

W.3.C.1.

AGENDA MEMORANDUM
Date: March 31, 2008
Agenda Date: April 16, 2008



LAND MANAGEMENT DIVISION
http://www.LaneCounty.org/PW_LMD/

TO: Board of County Commissioners
DEPARTMENT: Public Works/Land Management Division
PRESENTED BY: Matt Laird, LMD Manager

AGENDA ITEM TITLE: ORDER/In the Matter of Authorizing the Appointment of Public Works/Land Management Division as Receiver and Allowing the Expenditure of Waste Management Abatement Funds of Approximately \$17,346 to Abate Nuisance Conditions at 26056/26060 Fleck Road, Veneta, Oregon.

I. MOTION

Move approval of Board Order authorizing the appointment of Public Works/Land Management Division as receiver and allowing the expenditure of Waste Management abatement funds of approximately \$17,346 at 26056/26060 Fleck Road, Veneta, Oregon, Assessor's Map 18-05-08 Tax Lot 301.

II. ISSUE OR PROBLEM

On June 4, 2007, the Hearing's Official ruled that violations of Lane Code 5.725(1)(b), Nuisance Tire Storage, Lane Code 5.730(1)(b), Nuisance Vehicle Storage and Lane Code 5.740(1), Accumulation, Collection or Storage of Solid Waste or Waste existed on property described as 26056/26060 Fleck Road, Veneta, Oregon and ordered the owner of the property, Anna Stovall, abate the nuisance within 90 days. In the Hearing's Official ruling, he comments that *"Both the County Compliance Officer and I attempted to work with the Respondent to fashion a work plan that she could afford that would eventually lead to the abatement of nuisance conditions on the subject property. The Respondent was allowed to craft a work plan that suited her financial and practical situation but has not done so and no longer communicates with the Compliance Officer."*

The property is zoned Rural Residential and consists of approximately 3.5 acres mostly containing nuisance conditions in view of Fleck Road and adjacent parcels. The nuisance conditions remain on the property and no significant improvements have been made.

III. DISCUSSION

A. Background

The property has a history of compliance actions since the 1990's involving nuisance conditions and the continued occupancy of recreational vehicles by family and non-family members. The single-family dwelling was destroyed by fire in September 2006. The owner has not been successful in settling an insurance claim with the insurance company and a demolition permit to remove the remaining portion of the structure has expired-by-limit. Two family members continue to reside, unlawfully, in recreational vehicles and Anna Stovall has relocated to a mobile home, previously permitted as a hardship mobile home.

Waste Management staff viewed the property in July 2007 and provided an estimate to conduct the cleanup and abatement of the property.

B. Analysis

This property would need to have two categories of conditions resolved to achieve code compliance. First, nuisance trash, debris, tires, and inoperable vehicles and vehicle parts would need to be removed from the property. This could probably be done simply with a Hearing's Official directive and use of Waste Management resources.

A second condition on the property that has thus far resisted abatement is that there is unlawful occupancy of recreational vehicles on the property with neither land use nor building approvals to ensure that the RVs are connected properly to electrical, water or approved sanitation services. Before attempting to potentially terminate these occupancies, staff would anticipate seeking Court supervision through the appointment of Land Management Division as receiver for the property pursuant to ORS 105.420 et. seq. This statute allows a County agency to be appointed receiver if the "residential property is found to be in violation of building or housing codes which the . . . County, in the exercise of reasonable discretion believes constitutes a threat to the public health, safety or welfare . . ."

The statute defines "building code" or "housing code" as "any law, ordinance or governmental regulation concerning habitability or the construction, maintenance, operation, occupancy, use or appearance of any property."

The Board, today, is being asked to make such a determination as to the subject property. If the Circuit Court then approves the appointment of the Land Management Division as receiver, the Court would then supervise abatement and approve expenditures including up to a 15% administrative fee (ORS 105.435(3)).

This would result in a lien on the property.

C. Alternatives/Options

- 1) Approve the Order.
- 2) Do not approve the Order and direct staff to only pursue non-residential conditions through the Hearing's Official process.
- 3) Do not approve the Order and direct staff to discontinue enforcement as to the subject property.

D. Recommendations

- 1) Option 1.

E. Timing

Timing is important in this matter to expeditiously resolve the situation for the property owner and for the neighbors.

IV. IMPLEMENTATION

Should the Board approve the Order, County Counsel would file a complaint in Circuit Court seeking appointment of Public Works/Land Management Division as receiver. LMD staff would assist in drafting an abatement plan for possible Court approval.

V. ATTACHMENTS

Board Order

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER No. (In the Matter of Authorizing the Appointment of Public Works/Land Management Division as Receiver and (Allowing the Expenditure of Waste Management Abatement Funds of Approximately \$17,346 to Abate Nuisance Conditions at 26056/26060 Fleck Road, Veneta, Oregon)

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

Whereas Anna Stovall owns certain property located at Assessor's map 18 05 08 Tax Lot 301, 26056/26060 Fleck Road, Veneta, Oregon; and

Whereas said property was found to be in violation of Lane Code 5.725(1)(b) Nuisance Tire Storage, Lane Code 5.730(1)(b), Nuisance Vehicle Storage, and Lane Code 5.740(1), Accumulation, Collection, or Storage of Solid Waste or Waste and is subject to a civil penalty as ruled by the Hearing's Official on June 4, 2007; and

Whereas the nuisance conditions have not been abated since the Hearing Official's ruling; and

Whereas there are abatement funds available through a surcharge from the Waste Management Division to abate the nuisance conditions and lien the property for the amount of the cleanup and abatement; and

Whereas there also exists on the property occupied, unpermitted recreational vehicles; and

Whereas The Board has reviewed the report from the Public Works Department and photographs of the property; and

Whereas the above nuisance and unpermitted conditions are violative of Lane County building and housing codes pursuant to ORS 105.420 et. seq. and constitute a threat to the public health, safety, or welfare; and

Whereas the Public Works Land Management Division (LMD) should be responsible for the rehabilitation of this property through Court receivership; now therefore

It is hereby ordered that the Public Works/Land Management Division is authorized, through the Office of County Counsel, to seek the appointment of LMD as receiver for this property located at 26056/26060 Fleck Road, Veneta, Oregon, Assessor's Map 18 05 08 Tax Lot 301 through Lane County Circuit Court pursuant to ORS 105.420 et. seq., to utilize Waste Management abatement funds of approximately \$17,346 to abate nuisance conditions occurring there, and to file a lien against the real property for the amount of the cleanup and abatement to the extent allowed by the Court.

Dated this _____ day of April 2008.

Faye Stewart, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 4-3-08 lane county

OFFICE OF LEGAL COUNSEL