

W. J.C. 1.

AGENDA COVER MEMORANDUM

Agenda Date: November 5, 2003

DATE: October 21, 2003

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 TO JERRY H. NELSON, FORMER OWNER OF RECORD, FOR \$10,240 (MAP #17-03-26-33-03200, 1135 MILL STREET, SPRINGFIELD)

1. **PROPOSED MOTION:** THE BOARD OF COUNTY COMMISSIONERS MOVES TO AUTHORIZE THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO JERRY H. NELSON, FORMER OWNER OF RECORD, FOR \$10,240 (MAP #17-03-26-33-03200, 1135 MILL STREET, SPRINGFIELD)
2. **ISSUE/PROBLEM:** Mr. Nelson is the former owner of record of the subject property which was acquired through tax foreclosure. Mr. Nelson wishes to repurchase the property back from the county pursuant to ORS 275.180. The proposed purchase price is \$10,240 which includes all taxes, including those which would have been due for the current year, interest and penalties that were owed on the property at the time the County acquired title plus an additional 10% thereon.

The circumstances of the foreclosure do not meet the criteria for a sale back to the owner of record noted in LM 21.425(4) and therefore would be an exception.

3. **DISCUSSION:**

- 3.1 Background

The County recently acquired title to the subject property on September 23, 2003. The subject is a 1,536 square foot house residing on a 58' x 172' foot lot. The original 768 sq. ft. of the house was built in 1949. A 768 sq. ft. addition was added in 1990. The house is in

fair condition with the interior appearing to be undergoing a remodel. The property has an assessed value \$96,000. The house was not occupied at the time of foreclosure.

The party listed as the owner of record of the subject property and the party listed in the tax foreclosure was a Lorene Schafer. The owner's address listed in A&T's records and to where tax statements and foreclosure notices were sent was the situs of the subject – 1135 Mill St.

Shortly after the subject property was acquired, Property Management staff visited the property and left a notice to inform any possible occupants that the county now owned the property. The following day, Mr. Nelson came to the Property Management office claiming he was the owner of the subject, that he was unaware the property was subject to foreclosure and that he would like to pay the taxes and regain ownership (Mr. Nelson said he purchased the property in 1995).

Mr. Nelson never recorded a deed or other document in the county's deed records to indicate he had an interest in the property (Mr. Nelson said it was an oversight). A title report secured by A&T during the foreclosure process did not list Mr. Nelson as having any interest in the subject. Consequently, A&T had no reason, or obligation, to notify Mr. Nelson of the foreclosure.

Mr. Nelson said that during the foreclosure process he was dealing with his mother's illness, the properties she owned as the conservator of his mother's estate and encountered financial difficulties. Per A&T records, Mr. Nelson owns 12 other properties in Lane County either under his name or as conservator for his mother (10 of the properties are currently 2 years delinquent in property taxes).

Staff informed Mr. Nelson that even if he was the owner of the property Lane County policy, as stated in Lane Manual, does not provide for selling a property back to the former owner of record under the circumstances of this particular situation. Lane Manual requires that to sell a property back to the former owner that the property was either the residence of the former owner or that the former owner was mentally or physically incapacitated or that A&T was in error in foreclosing on the property.

Staff suggested to Mr. Nelson that he discuss the matter with Commissioner Dwyer (the subject property is in his district) or Commissioner Sorenson (Mr. Nelson lives in his district) and see if they would wish to have the matter of a sale back to him presented to the Board for consideration.

Mr. Nelson did meet with Commissioner Dwyer. Commissioner Dwyer asked Mr. Nelson to first present documentation that he was the former owner before he would consider having the matter brought to the Board.

Mr. Nelson did present such documentation. The documentation included a replacement deed conveying the property from Lorene Schaffer to Mr. Nelson which was executed and

recorded on October 8, 2003, copies of canceled checks from Mr. Nelson to Ms. Schaffer for monthly payments on the property and documents from the City of Springfield to Mr. Nelson recognizing Mr. Nelson as the owner. It should also be noted that Mr. Nelson was the payor the last time property taxes were paid in September, 1996.

Upon receiving and reviewing the documentation, Commissioner Dwyer requested that the matter be presented to the Board for their consideration.

3.2 Analysis

As Mr. Nelson did not have a recorded interest in the property at any time during the foreclosure process, lack of proper notice of the foreclosure is not an issue. The issue for the Board is whether or not it wishes to sell the subject back to the former owner who is willing to pay all the delinquent taxes which were owing (Mr. Nelson has remitted a cashier's check for the full amount).

The county is not obligated to sell the property back to the former owner nor is it required to sell it for the minimum amount required by statute - the Board can sell it for any price it deems appropriate. The subject has an estimated market value of \$100,000 (after the county is reimbursed for its costs for managing foreclosed property, proceeds from the sale of foreclosed property are disbursed to the taxing districts in the same manner as property taxes). Should the Board choose to retain the property, it could be offered at a Sheriff's sale or offered to a non profit organization for affordable housing purposes.

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. The subject property does not meet any of the provisions of Lane Manual and a sale back to the former owner would be an exception to those provisions.

Up until 1989, the provisions of Lane Manual mirrored state statutes for a sale back to the former owner. Lane Manual was amended to its current provisions in response to property developers who were not paying property taxes as the interest rate on delinquent taxes was less than general market rates. Those who lost property would then petition the county to sell it back to them. The intent of the change to Lane Manual was to discourage commercial developers from using the tax system to finance their endeavors by not making a sale back to the former owner relatively automatic.

3.3 Alternatives/Options

1. Sell the property back to Mr. Nelson for the minimum amount pursuant to ORS. 275.180 plus taxes which would have been owed for the current year plus 10% thereon for a total \$10,240
2. Sell the property for an amount greater than #1 above.
3. Reject selling the property back to the former owner and offer the property at a Sheriff's sale which would yield greater consideration.
4. Reject selling the property back to the former owner and offer the property for use for affordable housing.

3.4 Recommendation

It is recommended that alternative #1 be implemented.

3.5 Timing

None

4. **IMPLEMENTATION/FOLLOW-UP:** Upon approval by the Board of County Commissioners, the Quitclaim Deed will be executed and the property sold to the former owner.
5. **ATTACHMENTS:**
 - Recorded Deed to Nelson
 - Board Order
 - Quitclaim Deed
 - Plat Map

Bargain and Sale Deed

KNOW ALL MEN BY THESE PRESENTS, That LORENE HART, WHO ACQUIRED TITLE AS LORENE SCHAFER, hereinafter called Grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey to JERRY H. NELSON, hereinafter called Grantee, and unto Grantees' heirs, successors and assigns, all of that certain real property situated in the County of Lane, State of Oregon, described as follows, to wit:

Lot 10, Block 2, HOLLO'S ADDITION TO SPRINGFIELD, as platted and recorded in Book 4, Page 51, Lane County Oregon Plat Records, in Lane County, Oregon.

To have and to hold the same unto the said Grantee and Grantee's heirs, successors and assigns forever. The true and actual consideration paid for this transfer, stated in terms of dollars is to clear title. This is a replacement deed for the Deed originally executed June 7, 1995.

THIS INSTRUMENT WILL 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 OF COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

In Witness Whereof, the Grantor has executed this instrument this 8th day of OCTOBER, 2003

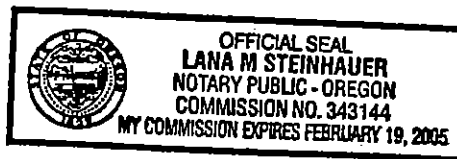
Lorene Hart
LORENE HART

STATE OF OREGON, (County of Lane) ss.

This instrument was acknowledged before me on OCTOBER 8th, 2003 by

LORENE HART

Lana M. Steinhauer
Notary Public for Oregon



Grantor's Name and Address:
Lorene Hart

Grantee's Name and Address:
Jerry H. Nelson
2430 Lawence
Eugene, Oregon 97405

Division of Chief Deputy Clerk
Lane County Deeds and Records

2003-098468



\$26.00

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. IN THE MATTER OF AUTHORIZING THE SALE OF SURPLUS COUNTY OWNED REAL PROPERTY TO JERRY H. NELSON, FORMER OWNER OF RECORD, FOR \$10,240 (MAP #17-03-26-33-03200, 1135 MILL STREET, SPRINGFIELD)

WHEREAS this matter now coming before the Lane County Board of Commissioners and said Board deeming it in the best interest of Lane County to sell the following real property which was acquired through tax foreclosure, to wit:

Lot 10, Block 2, HOLLO'S ADDITION TO SPRINGFIELD, as platted and recorded in Book4, Page 51, Lane County Oregon Plat Records, Lane County, Oregon

WHEREAS Jerry H. Nelson is the former owner of record of said real property and

WHEREAS it is deemed that a sale of said real property back to the former owners is in the best interests of Lane County

IT IS HEREBY ORDERED that pursuant to ORS 275.180 and ORS 275.275 the real property identified as map No. 17-03-26-33-03200 be sold to Jerry H. Nelson for \$10,240, that the Quitclaim Deed be executed by the Board and that the proceeds be disbursed as follows:

Foreclosure Fund	(228-5570270-446120)	\$9,972.00
General Fund	(124-5570260-436521)	268.00

IT IS FURTHER ORDERED, that this Order shall be entered into the records of the Board of Commissioners of the County.


DATED this _____ day of _____, 20____.

Peter Sorensen, Chair,
Lane County Board of Commissioners

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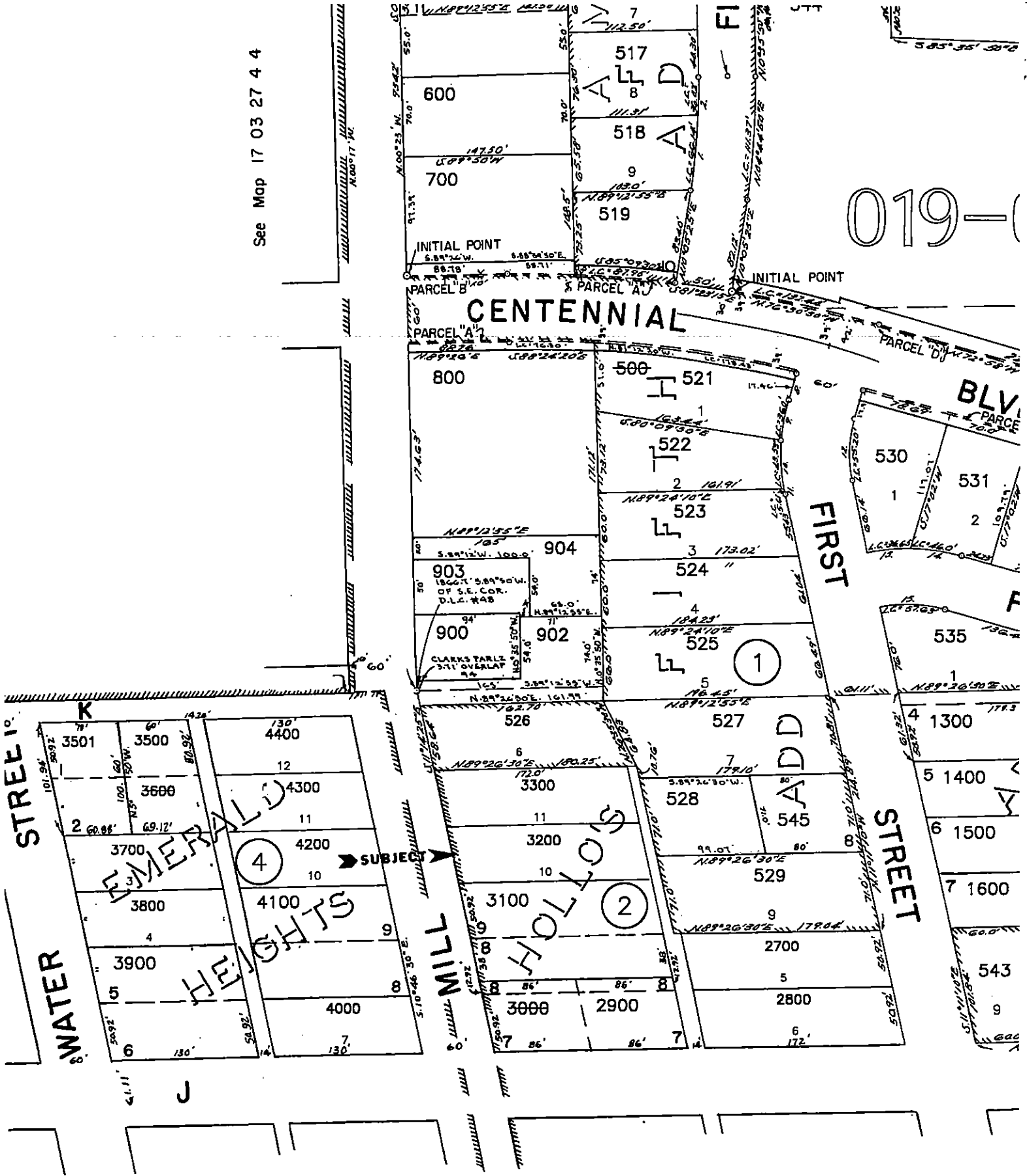
APPROVED AS TO FORM

Date 10-27-03 lane county


OFFICE OF LEGAL COUNSEL

See Map 17 03 27 4 4

019-



See Map 17 03 35 2 2