

W. 7. 6. 5

AGENDA COVER MEMO

DATE: October 6, 2003

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas
Real Property Manager

AGENDA ITEM TITLE: In The Matter of Authorizing the Sale of a Non-Exclusive Easement for Ingress and Egress Across a Portion of County-Owned Road Fund Real Property Located Near Nebraska Street in Eugene and Identified as Tax Lot 1500 on Map 17-04-28-11 to Corey Hubbard and Gayle Hubbard.

I. MOTION

THAT THE ORDER BE APPROVED AUTHORIZING THE SALE OF AN EASEMENT
ACROSS COUNTY-OWNED ROAD FUND REAL PROPERTY NEAR NEBRASKA
STREET TO COREY HUBBARD AND GAYLE HUBBARD.

II. ISSUE OR PROBLEM

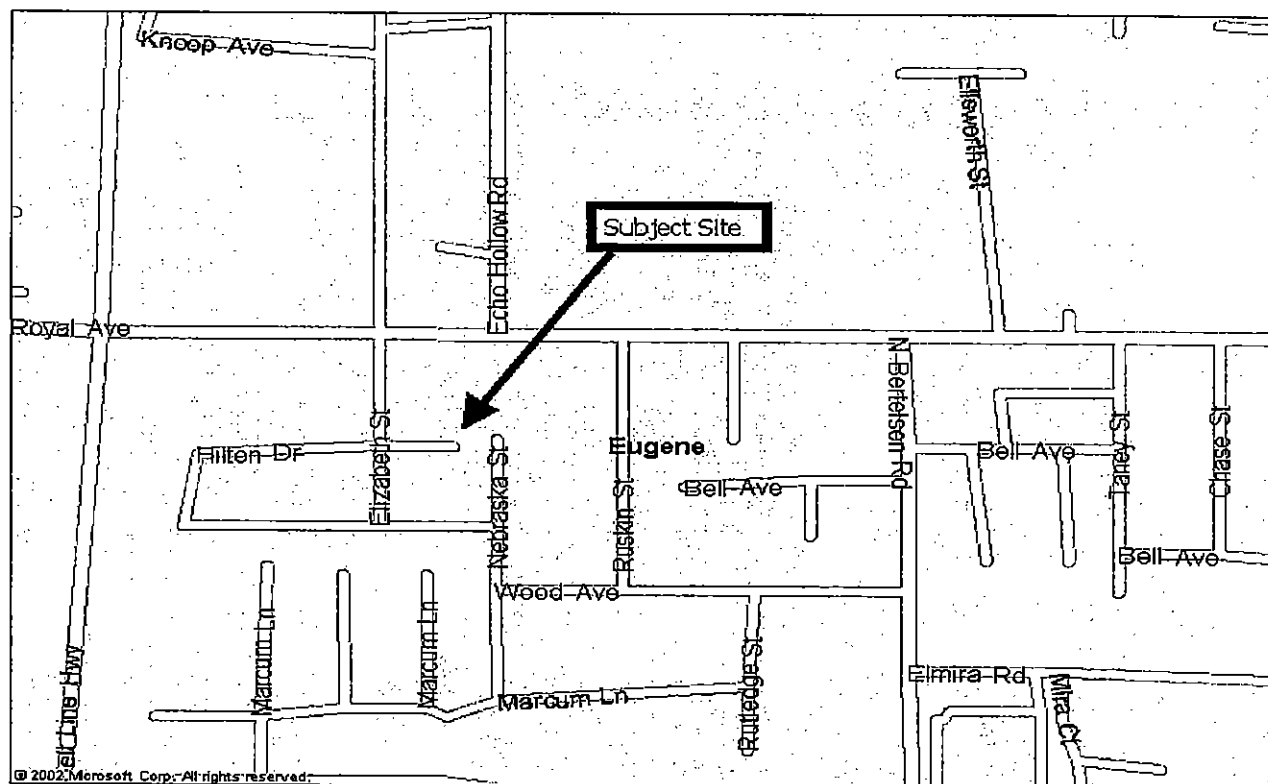
Shall the Board of County Commissioners authorize the sale of an easement for ingress and egress over surplus county-owned Road Fund real property near Nebraska Street in Eugene identified as a portion of Map 17-04-28-11, Tax Lot 1500, to Corey Hubbard and Gayle Hubbard?

III. DISCUSSION

A. Background:

In 1978, Lane County acquired the subject property for an overpass project that would realign Royal Avenue by moving it to the south and then cross Beltline Highway via an overpass. This project was never constructed, and the need for the project has since been superseded by the Oregon Department of Transportation's recent improvements on Beltline Highway, which provide for an overpass of Royal Avenue by Beltline Highway.

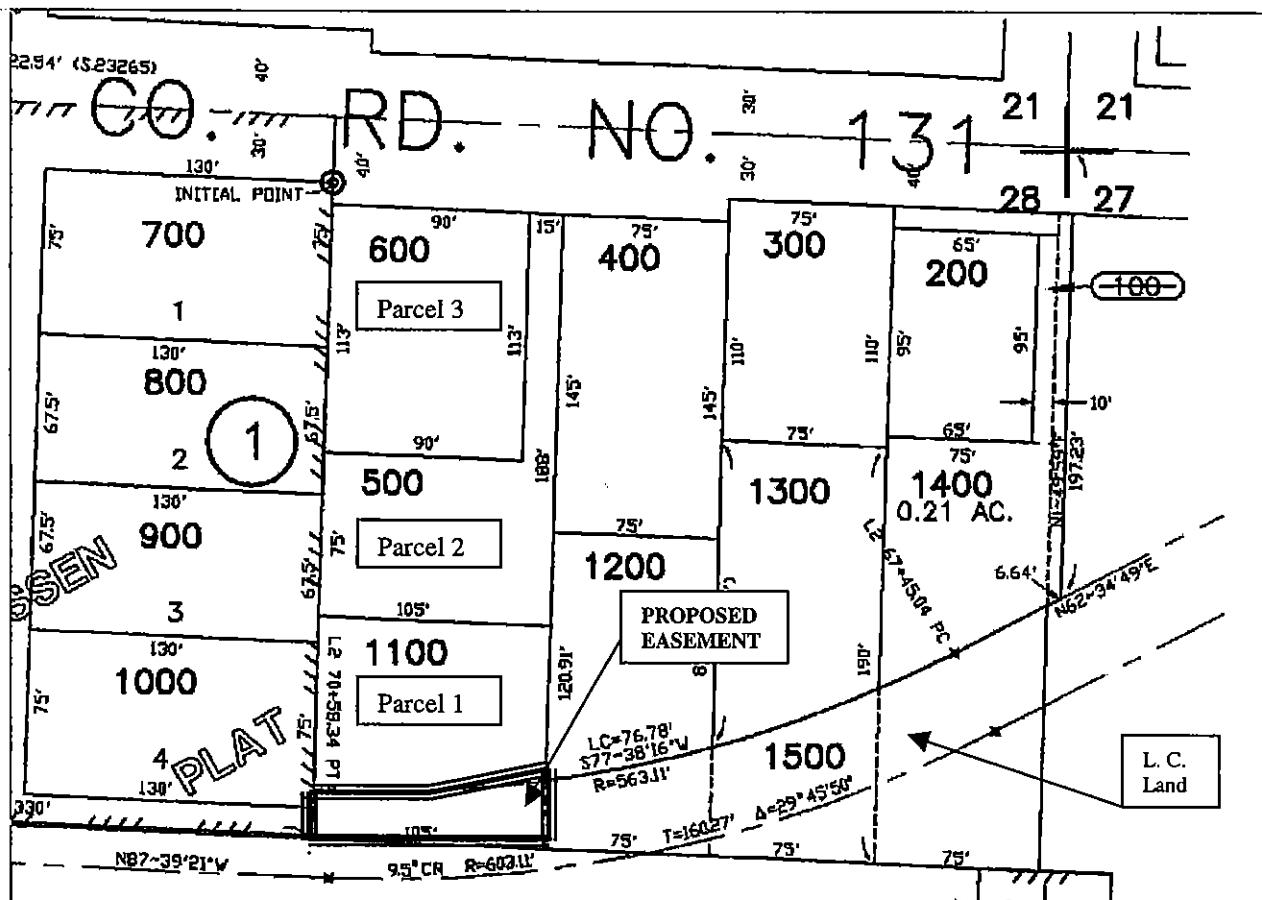
The subject property is located south of Royal Avenue and between Nebraska Street and Elizabeth Street as shown on the map below.



The Hubbards are proposing to purchase Tax Lot 17-04028-11-1100 which has frontage on the then-proposed roadway and to construct a home on it, provided that they can obtain legal access to the property.

At the time the County acquired the right of way along the south edge of this property for the proposed project, this Tax Lot was a part of a single parcel having direct access onto Royal Avenue. Shortly after the acquisition, the remainder of the property was partitioned into three parcels. Parcel 3 had an existing house located on it and fronted on Royal Avenue. Parcel 2 is located immediately to the South of Parcel 3 and takes access from a 15-foot wide panhandle from Royal Avenue. Parcel 1 of the Partition Map, which is now designated as Tax Lot 1100, was the southerly-most parcel and had no legal access per the partition map. The partition map included a note that "Issuance of a Building Permit for Parcel No. 1 shall be contingent upon demonstration to the Building Dept. that plans for parcel No. 1 indicate adequate turnaround provision *with access from the proposed County road bypass*" Since the proposed project was never built, Parcel 1 was without legal access to the public street.

An easement which would encumber the most-westerly portion of Tax Lot 1500 would allow the owner of Tax Lot 1100 to access their property via the 14-foot wide east-west stub of Elizabeth Street that lies immediately south of Tax Lot 1000, or from Nebraska Street or by obtaining rights from the City of Eugene over its adjacent 35-foot wide strip of land running east and west from Nebraska to Elizabeth Street. The map below illustrates the location of the proposed easement. The property the Hubbards propose to purchase is identified as Tax Lot 1100, which was Parcel 1 on the 1978 Partition Map.



B. Analysis:

The proposed easement is over an area that is not suitable for use as a building site due to its shape and size. The imposition of a non-exclusive easement for ingress and egress only will not adversely impact the utility of the County's remaining property or its market value.

The terms of the easement will allow its use for the benefit of Tax Lot 1100 and 1200 only. The usage for Tax Lot 1200 would pose no additional burden to the easement area, although the owner of Tax Lot 1200 would have to traverse a portion of Tax Lot 1100 in order to access the public street.

Utilities will not be allowed under the terms of the easement, so as to not hamper future uses of the property. The entirety of Tax Lot 1500 has a current Assessed Value of \$500. It is estimated that the approximate 3,049 square feet within the easement area has a market value of \$6,000, and that the imposition of the easement would impair the value of the property to the extent of 50%. The value of the easement is therefore estimated to be \$3,000. Based on all factors that influence land value, including sales of similar land, access and accessibility and highest and best use, it is concluded that this amount represents adequate compensation to Lane County for the easement to be conveyed.

ORS 275.225 allows for the sale of County-Owned real property at private sale provided that the land is assessed at less than \$5,000 on the most recent assessment roll prepared for the county, and is unsuited for the construction or placement of structures thereon under current zoning ordinances and building codes of the County. The subject easement area is unsuited for building due to its size and shape.

Notice of the proposed sale of this property was published in the Eugene Register-Guard on October 7, 2003. In addition, all adjoining owners were sent a copy of the Notice of Sale by U. S. Mail. The County may sell the subject property not less than 15 days from the date of publication of the notice.

C. Alternatives/Options:

1. Approve the sale of the easement for ingress and egress to Corey Hubbard and Gayle Hubbard.
2. Reject the offer and direct staff to continue negotiations for greater consideration.
3. Reject the offer and decline to sell the easement.

D. Recommendations:

It is recommended that the Board approve this Order, and authorize the execution of the attached Easement Deed.

IV. IMPLEMENTATION/FOLLOW-UP

Upon approval by the Board, Public Works staff will collect the funds for deposit in the Road Fund and record the Easement Deed.

V. ATTACHMENTS:

Easement Deed

**IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON**

ORDER NO.

(IN THE MATTER OF AUTHORIZING THE
(SALE OF A NON-EXCLUSIVE EASEMENT
(FOR INGRESS AND EGRESS ACROSS
(A PORTION OF COUNTY-OWNED ROAD
(FUND REAL PROPERTY LOCATED NEAR
(NEBRASKA STREET IN EUGENE AND
(IDENTIFIED AS TAX LOT 1500 ON MAP (17-04-
28-11 TO COREY HUBBARD AND (GAYLE
HUBBARD.

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 sell an easement across a portion of County-Owned Road Fund Real property identified as T.L. 17-04-28-11 Tax Lot 1500; and

WHEREAS, said property was acquired in 1978 for an overpass project that would realign Royal Avenue;

WHEREAS, this project was never constructed and the need for the project has since been superseded by the Oregon Department of Transportation's improvements to Beltline Highway; and

WHEREAS, the market value of said easement is estimated to be \$3,000; and

WHEREAS, notice of the County's intent to sell said real property was published on October 7, 2003 in the *Eugene Register-Guard*, a local paper of general circulation, and sale of said real property will occur no less than 15 days after publication of said notice: NOW THEREFORE BE IT

ORDERED that, pursuant to ORS 275.225, the easement be sold to Corey Hubbard and Gayle Hubbard for \$3,000 cash, that the Easement Deed be executed and that the proceeds be disbursed to the Road Fund.

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 _____, 2003.

Peter Sorenson, Chair
Board of County Commissioners

APPROVED AS TO FORM
Date 10/21/03 lane county
Jones
OFFICE OF LEGAL COUNSEL

After Recording Return to, and
Send Tax Statements to:
Lane County Public Works
Right of Way Management Section
3040 N. Delta Highway
Eugene, Oregon 97408

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

PERMANENT EASEMENT

LANE COUNTY, a political subdivision of the State of Oregon, hereinafter called GRANTOR, for the true and actual consideration of **\$3,000.00 dollars**, does hereby grant to **Corey Hubbard and Gayle Hubbard**, for the benefit of parcels 17-04-28-11 tax lots 1100 and 1200, a Permanent Easement for ingress and egress on and over that real property situated in Lane County, State of Oregon, described as follows:

All of that property described in that certain deed to LANE COUNTY, a political subdivision of the State of Oregon, recorded May 31, 1978, on Reel 914, Recorder's Reception Number 7837424, LANE COUNTY OREGON DEED RECORDS, being more particularly described as follows:

"A parcel of land lying in the Northeast quarter (NE ¼) of Section 28, Township 17 South, Range 4 West, Willamette Meridian, and being a portion of the tract of land conveyed to JACK C. and VIOLET D. WILLIAMS, husband and wife, by that certain deed recorded on Reel 409, Recorder's Reception No. 39820 and to DON Q. McCONNELL and VICTORIA R. McCONNELL, husband and wife, by that certain Land Sales Contract recorded on Reel 692, Recorder's Reception No. 7422597, Lane County Oregon Deed Records, said parcel being all that portion of the said real property included in a strip of land 40 feet in width, lying Northerly of and adjacent to the centerline of a road survey of Royal Avenue as surveyed in 1976 the centerline of said road being described as follows:

Beginning at Engineers Centerline Station L² 67+45.04 P.C., said station being 264.28 feet South and 32.83 feet West of the Brass Cap marking the Northeast corner of Section 28, Township 17 South, Range 4 West, Willamette Meridian. Thence along the arc of a 603.11 foot radius curve right (the long chord of which bears South 77° 27' 44" West 309.79 feet) a distance of 313.30 feet, thence North 87° 39' 21" West 8.74 feet to Engineers Station L² 70+67.08 P.O.T. and there ending in Lane County, Oregon.

The Northerly right of way line crosses the grantors Westerly and Easterly property line approximately opposite Engineers Centerline Stations L² 70+68 P.O.T. and L² 69+58 P.O.C. respectively.

The parcel of land to which this description applies contains 0.07 acres, more or less, exclusive of existing right of way.

The bearings used herein are based on the Oregon Coordinate System South Zone."

It is the intent of this easement to be used for ingress and egress only and does not allow for the placement of obstructions or utilities or any other use that would restrict Grantor's use of said parcel for any purpose not inconsistent with Grantee's exercise of the rights granted herein.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING INTEREST TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN O.R.S. 30.930.

IN WITNESS WHEREOF, the undersigned have executed this instrument this _____ day of _____, 20____.

Commissioner

Commissioner

Commissioner

Commissioner

Commissioner

STATE OF OREGON)
) ss.
County of Lane)

On _____, 20____, personally appeared _____

who, duly being sworn, did say that they are members of the Board of Commissioners of Lane County, Oregon and that said instrument was signed and sealed in behalf of Lane County by authority of its Board of Commissioners; and they acknowledged said instrument to be its voluntary act and deed. Before me:

Notary Public for Oregon

My Commission Expires: _____