

W. G. A.

AGENDA COVER MEMORANDUM

Agenda Date: January 18, 2006

DATE: January 4, 2006

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer

SUBJECT: WORK SESSION /DISCUSSION – PROCESS FOR SELLING COUNTY OWNED REAL PROPERTY

1. **PROPOSED MOTION:** No Motion

2. **ISSUE/PROBLEM:** The Board wished to have a work session to discuss procedures when selling tax foreclosed property with an emphasis on private sales and process for dealing with multiple offers on a property.

3. **DISCUSSION:**

3.1 Background

There are two primary methods for selling tax foreclosed property pursuant to ORS Chapter 275 – Sheriff’s sales (auction) and private sales.

Sheriff’s Sale: Property with an assessed value of \$5,000 or greater, and property assessed under \$5,000 but is suitable for the placement of a dwelling, must first be offered at a Sheriff’s sale. The Board, pursuant to an Order, sets the terms, conditions and minimum bids for the properties being offered. Properties offered at a Sheriff’s sale must be sold pursuant to the terms and conditions set by the Board without deviation.

Private Sale: Property can be sold via a “private sale” (direct negotiation between the county and a buyer) under the following circumstances:

- a. A property that was offered at a Sheriff’s Sale and did not receive a bona fide bid can be sold via private sale without any further public notice. The property cannot be sold

for less than 15% of its minimum bid at the Sheriff's Sale (a property that had a \$1,000 minimum bid could not be sold for less than \$150).

- b. Property that has an assessed value of less than \$5,000 and is unsuitable for the placement of a dwelling under current land use regulations can be sold via private sale without first being offered at a Sheriff's sale. The county may, but is not obligated to, publish a public notice in the newspaper of the sale. If such a notice is published, the Board cannot take action on the private sale until 15 days after publication (it has been the practice to publish notice for sales of property that have not first been offered at a Sheriff's sale). The property can be sold for a price deemed reasonable by the Board.

When selling a property via private sale, the county is in a similar position as a private sector seller. The county has the flexibility to enter into various types of sale agreements – options, lease/purchase, land sale contracts – and the flexibility to negotiate the terms of those agreements.

Private Sale Process:

After a Sheriff's sale, properties that did not sell are added to an inventory list that is available to the public. When someone is interested in a property, terms are negotiated with the Property Management Officer (PMO). Upon agreement of the terms, the buyer submits a formal offer on a County form (a 20% deposit of the sale price is required). The offer is then forwarded to the Board for acceptance or rejection through the agenda setting process.

The process for properties that have not been offered at a Sheriff's sale (assessed under \$5,000) is similar except that a letter is sent to all of the adjoining owners (not required by statute) informing them that someone is interested in purchasing a particular parcel (these properties generally are of value only to an adjoining owner). In addition to the letters, notice of the sale is published in the Register – Guard.

Multiple Offers:

It may occur where multiple parties are interested in submitting offers on a parcel. When this occurs, it has been the practice to allow counter offers to be made by each party. If more than two parties are interested in submitting offers, Property Management staff may get all the principles together at one time and have them submit counter offers in each others presence (informal auction). A 20% deposit of each party's initial offer is received to ensure their good faith. When a final offer has been received, the matter is then forwarded to the Board for acceptance or rejection.

As it may take 2 – 4 weeks to schedule an item on the Board's agenda, there have been instances where a second party presents an offer after an offer has already been negotiated with the PMO and forwarded to the Board. As only the Board can legally accept offers and the initial offer has yet to be accepted, the PMO is obligated to forward the second offer to the Board.

Often, the most contentious situations occur when adjoining landowners each wish to purchase a county parcel that adjoins their property. Notwithstanding mitigating circumstances such as encroachment on the county parcel by one property owner or access issues, the PMO will provide the opportunity for each party to submit counter offers before forwarding the matter to the Board.

3.2 Analysis

As only the Board can legally accept offers, and there can be a 2-4 week lapse from when the PMO forwards an offer for consideration, there is a window of time in which additional offers can be presented to the PMO – either by a party who has previously been given an opportunity to bid on a property or by a party not previously interested in the parcel (it should also be noted that when the agenda cover memo is written, the details of an offer become publicly available).

Such a situation can be cumbersome for the PMO as well as the Board. The PMO, while unable to legally accept an offer, negotiates with potential buyers in good faith for terms which the PMO can make a recommendation to accept. Similarly, the Board wishes to maintain good faith with the public when conducting business.

The issue is mainly a matter of timing and could be resolved by creating policies that limit when offers can be received by the PMO. In creating any such policy, the flexibility provided by statute when selling county property at private sale should be maintained as much as possible.

3.3 Alternatives/Options

Below are possible options for limiting when offers can be received.

- a. Authorize the PMO to not accept additional offers once one has been forwarded to the Board for consideration.
- b. Authorize the Dept. Director and/or the PMO to set a cut off date of when counter offers will be received when multiple bidders are involved.
- c. Authorize the Dept. Director and/or the PMO to set a time and place when verbal offers will be received.
- d. Authorize the Dept. Director and/or the PMO to set a date when sealed offers will be received.

3.4 Recommendation

It is recommended that the options be discussed, provide staff with direction to fine tune them, present options to the policy committee for further review and then bring the matter to the Board for adoption into Lane Manual.

3.5 Timing

None.

4. **IMPLEMENTATION/FOLLOW-UP:** Staff will proceed as directed by the Board.

5. **ATTACHMENTS:**

No attachments.