

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE)	RESOLUTION NO. 99-2744
EXECUTIVE OFFICER TO ACQUIRE TWO)	
PARCELS (BROUGHTON BEACH AND)	
PORTAGE MARINA) FROM THE PORT OF)	Introduced by Mike Burton
PORTLAND WHICH ARE LOCATED IN THE)	Executive Officer
COLUMBIA RIVER SHORELINE TARGET)	
AREA)	

WHEREAS, In July 1992, Metro completed the Metropolitan Greenspaces Master Plan which identified regionally significant natural area including the Columbia River Shoreline; and

WHEREAS, at the election held on May 16, 1995, the Metro voters approved the Open Spaces, Parks and Streams Bond Measure (Measure 26-26) which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition; and

WHEREAS, in June 1996, the Metro Council adopted a refinement plan for the Columbia River Shoreline and Islands Target Area; and

WHEREAS, Metro desires to acquire two parcels which are located along the Columbia River and identified as Tier I properties in the refinement plan; and

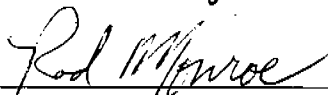
WHEREAS, the amended Open Space Implementation Work Plan adopted in January 1997, provides that the Metro Council approval is required for purchases involving "unusual circumstances", and

WHEREAS, the proposed real estate transaction which is embodied in the Sale Agreement and Receipt for Earnest Money between the Port of Portland and Metro attached as Exhibit A involves "unusual circumstances", now therefore,

BE IT RESOLVED,

That the Metro Council authorizes the Executive Officer to acquire certain parcels pursuant to the terms and conditions set forth in the attached Sale Agreement and Receipt for Earnest Money between the Port of Portland and Metro.

Adopted by Metro Council this 18th day of FEBRUARY, 1999.



Rod Monroe, Presiding Officer

Approved as to Form:



Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2744 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO ACQUIRE TWO PARCELS (BROUGHTON BEACH AND PORTAGE MARINA) FROM THE PORT OF PORTLAND WHICH ARE LOCATED IN THE COLUMBIA RIVER SHORELINE TARGET AREA

Date: January 21, 1999

Presented by: Charles Ciecko
Jim Desmond

PROPOSED ACTION

Resolution No. 99-2744 requests authorization for the Executive Officer to acquire from the Port of Portland two parcels known as Broughton Beach and Portage Marina which are located on either side on the M. James Gleason Boat Ramp in the Columbia River Shoreline Target Area. The Metro Council previously considered this item on November 24, 1998 as Resolution No. 98-2694. By a 3 to 3 vote, the Metro Council did not approve the Resolution.

BACKGROUND AND ANALYSIS

Metro acquired the M. James Gleason Boat Ramp from Multnomah County in 1996 as part of the transfer of Multnomah County Parks to Metro. In March 1998, Metro, in partnership with the Port of Portland (Port), The Oregon State Marine Board (OSMB) and Multnomah County, completed a Master Plan for the area known as the Columbia River Management Unit which encompasses the Boat Ramp and the two adjacent parcels - Broughton Beach and Portage Marina. The Metro Council approved the Master Plan in March 1998.

During this time, Metro and the Port were involved in negotiations related to transferring ownership of the Beach and Portage Marina from the Port to Metro. The transaction involves the Portage Marina parcel (1.3 acres) which is located just west of the boat ramp and a portion of Broughton Beach (9.5 acres) which is located just east of the boat ramp.¹ The remainder of Broughton Beach would continue to be owned by the Port. A purchase price of \$300,000 has been established for both parcels and is supported by an appraisal of the property. Also included in the transaction is the payment by the Port of \$20,000 per year for a five-year period to assist with maintenance costs of the beach area. Metro currently manages approximately 8 acres of the beach pursuant to a Lease Agreement entered into between the Port and Multnomah County. This Lease Agreement has been in place since 1977 and does not provide any compensation.

The negotiations between the Port and Metro have been protracted and difficult. During these negotiations, several concessions were made by Port staff, resulting in a final proposed transaction that is much more favorable than the Port's original proposal. However, Metro staff did not receive some desired concessions to certain terms and conditions associated with the environmental condition of the property. The Port has insisted that the transfer be on an "as-is" basis with no environmental representations or warranties regarding the condition of the properties. Metro typically receives these types of representations and warranties from sellers of real property. In addition, the Port has insisted that a provision be included which requires Metro

¹ A lot line adjustment is contemplated which would "move" the existing property line between the boat ramp and beach parcels, resulting in a larger boat ramp parcel.

to prove the Port responsible for any contamination which might be discovered on the site after closing the transaction. The Port does remain liable for hazardous substances it causes to be located on or migrate on the property once Metro owns it.

In consultation with the acquisition committee, staff determined the risks in this particular case to be minor and to move the proposed purchase forward, and the acquisition committee recommended approval by the Metro Council in the form of Resolution No. 98-2694. This recommendation was made with the recognition that no further concessions would be forthcoming from the Port; and, that the properties nevertheless are of significant importance to Metro's ability to efficiently and effectively manage M. James Gleason Boat Ramp as noted in the Master Plan.

Because the proposed real estate transaction contains several unusual circumstances, Metro Council must approve the purchase. A staff report was prepared which detailed the terms of the transaction and the unusual circumstances and Metro Council was briefed on this transaction in executive session at the November 24, 1998 Council meeting. Comments from Metro Councilors focused on the unusual circumstance related to the burden of proof provision noted above. After much discussion, the Metro Council rejected the resolution on a 3 to 3 vote. Metro Councilors voting against the Resolution directed Metro staff to once again contact Port staff and seek modifications to the terms and conditions of the transaction related to the environmental provisions.

Metro staff contacted Port staff several times since the November 24th meeting to discuss the transaction and the Council's position. This contact included a telephone conversation between Metro Executive Mike Burton and Port Executive Director Mike Thorne. On all occasions, the Port has indicated that it is unwilling to make any changes to the environmental terms and conditions. They have indicated that they have made several concessions to date and that they feel that these terms and conditions are appropriate given Metro/Multnomah County's lease of part of the beach over the past 20 years. In addition, they have stated that all testing completed during the due diligence period have indicated there is a low level of environmental risk on the property.

In order to "close the loop" and to respond to Council direction given at the November 24th meeting, Metro staff has resubmitted the proposal for Council consideration. Metro staff continues to recommend that Council approve Resolution 99-2744 authorizing the Executive Officer to acquire these parcels. Staff recommendation is based on the following:

- Based on Multnomah County / Metro control of a majority of the site since 1977 and the results of the Level I and Level II environmental assessments², the site represents low risk for historic contamination.
- Parcels are important to meeting "Refinement Plan" objective of improving public access to the Columbia River. Virtually no other sites are feasible for new or enhanced public access between Kelly Point Park and Rooster Rock State Park - a distance of 30 miles.

² At Metro's request, a level II assessment of a historic building site identified on the beach was just recently completed. The independent environmental consultant recommended no further action on the site.

- A collaborative master plan has been completed (involving Oregon State Marine Board, Multnomah County, Port of Portland and Metro) and approved by the Metro Council. The master plan, which cost approximately \$37,000, cannot be implemented if these parcels are not acquired.
- Metro has been awarded a \$165,000 grant from the Oregon State Marine Board for design and engineering of phase I improvements. This grant will have to be returned if this purchase is not completed. Oregon Marine Board has indicated a strong interest in awarding a major grant to Metro for the implementation of phase I improvements at M. James Gleason Boat Ramp in FY 99-00. The opportunity to receive these state funds will be lost if the acquisition does not go forward.

FINDINGS

Acquisition of the parcels from the Port is recommended based on the following:

- The acquisition accomplishes a specific project listed in the Bond Measure Fact Sheet: “M. James Gleason Boat Ramp - Improvements to launch facility on Columbia River in Northeast Portland.”
- The acquisition accomplishes a Tier I objective of the Columbia Shoreline and Islands Target Area refinement plan to “Acquire lands along the shoreline suitable for future public access, including boater access.”
- The Property is necessary to improve the site in accordance with the Master Plan. Specifically the parcels will improve overall facility efficiency and public safety significantly.
- The environmental risk on the Property is low, and the Port is not released from liability for contamination it causes on the Property.
- This acquisition on these terms was recommended by the Real Estate Acquisition Committee, which met on October 13, 1998.
- The receipt of \$20,000 per year for five years from the Port will cover the management expense of Broughton Beach for that five-year period. This area has been historically managed by Multnomah County and Metro without any compensation from the Port.

BUDGET IMPACT

Funds to acquire the parcels are available in fiscal year 1998-99 Open Spaces Acquisition Division budget

EXECUTIVE OFFICER’S RECOMMENDATION

The Executive Officer recommends adoption of Resolution 99-2744.