

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 17-4822, FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO SELL CERTAIN REAL PROPERTY AS PART OF THE NATURAL AREAS PROGRAM'S DISPOSITION OF AGRICULTURAL LANDS POLICY

Date: September 14, 2017

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BACKGROUND

Resolution 17-4822 requests authorization for the Chief Operating Officer to declare certain real property surplus and allow staff to dispose of the parcel.

In 1995 and again in 2006, voters in the Metro Area approved the Open Spaces, Parks and Streams Bond Measure and the Natural Areas Bond Measure (the "Natural Areas Bond Measure", or collectively, the "Bond Measures") authorizing Metro to acquire property in designated regional target areas to preserve and protect natural areas, clean water, and fish and wildlife habitat. As provided in the Bond Measures, Metro undertook a public refinement process to establish specific acquisition strategies, goals and objectives for each target area.

Also in 2006, the Metro Council adopted Resolution 06-3727, "For the Purpose of Establishing a Metro Council Policy Regarding the Acquisition of Rural Agricultural Land Pursuant to the 2006 Natural Areas Acquisition and Water Quality Protection Bond Measure" (the "Ag Lands Policy"), which set forth a policy regarding possible purchase by Metro of agricultural land with funds from the Natural Areas Bond Measure. The Ag Lands Policy recognized that the preservation of the existing base of agricultural land as well as the ability of Oregon farmers in or near the Metro Area to operate efficiently and effectively is a high priority for Metro, and as such, directed Metro to consider additional provisions policy objectives for acquisition in target areas located in agricultural areas. Through the public refinement process mentioned above, the Metro Council determined that acquisitions in the Wapato Lake, Dairy and McKay Creeks, and Killin Wetlands target areas are subject to the Ag Lands Policy.

The Ag Lands Policy requires Metro to purchase conservation easements unless the seller is only willing to sell a fee simple interest to Metro. Metro has followed this guideline. If the property is purchased fee simple as preferred by the seller, the Ag Lands Policy then directs Metro staff to map the portions of the property that are essential to achieve water quality and habitat protection goals of the Natural Areas Bond Measure, and those portions of the property that are viable for agricultural production without conflicting with protection of water quality or habitat.

In accordance with the guidelines in the Ag Lands Policy, Metro has reviewed its existing agricultural holdings purchased in fee simple in these target areas to determine which portions of the properties are essential to achieving the goals of the Bond Measure, and if any remaining portions are otherwise viable for agricultural production.

This review resulted in the determination that certain real property, as described in Exhibit A to the Resolution (the "Property"), could be sold per the terms in the Ag Lands Policy: on the open market at a fair market value subject to easements that achieve the goals of the Natural Areas Bond Measure for water quality and habitat protection and restrict use of the remainder of the property to agricultural uses.

Through the review, staff determined that approximately 9 acres, areas consisting of sloped riparian and floodplain land, are most essential to protecting water quality and habitat and could be restricted with a conservation easement for Metro to retain access and management. This would leave approximately 5.5 acres of land, including the single family residence, for agricultural use. Currently, approximately 2 acres of viable agricultural land is under an agricultural lease, and approximately 1.25 containing a single family residence is also leased.

This property was purchased with funds from the 1995 Open Spaces, Parks and Streams Bond Measure in the Jackson Bottom-Dairy/McKay Creeks Target Area, which overlaps with the 2006 Dairy McKay Confluence Target Area. Though the Ag Policy may not technically bind this property, it is a good candidate to sell in accordance with the Ag Policy because of the target area overlap.

State law [ORS 271.310(1)] authorizes the governing body of any political subdivision within Oregon to sell real property owned by the political subdivision that is “not needed for public use, or whenever the public interest may be furthered.” As stated above, the public interest will be furthered by the sale of the Property. Metro Code section 2.04.050(b) requires that the Chief Operating Officer obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro. In an Executive Session of the Metro Council on July 27, 2017, Metro staff informed the Council about the details of the proposed surplus of the Property. Metro’s procedures for the disposition of surplus property are outlined in the “Metro Surplus Property Disposition Guidelines,” attached as Exhibit A to Resolution No. 15-4619, adopted by the Metro Council in 2015. Metro staff will follow the applicable guidelines in the disposition of the Property, except to the extent that they may conflict with the Ag Lands Policy (in which case the Ag Lands Policy will govern).

In accordance with the Ag Lands Policy, Resolution No. 17-4822 requests authorization for the Chief Operating Officer to declare the Property surplus and allow staff to sell the parcel as outlined in the disposition guidelines and the Ag Lands Policy, subject to the existing leases and future restrictions to protect the most important habitat on the Property.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

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

Metro Code section 2.04.050(b) requires that the Chief Operating Office obtain the authorization of the Metro Council prior to executing any contract for the sale of real property owned by Metro.

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

Metro Resolution No. 07-3855, “Approving the Natural Areas Acquisition Refinement Plan for the Dairy and McKay Creeks Confluence Target Area.”

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

3. **Anticipated Effects**

The Resolution will allow the Property to be sold subject to restrictions to protect habitat on the Property.

4. **Budget Impacts**

Net revenues from sale of the Property, after payment of any appraisal, brokerage, closing, land use applications for partitioning properties, or other out-of-pocket costs associated with the sale, will be returned to the 1995 Bond Measure account, for use to acquire other real property consistent with the goals and requirements of such measure. Annual operating revenues will see a minor reduction due to lost agricultural and residential rent.

RECOMMENDED ACTION

Staff recommends the adoption of Resolution No. 17-4822.