 Penalties~~

~~Any person convicted of a violation of this chapter shall be punished by a fine of not more than \$500.00.~~

~~(Ordinance No. 96-659A, Sec. 1.)~~

~~10.02.110 Bail and Fine Collection~~

~~The Circuit Court of the metropolitan region judicial districts of all three (3) Circuit Courts (District 4 Multnomah County; District No. 5 Clackamas County; or District 20 Washington County) shall be responsible for the collection of any bails and/or fines set for penalties described in Chapter 10.02. Any bail or fine amounts remaining after disbursement through~~

~~Circuit Court shall be returned to Metro for training of authorized enforcement personnel.~~

~~(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 02-078, Sec. 1.)~~

~~(Ordinance No. 96-659A, Sec. 1. Amended by Ordinance No. 01-894, Sec. 1; Ordinance No. 03-1008; Ordinance No. 09-1211A.)~~

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 15-1366, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 10.01 AND 10.02 TO CLARIFY RULE ENFORCEMENT PROCEDURES WITHIN METRO'S PARKS, CEMETERIES AND NATURAL AREAS

Date: January 21, 2016

Prepared by: Dan Moeller, 503-797-1819
Suzanne Piluso, 503-797-1845

BACKGROUND

Metro's Department of Parks and Nature desires to more actively enforce its rules and regulations in Metro parks, cemeteries, and natural areas. These changes to the Metro Code clarify provisions in advance of the adoption of a new rule enforcement manual for Metro parks, natural areas and cemeteries.

Revisions to Metro Code Chapter 10.01 (Metro Parks and Nature Regulations) and 10.02 (Park Fees) are required in order to update and eliminate obsolete code provisions. For example, Code Chapters 10.1 and 10.2 include provisions derived from the Multnomah County Code, which applied to Metro properties formerly owned by Multnomah County. These provisions will be deleted in order to clarify that Parks and Nature staff will enforce the department's rules and regulations through Metro's civil procedures.

In addition, Metro Code Chapter 10.01.420, which allows persons who have had personal property confiscated by Metro staff to appeal the confiscation, will be brought into alignment with the procedures for contested cases set forth in Metro Code Chapter 2.05.

The proposed changes will refer to the new name of Metro's Parks and Nature Department.

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Metro Code Chapters 10.01 (Metro Parks and Nature Regulations) and 10.02 (Park Fees).
3. **Anticipated Effects:** Metro Code Chapters 10.01 and 10.02 will refer to the new department title and will no longer include obsolete or conflicting provisions.
4. **Budget Impacts.** None.

RECOMMENDED ACTION

The Office of Metro Attorney recommends adoption by the Metro Council of Ordinance 15-1366.

Materials following this page were distributed at the meeting.

October 28, 2015

To: Chair Craig Dirksen & Committee Members
Joint Policy Advisory Committee on Transportation
Metro Regional Center
600 N.E. Grand Ave., Portland, OR 97232

Cc: Metro Council members
Metro Technical Policy Advisory Committee

Dear Chair Dirksen & Committee Members,

As public interest organizations, we support using transportation funding to make investments in Safe Routes to School to increase health, safety, and equity for our families. As members and leaders in the For Every Kid Coalition, we stand with over 2,500 individuals and businesses in urging you to invest \$15 million in creating safe routes to school for every kid in the Metro-area.

A Dangerous Trend for Oregon's Kids

Our kids are getting less exercise than any previous generation. One in four kids in Oregon is overweight or obese, conditions that lead to heart disease, diabetes, hypertension—and eventually early death. Something as simple as walking to school every day isn't an option for many families. Too many communities lack safe sidewalks, bikeways, and crosswalks; communities of concern are more likely to face health problems and street-level safety concerns. Federal funds that were once dedicated to assist in making it possible for students to walk and bike to school are no longer available. Our children's healthy futures now depend on Oregon's leaders helping make physical activity opportunities, like safe routes to school, accessible for every one.

Healthier Kids, Safer Communities

Safe Routes to School is a proven initiative that combines street-level safety improvements near schools with school-based education and encouragement programs for students. When infrastructure projects and non-infrastructure programs are implemented at the same time, families who walk and bike to school increase by 40%. Kids who can safely walk and bike to their neighborhood school get regular physical activity and perform better in school. By dedicating \$15 million to Safe Routes to School, we will:

- **Make streets and crossings within the mile-radius of schools safe.**
 - \$7.5 million could make streets safe for 5,000 students at 7.5 schools.
- **Provide safe access to transit for older students.**
 - \$5 million could provide 25 percent of high school students in the Metro-area with access to transit.
- **Empower communities to implement bike and pedestrian safety education and encouragement.**
 - \$2.5 million could reach 50 percent of students in the Metro-area with education and encouragement programs.

Invest in Safe Routes to School For Every Kid

When it is safe, convenient, and fun to walk, bike, and take public transit to neighborhood schools, our children are healthier, our streets are safer for everyone, and our communities thrive. Every kid in Oregon deserves a chance at a healthy future and investing in Safe Routes to School can help make that happen. We urge you to:

- **Invest \$15 million in dedicated funds in Safe Routes to School.** By eliminating Step 3 in RFFA, both Step 1 and Step 2 will increase. Step 1 is projected to have a small increase for cost of living. We urge you to dedicate the remainder of the increase or \$15 million to a region-wide Safe Routes to School initiative. We know that dedicated funds encourage greater engagement and collaboration between school districts and local governments, and they sustain increases in walking, biking, and transit use as new families and students join a school community each year.
- **Prioritize Safe Routes to School investments based on school-wide rates of free/reduced lunch eligibility.** We recommend prioritizing schools based on the highest rates of free/reduced lunch eligibility for Safe Routes to School. Schools with high rates of students eligible for free/reduced lunch are less likely to be able to compete for funding and are less likely to have capacity to create an effective Safe Routes to School program. The students attending these schools are also less likely to get the recommended amount of daily physical activity, and less likely to have safe walking and biking infrastructure in their neighborhoods.

- **Provide technical assistance for communities of concern.** Title I schools are schools where 50 percent or more students are eligible for free/reduced lunch and include communities that have experienced historically inequitable investments in infrastructure. Title I school communities have also had less investment in Safe Routes to School programs. Communities of concern will be better able to compete for funding with technical assistance during the application process and better able to achieve effective programming with technical assistance during program implementation.
- **Link infrastructure and non-infrastructure projects for Safe Routes to School.** We know that when safety needs are met with infrastructure improvements and education needs are met with programs, the community responds. On average, 40% more kids and families will choose to walk or bike to school.

In the coming months, you will decide on critical funding that could give every kid a chance at a healthier future. We urge the Joint Policy Advisory Committee on Transportation to dedicate \$15 million so that every kid in the Metro-area has a safe route to school and an opportunity at a healthy future.

Sincerely,



Sarah Higginbotham
American Heart Association | American Stroke Association



Kari Schlosshauer
National Partnership for Safe Routes to School



Duncan Hwang
Asian Pacific Network of Oregon



Jared Franz
OPAL Environmental Justice



Rob Sadowsky
Bicycle Transportation Alliance



Noel Mickelberry
Oregon Walks



Justin Buri
Community Alliance of Tenants



Mel Rader
Upstream Public Health



Mychal Tetteh
Community Cycling Center

● Autonomous Vehicle Update - 1/21/16

R A Fontes

rfontes@a.com

Death, Taxes, and (Close Behind) Autonomous Vehicles - We can expect that:

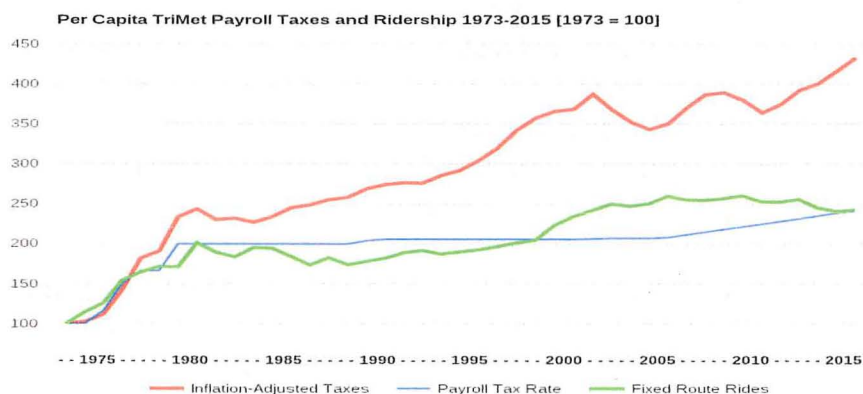
- With the moral and economic imperatives of saving lives and money, AV's are coming.
- They will attract riders from traditional public transit.
- Surviving transit agencies will convert their own fleets to autonomous operation.
- AV's will reduce overall car numbers and associated parking demand.
- AV's will increase VMT.

While We've Been Otherwise Occupied:

- OECD released study of AV's, transit, and VMT; Urban Mobility System Upgrade:
 - Studies Lisbon, about Portland's size, but with far more transit use.
 - Concludes that AV's could completely replace transit in small and medium sized cities.
 - Shows that ride sharing remains key to holding down VMT.
- Separate groups are testing autonomous minibuses in Greece, the Netherlands, and Switzerland in traffic with riders but without backup drivers.
- GM is investing \$500 million into Lyft, and plans to develop a network of on-demand AV's.
- Transportation Secretary Foxx announced a major initiative to foster AV development:
 - Reverses NHTSA's take-it-slow, almost obstructionist attitude.
 - Seeks to remove regulatory uncertainty and inter-jurisdictional conflicts.

AV Challenge for Metro = VMT:

- AV's will add to VMT; public policy will minimize or exacerbate it.
 - Induced demand: trips taken in AV's that either are not taken now or are taken by another means other than by an unshared car.
 - Operational demand: AV trips which are not carrying passengers or cargo, such as between missions or for vehicle service.
 - While induced demand would be minimized by trip sharing, operational demand would be minimized by vehicle sharing within large networks.
 - Operational demand would be exacerbated by vehicle sharing within individual households, businesses, or other relatively small groups.
- TriMet is in a particularly perilous position and vulnerable to a taxpayer/voter revolt.
 - Compared with most other northwest transit agencies, it is very large, stands alone, has a lot of debt & unfunded obligations, and, with so many of its eggs in rail baskets, has high fixed costs.
 - Without any tax subsidies, networked AV's rides should usually be cheaper, almost always faster, and, with door-to-door service, always safer and more convenient than trips using transit.
 - After inflation, TriMet collects twice as much tax per ride now as it did 40 years ago.



Mobility - A Net Win:

- Most who can't or don't drive will have almost the same mobility as those who drive their own cars.
- Without intervention, those who can't afford smartphones may be locked out of the AV revolution.

Parking - Mostly Positive:

- One networked AV should be able to replace 10 cars and reduce parking needs proportionally.
- If we accept a little more VMT, AV's could use distant parking facilities, freeing up valuable space.
- AV's won't need to use paid parking.

Timeline - Think of "Relative", not "Absolute"

- Legal and regulatory aspects make setting time frames for AV developments speculative.
- We are approaching a consensus which has the first fully automated vehicles available by 2020.
- If the next administration follows up on the Foxx initiative, governments could also be ready by 2020.
- The GM announcement suggests that automakers will be able to meet initial demand for networked AV's within two or three years at most from when they're permitted by governments.
- It will take decades to replace the current fleet with personal AV's.
- Parking demand reduction should also take decades before we reach a new equilibrium.

What's a Metro To Do?

- Please keep in mind that once AV's are proven to be safer than current vehicles:
 - Anything which would limit, restrict, prohibit, or tax their use in those situations where they would be safer than current vehicles would cost people their lives.
 - Anything which would limit, restrict, prohibit, or tax the use of networked AV's more than privately owned AV's would deny people mobility and add to VMT.
- Some specifics:
 - Is a particular staff member responsible for keeping Metro aware of important AV developments?
 - Put more effort into ride sharing. Travel to work data from US Census Bureau:

	Drove Alone	Carpooled	Rode Transit
Clackamas County	141,484	17,548	6,191
Multnomah County	234,168	38,434	43,674
Washington County	200,685	29,204	18,287
Totals	576,337	85,186	68,152

- Decide what to do about the very high probability of a steep decline in transit use:
 - Metro's credibility is on the line.
 - Transit, transit oriented development, and high capacity transit are means, not ends.
 - How would Metro achieve its goals without TriMet?
 - If Metro can't fathom losing TriMet, you'll need to save it:
 - TriMet will need to know that Metro can't allow TriMet to continue towards oblivion.
 - Withdraw support for new rail projects, including Southwest Corridor light rail.
 - Eliminate any pro-project, pro-rail bias in your own shop.
 - Start talking in terms such as "Community" or "People" Oriented Development.
- Refer to AV's in the next RTP, even if only a disclaimer.
- Work towards preventing barriers to maximizing adoption of networked AV's:
 - The current system taxes and regulates shared vehicles far more than private cars.
 - To prevent unnecessary deadheading, networked AV's need to operate freely across local political boundaries, and if possible, into Washington.



METRO COUNCIL MEETING
Meeting Minutes
January 14, 2016
Metro Regional Center, Council Chamber

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

Councilors Excused: None

Council President Tom Hughes called the regular council meeting to order at 2:06pm.

1. CITIZEN COMMUNICATIONS

Mr. Paul Woods, Wilsonville: Mr. Woods, from SORT Bioenergy, provided information on an upcoming public open house for a proposed solid waste facility, noting that it would be Wednesday, January 27th from 5-7pm at Al Kader Shrine Center in Wilsonville.

Mr. Art Lewellan, Portland: Mr. Lewellan provided several maps including an updated version of early designs for making transit work in Portland, as well as giving an update on a 15 foot sinkhole that has developed in Seattle, relating to a highway project.

Ms. Nancy Shaw, Vancouver: Ms. Shaw addressed the Council regarding the Oregon Zoo elephants, specifically Chendra and Shine. She also provided a handout from The Elephant Sanctuary in Tennessee.

Ms. Courtney Scott, Portland: Ms. Scott discussed the recent passing of Tusko the elephant, Elephant Lands, and requested that Packy and the other Oregon Zoo elephants be sent to a sanctuary.

2. CONSENT AGENDA

Motion:	Councilor Sam Chase moved to adopt items on the consent agenda.
Second:	Councilor Bob Stacey seconded the motion.

Vote: Council President Hughes, and Councilors Chase, Collette, Craddick, Dirksen, Harrington, and Stacey voted in support of the motion. The vote was 7 ayes, the motion passed.

3. ORDINANCES (FIRST READ)

3.1 **Ordinance No. 16-1368**, For the Purpose of Responding to the Remand from the Oregon Court of Appeals and the Land Conservation and Development Commission Regarding the Designation of Urban Reserves in Clackamas County

Council President Hughes noted that the hearing today is in regard to the remand that came from the Land Conservation and Development Commission (LCDC), which was narrow in scope, and part of that was a request that Metro provide further support for the conclusions made regarding Urban Reserves in the Stafford Area. He added that Multnomah County must also do the same for its Rural Reserve designation and that it is appropriate for Metro to take the lead in the Clackamas element of the process as Metro is the designator of Urban Reserves. President Hughes stated that Metro has heard very clearly from the public during the previous two public hearings that Metro should move forward to finalize the reserves. He noted that Metro staff have prepared a thorough report and packet, which describe the public process in detail along with the draft ordinance responding to the remand, and called on Mr. Roger Alfred, from the Office of the Metro Attorney, to provide a brief staff report for the Council.

Mr. Alfred noted that the primary difference at the hearing today, as opposed to the previous hearings, is that staff had provided a proposed ordinance and set of findings for Council consideration. He added that he also had provided a supplemental memo with a bullet point list of additional new materials for consideration. Mr. Alfred provided a brief background on the process to-date and that the second read was scheduled for February 4th.

Council discussion

There were no questions for staff or Council discussion.

Council President Hughes opened up a public hearing on Ordinance No. 16-1368 and requested that those wishing to testify would come forward to speak.

Ms. Carol Chesarek, Portland: Ms. Chesarek provided testimony in support of the draft ordinance, noting her high involvement in the reserves process (for many years), and thanked the Metro Council for the public involvement process and requested that they resolve it as soon as possible.

Mr. Jeff Condit, Portland: Mr. Condit provided testimony on behalf of the cities of Tualatin and West Linn, noting that he was submitting additional testimony and requesting that the Council consider leaving the public record period open a bit longer.

Seeing no further testimony, Council President Hughes gaveled out of the public hearing. He requested that Mr. Alfred respond to the request and provide a recommendation to the Council regarding the public record period. Mr. Alfred recommended that the public record remain open for another week, closing at 5pm on Friday, January 22nd. President Hughes stated that the Council would leave the public record period open until close of business (5pm) on Friday, January 22nd, then second read and Council consideration on Thursday, February 4th.

4. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Martha Bennett provided an update on the following events or items: update on replacement/upgrade of equipment in the council chamber for the video system, upcoming release of the draft Strategic Plan to Advance Diversity, Equity and Inclusion (DEI), thank you to DEI staff for their hard work on the draft Strategic Plan, and the next Regional Snapshot Speaker Series on January 27th at 5pm in the council chamber.

5. COUNCILOR COMMUNICATION

Councilors provided updates on the following meetings or events: first meeting of the Willamette Locks Taskforce, update that the Rediscover the Falls nonprofit board application process has closed and over 80 applications have been received, recent MPAC meeting on January 13th, recent Southwest Corridor Steering Committee meeting, Road User Fee Taskforce meeting in Salem, Powell-Division meeting with Mt. Hood Community College, umbrella tour at PSU this week, and update on the Portland delegation trip to Malaysia.

6. ADJOURN

There being no further business, Council President Hughes adjourned the regular meeting at 2:56 p.m. The Metro Council will convene the next regular council meeting on Thursday, January 21, 2015 at 2 p.m. at the Metro Regional Center in the council chamber.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alexandra Eldridge".

Alexandra Eldridge, Regional Engagement & Legislative Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JAN. 14, 2016

Item	Topic	Doc. Date	Document Description	Doc. Number
1.0	Testimony	01/14/2016	Handouts from Mr. Art Lewellan	011416c-01
1.0	Testimony	10/01/2015	Handout from Ms. Nancy Shaw: The Elephant Sanctuary in Tennessee	011416c-02
2.1	Minutes	12/10/2015	Council Meeting Minutes from December 10, 2015	011416c-03
3.1	Handout	01/14/2016	Memo from Roger Alfred with supplemental materials for Council hearing on Stafford Urban Reserves	011416c-04
3.1	Testimony	01/14/2016	Written testimony from the Cities of Tualatin and West Linn, provided by Jeff Condit	011416c-05
3.1	Testimony	01/14/2016	Written testimony from the City of Lake Oswego, provided by Scott Lazenby	011416c-06

To the Council President and Members of the Council,

1/21/2016

The Natural Areas Land Management Team composed of professional Natural Resource Technicians and Natural Resource Specialists of Metro's Conservation program are writing this testimony in opposition of proposed Ordinance 15-1364 and Ordinance 15-1366. The reasoning behind our opposition is that these ordinances act as a precursor to the implementation of a new Parks and Nature Rule Enforcement Manual that negatively impacts our working group. The procedures laid out in the Rule Enforcement Manual puts Metro's Natural Resource staff in danger and ultimately distracts from the 2013 Levy responsibilities by creating new duties for staff whose primary role is to restore natural areas across the region.

As it states in the Ordinance 15-1364 Staff Report "amending the code is needed to set forth a schedule of civil penalties for enforcement of park rules." Ordinance 15-1366 additionally states in its Staff Report that "these changes to the Metro Code clarify provisions in advance of the adoption of a new rule enforcement manual for Metro parks, natural areas and cemeteries." We feel it is important to state our opposition in an attempt to have our issues more clearly understood before moving forward with approving ordinances that will ultimately lead to implementing a manual that poses serious safety risks to our working group.

Parks and Natural Areas have not needed inclusion in Metro Code Chapter 2.03 (civil penalties) because historically Metro Park Rangers administer penalties through their county commissioned status or staff has coordinated with local law enforcement. The Rule Enforcement Manual is proposing that Natural Resource Technicians and Specialists must now take on law enforcement responsibilities including use of risky and unfamiliar tactics such as writing citations, confiscating items, detaining people, using reasonable force, ejecting/excluding people, etc. These particular job duties are normally performed by trained, seasoned law enforcement officers who perform these duties on a full-time basis.

It is poorly understood why these traditional law enforcement duties will be required of our group whose primary focus has been to work on habitat restoration and other specialized land management responsibilities for which our education and training reflects. As field staff members we have seen no increase in incidents in our Parks and Natural Areas that would drive this ordinance amendment. As it is outlined in the Natural Areas Science and Land Management Handbook (2014), we continue to work diligently and effectively to educate the public with regards to Metro Rules and coordinate with local law enforcement when necessary. We are a passionate working group that is dedicated to improving the regions natural areas and we would like to stay focused on the important work we were hired to do through the 2013 Levy. Our group is proud of the accomplishments we've made thus far with levy dollars. Some examples include but are not limited to weed assessments on 15,900 acres, conducting weed treatments on over 9,900 acres, and supporting levy restoration projects on over 3,300 acres as you may have read in the recent Parks and Nature Annual Report. We are an extremely busy work group and are dedicated to the protection and preservation of the public land that we are fortunate enough to manage. We also believe in securing the sites we manage but question if the amendments proposed in the Ordinances being presented are the right direction for our newly formed department.

It is important to note that Natural Resource Technicians and Specialists generally work alone in remote natural areas, often times with no cell reception, and at times on sites with no physical address, making this kind of rule enforcement unsafe to implement. Although the Rule Enforcement Manual mentions specific required trainings we feel they are inadequate especially when compared to other agencies conducting similar enforcement duties in remote areas.

Aside from the issue of safety, to require several extra trainings and new law enforcement responsibilities is simply unproductive in terms of what our job classification duties outline. Ultimately, this is a distraction to the focus of the Levy and Bond.

Finally, we have offered creative solutions in response to the desire to increase enforcement across the natural areas portfolio. If there truly is a need for increased enforcement our group would love the opportunity to help find new and creative solutions. We propose a path that vastly improves public safety, worker safety and enhances our ability to continue to do good work. Also, it secures our natural area sites, supports on the ground staff, and fosters positive development of our new department, Parks and Nature.

Some of the alternative options we have proposed for consideration are as follows:

- Hire and train additional remote areas Metro Park Rangers to regularly patrol and provide an on-site enforcement presence for identified natural areas.
- Follow Tualatin Hills Park & Recreation District Park Patrol program – this program utilizes two professional law enforcement staff to support field staff with enforcement issues.
- Use a private securities contract to patrol natural areas or parks on off-hour times as seen at Newell Canyon and Willamette Cove.
- Adopt the Metro Solid Waste and Compliance team model that utilizes two Multnomah County detectives to prioritize and implement daily natural areas security needs.

As it stands now we are in bargaining over these added job duties but our preference would be to forgo bargaining and to simply leave Metro's enforcement to those that have the proper experience and training to do the job safely and effectively. Ultimately, we would like to get this issue resolved so staff can again focus on the tremendous work ahead of us to meet the voter approved obligations of managing natural resources, water quality and enhancing wildlife habitat across the region.

Under different circumstances we would support the approval of these ordinances. However, we are asking that their approval be delayed by Council Members until Management and the Natural Areas Land Management staff is able to come to a fair and mutual agreement regarding their anticipated affects and added job responsibilities. Thank you for your time and consideration of our request.

Sincerely,

The Natural Areas Land Management Team – Metro Parks and Nature