

W. G. A.

**AGENDA COVER MEMO**

---

**AGENDA DATE:** March 9, 2005  
**TO:** Board of County Commissioners  
**DEPARTMENT:** Public Works – Land Management Division  
**PRESENTED BY:** Jeff Towery, Manager  
**AGENDA TITLE:** DISCUSSION/COMPLIANCE PROGRAM – EXPIRED PERMITS

---



**I. Introduction**

On June 16, 2004, the Board approved a proposal to add 1.0 FTE for a Land Management Technician (LMT) to expand the Compliance Program. The new position allows the program to consistently pursue compliance for expired building permits and support additional compliance activities. This report is intended to describe the implementation of this effort, including the impacts and challenges for staff and customers and to facilitate a Board discussion and consideration of any revised policy direction the Board wishes to pursue.

**II. Program Overview**

Beginning in FY04-05, the Compliance Program was expanded to 3.0 FTE. The new structure helps focus the efforts of the Program. Having two LMT positions who receive functional and technical supervision from the remaining Compliance Officer, who reports directly to the Land Management Division Manager, will help ensure consistent implementation of the Board-approved Philosophy and Priorities for Enforcement as well as allow for work efforts to be focused and prioritized as demands present themselves. The two LMT positions will be dedicated to expired permit activities (approximately 0.5 FTE) and to other compliance activities including file research and maintenance, field work and correspondence (approximately 1.5 FTE). From January through August 2004, the division utilized an extra help position roughly half time to follow up on expired building permits. The two LMT positions were filled in early September.

Several approaches have been adopted in order to fully inform customers about the lifespan of a permit and their responsibilities. Each building permit includes the following notice:

Failure to secure an inspection within 180 days of the date issued -or- if the inspections lapse by more than 180 days, prior to receiving final approval to occupy the structure, will cause your permit to expire by limit. A new permit will then be required.

A similar notice has been included for at least the last 20 years. In addition, a handout is inserted in the packet that the customer receives with their permit titled: ONLY YOU CAN KEEP YOUR PERMIT VALID. Finally, each month, letters are sent out when permits are within 30 days of expiring (one time for each permit), notifying the applicant that their permit is going to expire in 30 days unless they request an inspection. These letters have been

sent out for about the past four years. On average, the division generates about 70 notices of expired permits per month. Each day, our system automatically notifies Compliance staff how many permits have expired.

A strict application of the building code would result in the issuance of a new permit (at full cost) for all expired permits that were more than one year old. Our interpretation allows the customer to reinstate the permit for 50% of the cost. In addition, we credit the expired permit for work done (planning sign-off, plan checking, inspections completed). The final cost for reinstatement will be at least 30% of the total permit cost. Expired permits fall into two broad categories that we will refer to as "history" and "current". Any permits that are issued prior to 1998 are referred to as "history permits". All that really means is that they were issued before the current tracking software was installed. A majority of the expired permits that we have pursued are those identified during our ongoing notification and tracking process (current permits near the 180 day expiration limit although they may have been issued years ago). We don't seek out these older permits for action; we deal with them as we become aware of them. Most typically we learn about them when new improvements or updates to older projects are planned. Real estate disclosure statements also address permit and inspection history so property transactions and the associated financing can give rise to expired permits as well. In addition, we work hard to treat all of these cases in a consistent manner while respecting the individual circumstances involved.

The Board has appropriately adopted policies that set out our responsibility to ensure that structures are placed and constructed within the standards set out in the building code. Our ability to do that through inspection is contingent on having active permits in place. While our approach with expired permits is consistent with the policies the Board has adopted for Code Enforcement (Attachments C and D), there are a number of areas where discretion and interpretation come into play.

### **III. Program Implementation**

Since January 2004, some 330 permits have been reinstated, generating almost \$110,000 for Building and Compliance activities. Records show that more than 6,000 permits are in the tracking system, nearly 2,500 newer than August, 1998. Since September of last year, current permits represent about 60% of the reinstatements and 40% of the revenue. A number of commercial history permits have been reinstated, apparently driving the disparity between proportional volumes compared to revenues. Over time, history permits should have equal or lesser value than current permits. Staff does not pursue reinstatement of mechanical, wood stove, agricultural buildings or Temporary Hardship Mobile Home placement permits. Due to a lack of records related to the transfer of the electrical program, reinstatement is not required when a final building inspection is held up pending a final electrical inspection. More details are shown on Attachment A.

As one might expect, it requires more staff time to process the reinstatement of a history permit than a current permit. Additional file research, calculations and the creation of new building permits result in roughly twice the time required to administer a file. There also tend to be more customer inquiries related to history permits. Attachment B maps the timelines for processing each type of permit. Typically, after a customer receives a letter requesting voluntary compliance, they ask for a meeting with compliance or building staff and upon review pay for the reinstated permit. There have only been two or three cases (all history permits) when an Order to Comply has been a necessary step to gain compliance.

There are several sets of circumstances that cause customers a higher level of anxiety and/or present particular challenges to staff; there is a new property owner, other permits or applications have been processed since the permit expired, permits are only missing final inspections. And, as would be expected, the older a permit is, the more likely there is to be elevated concern by customers and staff about enforcement. Currently, permits in these categories are being handled in the same manner as all other permits. While it might be tempting to simply choose not to deal with reinstatement in these more challenging circumstances or to select a point in time prior to which we would not pursue enforcement, there are some mitigating factors to take into consideration. Most importantly, the lack of approved inspections could mean that there are fire and life safety risks on the property. There could also be code deficiencies that would impact future improvements. In certain circumstances, the deficiencies might require a new permit at a higher cost than a reinstated permit. The existence of expired permits can cloud titles or impact a person's ability to gain financing or insurance coverage for the structure.

#### **IV. Options for Consideration**

##### **A. Continue Current Practice**

Pros – A single set of standards makes for a consistent approach and is easier to administer.

Cons – May not be flexible enough to address the variety of issues and circumstances that arise.

##### **B. Do Not Pursue Reinstatement of Permits of a Certain Age or in Particular Categories**

Pros – May avoid controversy or uncomfortable customer interactions.

Cons – An arbitrary standard may not allow for consistent application of key code provisions and could result in higher long term costs for the customer and/or the county.

##### **C. Consider Reducing or Waiving Fees When Other Permits or Applications Have Been Issued for the Property and/or Structure**

Lane Manual 60.850 does allow for a reduction of fees "...when higher fees result from a staff processing error..." and we could reasonably determine that the issuance of additional permits was such an error.

Pros – Allows for implementation of the code while demonstrating the County's willingness to take responsibility for prior inaction.

Cons – May create a perception of inequity for customers who did not receive such consideration.

##### **D. Limit Fees for Final Inspections**

When final inspection(s) can be conducted by a single field visit by an inspector, charge only a re-inspection fee (currently \$54).

Pros – Allows for implementation of the code while resulting in a minimal cost for the customer.

Cons – May create additional work and cost if corrections are required or inspections cannot be completed in single visit.

**E. Lower “Floor” for Reinstatement Fees**

After calculating credits for work done, the minimum reinstatement fee could be lowered from the current standard (30%).

Pros – Allows for lower cost for the customer.

Cons – May create a perception of inequity for customers who did not receive such consideration.

**V. Possible Board Actions**

- To receive and file the report.
- To request additional information.
- To give direction, regarding any or all of the options presented.

**VI. Attachments**

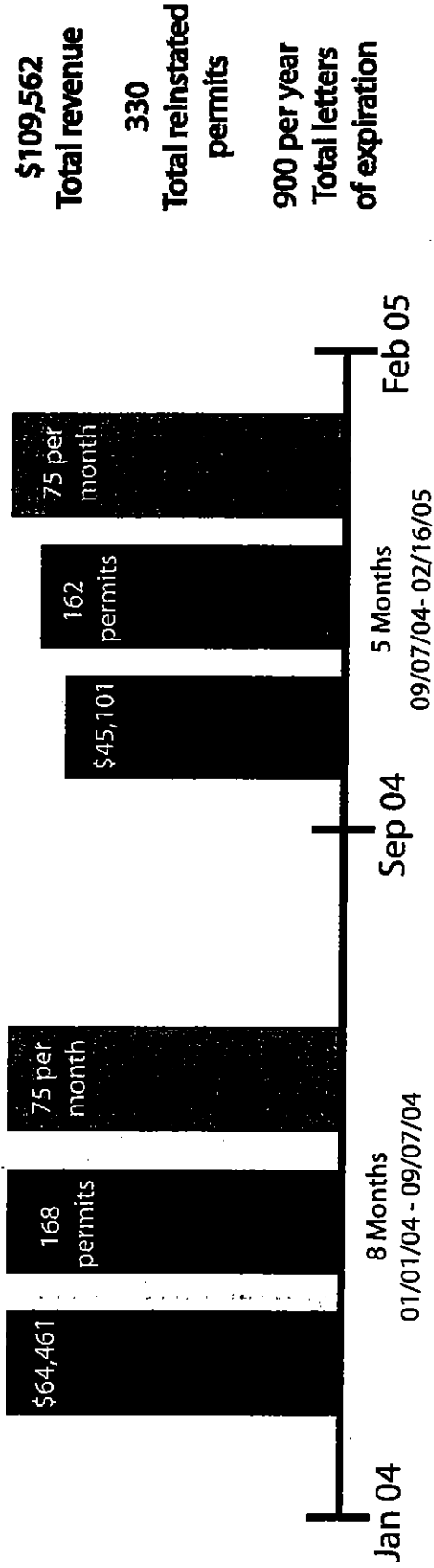
Attachment A – Expired Permit and Revenue Data

Attachment B – Timelines for Processing Expired Permits

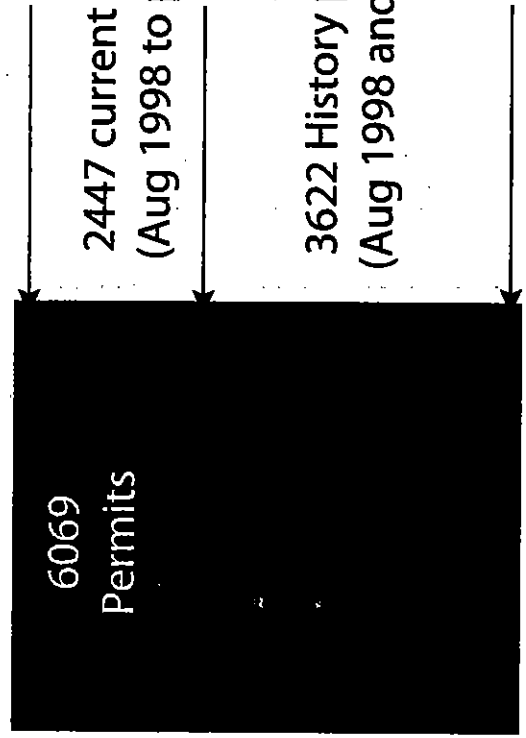
Attachment C – Code Enforcement Guiding Principles and Philosophy

Attachment D – Priorities for Code Enforcement

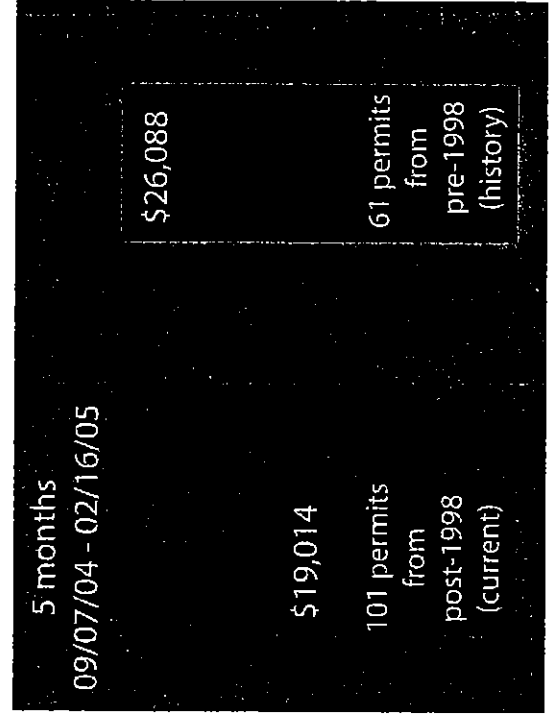
**Total Revenue, Reinstated Permits, and Expiration Letters for 13 months**



**Total Number of Expired Permits**



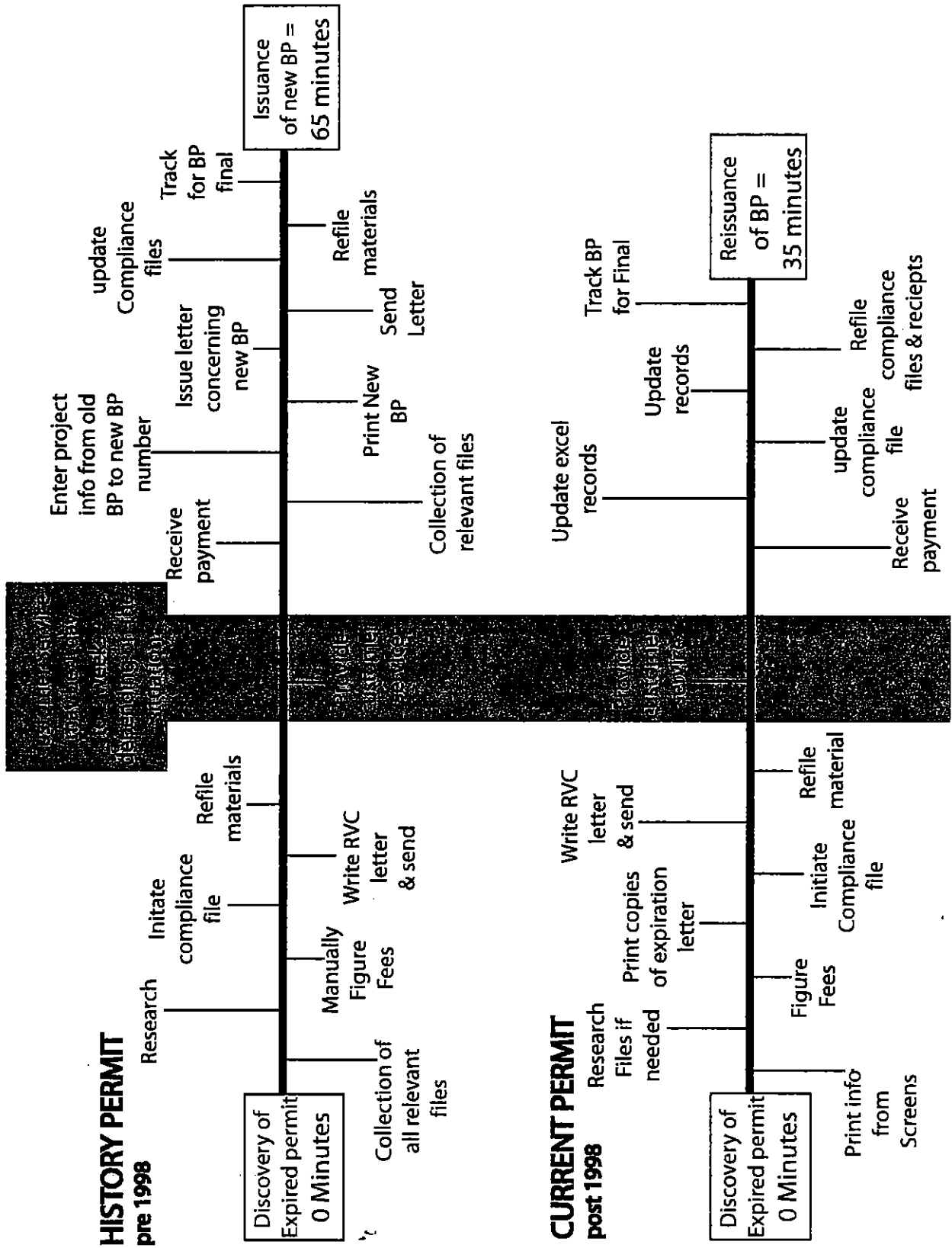
**Revenue for History and Current Permits**



# Timelines for Processing Expired Permits

Each process covers the administrative efforts to process an expired permit

Does not include time spent for customer service (1 day-2 weeks), BP tracking (up to 180 days+), or inspections (180 days+).



Lane County  
Code Enforcement Guiding Principles and Philosophy

**Guiding Principle** – Protect the health and safety of County residents by protecting the environment.

The Board of County Commissioners has put a process in place to resolve code violations that impact citizens' health, life, safety and the environment.

**Guiding Principle** – Administer the abatement and compliance program in an aggressive and uniform manner utilizing realistic and consistent practices to achieve compliance, such as incentive programs, not just penalties.

Investigations will be both complaint driven and self-initiated at the professional discretion of the compliance staff with the goal of achieving voluntary compliance with the Lane Code requirements rather than imposing fines on the property owner or responsible party. Penalty provisions have been designed to provide a method of enforcement that is flexible enough to accomplish the purpose of enforcement, but also constrained enough so that enforcement actions are taken responsibly. If ultimately, voluntary compliance cannot be reached, a formal enforcement process involving a hearings officer or the Court will be instituted. Typically, cases will progress to more aggressive enforcement steps when customers are not responsive to requests for voluntary correction.

**Guiding Principle** – Increase service by providing clear direction and information about activities that require building permits (i.e. deck heights, garage conversion).

By incorporating more information about the Compliance Program into public information such as application materials and the Lane County web site, violations will be avoided and compliance will be encouraged.

**Guiding Principle** – Processing of complaints should apprise complainant of progress on the issue.

The program will be administered with the care necessary to preserve the rights and interests of all citizens of Lane County. Compliance files are public records and when applicable, formal progress reports will be provided to interested parties.

**Guiding Principle** – Support and actively enforce regulations consistent with enforcement priorities adopted by the Board of County Commissioners.

Because of limited code enforcement resources, there may be times when all code violations cannot be given the same level of attention and when some code violations may receive no attention at all. In circumstances where not all code violations can be investigated, the most serious violations, as determined by priorities adopted by the Board, should be addressed before the less serious violations are addressed, regardless of the order in which the complaints are received. Efforts to bring an entire property into compliance could result in actions that address complaints of varying priorities.

Lane County  
Priorities for Code Enforcement

The following levels were prioritized with consideration given to the most serious impact to citizens' health, life, and safety, and to the environment. Examples given are intended to illustrate typical violations rather than provide an all-inclusive list.

**Level 1 Priority** – Violations that present an imminent threat to public health and safety or the environment.

Building: This would include property owners or contractors failing to obtain the permits and approval for primary structures, detached structures greater than 300 square feet which involve improvements that compromise structural integrity or new buildings without permits.

Dangerous Buildings: These are buildings that consist of violations from Section 302 of the Dangerous Building Code. Examples include buildings damaged by fire, earthquake, wind or flood; those likely to partially or completely collapse due to dilapidation, deterioration or decay, faulty construction or ground instability; a building or structure that is unsafe for use.

Planning: Violations involving land use activities that impact environmental or natural resources (adverse impact has occurred or appears to be imminent such as riparian violations, illegal mining, illegal mass gatherings, illegal dump sites).

Nuisance: Methamphetamine labs or other properties that have been deemed "Unfit for Use" by the State of Oregon Department of Human Services.

**Level 2 Priority** – Violations that will have an adverse impact on citizens, including surrounding property owners and the environment.

Building: Failing to obtain the permits and approval for free standing structures less than 300 square feet, decks, covered and uncovered; building without permits.

Nuisance: Solid waste, inoperable vehicles.

Planning: Businesses operating without land use approval, temporary mobile home violations, residential use of RVs, floodplain/floodway violations.

**Level 3 Priority** - Violations will have a minimal impact on surrounding property owners and the environment.

Planning: Number of animals allowed within a zone.

Nuisance: Overgrown vegetation, noise and signs.

**Exceptions** – At the discretion of the compliance officer, complaints may be processed in any order that maximizes the efficiency of enforcement. There are violations of environmental standards, particularly within certain waterways, that other agencies are better suited to enforce. In those instances, a referral to the appropriate agency may occur.