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03-10-15-6

## AGENDA COVER MEMORANDUM

**Agenda Date:** October 15, 2003

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**DATE:** October 1, 2003  
**TO:** Board of County Commissioners  
**DEPARTMENT:** Management Services  
**PRESENTED BY:** Jeff Turk, Property Management Officer

**SUBJECT:** ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO RICHARD M. MIGLIOETTO FOR \$30,000 (MAP # 16-06-27-00-00900, ADJACENT TO 23988 HIGHWAY 36, CHESHIRE)

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1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO RICHARD M. MIGLIOETTO FOR \$30,000 (MAP # 16-06-27-00-00900, ADJACENT TO 23988 HIGHWAY 36, CHESHIRE)
2. **ISSUE/PROBLEM:** Mr. Miglioretto has submitted an offer of \$30,000 for the subject property. The offer is being presented to the Board for consideration of acceptance.

Mr. Miglioretto's son owns 20 acres adjoining the subject property (16-06-34-00-00101)

3. **DISCUSSION:**

- 3.1 Background

The subject property was acquired through tax foreclosure in September 2001. It is 17.98 acres, zoned E40 (EFU) and is unimproved. It has an assessed value of \$45,000.

Approximately 12 acres of the subject is flat pasture. The remaining 6 acres along swamp creek are low lying wet lands.

The subject was offered at a Sheriff's sale on December 9, 2002 with a minimum bid of \$50,000. No bids were received.

The parcel is likely a legal lot of record, however, the EFU zoning virtually eliminates the outright construction of a dwelling without a related farm use of the property. Generation of \$80,000 in farm related income would be required for approval of a dwelling. The high quality soils would also remove the likelihood of rezoning the subject to Marginal Lands (a dwelling is permitted in the ML zone without related farm use).

The Right of Way management division of Public Works performed an appraisal of the subject in February of this year. The appraisal estimated a \$32,000 value.

The county has an interest in the parcel adjoining the subject due to a \$25,000 Land Management nuisance lien for solid waste present on the property (tax lot 100 on map #16-06-34, it is 40 acres). The parcel is also in tax delinquency with the two year redemption period expiring in September, 2004 (the county will acquire it if taxes are not paid by that time). The owner of tax lot 100 was also the owner of the subject parcel prior to its tax foreclosure.

Should the county complete the tax foreclosure process on tax lot 100 (property with LMD lien), the county's nuisance lien would be eliminated and no longer an encumbrance on the property. Given this, Property Management staff discussed the matter with LMD manager Jeff Towry and assistant county counsel Marc Kardell to see if it could be in the county's best interest to acquire tax lot 100 by foreclosing on the nuisance lien. The county would then sell both parcels together (the subject and tax lot 100) subject to clean up of tax lot 100 (Mr. Miglioretto was also interested in acquiring tax lot 100). Tax lot 100 is 40 acres but is almost entirely wet lands. The Public Work's appraisal of the property valued it at approximately \$12,000 - \$14,000.

During the investigation process of whether or not to foreclose on tax lot 100, the owner's designated representative was contacted (John Berg). Mr. Berg expressed a desire to retain the property and was willing to cooperate with the county towards that end. An understanding was reached between Mr. Berg and the county whereby Mr. Berg would make monthly payments of \$350 on the nuisance lien and begin cleanup of the property upon his return from Alaska in October. Mr. Berg also signed an "Acceptance of Service" letter which will expedite foreclosing on the property should he not meet the obligations of the understanding and the county chooses to foreclose. Mr. Berg has thus far been making the \$350 monthly payments.

Tax lot 100 does not have legal access to a public road. As the county may yet acquire the parcel either through tax foreclosure or foreclosure of the nuisance lien, an access easement should be retained over the subject parcel. This is agreeable to Mr. Miglioretto.

### 3.2 Analysis

As acquisition of the property with the LMD lien is not imminent or a given, and foreclosure of the tax lien is also not a given and would be a year away if it occurred, it would be in the county's interest to sell the subject property at this time while there is a willing buyer paying a fair value.

Pursuant to ORS 275.200, property that did not sell at a Sheriff's sale can be sold at private sale without further notice but for not less than 15% of its minimum bid at the Sheriff's sale. The \$30,000 offer meets the requirements of ORS 275.200.

### 3.3 Alternatives/Options

- A. The Board can accept the offer.
- B. The offer can be rejected with staff directed to continue negotiations.
- C. The property can be offered again at a future Sheriff's sale.
- D. The property can be withheld from sale until such time the disposition of tax lot 100 is clarified with the county acquiring it either through tax foreclosure (Sept. 2004) or through foreclosure of LMD's nuisance lien. The county could then sell the properties together.

### 3.4 Recommendation

It is recommended that Mr. Milgiorretto's offer of \$30,000 be accepted subject to reservation of an access easement to tax lot 100.

### 3.5 Timing

None.

- 4. **IMPLEMENTATION/FOLLOW-UP:** Upon approval by the Board of County Commissioners, the Quitclaim Deed will be executed and the property will be sold.
- 5. **ATTACHMENTS:**
  - Board Order
  - Quitclaim Deed
  - Tax Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING THE SALE  
OF SURPLUS COUNTY OWNED REAL  
PROPERTY TO RICHARD M. MIGLIOETTO FOR  
\$30,000 (MAP # 16-06-27-00-00900, ADJACENT  
TO 23988 HIGHWAY 36, CHESHIRE)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to convey the following real property which was acquired through tax foreclosure, to wit:

*All that portion of the South half of the Southeast one-quarter of Section 27, Township 16 South, Range 6 West of the Willamette Meridian, Lane County, Oregon lying south of State Highway 36, EXCEPT that tract described in deed to the State of Oregon recorded December 1, 1927 in Volume 155, Page 350, Lane County Oregon Deed Records (map # 16-06-27-00-00900).*

*RESERVING THEREFROM a perpetual, non-exclusive easement for utilities, ingress and egress as described in attached Exhibit "A"*

WHEREAS said real property is owned by Lane County and not in use for County purposes, and sale of said property would benefit Lane County by its return to the tax roll, and

WHEREAS said parcel was offered at a Sheriff's sale on December 9, 2002 with a minimum bid of \$50,000 and

WHEREAS no bids were received for said parcel and it remained unsold at the close of said sale

IT IS HEREBY ORDERED that pursuant to ORS 275.200 and ORS 275.275, the parcel be sold to Richard M. Miglioretto for \$30,000 reserving an access easement as described in attached Exhibit "A", that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$29,814.00
General Fund	(124-5570260-436521)	186.00

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

APPROVED AS TO FORM

Date 10-7-03 lane county.

  
OFFICE OF LEGAL COUNSEL

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Peter Sorenson, Chair  
Lane County Board of Commissioners

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO RICHARD M. MIGLIOETTO FOR \$30,000 (MAP # 16-06-27-00-00900, ADJACENT TO 23988 HIGHWAY 36, CHESHIRE)

**EXHIBIT "A"**

**EASEMENT RESERVATION  
LANE COUNTY (GRANTOR)/RICHARD M. MIGLIORETTO (GRANTEE)**

A strip of land 30 feet wide, 15 feet on each side of centerline, located in the Southeast Quarter (SE ¼) of Section 27, Township 16 South, Range 6 West of the Willamette Meridian, the centerline being described as follows:

Commencing at the Brass Cap marking the Southeast Corner of Section 27, Township 16 South, Range 6 West of the Willamette Meridian; thence South 89°44'27" West 1318.69 feet to a ½ inch iron rod as set by R.S. Castleberry in 1968, and shown on County Survey File No. 15653, said point also being 11.08 feet easterly from the southeasterly as-traveled right of way of State Highway Number 36, at a point where it intersects the south section line of said Section 27, as shown on County Survey File No. 29758 and County Survey File No. 38096; thence along said section line North 89°44'27" East 19.51 feet to the TRUE POINT OF BEGINNING; thence North 40°00'00" West 22 feet, more or less, to the Southeasterly right of way of State Highway Number 36 and there ending.

The sidelines of this easement being lengthened or shortened as necessary to intersect with the as-traveled southeasterly right-of-way line of said Highway 36 and the South section line of said Section 27.

The bearings used herein are based on County Survey File No. 21517 filed in the Office of the Lane County Surveyor.

IT IS THE INTENT of this easement to provide ingress, egress and utilities to property described as:

The Northeast ¼ of the Northeast ¼ of Section 34, Township 16 South, Range 6 West of the Willamette Meridian, Lane County Oregon (map # 16-06-34-00-00100).

In the event the location of the above described easement does not meet the approval of the Oregon Department of Transportation (ODOT) or other regulatory authority, said easement shall be relocated to an area acceptable to ODOT or other regulatory agency. Said relocated easement shall also be 30 feet in width and shall be routed in a manner that is as direct as possible given on ground conditions to the property being served by the easement and that minimizes disruption to Grantee's property (Grantee will not be obligated to move any permanent structures to accommodate a relocated easement). The user of the easement shall be responsible for all costs particular to its relocation.

THIS EASEMENT shall expire if the property on which the easement crosses and the property served by the easement are owned by the same entity

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