

W.3.C.2.

AGENDA COVER MEMORANDUM

Memorandum Date: October 22, 2008

Agenda Date: November 5, 2008

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: IN THE MATTER OF AUTHORIZING A SALE FOR \$25,000 OF SURPLUS COUNTY OWNED REAL PROPERTY COMMONLY KNOWN AS BLUE MT. SCHOOL ROAD TO DAVID AND LINDA COLLIER AND RETAINING AN ACCESS EASEMENT FOR PUBLIC USE (ASSESSOR'S MAP NO. 21-02-30-00-00700)

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1. **PROPOSED MOTION:** THE BOARD AUTHORIZES A SALE FOR \$25,000 OF SURPLUS COUNTY OWNED REAL PROPERTY COMMONLY KNOWN AS BLUE MT. SCHOOL ROAD TO DAVID AND LINDA COLLIER WITH RETAINING AN ACCESS EASEMENT FOR THE PUBLIC FROM SAID SALE (ASSESSOR'S MAP NO. 21-02-30-00-00700)

2. **AGENDA ITEM SUMMARY:**

David and Linda Collier have submitted an offer of \$25,000 for County property acquired through tax foreclosure (the Collier's own adjoining property).

The matter was previously discussed at the Board's October 1, 2008 meeting. The Board provided direction to staff at that meeting that the Board would consider authorizing a sale provided an access easement for the Public was retained over the property with the easement language to provide for the County receiving consideration for vacating the easement should it do so at a future time.

The County property is commonly known as Blue Mt. School Rd. however, it is not a dedicated, public road but a private road. The Bureau of Land Management (BLM) has an easement over the road to provide public access to its lands beyond the terminus of the County's property (BLM lands do not abut the County property).

3. **BACKGROUND/IMPLICATIONS OF ACTION:**

A. Board Action and Other History

The subject parcel was acquired through tax foreclosure in June, 1972. The Assessor's records list it as being 2.6 acres with an assessed value of \$505. The property is zoned RR5.

The subject parcel is likely a "legal lot of record" as it was created prior to 1975 when major land use laws were enacted (no official determination by the Land Management Division has occurred).

The subject parcel, tax lot 700, was originally 60 acres. Portions of it were sold over the years with the final portion sold in 1969 leaving the current configuration that had historically been used as a roadway.

In 1961 the BLM acquired an easement over the subject property. The easement provided the BLM with the right to "maintain, construct and control a roadway" and the right to provide "access for the people of the United States" to BLM lands. The BLM has a similar easement over tax lot 601 (Weyerhaeuser property) which lies between the terminus of the subject property and BLM lands.

The subject parcel had never been dedicated as a public road and remained as private property. The portion of Blue Mt. School Rd. that runs Northerly from its intersection with Blue Mt. School Ln. is a dedicated County road (as is Blue Mt. School Ln.).

In 1965 the County issued a building permit to a property owner along the subject parcel based on a letter from the BLM stating that the people of the United States have the right of ingress and egress over the road for all lawful and proper purposes.

In May, 2002 the County, pursuant to Order No. 02-5-1-10, granted an access easement to the then owner of tax lot 702. The easement was necessary as a title report for tax lot 702 revealed the property had no legal access thus preventing its sale.

Mr. and Mrs. Collier own tax lot 701 (7.19 acres) and tax lot 702 (5.59 acres). Both parcels are zoned RR5. Acquiring the subject property may provide the Collier's the opportunity to create an additional parcel that would be suitable for placement of a dwelling. Oregon land use law allows lot line adjustments between two legal lots of records. The Colliers could possibly adjust the lot lines between their 7 acre parcel and the subject property adding enough land to the subject property to support a dwelling (the lot line adjustment would not affect the BLM's easement).

The proposed sale of the subject was first presented to the Board at the October 1, 2008 meeting. The proposed sale did not include the reservation of an access easement for the public. The Transportation Planning division recommended the retention of an access easement to better insure public access to BLM lands. The Board concurred and directed

staff to present an offer that included reservation of an access easement as well as a provision for the County to receive compensation if asked to vacate the easement at a future time.

The Colliers have reviewed the proposed easement language to be included in the deed and are agreeable to a sale with the reservation of a public access easement.

B. Policy Issues

Pursuant to LM 21.425 the County shall dispose of County property not otherwise needed for public purposes thereby returning the property to the tax role.

ORS 275.225 provides for selling property via private sale without first being offered at a public auction provided the parcel has a real market value of less than \$15,000 per the Assessor and is not suitable for placement of a dwelling under current land use regulations.

C. Board Goals

A sale of the property would be consistent with the Board's goals to return surplus property to private ownership and the tax roll.

Retention of a public access easement is consistent with the Board's goal of enhancing access to public lands.

Financial and/or Resource Considerations

The revenue received from a sale of the subject property would go towards funding the Property Management program.

E. Analysis

Retention of an access easement for the public will continue to provide use of Blue Mt. School Road for access to BLM lands. Retention of the easement should not affect the buyer's ability to pursue a lot line adjustment in an effort to create another site for a dwelling. Retention of a public access easement will not affect the BLM's existing easement to provide access to its lands.

The initial offer presented to the Board did require the buyer to enter into separate access agreements with other property owners who adjoin the road or use it for access to their property. The retention of a public access easement negates the need for individual easements with other properties that adjoin the road or use it for access to their property. The Board may wish to still require the buyer to execute individual access easements however, the Board could request this be done as a condition to vacate the public access easement if it chooses to do so at a future time.

The \$25,000 sale price is reasonable consideration for the County. The value of the subject property lies in its ability to be used by an adjoining owner to create a parcel suitable for a dwelling thereby limiting the market to maximize the value received for the parcel (the subject, in its current configuration, is not suitable for placement of a dwelling). The market value of a buildable parcel created with use of the subject property can range from \$60,000 - \$80,000 depending on its size and other final attributes after a lot line adjustment is completed. The Collier's will incur costs of approximately \$10,000 - \$15,000 to complete the lot line adjustment process (application fees for legal lot verification and lot line adjustments are \$4,500, a survey will also be required). The Collier's are also incurring the risk that a lot line adjustment can be done, that the newly created lot will qualify for a dwelling (septic, well approvals) and that the parcel can be sold for fair market value in a reasonable time.

ORS 275.225 provides for selling County property at private sale if the property has a real market value per the Assessor of less than \$15,000 and is unsuitable for the placement of a dwelling under current land use regulations. The subject parcel meets the criteria for a private sale. Notice of a sale was published in the Register-Guard on August 18, 2008. The Board can sell the parcel not less than 15 days from the date of publication.

F. Alternatives/Options

1. Accept the Collier's offer of \$25,000 with the County retaining an access easement for the public and the right to receive consideration for vacating the easement.
2. Retain the subject parcel and dedicate it as a public road.
3. Direct staff to negotiate other terms that may be desired by the Board.

V. TIMING/IMPLEMENTATION

No timing issues are present.

VI. RECOMMENDATION

It is recommended that option 1 be pursued.

VII. FOLLOW-UP

Upon approval of the sale, the Quitclaim Deed will be executed by the Board and staff will close the transaction.

VII. ATTACHMENTS

Board Order; Quitclaim Deed (with easement reservation)
BLM Easement; Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING A SALE FOR \$25,000
OF SURPLUS COUNTY OWNED REAL PROPERTY
COMMONLY KNOWN AS BLUE MT. SCHOOL ROAD TO
DAVID AND LINDA COLLIER AND RETAINING AN
ACCESS EASEMENT FOR PUBLIC USE (ASSESSOR'S MAP
NO. 21-02-30-00-00700)

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 the following real property which was acquired through tax foreclosure, to wit:

See 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 real property is assessed under \$15,000 on the most recent tax roll and is unsuited for the placement of a dwelling and

WHEREAS notice of the County's intent to sell said real property was published on August 18, 2008 in the Eugene Register-Guard and sale of said real property shall occur 15 days after publication of said notice

IT IS HEREBY ORDERED that, pursuant to ORS 275.225 and ORS 275.275, the real property be sold to David J. Collier and Linda D. Collier for \$25,000, that the Quitclaim Deed conveying said property provide for an access easement to the public and provide for the County being compensated if said easement is vacated, that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$24,800
General Fund	(124-5570260-436521)	200

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____.

Faye Stewart, Chair, Board of County Commissioners

IN THE MATTER OF AUTHORIZING A SALE FOR \$25,000 OF SURPLUS COUNTY OWNED REAL PROPERTY COMMONLY KNOWN AS BLUE MT. SCHOOL ROAD TO DAVID AND LINDA COLLIER AND RETAINING AN ACCESS EASEMENT FOR PUBLIC USE (ASSESSOR'S MAP NO. 21-02-30-00-00700)

APPROVED AS TO FORM

Date 10-22-08 lane county

OFFICE OF LEGAL COUNSEL

EXHIBIT A

Being in Section 30, Township 21 South, Range 2 West of the Willamette Meridian, and more particularly described as follows: All that portion lying 20.00 feet on each side of centerline from Engineer's Station 0+00 to Station 12+55.00 and 30.00 feet on each side of centerline from Engineer's Station 12+55.00 to Station 22+56.82, the centerline of which is described as follows: Beginning at Engineer's Station 0+00, which point lies 732.50 feet North and 3289.00 feet East of the West one-quarter corner of Section 30, Township 21 South, Range 2 West of the Willamette Meridian; thence South 18° West 100.08 feet; thence South 48° West 335.90 feet; thence South 63° West 110.10 feet; thence South 85° West 199.40 feet; thence South 65° West 139.70 feet; thence South 32° 30' West 140.00 feet; thence South 11° 30' West 150.00 feet; thence South 16° West 80.00 feet to Engineer's Station 12+55.00; thence South 16° West 287.00 feet; thence South 27° 30' West 259.00 feet; thence South 38° West 90.00 feet; thence South 56° 30' West 369.70 feet; thence South 60° West 283.12 feet to Station 22+56.82 and also the East property line which is described in instrument Recorded on Reel 467, Reception No. 47836, Lane County Oregon Records.

EXCEPT that portion which lies in Oregon, Pacific and Eastern Railway's property, which is the Northwest one-quarter of Section 30, all in Lane County, Oregon.

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, pursuant to Order No. _____ of the Board of County Commissioners of Lane County, releases and quitclaims to:

David J. Collier and Linda D. Collier

all its right, title and interest in that real property situated in Lane County, State of Oregon, described as:

See Attached Exhibit "A"

RESERVING THERE FROM an easement to the Public for ingress and egress over the herein conveyed property, and, notwithstanding, among other things, any rights an adjacent property owner may have on vacation of this easement, the Grantor further reserves a right to sell or convey said easement upon any terms and conditions at its sole discretion

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES 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 FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007

The true and actual consideration for this transfer is: \$25,000.00

This space reserved for recording sticker

LANE COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2008 personally appeared _____,

_____, _____, _____, _____,

_____, County Commissioners for Lane County, and acknowledged the foregoing instrument to be their voluntary act. Before me:

After recording, return to/taxes to:

David J. & Linda D. Collier
75506 Blue Mt. School Rd.
Cottage Grove, OR 97424

Notary Public for Oregon

My Commission Expires _____

ELT - 56046
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Legal Description

EXHIBIT A

Being in Section 30, Township 21 South, Range 2 West of the Willamette Meridian, and more particularly described as follows: All that portion lying 20.00 feet on each side of centerline from Engineer's Station 0+00 to Station 12+55.00 and 30.00 feet on each side of centerline from Engineer's Station 12+55.00 to Station 22+56.82, the centerline of which is described as follows: Beginning at Engineer's Station 0+00, which point lies 732.50 feet North and 3289.00 feet East of the West one-quarter corner of Section 30, Township 21 South, Range 2 West of the Willamette Meridian; thence South 18° West 100.08 feet; thence South 48° West 335.90 feet; thence South 63° West 110.10 feet; thence South 85° West 199.40 feet; thence South 65° West 139.70 feet; thence South 32° 30' West 140.00 feet; thence South 11° 30' West 150.00 feet; thence South 16° West 80.00 feet to Engineer's Station 12+55.00; thence South 16° West 287.00 feet; thence South 27° 30' West 259.00 feet; thence South 38° West 90.00 feet; thence South 56° 30' West 369.70 feet; thence South 60° West 283.12 feet to Station 22+56.82 and also the East property line which is described in instrument Recorded on Reel 467, Reception No. 47836, Lane County Oregon Records.

EXCEPT that portion which lies in Oregon, Pacific and Eastern Railway's property, which is the Northwest one-quarter of Section 30, all in Lane County, Oregon.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of \$ 2,340.00, receipt of which is heraby acknowledged,

do hereby grant, bargain, sell, and convey to the UNITED STATES OF AMERICA and its assigns, a perpetual easement and right-of-way, including but not limited to the right and privilege to locate, construct, relocate, maintain, control, and repair a roadway over and across the following described real property situated in the County of Lane, State of Oregon, to wit:

Tract 1:

DEPARTMENT OF THE INTERIOR
UNITED STATES OF AMERICA

EXCEPT THE FOLLOWING TRACT CONVEYED TO THE OREGON, PACIFIC, AND EASTERN RAILWAY COMPANY: A parcel or tract of land lying in the Southwest quarter of the Northeast quarter (SW¹/₄NE¹/₄), the Southeast quarter of the Northwest quarter (SE¹/₄NE¹/₄), and the East half of the Southwest quarter (E¹/₂SW¹/₄) of Section 30, Township 21 South, Range 2 West of the Willamette Meridian, being a portion of that parcel or tract of land which was conveyed to Jim Bostick by that certain deed recorded in Volume 251, page 587 of the Lane County Record of Deeds. Said parcel or tract being more particularly described as follows: Beginning at the extreme North corner of said Jim Bostick property, said point bearing North 693.12 feet and East 3296.5 feet from the one quarter corner between Section 25, Township 21 South, Range 3 West, Willamette Meridian, and Section 30, Township 21 South, Range 2 West, Willamette Meridian; thence South 47° 56' West for a distance of 346.30 feet to a point; thence South 46° 17' West for a distance of 317.10 feet to the beginning point of a curve to the left having a radius of 607.96 feet; thence along the arc of said curve to the left to its ending point, said point bearing South 31° 07½' West a distance of 340.80 feet from the last described point; thence North 75° 09' West for a distance of 15.0 feet to a point; thence South 14° 51' West for a distance of 237.80 feet to a point; thence South 75° 09' East for a distance of 15.0 feet to a point opposite and 35 feet from Engineer's center line Station 264 + 50; thence South 14° 51' West for a distance of 2150.0 feet to a point opposite and 35 feet Northwesterly from Engineer's centerline Station 286 + 00; thence North 75° 09' West for a distance of 25.0 feet to a point; thence South 14° 51' West for a distance of 340.81 feet to a point on the South line of said Section 30; thence along said section line, North 89° 33' East for a distance of 98.49 feet to a point; thence North 14° 51' East for a distance of 2702.63 feet to the beginning point of a curve to the right having a radius of 537.96 feet; thence along the arc of said curve to the right to its ending point; said point bearing North 31° 07½'

East a distance of 301.57 feet from the last described point; thence North $47^{\circ} 24'$ East for a distance of 110.29 feet to a point; thence South $42^{\circ} 36'$ East for a distance of 81.47 feet to a point in the center of Mosby Creek; thence along the centerline of said Mosby Creek the following courses and distances; North $40^{\circ} 58\frac{1}{2}'$ East for a distance of 114.07 feet to a point; thence North $47^{\circ} 02'$ East for a distance of 180.60 feet to a point; thence North $52^{\circ} 59\frac{1}{2}'$ East for a distance of 227.17 feet to a point; thence North $31^{\circ} 04'$ West for a distance of 166.00 feet to the point of beginning, in Lane County, Oregon.

Tract 2;

A parcel or tract of land lying in the Southwest quarter of the Northeast quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 21 South, Range 2 West of the Willamette Meridian, and being a portion of that parcel or tract of land which was conveyed by that certain deed to Leslie W. Scott and Grace E. Scott, recorded in Book 358, Page 568 of Lane County, Oregon Deed Records; said parcel or tract of land being more particularly described as follows: Beginning at a point which bears South 1919.24 feet and East 642.92 feet from the one-quarter section corner between Sections 19 and 30 of said township and range; thence South $47^{\circ} 56'$ West for a distance of 346.3 feet to a point; thence South $79^{\circ} 39'$ West for a distance of 86.80 feet to a point on a curve to the left having a radius of 170.98 feet; thence along the arc of said curve to its beginning point, which bears North $55^{\circ} 18' 27''$ East a distance of 43.98 feet from the last described point; thence North $47^{\circ} 56'$ East for a distance of 384.38 feet to a point; thence South $31^{\circ} 04'$ East for a distance of 40.75 feet to the point of beginning, in Lane County, Oregon.

ALSO EXCEPT THE TRACT OF LAND CONVEYED TO Roland M. Guy and Nina B. Guy; said tract being all that portion of the hereinabove described Tract 1 and Tract 2 lying North of the East-West centerline of said Section 30, Township 21 South, Range 2 West of the Willamette Meridian, Lane County, Oregon, lying North and West of the West Right-of-Way line of that certain logging road described here.

Said parcel being all that portion of said property contained within a strip of land of varying width, being 20 feet to 30 feet on each side of the centerline of the existing road as it is located along a traverse line described as follows:

Beginning at Engineer's Station 0+00, which point lies 732.5 feet North and 3289.0 feet East of the West one-quarter corner of said Section 30; thence South 18° West for a distance of 100.0 feet; thence South 48° West for a distance of 335.9 feet; thence South 63° West for a distance of 110.0 feet; thence South 85° West for a distance of 199.4 feet; thence South $65\frac{1}{2}^{\circ}$ West for a distance of 139.7 feet; thence South $32\frac{1}{2}^{\circ}$ West for a distance of 140.0 feet; thence South $11\frac{1}{2}^{\circ}$ West for a distance of 150.0 feet; thence South 16° West for a distance of 80.0 feet to Engineer's Station 12+55.0; thence South 16° West for a distance of 287.0 feet; thence South $27\frac{1}{2}^{\circ}$ West for a distance of 245.0 feet; thence South 38° West for a distance of 90.0 feet; thence South $56\frac{1}{2}^{\circ}$ West for a distance of 369.7 feet; thence South 60° West for a distance of 339.0 feet; thence South 56° West for a distance of 100.0 feet to Engineer's Station 26+99.7, which point lies 1060.5 feet South and 1518.7 feet East of the West one-quarter corner of said Section 30; which road is more particularly described on Exhibit A, which is attached hereto and made a part hereof.

Station to Station	Width on Right Side of Centerline	Width on Left Side of Centerline
0 + 00 to 12 + 55.0	20 feet	20 feet
12 + 55.0 to 26 + 99.7	30 feet	30 feet

The parcel of land to which this description applies contains 2.8 acres, more or less.

36823

The rights and privileges herein granted are for the full use as a roadway by the Grantee, its licensees and permittees, including the right of access for the people of the United States generally to lands owned, administered or controlled by the UNITED STATES OF AMERICA for all lawful and proper purposes subject to reasonable rules and regulations of the Bureau of Land Management.

TO HAVE AND TO HOLD said easement and right-of-way unto the UNITED STATES OF AMERICA and its assigns forever.

The Grantors covenant and warrant that they are lawfully seized and possessed of the land aforesaid and have the full right, power and authority to execute this conveyance, and that they will defend the title to the easement and right-of-way conveyed herein and quiet enjoyment thereof against any claims and demands of all persons whomsoever and that said land is free and clear of liens, claims, or encumbrances, including current or past due taxes.

Dated this 17 day of June, 1961.

Accepted subject to approval of
title by the Department of Justice:

Harold C. Lynd
District Manager
Bureau of Land Management

James E. McIlhenny
Drew L. Williamson

