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**AGENDA COVER MEMO**

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**AGENDA DATE:** June 24, 2003

**TO:** LANE COUNTY BOARD OF COMMISSIONERS

**DEPARTMENT:** Public Works – Land Management Division

**PRESENTED BY:** Jeff Towery, Manager

**AGENDA ITEM TITLE:** DISCUSSION/REPORT AND RECOMMENDATIONS FROM THE  
LAND MANAGEMENT TASK FORCE–COMPLIANCE PROGRAM

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**I. Introduction**

After receiving the full report from the Land Management Task Force on April 9, 2003, the Board asked for several components of the report to be brought back for review and discussion. The body of this Agenda Cover Memo was presented verbatim in that initial report.

**II. ISSUE – Compliance Program**

**A. Problem Statement –** The Compliance Program does not generate enough infractions revenue to be self-supporting. The program does not have a reserve account with which to initiate clean-up and mitigation on foreclosed properties.

- What level of enforcement should the compliance program exercise?
- What level of staffing is needed for the desired level of enforcement?
- Is the current structure of the program appropriate?
- How should the program be funded?

**B. Discussion**

The Compliance Program enforces the County's land-use, building, and nuisance ordinances by responding to and investigating reports and inquiries from the public, county staff, and the Board of County Commissioners. Investigation is complaint driven with the goal of achieving voluntary compliance with the Lane Code requirements rather than imposing fines to the property owner or responsible party. In the majority of instances, compliance is obtained by voluntary cooperation. After a detailed review of the program, the Task Force approved a series of recommendations to the Board for consideration. The primary focus was to encourage the Board to adopt a statement(s) that includes Guiding Principles and Philosophy and Priorities for Code Enforcement as shown in Attachments A and B.

In addition, there were several recommendations related to funding and operations that the Task Force forwarded to the Board for consideration.

- Investigation Fee

Lane Manual authorizes an investigation fee of \$300 for a compliance case. That fee has been used infrequently and inconsistently until December 2001. Given current

resources and case loads, it is reasonable to expect to generate about \$40,000 annually. Supported by the Task Force.

- Doubling the Building Permit Fee

The Uniform Building Code authorizes a penalty on permit fees deemed in violation of the code (primarily construction without a permit). Each year, about \$12,000 is generated by doubling fees, about \$7,000 of which is related to compliance cases. Supported by the Task Force.

- Doubling the Fee for Planning and Sanitation Permits

Lane Manual does not currently authorize a penalty on these types of permit fees deemed in violation of Lane Code. Staff is unaware of any legal barrier to establishing such a penalty. While the revenue stream is not expected to generate a significant sum, any revenue would lessen the subsidy provided to compliance cases by other paying customers and could limit the need for future fee increases. By separate motions, the Task Force supports doubling the planning sign-off fee when a violation is found that requires obtaining a Building Permit and doubling Sanitation Permit fees when connected with a Compliance action.

- Compliance Surcharge

While compliance activities do not generate the revenues necessary to fund all expenses, enforcement of the Building Code is an appropriate use of building permit revenues. A surcharge could be established, similar to Deschutes County, to offset the expense of the program. This approach does not remedy the subsidy of non-paying customers however, it simply provides additional resources from the current customer base. The Task Force recommended that a Compliance Surcharge not be established.

- Encourage Consistency and Accuracy in Application and Budgeting Program Revenue

By applying penalties more consistently, revenue to the program will be increased and accountability enhanced. Forecasting those revenues in the budget document will more fairly represent the true costs of the program. Supported by the Task Force.

Finally, the Task Force supports abatement by utilizing of liens and foreclosures to fund cleanup of violating properties.

### **III. Possible Board Actions**

- To receive and file the report.
- To request additional information.
- To give direction regarding any or all of the recommendations.

### **IV. Attachments**

Attachment A – Code Enforcement Guiding Principles and Philosophy  
Attachment B – Priorities for Code Enforcement

Lane County  
Code Enforcement Guiding Principles and Philosophy

**Guiding Principle** – Protect the health and safety of County residents by protecting the environment.

The Board of County Commissioners has put a process in place to resolve code violations that impact citizens' health, life, safety and the environment.

**Guiding Principle** – Administer the abatement and compliance program in an aggressive and uniform manner utilizing realistic and consistent practices to achieve compliance, such as incentive programs, not just penalties.

Investigations will be both complaint driven and self-initiated at the professional discretion of the compliance staff with the goal of achieving voluntary compliance with the Lane Code requirements rather than imposing fines on the property owner or responsible party. Penalty provisions have been designed to provide a method of enforcement that is flexible enough to accomplish the purpose of enforcement, but also constrained enough so that enforcement actions are taken responsibly. If ultimately, voluntary compliance cannot be reached, a formal enforcement process involving a hearings officer or the Court will be instituted. Typically, cases will progress to more aggressive enforcement steps when customers are not responsive to requests for voluntary correction.

**Guiding Principle** – Increase service by providing clear direction and information about activities that require building permits (i.e. deck heights, garage conversion).

By incorporating more information about the Compliance Program into public information such as application materials and the Lane County web site, violations will be avoided and compliance will be encouraged.

**Guiding Principle** – Processing of complaints should apprise complainant of progress on the issue.

The program will be administered with the care necessary to preserve the rights and interests of all citizens of Lane County. Compliance files are public records and when applicable, formal progress reports will be provided to interested parties.

**Guiding Principle** - Support and actively enforce regulations consistent with enforcement priorities adopted by the Board of County Commissioners.

Because of limited code enforcement resources, there may be times when all code violations cannot be given the same level of attention and when some code violations may receive no attention at all. In circumstances where not all code violations can be investigated, the most serious violations, as determined by priorities adopted by the Board, should be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. Efforts to bring an entire property into compliance could result in actions that address complaints of varying priorities.

Lane County  
Priorities for Code Enforcement

The following levels were prioritized with consideration given to the most serious impact to citizens' health, life, and safety, and to the environment. Examples given are intended to illustrate typical violations rather than provide an all-inclusive list.

**Level 1 Priority** - Violations that present an imminent threat to public health and safety or the environment.

Building: This would include property owners or contractors failing to obtain the permits and approval for primary structures, detached structures greater than 300 square feet which involve improvements that compromise structural integrity or new buildings without permits.

Dangerous Buildings: These are buildings that consist of violations from Section 302 of the Dangerous Building Code. Examples include buildings damaged by fire, earthquake, wind or flood; those likely to partially or completely collapse due to dilapidation, deterioration or decay, faulty construction or ground instability; a building or structure that is unsafe for use.

Planning: Violations involving land use activities that impact environmental or natural resources (adverse impact has occurred or appears to be imminent such as riparian violations, illegal mining, illegal mass gatherings, illegal dump sites).

Nuisance: Methamphetamine labs or other properties that have been deemed "Unfit for Use" by the State of Oregon Department of Human Services.

**Level 2 Priority** - Violations that will have an adverse impact on citizens, including surrounding property owners and the environment.

Building: Failing to obtain the permits and approval for free standing structures less than 300 square feet, decks, covered and uncovered; building without permits.

Nuisance: Solid waste, inoperable vehicles.

Planning: Businesses operating without land use approval, temporary mobile home violations, residential use of RVs, floodplain/floodway violations.

**Level 3 Priority** – Violations will have a minimal impact on surrounding property owners and the environment.

Planning: Number of animals allowed within a zone.

Nuisance: Overgrown vegetation, noise and signs.

**Exceptions** – At the discretion of the compliance officer, complaints may be processed in any order that maximizes the efficiency of enforcement. There are violations of environmental standards, particularly within certain waterways, that other agencies are better suited to enforce. In those instances, a referral to the appropriate agency may occur.