

W. G. F. I.

AGENDA COVER MEMO

Memorandum Date: June 8, 2009
 Order Date: June 24, 2009

TO: Board of County Commissioners

DEPARTMENT: Public Works / Land Management Division

PRESENTED BY: Mike Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF AMENDING CHAPTER 60 OF THE LANE MANUAL TO ESTABLISH A SPECIAL BENEFIT FEE FOR PROPERTY SUBJECT TO VACATION (LM 60.853)

I. MOTION

APPROVE THE ORDER AMENDING CHAPTER 60 OF THE LANE MANUAL TO ESTABLISH A SPECIAL BENEFIT FEE FOR PROPERTY SUBJECT TO VACATION (LM 60.853)

II. AGENDA ITEM SUMMARY

To decide whether or not to approve the Order amending Chapter 60 of Lane Manual to establish a special benefit fee for property subject to vacation.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

On April 29, 2009 the Board of County Commissioners conducted a work session with Public Works Department staff on the topic of Lane County policies and fee schedules related to the vacation, surrender and relinquishment of public right of way. During that discussion, staff was directed to return to the Board with a proposal for changes to the Lane Manual that would include provisions for the assessment of a special benefit fee related to the vacation of public property, or public interest in property.

B. Policy issues

Lane County Financial Management Policies in the Lane Manual, LM 4.010(2), Revenue Policies (d) states "Charges for services will be set by the Board of Commissioners and based on an analysis of who benefits from the service, amounts charged by other agencies for similar services, the actual direct and indirect cost of providing the services, and statutory limits."

C. Board Goals

Revenue Development is identified as Strategy 4 of Lane County's Strategic Plan. Section D2, "Identifying and recovering user fees and charges", Paragraph A., states

as follows: "Lane County Government will assure that fair and reasonable user fees are established and collected for those services where state law permits such fees and where the usage of the service is affected by consumer choice." The following principles are stated:

- Those who benefit should pay; those who pay should benefit.
- Where appropriate fees will be based on costs, including reasonable allocations of overhead and a fair return on investment.

The special benefit fee being proposed at this time meets these objectives.

D. Financial and/or Resource Considerations

At the current time, fees collected by Lane County for processing vacation actions are set with the requirement of a "front end" deposit and a final fee which recovers 100% of our actual processing costs. Vacation deposit fees are prescribed in Lane Manual 60.853 and are currently set at \$3,400 for a vacation without a public hearing, and \$4,800 for a vacation with a public hearing. These fees will remain unchanged at this time, but may be reviewed for adjustment as deemed appropriate in the future.

The financial impact of the addition of a special benefit fee is difficult to project. Additional revenue will be generated on the basis of the estimated value of the property being vacated. The estimated special benefit of two recent vacations considered by the Board (namely Latta Road and First Avenue near Driftwood Shores) would have been \$16,800 and \$39,000 respectively. Vacations occurring in commercial zones and high value residential areas have potential to generate greater amounts of estimated special benefit.

We have processed 28 vacation actions in Lane County during the past 5 years. The number is in a downward trend and will likely see further reduction as a result of implementing the special benefit fee.

E. Analysis

A copy of LM 60.853 Vacation and Special Benefit Fees as amended, along with the proposed changes in legislative format, are included as attachments to the Order.

The proposed assessment of a special benefit fee will allow Lane County to recover the estimated value of public property being vacated.

The cities of Eugene, Springfield, Florence, and Bend, as well as Douglas County, currently have similar provisions in place that require the payment of a deposit equal to the assessment of special benefit resulting from the vacation of public right of way to the benefited property owners.

The Board considered implementation of special benefit fees during a work session conducted on April 29, 2009. Staff was directed at that time to return to the Board with a proposal for changes to the Lane Manual which would include provisions for the assessment of a special benefit fee related to vacations of public right of way. As a result of this directive, the matter has not been presented to the Finance & Audit Committee, as would be typical of a proposed fee increase.

F. Alternatives/Options

1. Approve the Order amending Chapter 60 of the Lane Manual to establish a special benefit fee for property subject to vacation.
2. Deny the Order amending Chapter 60 of the Lane Manual to establish a special benefit fee for property subject to vacation.
3. Continue the matter for further discussion and consideration.

IV. TIMING/IMPLEMENTATION

If the special benefit fee is approved by the Board, staff will implement the new procedures and will begin collecting the special benefit fee effective immediately.

V. RECOMMENDATION

Staff recommends the Board approve Option Number 1, approving the Order amending Chapter 60 of the Lane Manual to establish a special benefit fee for property subject to vacation.

VI. FOLLOW-UP

Upon approval, staff will update informational handout material on vacations and fees, and will provide updated information on our website.

VII. ATTACHMENTS

Order with attachments:

Lane Manual Chapter 60.853

Lane Manual Chapter 60.853 – Legislative Format

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING CHAPTER 60 OF THE LANE MANUAL TO ESTABLISH A SPECIAL BENEFIT FEE FOR PROPERTY SUBJECT TO VACATION (LM 60.853)

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 60 is hereby amended by removing, substituting, and adding the following section:

DELETE THIS SECTION

INSERT THIS SECTION

60.853
as located on pages 60-68 through 60-69
(a total of 2 pages)

60.853
as located on pages 60-68 through 60-69
(a total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to establish a special benefit fee for property subject to vacation (LM 60.853).

Adopted this _____ day of _____ 2009.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5-22-09 Lane County



OFFICE OF LEGAL COUNSEL

No field visit required	\$ 147.00
NOTE. Renewal of a permit may be granted to the original permittee if an application for permit renewal is filed prior to the original permit expiration date. Refer to OAR 340-71-160(10).	
Alteration Permit	
Major	\$ 736.00
Minor	\$ 310.00
Repair Permit	
Single Family Dwelling:	
Major	\$ 265.00
Minor	\$ 155.00
Commercial Facility. The appropriate fee identified in on-site sewage disposal system construction permits above.	
Authorization Notice	
If field visit is required	\$ 396.00
No field visit is required	\$ 153.00
Alternative System Inspection Fee	
Holding Tank.....	\$ 272.00
Other Alternative Systems.....	\$ 374.00
Annual Evaluation of Temporary or Hardship	
Mobile Home.....	\$ 160.00
Annual Report Evaluation Fee	
Holding Tank.....	\$ 28.00
Commercial sand filters, recirculating gravel filters, and alternative treatment technology.....	\$ 57.00
Pumper Truck Inspection	
First vehicle	\$ 118.00
Each additional vehicle during same inspection.....	\$ 66.00
Existing System Evaluation Report.....	\$ 480.00
NOTE. The fee shall not be charged for an evaluation report on any proposed repair, alteration or extension of an existing system.	
Building permit plot plan check when authorization notice is not required	
	\$ 58.00
Surcharge. In order to offset a portion of the administrative costs of the statewide on-site sewage disposal program, a surcharge for each activity, as set by Oregon Administrative Rule, shall be levied. Proceeds from surcharges shall be forwarded to the Department of Environmental Quality as negotiated in the memorandum of agreement (contract) between the County and the Department.	

(Revised by Order No. 01-4-4-6; Effective 7.1.01; 03-3-12-3, 4.11.03; 04-2-18-1, 7.1.04; 05-2-2-7, 7.1.05; 06-2-8-7, 7.1.06; 08-5-14-12, 7.1.08)

60.853 Vacation And Special Benefit Fees.

Pursuant to ORS 368.326 through 368.366, the following fee schedule shall be paid at or prior to the time of filing petitions for the vacation of all or any part of any lot, tract, street, alley, road, highway, common or all or any part of any public square or any other public property or public interest in property in any unincorporated area or town:

- (1) \$4,800 deposit for a proposed vacation of public lands with a public hearing. The final fee will be based on actual costs incurred by Lane County determined

at the completion of the project. Actual costs include normal document processing and the hourly rate of staff assigned to the project, plus a Land Management Division overhead rate.

(2) \$3,400 deposit for a proposed vacation of public lands without a hearing per ORS 368.351. The final fee will be based on actual costs incurred by Lane County determined at the completion of the project. Actual costs include normal document processing and the hourly rate of staff assigned to the project plus a Land Management Division overhead rate.

(3) In addition to payment of the deposit and final fees referenced in subsections (1) and (2) above, a vacation of public property or public interest in property under the jurisdiction of the County governing body shall require payment by the petitioners of a deposit equal to the estimate of special benefit that results from the vacation and disposition of property to the benefitted property owners.

(a) The estimated value of the special benefit and the amount of money to be deposited shall be determined by the Public Works Director. In the event that the property being vacated has a special benefit value of less than \$2,500, it shall be considered de minimis and a payment of deposit for special benefit shall not be required.

(b) Notice of the proposed deposit for special benefit shall be provided by mail to the owners of the property proposed to be vacated and shall contain a statement that includes the names, addresses, and the amount of the required deposit of each landowner's special benefit by the vacation.

(c) The petitioner shall deposit with the County Surveyor the sum of money called for by this subsection (3) prior to the scheduling of a meeting of the Board of Commissioners for action on the vacation.

(d) Should the vacation be found to be in the public interest and approved, the deposit for special benefit shall be retained by the County. If the vacation is denied, the deposit for special benefit shall be returned to the landowners. *(Revised by Order No. 01-4-4-6, Effective 7.1.01; 04-2-11-3, 7.1.04; 07-4-18-3, 7.1.07)*

<u>At right margin indicates changes</u>	LEGISLATIVE
Bold indicates material being added	FORMAT
Strikethrough indicates material being deleted	
60.853	60.853

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No field visit required \$ 147.00

NOTE. Renewal of a permit may be granted to the original permittee if an application for permit renewal is filed prior to the original permit expiration date. Refer to OAR 340-71-160(10).

Alteration Permit

Major	\$ 736.00
Minor	\$ 310.00

Repair Permit

Single Family Dwelling:

Major	\$ 265.00
Minor	\$ 155.00

Commercial Facility. The appropriate fee identified in on-site sewage disposal system construction permits above.

Authorization Notice

If field visit is required	\$ 396.00
No field visit is required	\$ 153.00

Alternative System Inspection Fee

Holding Tank.....	\$ 272.00
Other Alternative Systems.....	\$ 374.00

Annual Evaluation of Temporary or Hardship

Mobile Home.....	\$ 160.00
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Annual Report Evaluation Fee

Holding Tank.....	\$ 28.00
Commercial sand filters, recirculating gravel filters, and alternative treatment technology.....	\$ 57.00

Pumper Truck Inspection

First vehicle	\$ 118.00
Each additional vehicle during same inspection.....	\$ 66.00

Existing System Evaluation Report..... \$ 480.00

NOTE. The fee shall not be charged for an evaluation report on any proposed repair, alteration or extension of an existing system.

Building permit plot plan check when authorization notice is not required \$ 58.00

Surcharge. In order to offset a portion of the administrative costs of the statewide on-site sewage disposal program, a surcharge for each activity, as set by Oregon Administrative Rule, shall be levied. Proceeds from surcharges shall be forwarded to the Department of Environmental Quality as negotiated in the memorandum of agreement (contract) between the County and the Department.

(Revised by Order No. 01-4-4-6; Effective 7.1.01; 03-3-12-3, 4.11.03; 04-2-18-1, 7.1.04; 05-2-2-7, 7.1.05; 06-2-8-7, 7.1.06; 08-5-14-12, 7.1.08)

60.853 Vacation And Special Benefit Fees.

Pursuant to ORS 368.326 through 368.3668, the following fee schedule shall be paid at or prior to the time of filing petitions for the vacation of all or any part of any lot, tract,

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60.853

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60.853

street, alley, road, highway, common or all or any part of any public square or any other public property or public interest in property in any unincorporated area or town:

(1) \$4,800 deposit for a proposed vacation of public lands with a public hearing. The final fee will be based on actual costs incurred by Lane County determined at the completion of the project. Actual costs include normal document processing and the hourly rate of staff assigned to the project, plus a Land Management Division overhead rate.

(2) \$3,400 deposit for a proposed vacation of public lands without a hearing per ORS 368.351. The final fee will be based on actual costs incurred by Lane County determined at the completion of the project. Actual costs include normal document processing and the hourly rate of staff assigned to the project plus a Land Management Division overhead rate.

~~Fees shall be made payable to the Lane County Surveyor for the purposes of offsetting the costs of investigating and acting on such petitions by Lane County. The difference between the actual costs and the deposit will be billed or refunded to the applicant. An approved County vacation shall not be recorded until any additional amounts are paid.~~

~~The cost of legal advertising and recording fees shall be borne by petitioner.~~

(3) In addition to payment of the deposit and final fees referenced in subsections (1) and (2) above, a vacation of public property or public interest in property under the jurisdiction of the County governing body shall require payment by the petitioners of a deposit equal to the estimate of special benefit that results from the vacation and disposition of property to the benefitted property owners.

(a) The estimated value of the special benefit and the amount of money to be deposited shall be determined by the Public Works Director. In the event that the property being vacated has a special benefit value of less than \$2,500, it shall be considered de minimis and a payment of deposit for special benefit shall not be required.

(b) Notice of the proposed deposit for special benefit shall be provided by mail to the owners of the property proposed to be vacated and shall contain a statement that includes the names, addresses, and the amount of the required deposit of each landowner's special benefit by the vacation.

(c) The petitioner shall deposit with the County Surveyor the sum of money called for by this subsection (3) prior to the scheduling of a meeting of the Board of Commissioners for action on the vacation.

(d) Should the vacation be found to be in the public interest and approved, the deposit for special benefit shall be retained by the County. If the vacation is denied, the deposit for special benefit shall be returned to the landowners. (Revised by Order No. 01-4-4-6, Effective 7.1.01; 04-2-11-3, 7.1.04; 07-4-18-3, 7.1.07)