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AGENDA COVER MEMORANDUM

Memorandum Date: Sept 16, 2009

Agenda Date: Sept. 30, 2009

TO: Board of County Commissioners

DEPARTMENT: Management Services

PRESENTED BY: Jeff Turk, Property Management Officer 2

SUBJECT: IN THE MATTER OF AUTHORIZING THE TRANSFER, WITHOUT CONSIDERATION, OF SURPLUS COUNTY OWNED REAL PROPERTY TO THE MOHAWK VALLEY LIONS CLUB FOUNDATION (MAP NO. 16-01-18-34-06400, AT SW CORNER OF MARCOLA AND WENDLING ROADS)

1. **PROPOSED MOTION:** IT IS MOVED TO AUTHORIZE THE TRANSFER, WITHOUT CONSIDERATION, OF SURPLUS COUNTY OWNED REAL PROPERTY TO THE MOHAWK VALLEY LIONS CLUB FOUNDATION (MAP NO. 16-01-18-34-06400, AT SW CORNER OF MARCOLA AND WENDLING ROADS)

2. **AGENDA ITEM SUMMARY:**

The Mohawk Valley Lions Club wishes to acquire the subject property for the purpose of providing open space, park space and educational opportunities for the Marcola community.

The proposed transfer would occur pursuant to ORS 271.330 (3) which provides for transferring County property to a nonprofit or municipal corporation for perpetual public use of the property as open space, natural area or park.

3. **BACKGROUND/IMPLICATIONS OF ACTION:**

A. Board Action and Other History

The subject parcel was acquired through tax foreclosure in 1959. It is 1.25 acres, zoned RR1 and has approximately 300' of frontage along the Mohawk River. The parcel is located at the junction of Marcola and Wendling Roads West of the Wendling Rd. bridge that crosses the river.

The property file indicates that the County initially retained the parcel for possible park purposes. The Public Works Dept. also had requested retention of the parcel for use as a stockpile site for road projects in the area.

For the last few years, the Public Works Dept. has worked with the Mohawk Watershed Partnership (part of the McKenzie Watershed Council) and other community organizations to undertake restoration of the property by removing non-native vegetation, planting native vegetation and general cleanup. Other community groups involved include the Marcola School District (part of science curriculum), Mohawk Valley Lions Club and the Marcola Water District which owns property adjoining the subject (tax lot 6200). The property has also been used by the community as open space with river access.

The Mohawk Valley Lions Club would manage the property as park and open space for use by the Marcola community.

The Public Works Dept. no longer needs the subject property and is supportive of a transfer to the Lions Club.

B. Policy Issues

ORS 271.330(3) provides for transferring County property to a nonprofit or municipal corporation for parks purposes. The statute requires that the property be open to “perpetual public use” and that the deed contain a reversion provision should the property not be used for the purposes noted in the statute.

Lane Manual 21.430(7) affirms the County’s policy to consider transfers of County property to nonprofit and municipal corporations.

C. Board Goals

A transfer to the Lions Club would be consistent with the Board’s goal to maintain a healthy environment for County citizens with regard to air quality, water quality, land use and parks.

D. Financial and/or Resource Considerations

The Lions Club is requesting that the transfer occur without monetary consideration. They have paid a \$400 administrative fee per LM 21.430 for processing their request.

E. Analysis

The subject property has a market value per the Assessor of \$107,000. This value assumes a dwelling can be placed on the property and does not factor in additional permit and construction costs that would be required as the property is within the 100 year flood zone. Additional costs that would be incurred include engineering studies to determine feasibility for a dwelling and design costs to accommodate construction standards for building within the 100 year flood plain. It is estimated these additional costs would be \$30,000 - \$40,000.

Tax lot 6500, which is on the East side of the Wendling Rd. bridge and is smaller than the subject, did secure building permits for the placement of a dwelling in 2005 and has been improved with a manufactured dwelling. The property has been on the market for 3 years and has not sold. The current asking price is \$195,000.

Given this, it would be reasonable to assume that the subject property could be improved with a dwelling as well. However, with the additional risks and costs to develop the subject, and the current real estate climate, a sale of the subject would be difficult at this time.

The subject property has been used as a community asset providing educational opportunities for the school district, stream restoration opportunities, open space and river access. The Mohawk Valley Lions Club wishes to continue managing the subject as a community asset in partnership with other community organizations. The statutorily required deed condition that the property be open to public use in perpetuity or revert back to the County would ensure its continued use as a community asset if transferred to the Lions Club.

The Mohawk Valley Lions Club is a qualifying nonprofit for the purposes of a transfer pursuant to ORS 271.330.

The Right – of – Way Management Division has requested that an easement for road purposes be retained for any portion of the property lying within 40’ from the centerline of Wendling Rd. The Lions Club is agreeable to this.

F. Alternatives/Options

1. Transfer the parcel to the Lions Club without consideration.
2. Transfer the parcel to the Lions Club but require consideration as determined by the Board.
3. Do not transfer the parcel and offer for sale at a future auction.

4. RECOMMENDATION

It is recommended that the subject property be transferred to the Lions Club without consideration (Option 1.)

5. TIMING/IMPLEMENTATION

No timing issues are present.

6. FOLLOW-UP

Upon approval by the Board, the Quitclaim deed will be executed and the property transferred to the Mohawk Valley Lions Club.

7. **ATTACHMENTS**

Board Order
Quitclaim Deed
Letter From the Lions Club
Plat Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AUTHORIZING THE TRANSFER, WITHOUT CONSIDERATION, OF SURPLUS COUNTY OWNED REAL PROPERTY TO THE MOHAWK VALLEY LIONS CLUB FOUNDATION (MAP NO. 16-01-18-34-06400, AT SW CORNER OF MARCOLA AND WENDLING ROADS)

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:

See Attached Exhibit "A"

WHEREAS said real property is owned by Lane County and not in use for County purposes, and the transfer of said property would benefit the citizens of Lane County and

WHEREAS the Board is supportive of the Mohawk Valley Lions Club's effort to acquire said real property to be used as a community resource for education, open space and watershed maintenance purposes and

WHEREAS, the Mohawk Valley Lions Club is a qualified nonprofit corporation for the purposes of said transfer

IT IS HEREBY ORDERED that, pursuant to ORS 271.330 (3) and Lane Manual 21.430, the real property described in attached Exhibit "A" be transferred to the Mohawk Valley Lions Club Foundation without monetary consideration, that the Quitclaim Deed be executed by the Board and that said deed include conditions as required by statute ensuring perpetual public use and reversion to the County if not used for said statutory purposes.

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 Sorenson, Chair, Board of County Commissioners

IN THE MATTER OF AUTHORIZING THE TRANSFER, WITHOUT CONSIDERATION, OF SURPLUS COUNTY OWNED REAL PROPERTY TO THE MOHAWK VALLEY LIONS CLUB FOUNDATION (MAP NO. 16-01-18-34-06400, AT SW CORNER OF MARCOLA AND WENDLING ROADS)

APPROVED AS TO FORM

Date 9-17-09 lane county


OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

Legal Description
Map # 16-01-18-34-06400

All that portion of land lying and being between the old County Road and the Mohawk River, BEGINNING at a point 15' Easterly from the old wagon bridge on the Mohawk River on the southerly line of the County Road; thence Northeasterly along the South line of the County Road to the new bridge across the Mohawk River in Section 18, Township 16 South, Range 1 West of the Willamette Meridian; running North and South; thence South along the highway at new bridge to the Mohawk River; thence Westerly down said stream to a point 15' "East from the site of the old bridge across the Mohawk River; thence Northerly to the Place of Beginning, in Lane County, Oregon.

ALSO: Beginning at the intersection of County Road running from Marcola to Hyland Station with County Road running across Mohawk River Bridge from Marcola to Wendling; thence South to the North bank of said Mohawk River; thence Westerly 100.00' down bank of said river; thence North to the South edge of County Road; thence Easterly along the edge of said road to the Place of Beginning, in Township 16 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon.

This also includes the old road where the old bridge has been torn down.

EXCEPTING THEREFROM any portion lying within Marcola or Wendling Rds.

ALSO, RESERVING THEREFROM unto Grantor, an easement for road purposes 40' from the centerline of Wendling Road, as extended Northerly to the Southerly right-of-way line of Marcola Road.

QUITCLAIM DEED

LANE COUNTY, a political subdivision of the State of Oregon, pursuant to Order No. _____ of the Board of County Commissioners of Lane County, releases and quitclaims to:

Mohawk Valley Lions Club Foundation

all its right, title and interest in that real property situated in Lane County, State of Oregon, described as:

See Attached Exhibit "A"

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES 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 OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007

The true and actual consideration for this transfer is: Use for Public Purposes per ORS 271.330(3)

This transfer is conditioned upon use of the herein conveyed property by Grantee, its heirs, assigns or successors in interest, as a park, open space and natural area for perpetual public use as described in ORS 271.330 (3). The herein conveyed property is subject to reversion to Grantor if said property is not used in a manner consistent with the conditions of its transfer.

LANE COUNTY BOARD OF COMMISSIONERS

This space reserved for recording sticker

STATE OF OREGON)
) ss
COUNTY OF LANE)

On _____, 2009 personally appeared _____,

_____, _____, _____, _____,

_____, County Commissioners for Lane County, and acknowledged the foregoing instrument to be their voluntary act. Before me:

After recording, return to/taxes to:
Mohawk Valley Lions Club Foundation
92774 Paschelke Rd., Marcola, OR 97454

Notary Public for Oregon
My Commission Expires _____

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Mohawk Valley Lions Club Foundation

*Joe Miller
Executive Director
92774 Paschelke Road
Marcola, Oregon 97454
800-998-8504*

July 24, 2009

Jeff Turk
Property Management Officer
Lane County, Oregon
125 East Eighth Avenue
Eugene, Oregon 97401

Dear Jeff:

Phil Wolter, Dean Dunson, and I appreciate the opportunity to meet with you to discuss our request for Lane County to transfer the parcel at Marcola Road and Wendling Road to the Mohawk Valley Lions Club Foundation.

As a nonprofit charitable foundation incorporated in the State of Oregon, we believe that we meet the criteria as set forth in Code section 271.330, article (3) which states: *"Relinquishing title of property not needed for public use"* which provides that: *"Any political subdivision is granted express power to convey real property to a nonprofit or municipal corporation to be used by the nonprofit or municipal corporation for the creation of open space, parks, or natural areas for perpetual public use."*

Our organization plans to utilize this property for a community park open to the public for community use. We further understand that under article (3) : *"The instrument conveying the property shall also contain a provision for the reversion of the property to the political subdivision if the property is not used in conformance with the restriction. Real property conveyed under this subsection may include real property held by a political subdivision as a result of tax foreclosures."*

In addition to community use of this property, we will be working with the efforts and goals of the Marcola School District, the Marcola Grange, and the Mohawk Watershed Conservancy. These efforts will protect the watershed resources in Marcola as well as provide one of the few public accesses to the Mohawk River to be used by Mohawk High School for biology instruction.

As we discussed, the Mohawk Valley Lions Club has been a highly regarded community organization over the past six years since its inception. Our members have provided many services to such as:

- 1) Providing the Mobile Health Screening Units each year to the two Elementary Schools , the High School, and the public.
- 2) Flag Day for first graders at both elementary schools explaining the history and meaning of our Flag and presenting each student with a Flag and mounting base of their own.
- 3) Sponsoring an elementary school Christmas Party and providing substantial Christmas food baskets for deserving families of these children in our community.
- 4) Financial support for the Mohawk High School Football, Basketball, Baseball, Volleyball, and Wrestling teams.
- 5) Provide Sight & Hearing assistance to financially challenged children and adults in the community.
- 6) *"Adopt-a-Road"* roadside clean-up twice a year along Marcola Road approaching Marcola.

On behalf of the Mohawk Valley Lions Club Foundation, I would like to thank you for your efforts in helping us to acquire this community asset for the benefit of our neighbors. If you have any questions prior to the submission of our request to the Board, please call me at any time.

Very sincerely,

Joe Miller, Executive Director

Cc: Faye Stewart, Eastern Lane County Commissioner

