

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RECEIVING A REPORT ) RESOLUTION NO. 16-4686  
FROM STAFF ON TITLE 13 PERFORMANCE )  
MEASURES ) Introduced by Chief Operating Officer Martha  
Bennett in concurrence with Council  
President Tom Hughes

WHEREAS, Metro Council Resolution No. 05-3574A, "Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature in Neighborhoods," adopted May 12, 2005, created Metro's "Nature in Neighborhoods" initiative;

WHEREAS, Metro Council Ordinance No. 05-1077C, "Amending the Regional Framework Plan and the Urban Growth Management Functional Plan Relating to Nature in Neighborhoods," adopted September 29, 2005, incorporated the Nature in Neighborhoods initiative into the Urban Growth Management Functional Plan, adopting new functional plan requirements;

WHEREAS, Title 13, Section 6 of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07.1360(b)(1)(D)) requires Metro to prepare and present Nature in Neighborhoods monitoring and program evaluation reports to the Metro Council no later than December 31st of each even-numbered year;

WHEREAS, Metro's first *State of the Watersheds* report was published in 2006 and documented baseline conditions for environmental indicators as required by Title 13, based on the best information available at the time, and a second *State of the Watersheds* report was issued in 2008;

WHEREAS, local governments were required to submit progress reports to Metro about their investments in non-regulatory activities (acquisition, education and restoration efforts) in 2009 and 2011;

WHEREAS, in 2010, staff provided a progress report to the Metro Council on implementation of Title 13, including the status and challenges of measuring performance;

WHEREAS, Metro staff has now prepared a report required by Title 13 that evaluates progress on Nature in Neighborhoods performance and implementation objectives, which report is attached to this Resolution as Exhibit A (the "Nature in Neighborhoods Title 13 Program Evaluation Report");

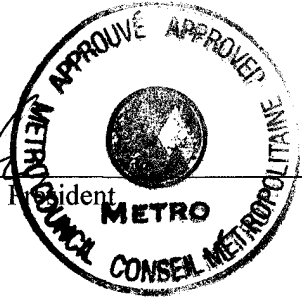
WHEREAS, the Metro Council held a public hearing to receive testimony on the Nature in Neighborhoods Title 13 Program Evaluation Report on March 10, 2016; now therefore,

BE IT RESOLVED that the Metro Council accepts the Nature in Neighborhoods Title 13 Program Evaluation Report, attached to this resolution as Exhibit A in accordance with Title 13 of the Urban Growth Management Functional Plan, including the recommendations in the report and directs staff to work with stakeholders to review and potentially update Metro's Title 13 performance measures for Metro and local governments.

ADOPTED by the Metro Council this 28 day of July 2016.

*Tom Hughes*

Tom Hughes, Council President



Approved as to Form:

*Alison R. Kean*

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Alison R. Kean, Metro Attorney



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# Nature in Neighborhoods Title 13 Performance Evaluation

March 2016

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## About Metro

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy, and sustainable transportation and living choices for people and businesses in the region. Voters have asked Metro to help with the challenges and opportunities that affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to providing services, operating venues and making decisions about how the region grows. Metro works with communities to support a resilient economy, keep nature close by and respond to a changing climate. Together we're making a great place, now and for generations to come.

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### **Auditor**

Brian Evans

## HISTORY AND BACKGROUND

The roots of Metro's Nature in Neighborhoods program can be found in the Regional Framework Plan which unites all of Metro's adopted land use planning policies and requirements including the 2040 Growth Concept and is designed to create sustainable and prosperous communities for present and future generations. Included in these plans is Metro's commitment to protect farm and forest land outside the urban growth boundary, while also preserving the character of urban neighborhoods inside the boundary.

Metro has authority from the State of Oregon for managing the Metro region's urban growth boundary (UGB) and meeting the state's land use planning goals. Effective use of the region's UGB provides protection from urban development for important natural areas, farms and forest resource lands. This is a core value for Oregonians across all demographics. Additionally, the Metro Council has adopted strong requirements for lands that are brought into urban use to provide better protection for habitat and natural resources and provision of parks, natural areas and trail connections.

Metro has also used its land use authority to protect natural resources inside the region's urban growth boundary. Most significantly is the adoption by the Metro Council of Ordinance 05-1077B (a.k.a. Nature in Neighborhoods) in September 2005 after approximately a ten-year process. The ordinance established standards for development in streamside and wetland areas to conserve and protect fish and wildlife habitat and included Title 13 of Metro's Urban Growth Management Functional Plan, which implements Oregon Statewide Planning Goal 5 (natural resources, scenic and historic areas and open spaces) and Goal 6 (air, water and land resources quality). Metro's Urban Growth Management Functional Plan provides additional region-wide habitat and resource protection through Title 3: Water Quality and Floodplain Protection, which implements Oregon Statewide Planning Goal 7 (natural hazards). Title 13 included a Model Ordinance, which local governments could adopt in whole or in part and the Tualatin Basin Plan which provided compliance with Metro's Title 13 UGMFP for local governments in the Tualatin Basin.

Through Title 13, Nature in Neighborhoods, the framework plan includes requirements for conserving, protecting and restoring the region's fish and wildlife habitat. It identified habitat conservation areas (HCAs) including lands along local rivers and streams, wetlands, floodplains and habitats of concern as the most important for protection (but does not outright prohibit development in these areas). In adopting Nature in Neighborhoods, the Metro Council chose to rely on a combination of land use protections designed to conserve the highest value habitats and voluntary measures to be implemented by public and private partners.

In adopting Nature in Neighborhoods, the Metro Council chose to rely on a combination of:

- land-use protections to be implemented by local governments to protect the highest value habitats (riparian area habitat, wetlands and floodplains) in Metro’s habitat inventory
- voluntary measures to be implemented by local governments, developers and builders, non-profits and private landowners to protect, enhance and restore fish and wildlife habitat throughout the region including the region’s upland wildlife habitat and urban forest.

The Metro Council identified specific areas of focus for Nature in Neighborhoods initiatives including:

- Land acquisition
- Flexible development standards
- Habitat friendly development practices
- Restoration and stewardship
- Monitoring and reporting.

Following adoption of this ordinance, the Metro Council began investing in a number of collaborative strategies, programs and projects to provide the tools, incentives and inspiration to communities on ways to better balance development, human needs and the health of the region’s natural systems. This included investments in Nature in Neighborhoods programs like the partnership with the Homebuilders Association of Metropolitan Portland, “Green from the Ground Up” education series, the Integrating Habitats design competition, Nature in Neighborhoods Restoration and Enhancement grants, Outdoor School funding and the development of the Intertwine Alliance.

In 2006 the Council also asked voters to approve a \$227.6 Natural Areas bond measure for significant regional and local investments in natural area land acquisition, water quality and wildlife habitat restoration. With this voter-approved funding, Metro has purchased for protection nearly 5,000 acres of land important to water quality and fish and wildlife habitat and provided funding to help restore and connect people with nature at places throughout the region. Additionally, in 2013, voters across the Portland metropolitan area approved Metro’s five-year levy to help care for regional parks and natural areas. The levy raises about \$10 million per year, including funding hundreds of projects on the ground that help restore habitat in Metro’s parks and natural areas and support similar investments in local communities through an expanded Nature in Neighborhoods grant program.

## **CURRENT STATUS**

Nature in Neighborhoods (Title 13) has been fulfilled and required activities continue to be implemented by Metro and local governments. All cities and counties within Metro’s jurisdiction (except Damascus) are in compliance with Metro’s requirements. Local governments have removed

barriers to habitat-friendly development, conserved important habitat lands within their communities and support voluntary activities – often in partnership with non-profits or community groups – such as environmental education, tree planting, fish and wildlife habitat restoration and low impact development practices.

Additionally, the Metro Council asked voters in 2006 for funding for natural areas land acquisition and included incentives for local park providers and community groups to make investments in the ecological functions of urban areas and enrich people’s experience of nature through the “Local Share” and Capital Grants program. Metro’s funding leveraged additional private and public investments in achieving these outcomes.

## **MEASURING PERFORMANCE**

This 10-year review of Title 13 provides an opportunity to check in with local governments, conservation leaders, homebuilders and other stakeholders as to its efficacy, refresh the story of how natural resource protection fits into Metro’s overall growth management strategy and Metro’s Parks and Nature System Plan and determine whether any new actions, adjustments or commitments are needed.

The Metro Council’s legislation included a set of program performance objectives and a 10-year timeline to determine the region’s effectiveness meeting the Metro Council’s goals. Staff has been reviewing the environmental indicators outlined in Title 13 and determined loss within habitat conservation areas to be less than two percent within each indicator over the main implementation period, 2007-2014. While still significant, this is well below targets of less than 10 percent loss for indicators established in the Metro legislation.

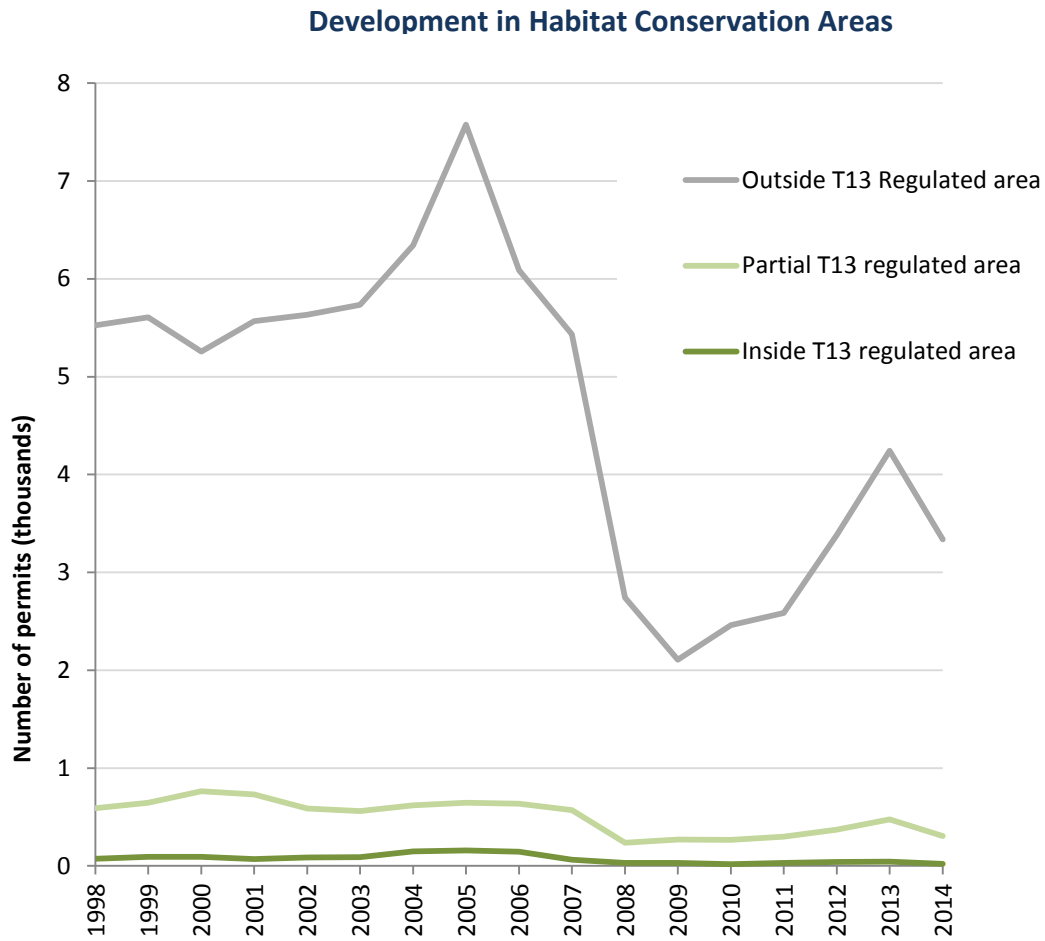
Title 13 Section 6 describes the program performance objectives and how data will be collected and monitored to evaluate the program. These included Metro and local governments monitoring a set of regional environmental indicators, implementing habitat-friendly development practices, using non-regulatory tools for conservation purposes and restoring fish and wildlife habitat. Additionally, Metro tasked itself with serving as a regional coordinator for data related to habitat conservation and monitoring progress over time with the help of local governments. This is a report on the environmental indicators established by Title 13 10 years after its adoption.

During 2013-15 staff from Parks and Nature worked with Metro’s Research Center to evaluate the environmental indicators established in Title 13 and to measure the condition of floodplains, habitats of concern, riparian areas and uplands throughout the Metro region. The team developed a model to measure canopy coverage and loss overall during the time period 2007-2014, with a focus on protected areas. Additionally, staff looked at how much development has occurred in the Habitat Conservation Areas (HCAs) established by the Metro Council in 2005.

### Development in Habitat Conservation Areas

Research Center staff compared the total number, acreage and number of tax lots with new building permits over two relatively similar time periods; 2000 to 2006 and 2006 to 2014. The idea was to compare development impacts to HCAs prior to and after adoption of Title 13. The Research Center data show relatively few permits approved for development within HCAs. Those areas fully within HCAs are the least likely to have a development permit recorded, partial HCAs are also less likely to have a development permit recorded than other areas with no HCAs.

Data: Between 2000 and 2014 only seven percent of permits recorded were completely within a Habitat Conservation Area (HCA). 69% of all permits were in areas without any HCAs, 24% of permits included some portion of a parcel with a HCA.





## ENVIRONMENTAL INDICATORS

### Floodplains

Development in floodplains was assessed over two time periods; 1998 to 2006 and 2006 to 2014. “Development” was loosely defined for this study as an apparent change in land use, including construction of new structures, filling of lowlands, or clearing of vegetation. During the 16-year study period, the data show less than one percent development in floodplains per decade.

Data: Developed area within (roughly 20,000 acres designated as) floodplain areas increased from approximately 3,500 to 3,800 acres (17.7% to 18.9%) at a relatively constant rate of about 0.7% per decade.

### Habitats of Concern

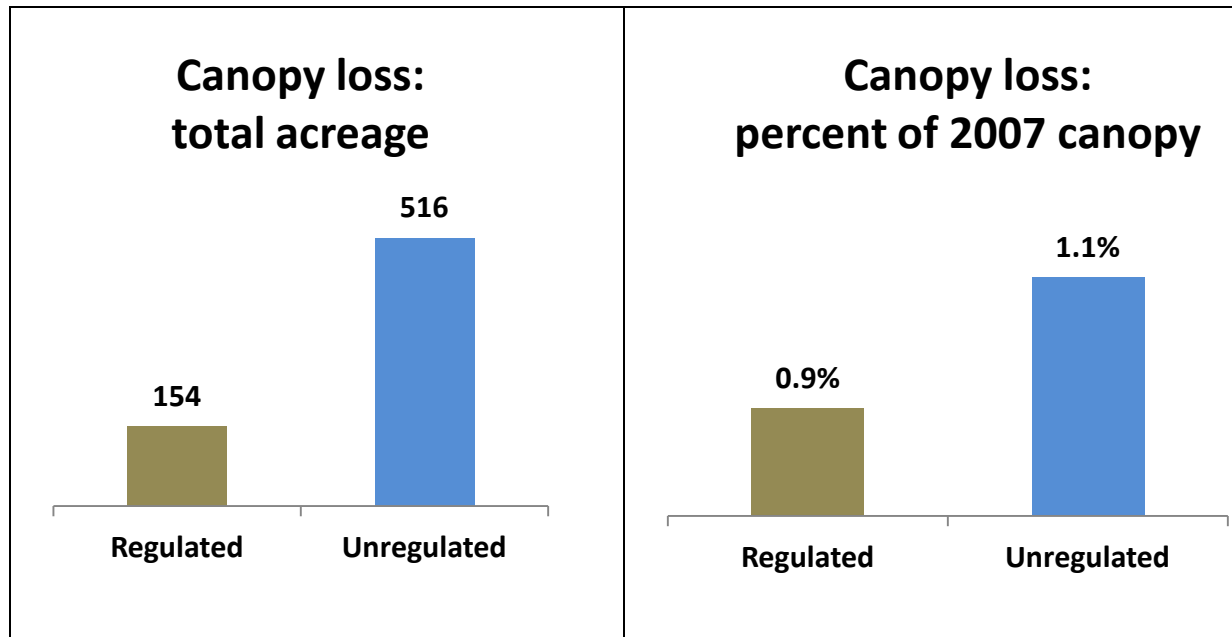
Habitats of Concern (HOC’s) were qualitatively described and mapped between 2002 and 2005. The habitats identified at that time cover approximately 38,000 acres, with roughly 18,000 acres inside the Urban Growth Boundary (UGB), and 20,000 acres outside the UGB. Overall, less than one percent of land designated HOCs were found altered between 2007 and 2014.

Data: About 160 acres of land (0.4 percent of total HOC areas) were altered between 2007 and 2014. Overall, 92 percent of the land use change within HOCs occurred inside the UGB.

### Tree Canopy Loss within HCAs

Using LiDAR, aerial photography, and land cover data, the Research Center developed models for tree canopy in 2007 and 2014 and set out to compare the data sets as a way of measuring the performance objectives established in Title 13. The research shows that during the period 2007-14, approximately one percent canopy loss - about 150 acres total - occurred within the high and moderate value HCAs (i.e. Riparian Wildlife Habitat Class I & II). In the non-regulated HCAs (Riparian Wildlife Habitat Class III and Upland Wildlife Area Class A & B) the loss detected with this analysis is slightly higher, about 1.4 percent (320 acres).

Data: Approximately 22,500 acres of tree canopy existed in 2007 in high to moderate value HCA’s. The current change detection methodology bases canopy loss calculations upon a minimum area threshold of 0.25 (one quarter) acres, and is likely a slight underestimate of actual aggregate canopy loss.



It's important to note that implementation of the ordinance and the study period coincides with the most significant economic contraction seen in the U.S. since the Great Depression. Development impacts should continue to be updated and monitored in order to understand how improved economic factors may be affecting natural resources over time.

The data sets used to conduct Metro's analysis, including the 2007 and 2014 land cover classification and tree canopy data are available through Metro's Research Center and RLIS.

### RECOMMENDATIONS/NEXT STEPS

- Continue local and regional investments in land conservation, water quality, fish and wildlife habitat and connecting people to nature as described in Metro's Parks and Nature System Plan.
- Continue Metro's support for and investment in The Intertwine Alliance's Regional Conservation Strategy including activities such as The Intertwine Alliance Restoration working group, the annual Urban Ecology Research Consortium, support for the 4-County Weed Consortium, Oak Quest, etc.
- Continue to monitor local government compliance with Title 13, including encouraging local governments to promote nature-friendly and low-impact development practices and other non-regulatory activities such as investing in habitat conservation and restoration activities.

- Ensure that Title 13 policies for future UGB expansion areas are followed and implemented, including protections for Class A and B upland habitat prior to boundary expansions, and the implementation of concept plans that include parks and nature in new urban areas.
- Commit Metro to a 2025 review (or earlier) of the Title 13 environmental indicators and continue to play an ongoing role as regional coordinator for data related to natural resources in the region such as rivers, streams, wetlands, floodplains, habitats of concern, tree canopy, etc.
- Review Metro's regional planning and communications strategies to ensure that Metro's role in natural resource protection within urban developed areas is included and featured along with the Metro Council's commitment to protecting farm and forest land outside the urban growth boundary (UGB).

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 16-4686, FOR THE PURPOSE OF RECEIVING A REPORT FROM STAFF ON TITLE 13 PERFORMANCE MEASURES.

Date: July 28, 2016

Prepared by: Heather Nelson Kent

## **BACKGROUND**

Metro has authority from the State of Oregon for managing the region's urban growth boundary (UGB) and responsibility for meeting the state's land use planning goals. Effective use of the region's UGB provides important natural areas, farms and forest resource lands protection from urban development. Protecting these areas is a core value for Oregonians across all demographics. Additionally, the Metro Council has adopted requirements for lands that are brought into urban use to provide better protection for habitat and natural resources and to provide parks, natural areas and trail connections.

Metro has used its land use authority to protect natural resources inside the region's UGB, significantly through the adoption of Ordinance 05-1077C (aka Nature in Neighborhoods) in September 2005 after approximately a 10-year process. The ordinance established standards for development in streamside and wetland areas to conserve and protect fish and wildlife habitat (but it does not outright prohibit development in these areas). The ordinance included Title 13 of Metro's Urban Growth Management Functional Plan (UGMFP), which implements Oregon Statewide Planning Goal 5 (natural resources, scenic and historic areas and open spaces) and Goal 6 (air, water and land resources quality). Metro's UGMFP provides additional region-wide habitat and resource protection through Title 3: Water Quality and Floodplain Protection, which implements Oregon Statewide Planning Goal 7 (natural hazards).

In adopting Nature in Neighborhoods, the Metro Council chose to rely on:

1. A combination of land use protections to be implemented by local governments, designed to protect the highest value habitats (riparian areas, wetlands and floodplains); and
2. Voluntary measures to be implemented by local governments, developers and builders, non-profits and private land owners, designed to protect, enhance and restore fish and wildlife habitat throughout the region including the region's upland wildlife habitat and urban forest.

Following the adoption of Title 13, the Metro Council began investing in a number of collaborative strategies, programs and projects to provide the tools, incentives and inspiration to communities on ways to better balance development, human needs and the health of the region's natural systems. This included investments in Nature in Neighborhoods programs like the partnership with the Homebuilders Association of Metropolitan Portland, "Green from the Ground Up" education series, the Integrating Habitats design competition, Nature in Neighborhoods Restoration and Enhancement grants, Outdoor School funding and the development of the Intertwine Alliance. The Council also asked voters in 2006 to approve a \$227.6 Natural Areas bond measure for significant regional and local investments in natural area land acquisition, water quality and wildlife habitat restoration.

By 2010, nearly all local governments had demonstrated substantial compliance with Title 13 by either amending their land use and development codes or adopting Metro's Title 13 model ordinance. Local governments in the region all came into substantial compliance with Title 13 in January 2013. Metro's Planning and Development Department continues to monitor compliance with Title 13 requirements.

Title 13 Section 6 describes the program performance objectives and implementation objectives, and describes how data will be collected and monitored to evaluate the program. Title 13 Section 6 contemplates that Metro and local governments would monitor a set of regional environmental indicators, implement habitat-friendly development practices, use non-regulatory tools for conservation purposes, and restore fish and wildlife habitat. Additionally, Metro tasked itself with serving as a regional coordinator for data related to habitat conservation and monitoring progress over time with the help of local governments.

Title 13 required local governments to submit progress reports to Metro on even numbered years about their investments in non-regulatory activities (acquisition, education and restoration efforts). These reports were collected by Metro staff in 2009 and 2011. Despite efforts to streamline and standardize reporting, the variety of methods used by jurisdictions and the diverse, disparate departments that track the variety of information Metro requires, make it difficult to summarize these measures. In addition, it was unclear how the data collected would be used. Policy direction from Metro Council on other topic areas has been that staff should reduce difficult or time-intensive reporting processes and reporting requirements for local government partners, and local governments were not asked to submit reports in 2013 or 2015.

Metro Code Section 3.07.1360(b)(1)(D) requires Metro to undertake a review of environmental indicators established in Title 13 by December 31st of each even-number year and established targets for the first 10-year period. In response to this requirement for measuring performance, Metro's first State of the Watersheds report was published in 2006, a second State of the Watersheds report was issued in 2008. The purpose of these reports was to establish the baseline conditions of the region's watersheds and to track these conditions over time using science-based, repeatable indicators. Environmental change over a two-year interval is likely to be relatively small and in the case of Metro's reporting, appeared to fall within the data's margin of error. Given these limitations, and the amount of staff time required to do the analysis and produce the report, in 2010 staff provided a program update to the Metro Council and has since deferred reporting on the environmental indicators. This is a report on the environmental indicators established by Title 13 as they relate to the 10-year targets established in that title.

This report was presented to the Metro Council, as required by Metro Code, on March 10, 2016. Metro Council decided not to take action approving the report and a requested work session to better understand the report and concerns raised by stakeholders regarding whether the report adequately addressed all of Metro's reporting requirements. This work session was held on March 30, 2016.

## **ANALYSIS/INFORMATION**

### **1. Known Opposition**

Stakeholders from the environmental community continue to express concerns about the adequacy of protections of upland habitat under the Metro Council's Nature in Neighborhood program.

## **2. Legal Antecedents**

Metro Council Resolution No. 92-1637, "For the Purpose of Considering the Adoption of the Metropolitan Greenspaces Master Plan," adopted July 23, 1992.

Metro Council Resolution No. 04-3506A, "For the Purpose of Revising Metro's Preliminary Goal 5 Allow, Limit, or Prohibit Decision; and Directing the Chief Operating Officer to Develop a Fish and Wildlife Habitat Protection and Restoration Program That Relies on a Balanced Regulatory and Incentive Based Approach," adopted December 9, 2004.

Metro Council Resolution No. 05-3574A, "Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature in Neighborhoods," adopted May 12, 2005.

Metro Council Resolution No. 05-3612, "For the Purpose of Stating An Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program," adopted September 29, 2005.

Metro Council Ordinance No. 05-1077C, "Amending the Regional Framework Plan and the Urban Growth Management Functional Plan Relating to Nature in Neighborhoods," adopted September 29, 2005.

Metro Council Ordinance No. 05-1097A, "Amending the Metro Habitat Conservation Areas Map and Other Maps Related to Title 13 of the Urban Growth Management Functional Plan; Declaring an Emergency," adopted December 8, 2005.

## **3. Anticipated Effects**

The effect of this resolution will be for the Metro Council to accept the March 2016 Title 13 Performance Measures Report, including the recommendations in the report committing Metro to ongoing monitoring of requirements of Title 13, and future reporting on the Environmental Indicators adopted by the Metro Council.

## **4. Budget Impacts**

No budget impacts are anticipated in the current fiscal year as a result of this action. This does potentially require the Metro Council to allocate staff time and resources from Parks and Nature and the Research Center in future years in order to work with stakeholders to review and consider amendments to the Title 13 Environmental Indicators included in Table 3.07-13e of Metro Code (3.07.1360).

## **RECOMMENDED ACTION**

Staff recommends adoption of Resolution No. 16-4686.