

Memorandum Date: October 14, 2006  
Order Date: November 21, 2006

W. S. D. I.

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Frank Simas

**AGENDA ITEM TITLE:** IN THE MATTER OF AUTHORIZING ACQUISITION OF REAL PROPERTY WITHIN THE EXTERIOR BOUNDARIES OF THAT PROPERTY COMMONLY KNOWN AS THE GLENADA DUNES PROPERTY

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**I. MOTION**

THAT THE RESOLUTION AND ORDER BE ADOPTED AUTHORIZING ACQUISITION OF PRIVATELY-OWNED PROPERTIES SITUATED WITHIN THE EXTERIOR BOUNDARIES OF THAT COUNTY-OWNED PROPERTY COMMONLY KNOWN AS THE GLENADA DUNES PROPERTY AND AS LISTED IN EXHIBIT "A", BY CONDEMNATION, IF NECESSARY.

**II. AGENDA ITEM SUMMARY**

There are 6 privately-owned parcels within the exterior boundaries of the Glenada Dunes property, which is proposed for sale to the State of Oregon, Parks and Recreation Department for recreation and resource preservation purposes. Acquisition of these 6 parcels by the county will allow the vacation of about 22.31 acres of platted but unconstructed streets, which will enhance the recreation and preservation purposes proposed by the state. A map showing the County property and the 6 privately-owned parcels is included and marked as Attachment 1.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

Lane County obtained title to an approximate 84.47 acre property in the Glenada area of Lane County through Tax Foreclosure. The property consists of numerous subdivision lots from 2 original subdivision plats filed in the late 1800s. Pursuant to Lane Manual 21.435(3), the property was designated as parkland by Order 05-4-13-2. On January 7, 2006 a Public Hearing was held in Florence regarding the disposition of the property. At the conclusion of the Hearing, a Motion was approved by the Board directing staff to enter into negotiations with Oregon State Parks Department for the sale of the property at the appraised value of \$817,000.

**B. Policy Issues**

None known.

**C. Board Goals**

Purchase of the private parcels by condemnation, if necessary, is consistent with the County's Goals with regard to Resource Planning and Allocation and Preservation and Enhancement of Infrastructure, in that the funds derived from the sale will be used for development of existing Parks facilities.

**D. Financial and/or Resource Considerations**

Sufficient funding is available in the Parks Fund to complete the purchase of these 6 parcels, including the costs of condemnation, if necessary.

**E. Analysis**

The property consists of approximately 22.14 acres of RR-2 zoned land and about 62.33 acres of NR (Natural Resource) land, which consists primarily of sand dunes, and is not capable of being developed.

The exterior boundaries of the Natural resource-zoned portion of the property encompass 6 privately-owned parcels totaling approximately 0.67 acre. The stated estimate of value contained in the appraisal included a hypothetical condition relating to the approximate 22.31 acres of land contained within the platted but unopened streets. The estimate assumed that the streets would be vacated in order for the stated value estimate to apply. The appraisal did not address the value of the areas contained within the streets within the RR-2 zoned area because the highest and best use assumption for this area assumes that a street network is required in order for the lots to be developed for residential use.

Pursuant to ORS 368.331, a county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.

Because the owners of the privately-owned lots have a right of access over the platted streets within the subdivision plat, it is unlikely that they would consent to the vacation of the streets, and because the lots are dispersed over a large area of the 'NR' portion of the property, most, if not all of the streets would need to be retained in order to assure access to these properties. It is doubtful whether the streets would ever be developed, since the permitted uses under the NR zoning classification are very limited

and do not include dwellings.

County staff has thus far reached a tentative agreement with the owners of three of the private parcels, subject to Board Authorization, to sell their respective parcels for \$2,500 per lot. This tentative agreement was based on a voluntary sale, not under the threat of condemnation. No formal appraisal has been completed, but if the Board authorizes acquisition of the property through condemnation, if necessary, the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act would apply. A formal appraisal or Administrative Determination of Value would be completed, and the owners would have no less than 40 days in which to consider the offers prior to the filing on an action in court to acquire the properties.

Once all of these privately-owned parcels were under County ownership, then the streets can be vacated without a public hearing under ORS 368.351. The NR portion of the property was valued by the appraiser at \$6,000 per acre, so acquisition of the private parcels would be in the public interest for two reasons:

(a) it will allow the vacation of the streets to go forward.

(b) the state of Oregon will pay the full appraised value for the property only if the vacation of the platted streets has been completed by Lane County. In addition, the vacation and the elimination of private ownerships will allow much more flexibility in the management and public use of the property than would be the case if the streets were to be required to remain. Parks staff can negotiate with State Parks to increase the total compensation to be paid to the County in the amount of \$4,020 in accordance with the unit value stated in the appraisal to reflect the additional approximate .67 acre contained within these private ownerships.

If these inholdings are not acquired by Lane County, then State Parks will seek to reduce the price to be paid for the property sale by the estimated value of the land within the platted streets, which could amount to as much as \$133,860 if none of the streets could be vacated. Partial vacation of the streets would reduce this amount, but the existence of the inholdings and the necessity for retaining some of the streets as right of way would be less than ideal from a resource management perspective.

State Parks has tentatively agreed to complete this purchase in two phases: the agency has the funding available for the purchase of the NR-zoned portion of the property for \$374,000 now, with the understanding that the County will pursue the acquisition of the inholdings and subsequent processing of the proposed vacations as soon as possible; with the

purchase of the RR-2 portion of the property for \$443,000 to be completed as soon as funding is available in the State Parks budget at the beginning of the 2007-08 fiscal year.

**F. Alternatives/Options**

1. Approve the Resolution and Order as proposed.
2. Reject the Order and direct staff otherwise.

**IV. TIMING/IMPLEMENTATION**

Upon approval of the Order, staff will complete negotiations with the willing sellers, and commence negotiations with the remaining owners in accordance with normal real property acquisition procedures.

**V. RECOMMENDATION**

Option 1.

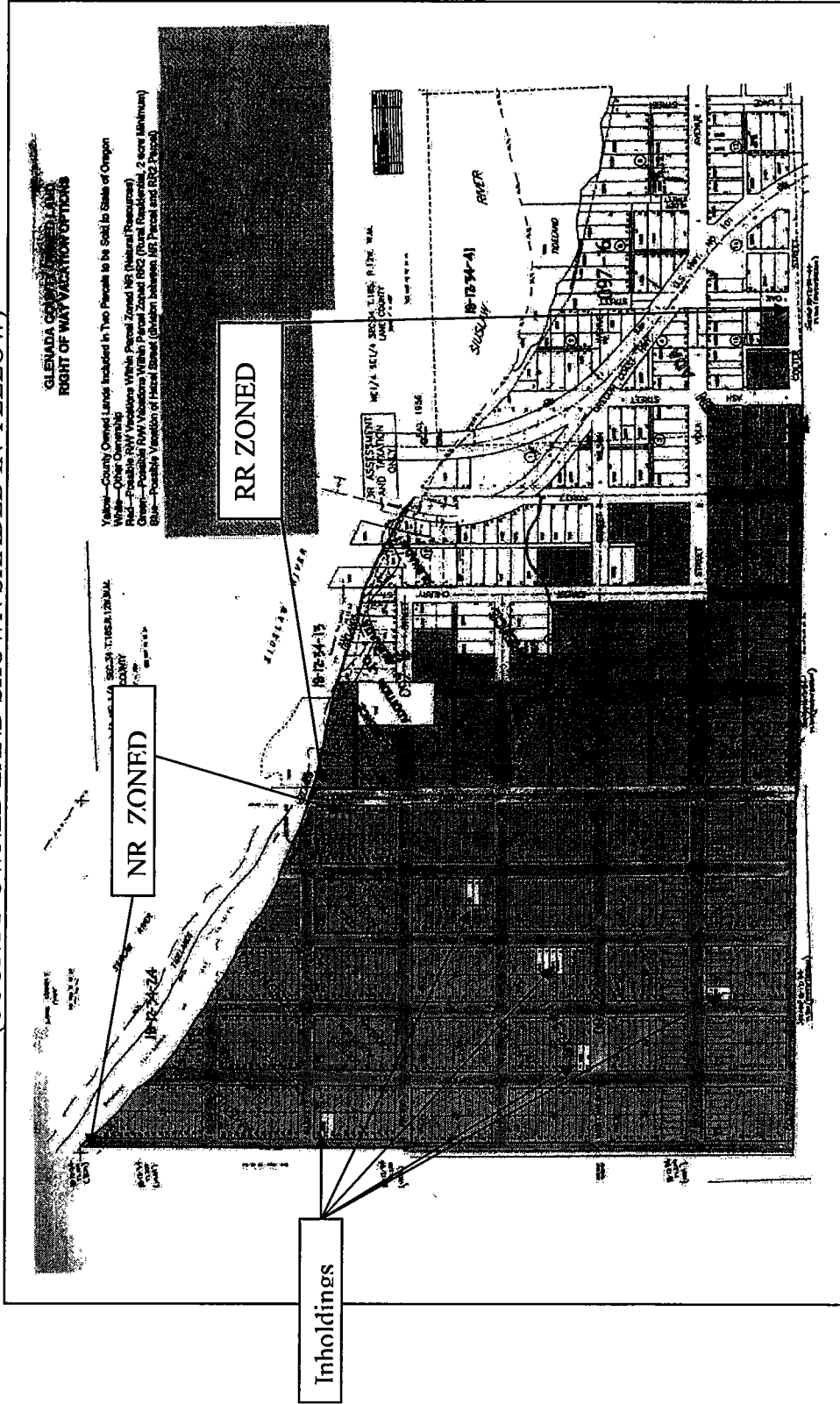
**VI. FOLLOW-UP**

Condemnation proceedings will commence only if negotiations reach impasse.

**VII. ATTACHMENTS**

Exhibit A, list of properties proposed for acquisition.  
Attachment 1-Map Showing County Property and Inholdings

MAP SHOWING GLENADA DUNES PROPERTY AND PRIVATE INHOLDINGS PROPOSED FOR ACQUISITION  
 (COUNTY-OWNED LAND SHOWN IN YELLOW)



**EXHIBIT A**

**REAL PROPERTY, OR PORTION(S) THEREOF, TO BE ACQUIRED FOR  
GLENADA DUNES**

<b><u>TAX MAP</u></b>	<b><u>TAX LOT</u></b>
18-12-34-24	1000
18-12-34-31	400
18-12-34-31	1200
18-12-34-31	1500
18-12-34-31	1501
18-12-34-31	2900

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON**

**RESOLUTION AND  
ORDER NO.**

**(IN THE MATTER OF AUTHORIZING  
(ACQUISITION OF REAL PROPERTY WITHIN  
(THE EXTERIOR BOUNDARIES  
(OF THAT PROPERTY COMMONLY  
(KNOWN AS THE GLENADA DUNES  
(PROPERTY.**

**THIS MATTER** now coming before the Board of County Commissioners of Lane County, and the Board determining it is necessary and in the public's interest to acquire fee or other interest in certain properties or portions thereof as listed in Exhibit "A" attached hereto and made a part hereof, from owners and others as their interests may appear of record to serve the needs of Lane County, and that the public welfare will be benefited by the acquisition of said properties of interests therein and the Board being fully advised; and

**WHEREAS**, Lane County owns an approximate 84.47 acre property located in the Glenada area of Lane County and commonly known as the Glenada Dunes Property; and

**WHEREAS**, following a Public Hearing held January 7, 2006, County staff was directed to enter into negotiations with the State of Oregon, Department of Parks and Recreation for the sale of the property at the appraised value of \$817,000; and

**WHEREAS**, a portion of the property that is proposed for sale to the State consists of sand dunes that cannot be developed for residential purposes, but which contains approximately 22.31 acres of platted streets that are of no practical use under the NR (Natural Resource) zoning of the property; and

**WHEREAS**, the subject portion of the property contains six privately-owned parcels and pursuant to ORS 368.331 a County governing body shall not vacate public lands if the vacation would deprive an owner of a right of access without the consent of the owner; and

**WHEREAS**, if the said privately owned parcels are acquired by the County prior to the sale of the property to the State of Oregon, the streets may be vacated pursuant of ORS 368.351; and

**WHEREAS**, if the six parcels were to be acquired by Lane County, it would further the public interest in that the vacated streets would allow better utilization of the property for recreation and preservation purposes and because the funds derived from the sale will be used for improvements to and land acquisition for Lane County Parks;

**WHEREAS**, the acquisition of the private properties is compatible with the greatest public good and least private injury; **NOW THEREFORE**,

**IT IS HEREBY RESOLVED** that under the authority granted in ORS Chapter 35 and consistent with ORS Chapter 281, that there exists a necessity to acquire the real property in order to facilitate the sale of the Glenada Dunes property to the State of Oregon for recreational and resource preservation purposes; and

**IT IS FURTHER RESOLVED AND ORDERED** that the Director of the Department of Public Works or the Director's representative is hereby delegated the authority to purchase the necessary real property in accordance with Lane Manual Chapter 21 and to execute related instruments to accomplish the property acquisition. If Lane County is unable by negotiations to reach an agreement for the acquisition of the necessary real property, the Office of Legal Counsel of Lane County is hereby authorized to commence and prosecute in the Circuit Court of Lane County, in the name of Lane County, any necessary proceedings for the condemnation of necessary real property rights and for the assessment of damages for the taking thereof.

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

APPROVED AND ORDERED

11-15-06



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Chair, Lane County Board of Commissioners