

W. 7. b.

**AGENDA COVER MEMO**

---

**DATE:** January 18, 2006

**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Jeff Bishop, Superintendent, Waste Management Division  
 Don Strunk, Technical Specialist, Waste Management Division  
 Patti Hansen, Manager, Waste Management Division  
 Ollie Snowden, Public Works Director

**AGENDA ITEM TITLE:** IN THE MATTER OF ESTABLISHING A NUISANCE ABATEMENT PROGRAM IN THE WASTE MANAGEMENT DIVISION

---

**I. MOTION**

**MOVE TO ESTABLISH A NUISANCE ABATEMENT PROGRAM IN THE WASTE MANAGEMENT DIVISION.**

**II. ISSUE OR PROBLEM**

Should Lane County establish a nuisance abatement program in the Public Works Department's Waste Management Division? Should the program be funded by current Waste Management user fees via the system benefit fee component, by an additional fee in the form of a surcharge, or through some other funding mechanism?

**III. DISCUSSION**

**A. Background**

**Illegal dumping.** Despite the presence of 16 transfer sites located throughout the county, illegal dumpsites -- ranging in size from one refrigerator on the side of a road to huge piles of household trash -- are found regularly. These sites are often identified and reported by citizens, as there is currently no organized program to locate and report these sites.

At present, the Waste Management Division responds to reports of illegal dumpsites on County property and in the right of way and bears the cost of these cleanup activities and associated disposal costs. However, no dedicated fund exists to cover these costs. Because of the informal nature of these cleanup actions, no definitive statistics about the extent of the problem exist. However, the Waste Management Division has participated in the cleanup of about twenty illegal roadside dumpsites in 2005; the majority of these sites were reported to the Division by citizens and County Commissioners.

In addition, wastes are often dumped outside transfer site gates when sites are closed. Site employees remove these wastes as part of their routine duties and records are not kept. Anecdotally, we know this is a weekly occurrence at most sites, except at sites where it is a daily occurrence.

**Nuisance properties.** Nuisance properties, on the other hand, occur in fixed locations where the occupants' sense of health and aesthetic standards creates nuisance conditions, generally in the

form of accumulations of trash, appliances and junk vehicles. In some cases, these conditions are created by the property owner or authorized tenants, while in other cases the properties are used by transient populations whose camps and other activities create similarly unhealthful and unaesthetic conditions.

The Land Management Division enforces administrative penalties for violation of nuisance codes as authorized by Lane Code. In instances where the responsible person is unable or unwilling to correct the violation, the Department is authorized by Lane Code to correct the violation and recover costs from the responsible person. However, there is at present no fund specifically dedicated to cover the initial cost of the cleanup activities.

Whether wastes are found in the form of an illegal dumpsite on public property or due to the actions of a nuisance property owner, their presence can create hazards to the environment, as well as to human health and safety. Illegally dumped or carelessly stored wastes can leak hazardous constituents into the surrounding air, water or ground; attract and concentrate populations of disease-carrying vectors like rodents and birds; and, in the case of industrial hazardous wastes and clandestine drug lab wastes, present an immediate threat to human health.

**Transfer Site Security.** Rural transfer sites are attractive targets for off-hours visitors who gain entry by cutting fences or disabling gates, then scavenge scrap metal from recycling bins and/or rifle through garbage and recycling containers, either for reusable items or to find personal documents that might aid in identity theft. This results in decreased security for customers and employees and additional site maintenance and repair costs. Local law enforcement agencies are understaffed and thus unable to patrol these sites or respond quickly to reports of unauthorized entry; thus, several sites have developed a group of “regulars” who frequent the sites habitually.

Waste Management Division employees are regularly required to clean up messes left by after-hours visitors and to repair damage to fences and gates. In the past year, off-hours visitors have gained access by removing or damaging gates at the Oakridge, Low Pass and Rattlesnake sites; while most other sites have had fences cut. In addition, the Division loses revenue when marketable recyclables are stolen and when after-hours visitors steal services by dumping garbage without paying user fees.

Sometimes the damage is more severe. In December 2005, thieves pried open the rear doors of a transfer trailer at the Vida site and used pry bars to remove a portion of the trailer’s aluminum “live” floor. The Fleet Services Division estimates the replacement cost of the floor slats to be about \$16,000.

### **History**

**Illegal dumping** has been a persistent problem particularly since 1980, when voters declined to reauthorize the serial levy as a funding mechanism and Lane County instituted a user fee system to finance the cost of solid waste management services. When required to pay user fees based on the amount of garbage dumped, some waste generators opted to continue dumping for free by illegally disposing of waste along a convenient roadside or log landing.

From 1995 – 1999, the Waste Management Division (WMD) funded a program in which a Sheriff’s deputy patrolled for illegal dumpsites. When evidence at the dumpsite indicated the likely source of the waste, the deputy was able to contact the waste generator and offer a choice between cleaning up the waste or facing enforcement of a Class B misdemeanor. In most of these cases, the waste generator chose to clean up the illegal dumpsite. This provided a deterrent against future offenses and created public awareness that Lane County patrolled for illegal dumpsites and enforced local littering laws. This program was discontinued in 1999. Since then, identification and cleanup of dumpsites has been a hit-or-miss proposition. WMD responds to dumpsites in the

County when notified of their locations, but there is no organized patrol program, and the Division currently lacks the authority and staff resources to investigate the origin of the waste or to pursue enforcement.

**Nuisance properties** are likewise an ongoing issue. When nuisance properties are identified, the Land Management Division (LMD) has the authority and resources to pursue administrative enforcement options geared toward compelling the property owner to remedy the nuisance condition. However, if the responsible person is unable or unwilling to comply, LMD becomes responsible for effecting the remedy and can recover the costs from the responsible person afterward through the lien process– but there is no dedicated fund to pay the initial cost of these activities.

Within the past year, the Waste and Land Management Divisions and the Sheriff's Forest Work Camp crews have collaborated to perform one nuisance property cleanup, and have been prepared to perform two others. In the latter two cases, however, the responsible persons were persuaded to perform the cleanups themselves at the last minute.

In the cleanup performed on McVay Highway in December 2004, the Land Management Division became responsible for a former gas station through lien actions. Waste Management coordinated the cleanup, provided equipment operators and technical services and bore disposal costs for tires, regular trash and hazardous wastes including 17 containers of a toxic isocyanate product. WMD uses a Sheriff's Forest Work Camp crew 40 hours per week at Short Mountain Landfill; that crew was diverted to the McVay Hwy. site to perform the labor needed for the cleanup. The total cost of this project was about \$5000, including disposal.

On the other hand, one of the other cases was a small residential property with cleanup costs estimated around \$1000, and the other was the Saginaw Mobile Home Park. Cleanup costs at that site were estimated by WMD and FWC personnel at upwards of \$25,000. Given the wide disparity in costs among these cases, it is difficult to arrive at an average estimated cost per project.

**Facility security** is another case where costs are difficult to estimate, since most of the labor for repairs and cleanup of waste is provided by site personnel and is not separately coded on timesheets. However, WMD personnel clearly perform such routine cleanup activities on a nearly daily basis, and repairs to fences, gates and other facility structures occur regularly.

WMD has attempted to stop or slow down after-hours visitors by reinforcing fences and gates, blocking access to parking areas near transfer sites and, at the Veneta site, turning off exterior lighting at closing time to make the site less attractive to after-hours scavengers. In addition, for a short period, WMD hired a security company to patrol the Veneta site. However, the patrols and other measures have not been completely effective, as the sites are still visited regularly outside business hours.

Local law enforcement agencies, while sympathetic, lack the resources to provide patrols, quick response to trespassing reports or investigation of property crimes. The cost of hiring a private security company to patrol sites during closed hours is prohibitive given the number of sites affected, the driving distances involved and the fact that many rural sites are open only one or two days per week.

### **Solid Waste Management Plan**

Lane County's Solid Waste Management Plan was developed by the Lane County Resource Recovery Advisory Committee and Waste Management Division staff and adopted by the Board of Commissioners in 2002. Section 6.4 of the plan identifies illegal dumping and security of

personnel and facilities as needs to be addressed, and section 6.5 recommends that the Division “hire personnel to monitor illegal dumping and security of rural transfer stations.”

## **B. Analysis**

Based on the issues listed above, the Waste and Land Management Divisions, with technical support from the Parks Division, have developed a plan to establish a nuisance abatement program within the Waste Management Division. This program would:

- Provide patrols to identify and abate illegal dumpsites and nuisance conditions within the county,
- Provide funds for cleanup of nuisance properties subject to administrative enforcement by the Land Management Division and
- Help provide some security services for Waste Management Division facilities.

The Public Works Department proposes to fund a program in the Waste Management Division to provide for the identification and cleanup of illegal dumpsites and nuisance properties in Lane County. The program will be staffed initially by one Nuisance Abatement Specialist who will work as a common resource for the Land Management and Waste Management Divisions to help enforce Lane Code sections regarding illegal dumping and nuisance abatement. In addition, funds will be dedicated to pay for cleanup projects.

The Nuisance Abatement Specialist will perform patrols to locate illegal dumpsites on County property and in the right of way and investigate the source of the illegally dumped waste for enforcement purposes. In addition, s/he will coordinate cleanup of the dumpsites by WMD employees and/or Forest Work Camp crews, as appropriate. Further duties include assisting Land Management Division Compliance Officers in investigations and enforcement related to nuisance properties. The Nuisance Abatement Specialist will be authorized to issue citations for violations of Lane Code and will be trained and equipped accordingly, in a manner similar to Lane County Parks employees. It is a goal of this program to develop and maintain constructive working relationships with local law enforcement agencies and other stakeholders, including Lane County Sheriff's Office, local police departments and Lane County Parks Division, as well as counterparts in similar nuisance abatement programs at BLM and USFS.

In the course of routine patrols, the Nuisance Abatement Specialist can be trained to identify illegal dumpsites and nuisance conditions requiring a remedy, as well as providing incidental security services for closed transfer sites and other Waste Management Division properties and facilities.

In the first year of the program, the Nuisance Abatement Specialist will inventory and assess identified nuisance properties so that cleanup and other enforcement costs can be estimated accurately for budgeting in future years.

Funds for cleanup projects will be provided by the Waste Management Enterprise Fund, and a program will be established in the budget for tracking and management purposes. Within that program, each cleanup project will be assigned a project number so that costs associated with the project can be accurately tracked and reported.

**Enforcement authority.** In order for the nuisance abatement program to have a deterrent effect on illegal dumping, to allow the program personnel to assist in nuisance property enforcement actions and to permit effective facility security services, the Nuisance Abatement Specialist will need authority to enforce applicable Lane Code sections and issue citations for infractions.

Waste Management Division staff has met extensively with County Counsel to determine the most effective way to establish enforcement authority for these purposes. Since the Parks Division already performs very similar enforcement functions on Parks properties, we modeled our proposal closely after the existing Parks program and would intend to adopt existing Parks policies for the new program. If the Board approves the establishment of a Nuisance Abatement Program in the Waste Management Division, we are prepared to return to the BCC with an amendment to Lane Code Chapter 9. The amendment would authorize the Manager of the Waste Management Division to delegate enforcement authority for littering on County property and ROW and violations of posted rules at designated County properties. Authority to enforce nuisance property regulations already exists in Chapter 5 of Lane Code and could be extended to the Nuisance Abatement Specialist by written authorization from the Land Management Manager.

Additionally, Waste Management Division has provided Parks Academy training to two current employees and intends to request that they also be granted citation authority. These employees would then be available to assist the code compliance officer whenever needed. It is not expected that this would significantly impact these employees' normal duties or that any bargaining unit, job classification or other issues will arise as a result of this action.

**Personnel.** The Nuisance Abatement Specialist position would be budgeted at one FTE. Human Resources has reviewed the job duties as currently proposed and compared them to existing classifications with some similar duties, such as Compliance Officer and Parks Lead Worker. The proposed new classification includes elements of each existing classification, but because no existing job classification exactly fits the assigned duties, Human Resources feels this position would require a new classification. After comparison to existing classifications and consultation with the Administrative/Professional bargaining unit, HR has placed the Nuisance Abatement Specialist classification at grade 28. The personnel costs listed below include salary and full benefits at Step 10.

**Costs.** In addition to personnel costs, Waste Management proposes to purchase a new pickup with lift gate and tools (\$35,000) for patrol purposes and two 40-yard drop boxes (\$17,000) for use at cleanup sites from the current FY05-06 budget. In addition, the Division proposes to budget \$50,000 in M&S in FY06-07 to cover costs associated with cleanup projects. These costs could include WMD labor and equipment costs, vendor costs associated with waste analysis/characterization or emergency response, Forest Work Camp labor and disposal costs.

If the Board approves this program, Waste Management Division will include the new position and first-year operating costs in the FY06-07 base budget. Annual costs for the program (based on FY05-06 compensation plan) should be about \$97,000, plus the \$50,000 set aside for clean-up projects.

**FY 06-07 costs (estimated)**

Personnel/salary and benefits (grade 28):	\$84,700
Operational overhead:	\$3,980
Enforcement training and personal equipment	\$2,500
Fleet costs(replacement fund + fuel)	\$5,500
Operating Expense Subtotal	\$96,680
Site Clean-up Allocation	\$50,000
<b>TOTAL</b>	<b>\$146,680</b>

**C. Alternatives/Options**

Option 1: Establish a nuisance abatement program in the Public Works Department's Waste Management Division funded by revenues from current user fees and authorize the Division to include the Nuisance Abatement Specialist position, annual operating costs for the program, and an M&S allocation of \$50,000 to pay for potential cleanup and disposal costs, in the FY06-07 base budget.

Option 2: Establish a nuisance abatement program in the Public Works Department's Waste Management Division funded by a user fee surcharge to be established by the Board. If the intent of the surcharge is to fund the entire program, then a surcharge of \$.65 per load would pay the anticipated costs in the first year. The per-load surcharge does place a disproportionate share of the cost on self-haulers, whose loads are smaller than commercial compactor loads brought in by local waste haulers, so as an alternative, a fee increase of \$.82 per ton would raise the same amount of revenue while sharing the burden more equitably among Lane County's waste generators.

If the intent of the surcharge is only to fund those portions of the program related to illegal dumping, then staff estimates that a surcharge of \$.35 per load or a system benefit fee increase of \$.40 per ton would suffice.

Given the preliminary results of the soon-to-be-completed Waste Management financial plan, it is anticipated that Waste Management Division will likely need to raise user fees within the next two years in order to continue to meet its operational costs. If the Board desires to fund this program by assessing an extra user fee (either through a general fee increase or through a surcharge), it may wish to consider combining the two increases to avoid the public perception of frequent fee increases.

Option 3: Do not establish a nuisance abatement program as proposed here. Continue to address illegal dumping, nuisance properties and facility security in the current manner.

Option 4: Direct staff to do more research, explore other alternatives and return with a report.

**D. Recommendation**

Staff recommends Option 1. The issues of illegal dumping, nuisance properties and facility security are ongoing. Local law enforcement agencies lack the resources to provide enforcement and the Department currently lacks the authority to provide its own enforcement services. In addition, Option 1 provides a mechanism through which the Waste Management and Land Management Divisions can continue to work cooperatively to address the issue of nuisance properties on a more formal – and easier to track -- basis.

With approval to include the new program in the FY06/07 budget, Waste Management Division can fund the program in the first year with existing user fee revenues. By tracking costs and benefits carefully during the first year, the Division can accurately estimate future costs and develop a long term funding plan that could include an appropriate surcharge or user fee increase that could be combined with any other necessary user fee adjustments.

**E. Timing**

Approval in the early months of 2006 would allow the Waste Management Division to return to the BCC with the necessary Lane Code amendments and the new job classification specification in time to recruit and select the new employee by the beginning of FY 06/07.

#### **IV. IMPLEMENTATION/FOLLOW-UP**

If the Board establishes the nuisance abatement program as proposed, the Department will need to:

- Return to the Board with the Lane Code amendment needed to establish enforcement authority.
- Present (with HR) the new Nuisance Abatement Specialist classification specification for approval by the Board.
- Recruit and select the Nuisance Abatement Specialist.
- Establish a new budget program for nuisance abatement.
- Purchase necessary equipment, including a vehicle and waste containers.
- Schedule appropriate training in enforcement, hazardous waste, nuisance property codes and County procedures so that training can begin immediately after the new employee reports to work.

Public Works and County Counsel have developed a proposed amendment to Lane Code Chapter 9 that would address the issue of enforcement authority. If the program is approved, Public Works could present it to the Board as soon as an agenda slot can be scheduled. Public Works and Human Resources have completed the new classification specification and could present it to the Board at the same meeting or at the following meeting. Of the remaining steps, the recruitment/selection process will be the most time consuming. Staff estimates that those processes could be completed in 60-90 days. Scheduling of training and equipment purchases should take less time and could be performed concurrent with the HR processes.

Therefore, we estimate that the program could be staffed and operational within 150 days after approval by the Board.

#### **V. ATTACHMENTS**

Board Order

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

(IN THE MATTER OF ESTABLISHING A  
(NUISANCE ABATEMENT PROGRAM IN  
(THE WASTE MANAGEMENT DIVISION OF  
(THE PUBLIC WORKS DEPARTMENT

**WHEREAS**, illegal dumping on County property, nuisance property conditions and abuse of County solid waste facilities are unacceptable activities and conditions; and

**WHEREAS**, current enforcement resources are insufficient to control these activities and conditions effectively; and

**WHEREAS**, the Board of County Commissioners finds it appropriate to delegate responsibility for control and remediation of these activities and conditions to the Waste Management Division of the Department of Public Works; and

**NOW THEREFORE IT IS HEREBY ORDERED**, that the Board of County Commissioners directs staff to establish a Nuisance Abatement program in the Waste Management Division to be funded by revenues from user fees and staffed with 1 new FTE, and return to the Board with the necessary position classification actions and revisions to Lane Code and Lane Manual to implement the program.

**IT IS FURTHER ORDERED**, that a Nuisance Abatement Specialist position, program operating budget and \$50,000 allocated to site clean-up be included in the FY06-07 base budget for the Waste Management Division of the Department of Public Works.

**IT IS FURTHER ORDERED**, that the Manager of the Waste Management Division return to the Board with a report on program operations within six months of the start of the program.

DATED this \_\_\_\_ day of January, 2006.

\_\_\_\_\_  
Bill Dwyer, Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 1-11-2006, Lane County

Stephen J. Verheij  
OFFICE OF LEGAL COUNSEL