

W. H. A.

## AGENDA COVER MEMORANDUM

**Memorandum Date:** June 6, 2007

**Agenda Date:** June 20, 2007

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**TO:** Board of County Commissioners

**DEPARTMENT:** Management Services

**PRESENTED BY:** Jeff Turk, Property Management Officer 2

**SUBJECT:** IN THE MATTER OF PROVIDING DIRECTION TO STAFF FOR DISPOSITION OF COUNTY OWNED TAX FORECLOSED PROPERTY IDENTIFIED AS MAP NO. 15-04-16-00-00300 (LOCATED NORTH OF HWY. 99 NEAR HARRISBURG BRIDGE)

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1. **PROPOSED MOTION:** No motion is proposed. Staff is seeking direction from the Board.

2. **AGENDA ITEM SUMMARY:**

The County has listed in its tax foreclosed inventory a 3.24 acre parcel that was a channel of the Willamette River at one time (the parcel was foreclosed in 1967). There are concerns as to whether the property exists as a separate parcel.

An offer to purchase the property has been received (\$5,000 from Robert Laturno). Subsequent to receiving the offer Property Management staff contacted the adjoining owner (Edward Splawn). Mr. Splawn indicated that he has owned his property since 1962, believed the area of the subject property was his and has had the area under cultivation starting about the time he purchased his property.

Property Management staff is asking the Board for direction for disposition of the property with alternatives to include a sale – either to the adjoining owner or other party – offer the property at a Sheriff's sale or further investigate the existence of the property to include a survey.

3. **BACK ROUND/IMPLICATIONS OF ACTION:**

- A. **Board Action and Other History**

The subject property was acquired through tax foreclosure in 1967. It has a current assessed value of \$10,400.

## **Policy Issues**

ORS 275.200 provides for selling County property at private sale, without public notice if a property has been offered at a Sheriff's sale and remained unsold after the sale. The subject property would be eligible for a private sale.

### **C. Board Goals**

A sale of the property would be consistent with the Board's goals of returning tax foreclosed property to the tax roll.

### **Financial and/or Resource Considerations**

Revenue from the sale of tax foreclosed properties is distributed to all of the taxing districts after program costs are first deducted and retained by the County.

### **E. Analysis**

The subject property appears to have been within a channel of the Willamette River at one time. The flow of the channel was minimized by the placement of revetments along the bank of the river (the revetments were placed by the State Highway Department). ORS 274.025 states that title to submersible and submerged lands of navigable waterways is vested in the State and that no person shall acquire any right, title or interest to these lands due to reliction or otherwise (change in course of the river). Based on the statute, title to the subject property may be vested in the State of Oregon. If title is vested in the State then the County's 1967 tax foreclosure would not be valid as the subject property should not have been assessed property taxes (also, statute prohibits foreclosing on public entities).

Should title not be vested in the State then the tax foreclosure may be valid but the situation of how the parcel was created is a concern. Deeds prior to the 1951 deed that included a metes and bounds description of the subject property, conveyed the property adjoining the subject (tax lots 100 & 400) by describing them by their Government Lot number (Government Lots were created by GLO surveyors for land along bodies of water, the boundaries were the meander lines of those bodies of water). As the boundaries of Government Lots are the meander lines of the body of water the Lots adjoin, the County's property would not be included in a conveyance as it was within the meander lines of the Government Lots on either side of it (Lots 7 & 10 on the tax map). When a metes and bounds description was later used to convey tax lot 100 with the area of the County's parcel included and then excluded in a subsequent deed, A&T then set up a tax account and tax lot for the area that was omitted and listed the property as having an unknown owner. Without a listed owner of record tax statements could not be sent.

Mr. Splawn has occupied and cultivated the subject property since at least 1966 (he purchased tax lot 100 in 1962) based on aerial photos. As the County foreclosed on the

subject in 1968, Mr. Splawn would not be able to assert an adverse possession claim as these claims cannot be made against government entities.

If the County is the owner of tax lot 300 then it can dispose of the property in a manner that the Board deems is in the best interest of the County.

**F. Alternatives/Options**

1. Sell the property to Mr. Splawn for an amount determined by the Board. ORS 275.190 provides for selling County property to the “highest and best” bidder. The language provides some discretion where a sale can be made to someone who does not submit the highest offer but is the best offer due to other circumstances. Given Mr. Splawn’s use of the property since at least 1966 and the uncertainty of property line boundaries could justify a sale to Mr. Splawn.
2. Sell the property to Mr. Leturno for his offer of \$5,000.
3. Take no action with respect to selling the property (property would remain in inventory)
4. Direct staff to have a survey done to identify property lines of the County’s property. Preliminary estimates range from \$3,000 to \$15,000. The range is due to the uncertainty of what corners may still be in the ground from previous surveys which would dictate how large of an area would need to be surveyed. A survey would determine if the property exists and where it lays it relationship to the adjoining parcels.
5. Offer the property at a future Sheriff’s sale.

**V. TIMING/IMPLEMENTATION**

Property Management staff will proceed based on direction given by the Board.

**VI. RECOMMENDATION**

It is recommended that the property be sold to the adjoining owner (Alternative 2). Mr. Splawn has indicated he would consider paying \$1,000 - \$2,000 for the parcel.

**VII. FOLLOW-UP**

Property Management staff will implement the direction given by the Board.



## **VII. ATTACHMENTS**

Tax Map

2004 Aerial Photo

1952 Aerial Photo

1966 Aerial Photo

1859 G:LO Map



2004



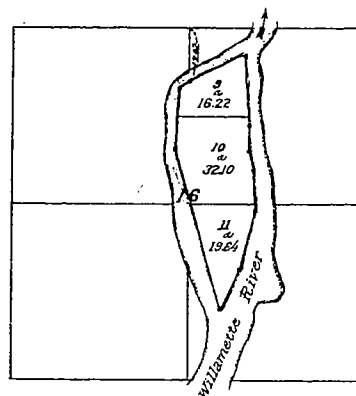
1966





*Township No. 15 South, Range No. 4 West Will. Mer. Or.*

*Recd with Sur. Gen's letter  
of Jan'y. 6, 1863*



*GLO map*

— Scale: 20 chs. to an inch. —

*The above Special plat of an Island in Sec. 16, T. 15 S. R. 4 West  
Will. Mer. Oregon is strictly conformable to the original field  
notes of the Survey thereof on file in this office which have  
been examined and approved.*

*Surveyor General's Office.  
Eugene City, Jan'y. 6, 1863.*

*E. J. Applegate  
Surveyor General of Oregon.*

*I certify this to be a correct copy of the original plat  
on file in this office.  
U.S. Surveyor General's Office  
Portland, Oregon Dec. 7, 1918.*

*Edmund Clarke Smith  
Surveyor General  
of Oregon.*