

W.3.C.1.

AGENDA COVER MEMORANDUM

Memorandum Date: August 20, 2008

Agenda Date: September 3, 2008

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$1,201 TO CHARLES AND PAULA RASLER (MAP NO. 18-15-33-00-00108, ADJACENT TO 42145 BIG FALL CREEK ROAD, FALL CREEK)

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$1,201 TO CHARLES AND PAULA RASLER (MAP NO. 18-15-33-00-00108, ADJACENT TO 42145 BIG FALL CREEK ROAD, FALL CREEK)

2. **AGENDA ITEM SUMMARY:**

Two offers have been submitted for the subject property. One is from Charles and Paula Rasler, adjoining owners of the subject property, for \$1,201. One is from Curtis Hubele for \$1,200 (Mr. Hubele does not own property adjacent to the subject).

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

A. Board Action and Other History

The subject property was acquired through tax foreclosure in May, 1992. The subject is .26 acre (56'x 220'), is zoned RR5 and has an assessed value of \$1,028. The property was offered at a Sheriff's sale on January 25, 1993 with a minimum bid of \$630.

The subject was created by deed in 1979 when it was sold to the then owners of tax lot 104 (the subject was a remainder from a larger property that was partitioned into 2 lots in 1978).

The subject property remained a separate tax lot and was not included in a bank foreclosure of tax lot 104 in 1985.

The subject property is used for access by tax lot 104. Tax lot 104 has a recorded easement from Fall Creek Rd. along the panhandle of tax lot 105 and then crosses the subject for access. There is no recorded access easement across the subject property for tax lot 104.

The Rasler's are the current owners of tax lot 104 having purchased it in 1999.

Mr. Hubele submitted the initial offer of \$1,200 for the subject. Given the access situation for tax lot 104, the possible encroachment of a shed on the subject from tax lot 104 and the uncertainty of whether the access road on tax lot 105 meandered onto the subject (the road serves 3 properties) Mr. Hubele was informed that all of the adjoining owners to the subject property would be informed of his interest and the access situation. Mr. Hubele was also informed that the county would likely request that access issues be resolved before considering his offer.

Letters were sent to the adjoining owners of the subject. In addition, Mr. Hubele sent letters to the adjoiners noting his interest in the subject and his willingness to work out any access issues that were present.

The adjoining owners contacted me for additional information on the matter. The Rasler's, owners of tax lot 104, were particularly concerned as they use the subject for access to their property (the Rasler's thought they had an easement over the subject).

The Rasler's submitted a competing offer of \$1,201. Mr. Hubele was informed of their offer and chose not submit a counter offer.

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 sale price cannot be for less than 15% of the minimum bid set at the sale. The subject property meets the criteria 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.

D. 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 as it is presently configured would not qualify for a dwelling due to the inability to site a septic system and well. Additionally, it is my opinion that the property is not a "legal lot of record" as it was created in 1979 without going through the partition process that would have been required (a parcel must be a legal lot of record to be improved with a dwelling). The property was not included in a 1978 partition of an adjoining property that created tax lots 105 and 109. It should be noted that the Land Management Division has not done a formal legal lot verification for the subject.

It is likely that the subject was sold in 1979 to the then owners of tax lot 104 to provide legal access.

It is not known what Mr. Hubele's use of the subject property would be if he purchased it. Even if the parcel were a legal lot of record he would need to acquire additional property from an adjoining owner through a formal lot line adjustment process to make the subject large enough to meet sighting requirements for a well and septic system.

F. Alternatives/Options

1. Sell the property to the Rasler's for \$1,201 (the adjoining owners).
2. Sell the property to Mr. Hubele for \$1,200 as his offer was submitted first.
3. Reject both offers and direct staff to obtain additional offers from the parties.
4. Reject both offers and offer the property at the next scheduled auction.

V. TIMING/IMPLEMENTATION

None.

VI. RECOMMENDATION

It is recommended that Option 1 be pursued. Given the uncertainty of sighting a dwelling on the subject property a sale to the Raslers would clear up access issues to their property.

VII. FOLLOW-UP

If the offer is accepted, Property Management staff will finalize the transaction.

VII. 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 FOR \$1,201 TO CHARLES AND PAULA RASLER (MAP NO. 18-15-33-00-00108, ADJACENT TO 42145 BIG FALL CREEK ROAD, FALL CREEK)

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 parcel was offered at a Sheriff's sale on January 25, 1993 with a minimum bid of \$630 and remained unsold at the close of the sale and

WHEREAS the Board has deemed the offer from Charles and Paula Rasler to be the highest and best offer submitted

IT IS HEREBY ORDERED that pursuant to ORS 275.200 and ORS 275.275, the above described parcel be sold to Charles and Paula Rasler for \$1,201; that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$1,122.00
General Fund	(124-5570260-436521)	79.00

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 ____.

Faye Stewart, Chair, Board of County Commissioners

APPROVED AS TO FORM

Date 8-21-08 lane county

OFFICE OF LEGAL COUNSEL

IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$1,201 TO CHARLES AND PAULA RASLER (MAP NO. 18-15-33-00-00108, ADJACENT TO 42145 BIG FALL CREEK ROAD, FALL CREEK)

EXHIBIT "A"

**LEGAL DESCRIPTION
MAP NO. 18-15-33-00-00108**

Beginning at a ½ inch iron pipe marking the North ¼ corner of Section 33, Township 18 south, Range 1 East of the Willamette Meridian; thence N. 88° 34' 39" W. 1296.75 feet to a ½" iron pipe marking the Northwest corner of the Northeast ¼ of the Northwest ¼ of said section 33; thence S 1° 07' 49" W 1786.30 feet to a 5/8" iron rod; thence S 88° 52' 11" E 264.19 feet to the TRUE POINT OF BEGINNING being marked by a 5/8" iron rod; thence S 53° 19' 50" E 225.00 feet to a 5/8" iron rod on the Northerly boundary of the Fall Creek Reservoir (also being the Northerly boundary of the Fall Creek County Road # 1988); thence along said Northerly boundary N 40° 02' 46" E 55.38 feet to a 5/8" iron rod; thence leaving said Northerly boundary N 54° 30' W 203.17 feet to a 5/8" iron rod; thence S 62° 50' 50" W 56.98 feet to the TRUE POINT OF BEGINNING, 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:

Charles and Paula Rasler

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

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. 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 APPROVED USES, 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 197.352.

The true and actual consideration for this transfer is \$1,201.00

LANE COUNTY BOARD OF COMMISSIONERS

This space reserved for recording sticker

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2007 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:
Charles and Paula Rasler
PO Box 1092
Fall Creek, OR 97438

Notary Public for Oregon
My Commission Expires _____

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