

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

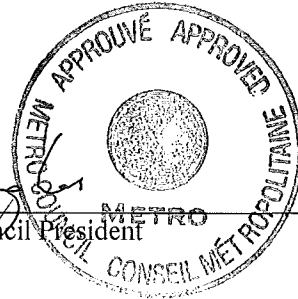
WHEREAS, the opportunity to acquire the Property provides Metro with a new and probably superior option for creating public access to the Chehalem Ridge Natural Area not available in other locations; now therefore

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.

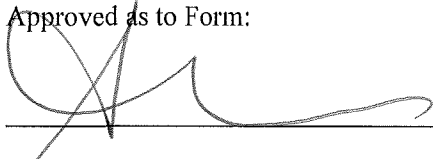
ADOPTED by the Metro Council this 21st day of January, 2016.



Tom Hughes, Council President



Approved as to Form:



Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 15-4669 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.