

W. S. D. 1.

AGENDA COVER MEMORANDUM

Memorandum Date: December 22, 2010

Agenda Date: January 5, 2011

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: ORDER/IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$30.00 TO THE CITY OF COTTAGE GROVE, FORMER OWNER OF RECORD (MAP #20-03-27-32-01800, ACROSS FROM 320 GATEWAY BLVD., COTTAGE GROVE)

PROPOSED MOTION: THE BOARD MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY FOR \$30.00 TO THE CITY OF COTTAGE GROVE, FORMER OWNER OF RECORD (MAP #20-03-27-32-01800, ACROSS FROM 320 GATEWAY BLVD., COTTAGE GROVE)

1. **AGENDA ITEM SUMMARY:**

The subject parcel was incorrectly foreclosed upon by Lane County in 1980 as the City of Cottage Grove was the owner of record (public entities cannot be foreclosed upon). Selling the property to the City under the provisions of ORS 275.180, which provides for the sale of tax foreclosed property back to the former owner, would be the most expeditious way to clear title issues.

The Gateway Blvd. right of way runs through the subject parcel.

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

A. **Board Action and Other History**

The subject property is .31 acres and is zoned tourist/commercial by the City. The Gateway Blvd. right of way runs through approximately the Northern 2/3 of the parcel with the remainder being unimproved, useable land.

The City of Cottage Grove purchased the property for \$19,000 in September, 1973 for the Gateway Blvd. project. The deed, however, was not recorded until August, 1975.

Pursuant to a Judgment and Decree in May, 1979 the County foreclosed upon the subject parcel for non-payment of property taxes in May, 1980. The amount owing was \$4.79 from the 1974-1975 tax year - the tax year between the City's purchase and recording of the deed.

Documents in the file indicate that in 1989 the City had made inquiries with the County about resolving the matter (Gateway Blvd. had now been constructed). There were no other documents indicating that the matter had been further pursued by either party.

Since 1989, the Property Management Office has contacted the City periodically to address the status of the subject parcel however the City did not pursue the matter.

In 2003, County Counsel researched the matter with respect to the validity of foreclosing on a public entity for delinquent taxes. Research revealed several court rulings indicating that it was not appropriate (but any delinquent taxes accrued prior to public ownership would continue to remain as a lien on the property).

The City recently contacted the County to again pursue a resolution as they are considering declaring the property surplus and offering it for sale. It was proposed that the County sell the property to the City pursuant to ORS 275.180 which provides for selling foreclosed property back to the former owner of record for not less than the taxes that were owing plus 6% interest thereon. The City is agreeable and has authorized the purchase pursuant to Resolution # 1761.

B. Policy Issues

ORS 275.180 provides for selling foreclosed property back to the owner of record at any time but for not less than the amount of taxes, interest and penalties owing on the property at the time the County acquired title plus 6% interest thereon until the time the property is sold.

Lane Manual 21.425(4) qualifies ORS 275.180 by requiring one of three conditions to exist for a sale to the former owner of record. Those conditions are that: (a) the property was the residence of the former owner at the time of the foreclosure; (b) an error was made by the Assessor in placing the property on the foreclosure list; (c) the former owner was physically or mentally incapacitated during the foreclosure period.

C. Board Goals

D. Financial and/or Resource Considerations

The \$30.00 purchase price represents the initial delinquent taxes of \$4.79 plus 6% annual interest from the date of foreclosure to the present.

E. Analysis

The subject parcel should not have been put on the foreclosure list by the Assessor as it was owned by a public entity. Additionally, the City was in ownership of the property the year it was assessed taxes and the property would have been exempt had the City recorded their deed in a timely manner. Title to the property should reside with the City of Cottage Grove. The County's tax foreclosure puts a cloud on the title and should be resolved.

Selling the property to the City as the former owner of record pursuant to ORS 275.180 would be the most efficient and least cost process for clearing title. Other processes to resolve the title issue would be to:

- a. Go through the legal process of amending the 1979 Judgment to omit the City and then re-record the 1980 tax deed to omit the City from that document as well. This would require 10-15 hours of County Counsel staff time to prepare and file documents with the court.
- b. Sell the property to the City pursuant to ORS 271.330 which provides for transferring County property to other public entities. The statute however requires a public hearing (requiring a published notice) before a transfer can be approved and also requires that the transferred property be used for a public purpose for a minimum of 20 years (which would prevent the City from selling it to a private entity).

F. Alternatives/Options

1. Sell the property back to the City of Cottage Grove as the former owner of record pursuant to ORS 275.180.
2. Go through the judicial process of amending the 1979 Judgment and re-recording the foreclosure deed.
3. Sell the property to the City pursuant to ORS 271.330 which requires a public hearing and a deed restriction requiring the property be used for a public purpose for a minimum of 20 years.

V. TIMING/IMPLEMENTATION

Alternative 1. would require execution of a deed by the Board which would then be delivered to the City by Property Management staff.

VI. RECOMMENDATION

It is recommended that option 1 be pursued as it is the most expedient manner to resolve the title issue to the subject property.

VII. FOLLOW-UP

Upon the Board's approval, the Property Management Officer will proceed with finalizing the transaction with the City.

VII. ATTACHMENTS

Board Order
Quitclaim Deed
City Resolution
1973 Deed of City's Purchase
Plat Map

EXHIBIT "A"

**LEGAL DESCRIPTION
20-03-27-32-01800**

Beginning at a point 143 feet West and 60 feet South of the Southeast corner of the Harvey Subdivision as platted and recorded in Volume 11, Page 17, Lane County Oregon Plat Records, thence South 105.00 feet, thence East, 143.00 feet, thence North 105.00 feet, thence West, 143.00 feet to the Point of Beginning, all in Lane County, Oregon.

Except that portion conveyed per deed recorded on Reel 733, Reception No., 7509029, Lane County Oregon Deed Records.

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:

City of Cottage Grove

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

See Attached Exhibit "A"

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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009

The true and actual consideration for this transfer is \$30.00

LANE COUNTY BOARD OF COMMISSIONERS

This space reserved for recording sticker

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2011 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:
City of Cottage Grove
400 Main St.
Cottage Grove, OR 97424

Notary Public for Oregon
My Commission Expires _____

Approved for recording by Cit of Cottage Grove, _____

EXHIBIT "A"

LEGAL DESCRIPTION

20-03-27-32-01800

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Except that portion conveyed per deed recorded on Reel 733, Reception No., 7509029, Lane County Oregon Deed Records.

Resolution No. 1761

A RESOLUTION AUTHORIZING THE PURCHASE OF 316 GATEWAY BLVD.
AND TRANSFER OF TITLE TO THE CITY OF COTTAGE GROVE.

WHEREAS, Lane County foreclosed on property identified as 316 Gateway Blvd. (Map 20-03-27-32; Tax Lot 01800) in 1979 as shown in Exhibit A attached hereto and by reference made a part of this resolution; and

WHEREAS, the City of Cottage Grove purchased the property from Lane County but the County did not transfer the title to the City; and

WHEREAS, the City in researching the property with the idea of potentially declaring it surplus and selling it discovered that the title to the property was not in the name of the City; and

WHEREAS, the City has worked with the Lane County property management officer and determined that the title was not transferred to the City due to a delinquent tax of \$4.89 owing in 1979 was not paid by the City; and

WHEREAS, the delinquent tax amount now due is \$30; and

WHEREAS, the County has determined the process to be undertaken so the County can transfer the title to the City is for the City to complete the County's 'Offer to Purchase' form and purchase the property for \$30.


NOW THEREFORE BE IT RESOLVED that City Council authorize the City Manager to complete the Offer to Purchase form of Lane County and offer to pay \$30 for the property known as 316 Gateway Blvd, or Map 20-03-27-32; Tax Lot 01800.

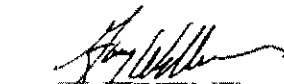
This resolution shall take effect immediately upon adoption.

PASS'D BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 22nd
DAY OF NOVEMBER, 2010.

ATTEST:

APPROVED:


Richard Meyers, City Manager
Date: November 22, 2010


Gary Williams, Mayor
Date: November 23, 2010

7531062

WARRANTY DEED

FOR VALUE RECEIVED MARLIN R. FORBES and MARY BEVERLY FORBES, husband and wife

have referred to as grantors, hereby grant, bargain, sell, and convey unto THE CITY OF COTTAGE GROVE, a municipal corporation,

hereby referred to as grantees, the following described real property, with tenements, hereditaments, and appurtenances, to wit

Beginning at a point 143 feet West and 60 feet South of the southeast corner of the Harvy Subdivision as platted and recorded in volume 11, page 17, Lane County Oregon. Plat Records, thence South 105 feet, thence East 143 feet, thence North 105 feet, thence West 143 feet to the place of beginning, Lane County Oregon.

TO HAVE AND TO HOLD the said premises unto said Grantees, their heirs and assigns forever. And the said Grantees hereby covenant that they are lawfully seized in fee simple of said premises. That they are free from all incumbrances,

and that they will warrant and defend the above granted premises against all lawful claims whatsoever, except as above stated.

The true and actual consideration for the transfer is \$281,000.00, Two Hundred Eighty One Thousand and 0/100 Dollars.

Dated September 19 1973

(and) *Marlin R. Forbes* (Sgd)
Marlin R. Forbes
(and) *Mary Beverly Forbes* (Sgd)
Mary Beverly Forbes

STATE OF OREGON, County of Lane, is

MARLIN R. FORBES and MARY BEVERLY FORBES, husband and wife

and acknowledged the foregoing instrument to be their free, voluntary act and deed. Before me

Dated September 19 1973

My Commission Expires



7531062

Compliments of
CASCADIA TITLE COMPANY
Eugene, Oregon
WARRANTY DEED

State of Oregon,
County of Lane—wits,
I, D. M. PUGH, Director of the
Department of Records and Elections,
do hereby certify that the within instrument was
received for record at

575 A.C. 14 PM 2 42

Book 755 R

Lane County OFFICIAL RECORDS,
D. M. PUGH, Director of the
Department of Records & Elections,
Corvallis, Oregon
Deputy

CEP-903-01

Given to
City of Cottage Grove
28 Sept 1973
Cottage Grove, Ore

CASCADIA TITLE COMPANY

