

# ANNOTATED MINUTES

Thursday, May 18, 2006 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## REGULAR MEETING

*Chair Diane Linn convened the meeting at 9:31 a.m., with Commissioners Lisa Naito, Serena Cruz Walsh and Maria Rojo de Steffey present, and Vice-Chair Lonnie Roberts arriving at 9:33 a.m.*

### CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER CRUZ, SECONDED BY COMMISSIONER NAITO, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-4) WAS APPROVED, WITH COMMISSIONERS NAITO, CRUZ, ROJO AND LINN VOTING AYE.**

**CHAIR LINN ACKNOWLEDGED AND THANKED THE APPOINTEES, INCLUDING MS. ANDREA CANO IN THE AUDIENCE. COMMISSIONER CRUZ WALSH EXPRESSED HER APPRECIATION FOR MS. CANO'S REPRESENTATION ON THE MOUNT HOOD CABLE REGULATORY COMMISSION.**

### NON-DEPARTMENTAL

- C-1 Appointment of Dr. Jennifer Vines to the Multnomah County COMMUNITY HEALTH COUNCIL
- C-2 Reappointment of Andrea Cano to the MOUNT HOOD CABLE REGULATORY COMMISSION
- C-3 Appointment of Katharina Lorenz to the Multnomah County PLANNING COMMISSION

### DEPARTMENT OF COUNTY HUMAN SERVICES

C-4 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

**ORDER 06-074.**

**REGULAR AGENDA**

**AT THE REQUEST OF CHAIR LINN AND UPON MOTION OF COMMISSIONER NAITO, SECONDED BY COMMISSIONER CRUZ, CONSIDERATION OF THE FOLLOWING ITEM WAS APPROVED, WITH COMMISSIONERS NAITO, CRUZ, ROJO AND LINN VOTING AYE.**

**NON-DEPARTMENTAL**

UC-1 PROCLAMATION Proclaiming May 23 through May 29, 2006 a Week of Remembrance for Those Who Have Died in Our Nation's Service

**COMMISSIONER NAITO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF UC-1.**

*Commissioner Roberts arrived at 9:33 a.m.*

**COMMISSIONER NAITO READ PROCLAMATION AND COMMENTED IN SUPPORT. DANIEL SEARS EXPLANATION AND COMMENTS IN SUPPORT. CHAIR LINN AND COMMISSIONERS CRUZ AND ROBERTS COMMENTS IN SUPPORT. PROCLAMATION 06-081 UNANIMOUSLY APPROVED.**

**PUBLIC COMMENT**

Opportunity for Public Comment on non-agenda matters. Testimony is limited to three minutes per person. Fill out a speaker form available in the Boardroom and turn it into the Board Clerk.

**NO ONE WISHED TO COMMENT.**

**DEPARTMENT OF COUNTY MANAGEMENT**

- R-1 RESOLUTION Authorizing Issuance and Sale of Short-Term Promissory Notes, Tax and Revenue Anticipation Notes, Series 2006 in the Amount of \$20,000,000

**COMMISSIONER CRUZ MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-1. HARRY MORTON EXPLANATION. RESOLUTION 06-075 UNANIMOUSLY ADOPTED.**

- R-2 Approval of Fiscal Year 2006 Supplemental Budget No. 2 for Submission to the Tax Supervising and Conservation Commission

**COMMISSIONER CRUZ MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-2. DAVE BOYER AND CHRISTIAN ELKIN EXPLANATION, ADVISING THE TAX SUPERVISING AND CONSERVATION COMMISSION WILL CONDUCT A HEARING ON WEDNESDAY, JUNE 14, 2006; THE SUPPLEMENTAL BUDGET WILL BE BACK BEFORE THE BOARD FOR FINAL VOTE ON THURSDAY, JUNE 22, 2006; AND THAT THE SUPPLEMENTAL BUDGET RELATES TO HOUSEKEEPING ISSUES AND DOES NOT AFFECT THE 2007 BUDGET. SUPPLEMENTAL BUDGET NO. 2 UNANIMOUSLY APPROVED.**

- R-3 RESOLUTION Authorizing Election to Receive National Forest Related Safety-Net Payments Under P.L. 106-393

**COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-3. BOB THOMAS EXPLANATION AND RESPONSE TO QUESTION OF COMMISSIONER ROBERTS. RESOLUTION 06-076 UNANIMOUSLY ADOPTED.**

- R-4 RESOLUTION Authorizing Election to Receive O&C Land Related Safety-Net Payments Under P.L. 106-393

**COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-4. BOB THOMAS**

**EXPLANATION. RESOLUTION 06-077  
UNANIMOUSLY ADOPTED.**

- R-5 Fiscal Year 2006-2007 Fiscal Parameters Update – Third Quarter Revenue Forecast. Presented by Mark Campbell. 15 MINUTES REQUESTED.

**MARK CAMPBELL PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS. STAFF RECOMMENDATIONS TO BE CONSIDERED DURING TUESDAY, MAY 23, 2006 BUDGET WORK SESSION. KARYNE DARGAN RESPONSE TO QUESTIONS OF COMMISSIONERS CRUZ AND NAITO REGARDING AVAILABILITY OF VOTING TOOL. CHAIR LINN STATED SHE LOOKS FORWARD TO POLICY DISCUSSION AND THANKED MR. CAMPBELL FOR HIS EFFORTS.**

**DEPARTMENT OF COUNTY HUMAN SERVICES**

- R-6 NOTICE OF INTENT to Apply for Stipend from the National Consumers League to Educate Older Persons about Telemarketing Fraud

**COMMISSIONER ROJO MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-6. MOHAMMAD BADER EXPLANATION AND RESPONSE TO QUESTIONS OF COMMISSIONER ROBERTS. CHAIR LINN COMMENTS IN SUPPORT. NOTICE OF INTENT UNANIMOUSLY APPROVED.**

**SCHOOL AND COMMUNITY PARTNERSHIPS**

- R-7 NOTICE OF INTENT to Submit a Proposal to Kellogg Foundation for SUN Community Schools Funding

**COMMISSIONER NAITO MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-7. DIANA HALL EXPLANATION. COMMISSIONER ROBERTS AND CHAIR LINN COMMENTS IN SUPPORT OF SUN SCHOOLS. CHAIR LINN THANKED MS. HALL, LOLENZO POE, MARY LI AND DIANNE IVERSON FOR THEIR**

**EFFORTS. NOTICE OF INTENT UNANIMOUSLY APPROVED.**

**NON-DEPARTMENTAL**

R-8 PROCLAMATION Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County, Oregon

**COMMISSIONER ROJO MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-8. COMMISSIONER ROJO EXPLANATION AND INTRODUCTION OF REBECCA WEAVER AND JENNY RICHARDSON, WHO READ PROCLAMATION AND RESPONDED TO QUESTIONS OF COMMISSIONER ROBERTS. COMMISSIONER ROJO STATED THAT HEART DISEASE IS THE LEADING CAUSE OF DEATH IN WOMEN AND URGED THE BOARD AND OTHERS TO COME PARTICIPATE IN THE PORTLAND METRO AMERICAN HEART WALK AND EVENTS ON SATURDAY, MAY 20, 2006. AT THE REQUEST OF COMMISSIONER ROJO, MS. WEAVER PROVIDED ADDITIONAL DETAILS ON THE EVENTS PLANNED FOR SATURDAY. PROCLAMATION 06-078 UNANIMOUSLY APPROVED.**

**SHERIFF'S OFFICE**

R-9 PROCLAMATION Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon

**COMMISSIONER ROJO MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF R-9. LT. MONTE REISER FROM MULTNOMAH COUNTY SHERIFF'S OFFICE RIVER PATROL EXPLANATION AND COMMENTS IN SUPPORT. CHRISTINE KIRK READ PROCLAMATION. CHAIR LINN COMMENTED IN SUPPORT. PROCLAMATION 06-079 UNANIMOUSLY APPROVED.**

**AUDITOR'S OFFICE**

R-10 Weatherization Program Audit: Improvements Needed to Serve More Clients. Presented by Suzanne Flynn. 15 MINUTES REQUESTED.

**CHAIR LINN ACKNOWLEDGED AND CONGRATULATED COUNTY AUDITOR-ELECT LAVONNE GRIFFIN-VALADE AND METRO AUDITOR-ELECT SUZANNE FLYNN.**

**AUDITOR SUZANNE FLYNN PRESENTATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS. LOLENZO POE AND MARY LI PROVIDED DEPARTMENT RESPONSE AND RESPONDED TO BOARD QUESTIONS AND COMMENTS. AUDITOR TO PROVIDE BOARD WITH ADDITIONAL STATISTICAL INFORMATION. DEPARTMENT STAFF TO PROVIDE BOARD WITH ADDITIONAL DATA AND COME BACK TO BRIEF THE BOARD WITHIN 90 DAYS.**

#### **DEPARTMENT OF COMMUNITY SERVICES**

R-11. PROCLAMATION Declaring the Week of May 21 though May 27, 2006, as NATIONAL PUBLIC WORKS WEEK, and Recognizing the Contributions of all Multnomah County Transportation Employees

**COMMISSIONER ROJO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF R-11. CECILIA JOHNSON INTRODUCED BILL WHITSON AND JOREEN KUFAHL AND INVITED THE BOARD TO THE DEPARTMENT'S ICE CREAM SOCIAL AT 2:00 PM ON THURSDAY, MAY 25, 2006. BILL WHITSON COMMENTED IN SUPPORT. JOREEN KUFAHL READ PROCLAMATION. CHAIR LINN AND COMMISSIONER ROJO COMMENTED IN APPRECIATION AND SUPPORT. PROCLAMATION 06-080 UNANIMOUSLY APPROVED.**

R-12 PUBLIC HEARING to Consider and Possibly Act Upon a Measure 37 Claim Filed by Albert and Deane Dilnik Seeking a Waiver of Land Use Rules that Allow them to Construct Homes on Three Existing Lots that they

Own. Presented by Adam Barber and Sandra Duffy. 30 MINUTES REQUESTED. [Continued from April 20, 2006]

**PLANNER ADAM BARBER AND ASSISTANT COUNTY ATTORNEY CHRISTOPHER CREAN PRESENTATION, EXPLANATION AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER ROBERTS MOVED AND COMMISSIONER ROJO SECONDED, APPROVAL OF ORDER APPROVING CLAIM UNDER ORS 197.352 (BALLOT MEASURE 37 (2004)). NO ONE WISHED TO TESTIFY. AT THE REQUEST OF CHAIR LINN, ALBERT DILNIK COMMENTED IN SUPPORT. ORDER 06-082 UNANIMOUSLY ADOPTED. MR. DILNIK STATED THAT COLUMBIA COUNTY'S FEE IS \$500 AS OPPOSED TO MULTNOMAH COUNTY'S FEE OF \$1,500.**

R-13 PUBLIC HEARING to Consider a Supplemental Measure 37 Claim by Dorothy English, et. al., for the Right to Create Three Parcels and Construct Homes on Each Parcel, on Property Located at 13100 NW McNamee Road. Presented by Derrick Tokos, Sandra Duffy and John Thomas. 1 HOUR REQUESTED.

**COMMISSIONER CRUZ MOVED AND COMMISSIONER ROBERTS SECONDED, APPROVAL OF SUPPLEMENTAL ORDER TO NOT APPLY LAND USE REGULATIONS TO 13100 NW MCNAMEE ROAD UNDER BALLOT MEASURE 37. ASSISTANT COUNTY ATTORNEY SANDY DUFFY REPORTED THAT THE ATTORNEY FOR CLAIMANTS FILED A MEASURE 37 CLAIM YESTERDAY WHICH DOES NOT AFFECT THIS ISSUE.**

*Commissioner Roberts was excused at 11:05 a.m.*

**PLANNER DERRICK TOKOS EXPLANATION. MS. DUFFY EXPLANATION REGARDING PROPOSED ORDER. COMMISSIONER NAITO COMMENTS IN SUPPORT. ORDER 06-083 ADOPTED, WITH COMMISSIONERS NAITO, CRUZ, ROJO AND LINN VOTING AYE.**

*There being no further business, the regular Board meeting was adjourned at 11:11 a.m.*

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Thursday, May 18, 2006 - 11:45 AM  
**(OR IMMEDIATELY FOLLOWING BOARD MEETING)**  
Multnomah Building, First Floor Commissioners Conference Room 112  
501 SE Hawthorne Boulevard, Portland

## **EXECUTIVE SESSION**

*Chair Diane Linn convened the meeting at 11:18 a.m., with Commissioners Lisa Naito, Serena Cruz Walsh and Maria Rojo de Steffey present, and Vice-Chair Lonnie Roberts excused.*

E-1 The Multnomah County Board of Commissioners will meet in Executive Session Pursuant to ORS 192.660(2)(h). Only Representatives of the News Media and Designated Staff are allowed to attend. News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Session. No Final Decision will be made in the Session. Presented by Agnes Sowle. 15-30 MINUTES REQUESTED.

### ***EXECUTIVE SESSION HELD.***

*There being no further business, the meeting was adjourned at 11:30 a.m.*

BOARD CLERK FOR MULTNOMAH COUNTY, OREGON

***Deborah L. Bogstad***



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

## BOARD OF COMMISSIONERS

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Phone: (503) 988-3308 FAX (503) 988-3093

Email: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

### Maria Rojo de Steffey, Commission Dist. 1

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### Lonnie Roberts, Commission Dist. 4

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## MAY 18, 2006 BOARD MEETING FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	9:30 a.m. Opportunity for Public Comment on Non-Agenda Matters
Pg 2	9:35 a.m. FY 2006 Supplemental Budget #2 for Submission to TSCC
Pg 3	9:45 a.m. FY 2006-2007 Fiscal Parameters Update – Third Quarter Revenue Forecast
Pg 3	10:15 a.m. Weatherization Program Audit
Pg 3	10:35 a.m. Public Hearing to Consider and Possibly Act Upon a Measure 37 Claim Filed by Albert and Deane Dilnik
Pg 4	11:05 a.m. Public Hearing to Consider a Supplemental Measure 37 Claim by Dorothy English, et. al., for the Right to Create Three Parcels and Construct Homes on Each Parcel
Pg 4	11:45 a.m. if needed Executive Session

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- Friday, 11:00 PM, Channel 30
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- Sunday, 11:00 AM, Channel 30

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or: <http://www.mctv.org>

Thursday, May 18, 2006 - 9:30 AM  
Multnomah Building, First Floor Commissioners Boardroom 100  
501 SE Hawthorne Boulevard, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM**

#### **NON-DEPARTMENTAL**

- C-1 Appointment of Dr. Jennifer Vines to the Multnomah County COMMUNITY HEALTH COUNCIL
- C-2 Reappointment of Andrea Cano to the MOUNT HOOD CABLE REGULATORY COMMISSION
- C-3 Appointment of Katharina Lorenz to the Multnomah County PLANNING COMMISSION

### **DEPARTMENT OF COUNTY HUMAN SERVICES**

- C-4 ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

### **REGULAR AGENDA - 9:30 AM**

#### **PUBLIC COMMENT - 9:30 AM**

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- R-3 RESOLUTION Authorizing Election to Receive National Forest Related Safety-Net Payments Under P.L. 106-393

R-4 RESOLUTION Authorizing Election to Receive O&C Land Related Safety-Net Payments Under P.L. 106-393

R-5 Fiscal Year 2006-2007 Fiscal Parameters Update – Third Quarter Revenue Forecast. Presented by Mark Campbell. 15 MINUTES REQUESTED.

**DEPARTMENT OF COUNTY HUMAN SERVICES - 10:00 AM**

R-6 NOTICE OF INTENT to Apply for Stipend from the National Consumers League to Educate Older Persons about Telemarketing Fraud

**SCHOOL AND COMMUNITY PARTNERSHIPS - 10:03 AM**

R-7 NOTICE OF INTENT to Submit a Proposal to Kellogg Foundation for SUN Community Schools Funding

**NON-DEPARTMENTAL - 10:05 AM**

R-8 PROCLAMATION Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County, Oregon

**SHERIFF'S OFFICE - 10:10 AM**

R-9 PROCLAMATION Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon

**AUDITOR'S OFFICE - 10:15 AM**

R-10 Weatherization Program Audit: Improvements Needed to Serve More Clients. Presented by Suzanne Flynn. 15 MINUTES REQUESTED.

**DEPARTMENT OF COMMUNITY SERVICES - 10:30 AM**

R-11 PROCLAMATION Declaring the Week of May 21 though May 27, 2006, as NATIONAL PUBLIC WORKS WEEK, and Recognizing the Contributions of all Multnomah County Transportation Employees

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Thursday, May 18, 2006 - 11:45 AM  
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Multnomah Building, First Floor Commissioners Conference Room 112  
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**IF NEEDED EXECUTIVE SESSION**

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# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed in red (*italic*) below. Unless otherwise noted, all sessions will be held in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland.

Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

Cable coverage of the **May through June 2006** budget work sessions, hearings and Thursday Board meetings will be produced through MetroEast Community Media. **All plays will be on cable channel 29 which reaches all of Portland and the communities of East Multnomah County.** Check the weekly Board meeting agenda or call 503 667-8848, extension 332 for further info or log onto <http://www.mctv.org> for the cable channel program guide/playback schedule. The sessions, hearings and Board meetings will also be available for viewing via media streaming at <http://www.co.multnomah.or.us/cc/pastmeetings.shtml>. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

**Tue, May 9**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2006-2007 Multnomah County Budget - North Portland Library Conference Room, 512 N Killingsworth, Portland***

## **CABLE PLAYBACK INFO:**

Saturday, May 13 - 3:00 PM Channel 29

Sunday, May 14 - 7:00 PM Channel 29

Wednesday, May 17 - 8:00 PM Channel 29

Thursday, May 18 - 8:00 PM Channel 29

**Mon, May 22**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2006-2007 Multnomah County Budget - Multnomah County East Building, Sharron Kelley Conference Room, 600 NE 8th, Gresham***

## **CABLE PLAYBACK INFO:**

Monday, May 22 - 6:00 PM LIVE Channel 29

Thursday, May 25 - 8:00 PM Channel 29

Saturday, May 27 - 5:00 PM Channel 29

Sunday, May 28 - 1:00 PM Channel 29

# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

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**Tue, May 23**

**9:00 a.m. to 12:00 p.m.**

**Review of Calendar of Budget Events**

**Preview of Selection Tool; How Process Works**

**Central Citizen Budget Advisory Committee**

**Work Session on Public Safety Department**

**Budget Presentations:**

**Sheriff & Citizen Budget Advisory Committee**

**Community Justice & Citizen Budget Advisory Committee**

**District Attorney & Citizen Budget Advisory Committee**

## **CABLE PLAYBACK INFO:**

**Tuesday, May 23 - 9:00 AM LIVE Channel 29**

**Friday, May 26 - 8:00 PM Channel 29**

**Saturday, May 27 - 12:00 PM Channel 29**

**Sunday, May 28 - 4:00 PM Channel 29**

**Tue, May 23**

**1:00 p.m. to 3:30 p.m.**

**Work Session on General Government**

**Department Budget Presentations:**

**Non-Departmental & Citizen Budget Advisory Committee**

**Library & Citizen Budget Advisory Committee**

**County Management & Citizen Budget Advisory Committee**

**Community Services & Citizen Budget Advisory Committee**

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Tuesday, May 23 - 1:00 PM LIVE Channel 29  
Friday, May 26 - 11:00 PM Channel 29  
Saturday, May 27 - 3:00 PM Channel 29  
Sunday, May 28 - 7:00 PM Channel 29

Tue, May 30  
9:00 a.m. to 12:00 p.m.

**Work Session on Health and Human Services  
Department Budget Presentations:**  
Health & Citizen Budget Advisory Committee  
County Human Services & Citizen Budget Advisory  
Committee  
School and Community Partnerships & Citizen Budget  
Advisory Committee  
Commission on Children, Families and Community

## **CABLE PLAYBACK INFO:**

Tuesday, May 30 - 9:00 AM LIVE Channel 29  
Friday, June 2 - 8:00 PM Channel 29  
Saturday, June 3 - 12:00 PM Channel 29  
Sunday, June 4 - 4:00 PM Channel 29

# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

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**Wed, May 31**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2006-2007 Multnomah County Budget - Multnomah Building, Commissioners Boardroom 100, 501 SE Hawthorne, Portland***

## **CABLE PLAYBACK INFO:**

**Wednesday, May 31 - 6:00 PM LIVE Channel 29**  
**Saturday, June 3 - 10:00 PM Channel 29**  
**Sunday, June 4 - 1:00 PM Channel 29**  
**Monday, June 5 - 11:30 PM Channel 29**

**Tue, Jun 6**

**9:00 a.m. to 12:00 p.m.**

**Budget Work Session on Board Program Selection Round 1**

## **CABLE PLAYBACK INFO:**

**Tuesday, June 6 - 9:00 AM LIVE Channel 29**  
**Friday, June 9 - 8:00 PM Channel 29**  
**Saturday, June 10 - 12:00 PM Channel 29**  
**Sunday, June 11 - 4:00 PM Channel 29**

# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

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**Mon, June 12**

**6:00 p.m. to 8:00 p.m.**

***Public Hearing on the 2006-2007 Multnomah County Budget - Multnomah Building, Commissioners Boardroom 100, 501 SE Hawthorne, Portland***

## **CABLE PLAYBACK INFO:**

Monday, June 12 - 6:00 PM LIVE Channel 29  
Thursday, June 15 - 8:00 PM Channel 29  
Saturday, June 17 - 5:00 PM Channel 29  
Sunday, June 18 - 1:00 PM Channel 29

**Tue, Jun 13**

**9:00 a.m. to 12:00 p.m.**

**Budget Work Session on Board Program Selection Round 2**

## **CABLE PLAYBACK INFO:**

Tuesday, June 13 - 9:00 AM LIVE Channel 29  
Friday, June 16 - 8:00 PM Channel 29  
Saturday, June 17 - 12:00 PM Channel 29  
Sunday, June 18 - 4:00 PM Channel 29

# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed in red (*italic*) below. Unless otherwise noted, all sessions will be held in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

Cable coverage of the **May through June 2006** budget work sessions, hearings and Thursday Board meetings will be produced through MetroEast Community Media. **All plays will be on cable channel 29 which reaches all of Portland and the communities of East Multnomah County.** Check the weekly Board meeting agenda or call 503 667-8848, extension 332 for further info or log onto <http://www.mctv.org> for the cable channel program guide/playback schedule. The sessions, hearings and Board meetings will also be available for viewing via media streaming at <http://www.co.multnomah.or.us/cc/pastmeetings.shtml>. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

**Wed, Jun 14**

**9:00 a.m. to 12:00 p.m.**

**Budget Work Session if needed**

## **CABLE PLAYBACK INFO:**

**Wednesday, June 14 - 9:00 AM LIVE Channel 29**

**Saturday, June 17 - 7:00 PM Channel 29**

**Sunday, June 18 - 10:00 AM Channel 29**

**Monday, June 19 - 8:30 PM Channel 29**

**Wed, Jun 14**

**3:30 p.m. to 4:30 p.m.**

***Tax Supervising and Conservation Commission  
Public Hearing on the Multnomah County 2006-  
2007 Budget***

## **CABLE PLAYBACK INFO:**

**Wednesday, June 14 - 3:30 PM LIVE Channel 29**

**Saturday, June 17 - 10:00 PM Channel 29**

**Sunday, June 18 - 1:00 PM Channel 29**

**Monday, June 19 - 11:30 PM Channel 29**

# REVISED MULTNOMAH COUNTY 2006-2007 BUDGET WORK SESSIONS AND HEARINGS

ALL MEETINGS ARE OPEN TO THE PUBLIC

Public testimony will be taken at the public hearings listed in red (*italic*) below. Unless otherwise noted, all sessions will be held in the Multnomah Building, First Floor Commissioners Boardroom 100, 501 SE Hawthorne, Portland. Contact Board Clerk Deb Bogstad 503 988-3277 for further information.

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**Thu, Jun 15**

**9:30 a.m. to 12:00 p.m.**

***Public Hearing and Resolution Adopting the 2006-2007 Budget for Dunthorpe Riverdale Sanitary Service District No. 1 and Making Appropriations***  
***Public Hearing and Resolution Adopting the 2006-2007 Budget for Mid County Street Lighting Service District No. 14 and Making Appropriations***  
**[followed by Regular Board Meeting]**

## **CABLE PLAYBACK INFO:**

Thursday, June 15 - 9:30 AM LIVE Channel 30  
Friday, June 16 - 11:00 PM Channel 30  
Saturday, June 17 - 10:00 AM Channel 30  
Sunday, June 18 - 11:00 AM Channel 30

**Thu, Jun 22**

**9:30 a.m. to 12:00 p.m.**

***Public Hearing and Resolution Adopting the 2006-2007 Budget for Multnomah County Pursuant to ORS 294*** **[followed by Regular Board Meeting]**

## **CABLE PLAYBACK INFO:**

Thursday, June 22 - 9:30 AM LIVE Channel 30  
Friday, June 23 - 11:00 PM Channel 30  
Saturday, June 24 - 10:00 AM Channel 30  
Sunday, June 25 - 11:00 AM Channel 30

**BOGSTAD Deborah L**

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**From:** LINN Diane M  
**Sent:** Wednesday, May 17, 2006 2:32 PM  
**To:** #MULTNOMAH COUNTY ALL EMPLOYEES  
**Subject:** Message to County Employees

Fellow County employees,

Now that the election is over and the results are clear, I want you all to know what an honor it has been for me to serve as Chair of this important jurisdiction. In the last five years we have faced many challenges together – establishing the income tax for schools and County services, allowing same-sex couples to marry, and reducing the budget dramatically during a time when citizens needed our services the most. All of these factors and many more have made our work very dynamic – it has represented both the best of times and the worst of times for many of us. I am proud of your work, and the work of our partners, at every level and in every department of this County.

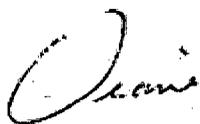
I hope you join me in congratulating Ted Wheeler on his election as Chair, and wishing him the best in his service to the County. My staff and I will assist and cooperate with Ted and his team to ensure a smooth transition, and I know you will do the same.

In the meantime, we have much work left to do in the 7 ½ months to come, including a budget to adopt, policies to develop and implement, and programs to operate. My staff and I have already begun developing an action plan which will guide our work in the coming months. I look forward to sharing that action plan with you soon.

We also have some significant healing to do – and that process begins now. I will do my part to advance this healing, and ask that the entire leadership team of the County do the same.

I look forward to new and exciting opportunities in my next professional chapter come January 2007. Though moving on at that time, I will always have great respect for this jurisdiction and its important work.

Sincerely,



5/18/2006



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** C-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 05/01/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **Appointment of Dr. Jennifer Vines to the Multnomah County COMMUNITY HEALTH COUNCIL**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>05/18/06</u>	<b>Time Requested:</b>	<u>Consent Calendar</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Chair's Office</u>
<b>Contact(s):</b>	<u>Chair Diane Linn, Andy Smith</u>		
<b>Phone:</b>	<u>503/988-3308</u>	<b>Ext.</b>	<u>83308</u>
		<b>I/O Address:</b>	<u>503/600</u>
<b>Presenter(s):</b>	<u>N/A</u>		

**General Information**

**1. What action are you requesting from the Board?**

Request Board approval of appointment of Dr. Jennifer Vines to the Multnomah County Community Health Council

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Multnomah County Community Health Council (CHC) assists and advises the County Health Department in promoting its vision of healthy people in healthy communities. The CHC supports and guides the Health Department in its mission to provide comprehensive health care that is quality driven, affordable and culturally competent to the people of Multnomah County. The CHC provides input and feedback for development, implementation and evaluation of Health Department programs including, but not limited to all programs funded through the Federal Bureau of Primary Health Care. The CHC also serves as the Citizen Budget Advisory Committee for the County Health Department. Membership can range from 9 to 25 members – consumers of County health programs constitute the majority; remaining members are health care providers and representatives of the community. Members are appointed to three-year terms by the County Chair from nominees

selected by the current Council with approval of the Board of County Commissioners. Kate Yen is the County's Community Health Council Coordinator.

**3. Explain the fiscal impact (current year and ongoing).**

No current year/ongoing fiscal impact.

**4. Explain any legal and/or policy issues involved.**

No legal and/or policy issues involved.

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 05/01/2006

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** C-2  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 05/01/06

**BUDGET MODIFICATION:**

**Agenda Title:** **Reappointment of Andrea Cano to the MT. HOOD CABLE REGULATORY COMMISSION**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>05/18/06</u>	<b>Time Requested:</b>	<u>Consent Calendar</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Chair's Office</u>
<b>Contact(s):</b>	<u>Chair Diane Linn, Andy Smith</u>		
<b>Phone:</b>	<u>503/988-3308</u>	<b>Ext.:</b> <u>83308</u>	<b>I/O Address:</b> <u>503/600</u>
<b>Presenter(s):</b>	<u>N/A</u>		

**General Information**

**1. What action are you requesting from the Board?**

Request Board approval of reappointment of Andrea Cano to the Mt. Hood Cable Regulatory Commission

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Mt. Hood Cable Regulatory Commission monitors, regulates and supervises the operation of the cable communications systems. It serves as the jurisdictions' representative for regional, state or national cable communications matters. The Commission grants authority, after approval of its annual budget, to allocate franchise fee revenue. Each jurisdiction appoints its representative to serve as its representative on the Commission. One member is appointed by the County Chair with approval of the Board of County Commissioners. Members are appointed to serve 3-year terms. Terms begin June 1. Members serve "at the pleasure of the governing body of the jurisdiction appointing them."

**3. Explain the fiscal impact (current year and ongoing).**

No current year/ongoing fiscal impact.

4. Explain any legal and/or policy issues involved.

No legal and/or policy issues involved.

5. Explain any citizen and/or other government participation that has or will take place.

N/A

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 05/01/2006

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

<b>Meeting Date:</b>	<u>05/18/06</u>
<b>Agenda Item #:</b>	<u>C-3</u>
<b>Est. Start Time:</b>	<u>9:30 AM</u>
<b>Date Submitted:</b>	<u>05/10/06</u>

**BUDGET MODIFICATION:** -

<b>Agenda Title:</b>	<b>Appointment of Katharina Lorenz to the Multnomah County PLANNING COMMISSION</b>
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*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>Consent Calendar</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Chair's Office</u>
<b>Contact(s):</b>	<u>Chair Diane Linn, Andy Smith</u>		
<b>Phone:</b>	<u>503.988.3308</u>	<b>Ext.:</b>	<u>83308</u>
		<b>I/O Address:</b>	<u>503/600</u>
<b>Presenter(s):</b>	<u>N/A</u>		

### General Information

**1. What action are you requesting from the Board?**

Request the Board approve the appointment of Katharina Lorenz to the Multnomah County Planning Commission.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Multnomah County Planning Commission acts as the land use advisory body to the Board of County Commissioners for unincorporated Multnomah County. The Planning Commission recommends to the Board of County Commissioners, the adoption, revision or repeal of the comprehensive plan and the implementing measures needed to carry out the plan. The Planning Commission initiates actions under MCC Chapter 37, as amended. There are 9 members to represent the various demographic areas of Multnomah County. No more than 2 members to be engaged in the same kind of business trade or profession; no more than 2 members engaged principally in the buying, selling or developing of real estate for profit. Members are appointed to 4-year terms by the County Chair with approval of the Board of County Commissioners.

**3. Explain the fiscal impact (current year and ongoing).**

No current year/ongoing fiscal impact.

**4. Explain any legal and/or policy issues involved.**

No legal and/or policy issues involved.

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 5/9/2006

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** C-4  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 05/10/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **ORDER Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>N/A</u>
<b>Department:</b>	<u>DCHS</u>	<b>Division:</b>	<u>MHASD</u>
<b>Contact(s):</b>	<u>Jean Dentinger/Debra Myers</u>		
<b>Phone:</b>	<u>(503) 988-5464</u>	<b>Ext.:</b>	<u>27297</u>
		<b>I/O Address:</b>	<u>167/1/520</u>
<b>Presenter(s):</b>	<u>Consent Calendar</u>		

**General Information**

- 1. What action are you requesting from the Board?**  
 Requesting adoption of order and approval of designees. The Mental Health and Addiction Services Division is recommending approval of the designees in the accordance with ORS 426.215.
- 2. Please provide sufficient background information for the Board and the public to understand this issue.**  
 Outpatient mental health agencies depend upon certain staff having the ability to assess clients for "Director Designee Custody". This certification allows the designee to direct a police officer or secure transportation provider to take into custody any individual with mental health issues who is found to be dangerous to self or to others. Police then transport the individual to a hospital or other approved treatment facility for further evaluation. As agencies experience staffing turnover or increases, new staff needs to be trained and certified as designees.
- 3. Explain the fiscal impact (current year and ongoing).**  
 None.
- 4. Explain any legal and/or policy issues involved.**  
 In accordance with ORS 426.215.

5. Explain any citizen and/or other government participation that has or will take place.

None.

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**Required Signatures**

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Department/  
Agency Director:

*Ret Surface*

Date: 05/10/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

**The Multnomah County Board of Commissioners Finds:**

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) All the designees listed below have been specifically recommended by the Mental Health Program Director and meet the standards established by the Mental Health Division.

**The Multnomah County Board of Commissioners Orders:**

1. The individuals listed below are authorized as designees of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
2. Added to the list of designees are:

William E Conti  
Christina Thurston

Andrew Davis  
Kathy Yonker

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Patrick Henry, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 06-074**

Authorizing Designees of the Mental Health Program Director to Direct a Peace Officer to Take an Allegedly Mentally Ill Person into Custody

**The Multnomah County Board of Commissioners Finds:**

- a) If authorized by a county governing body, a designee of a mental health program director may direct a peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody, and treatment of mental illness.
- b) There is a current need for specified designees of the Multnomah County Mental Health Program Director to have the authority to direct a peace officer to take an allegedly mentally ill person into custody.
- c) All the designees listed below have been specifically recommended by the Mental Health Program Director and meet the standards established by the Mental Health Division.

**The Multnomah County Board of Commissioners Orders:**

1. The individuals listed below are authorized as designees of the Mental Health Program Director for Multnomah County to direct any peace officer to take into custody a person whom the designee has probable cause to believe is dangerous to self or others and whom the designee has probable cause to believe is in need of immediate care, custody or treatment for mental illness.
2. Added to the list of designees are:

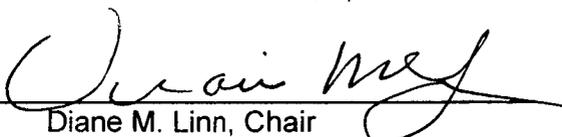
William E Conti  
Christina Thurston

Andrew Davis  
Kathy Yonker

ADOPTED this 18th day of May, 2006.

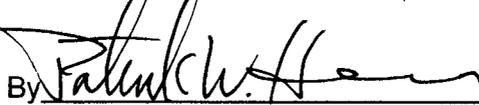


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLES, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Patrick Henry, Assistant County Attorney

**BOGSTAD Deborah L**

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**From:** NAITO Terri W  
**Sent:** Wednesday, May 17, 2006 4:51 PM  
**To:** ROJO DE STEFFEY Maria; CRUZ Serena M; ROBERTS Lonnie J; LINN Diane M  
**Cc:** CARROLL Mary P; WEST Kristen; SMITH Andy J; LASHUA Matthew; FUSSELL Rob; BOGSTAD Deborah L  
**Subject:** Unanimous Consent for a proclamation tomorrow, 5/18

Friends,

Lisa would like to introduce the attached Proclamation ("Proclaiming May 23 through May 29, 2006 a week of remembrance for those who have died in our nation's service") as a unanimous consent item at tomorrow's Board meeting. The proclamation focuses on a replica of the Vietnam Veterans Memorial Wall that is traveling to Portland for exhibition for six days beginning next Tuesday under the sponsorship of the Vietnam Veterans of Oregon and Dignity Memorial, and is being brought forward at the request of a volunteer with one of the sponsoring groups.

If you have not already spoken to Lisa, please let one of us in the District 3 office know if you're okay with this unanimous consent proclamation.

Thanks,

Terri

5/18/2006

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. \_\_\_\_\_**

Proclaiming May 23 through May 29, 2006 a Week of Remembrance for Those Who Have Died in Our Nation's Service

**The Multnomah County Board of Commissioners Finds:**

- a. The people of Multnomah County and the United States continue to honor the sacrifice of American military personnel during one of this nation's least popular wars, the Vietnam War.
- b. Located in our nation's capital, the Vietnam Veterans Memorial recognizes and honors the men and women who served in one of America's most divisive wars. The memorial grew out of a need to heal the nation's wounds as America struggled to reconcile different moral and political points of view. The memorial was conceived and designed to make no political statement whatsoever about the war.
- c. A 240-foot, three-quarter scale replica of the Vietnam Veterans Memorial Wall is traveling across America and will be escorted into Portland by a convoy of veterans and volunteers for exhibition at Lincoln Memorial Park as a service to those who may never have the opportunity to visit Washington, D.C. to see "The Wall" firsthand. The exhibit, sponsored by the Vietnam Veterans of Oregon in conjunction with Dignity Memorial, is intended to help bring healing to veterans, and to the families and friends of those who died or are missing in Vietnam. Admission is free and the exhibit will be open 24 hours a day from May 23 through May 28, 2006.
- d. All mementos deposited at the Wall during its visit to Multnomah County will be gathered and later interned at a special Veteran's Day Ceremony in November by the Vietnam Veterans of Oregon.

**The Multnomah County Board of Commissioners Proclaims:**

1. In recognition of the sacrifice of the veterans of the Vietnam War, and the approaching Memorial Day, the Board of Commissioners proclaims May 23 through May 29 a week of remembrance for those who have died in our nation's service.
2. The Board of County Commissioners also recognizes that in honoring those who have fallen in the service of our country, we should remember and honor those who are serving it today in many parts of the world.

3. The Board of County Commissioners encourages all community members to join in honoring every U.S. veteran, especially our Vietnam veterans this Memorial Day; and to honor those who continue to serve.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, County Chair

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Maria Rojo de Steffey,  
Commissioner District 1

---

Serena Cruz Walsh,  
Commissioner District 2

---

Lisa Naito,  
Commissioner District 3

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Lonnie Roberts,  
Commissioner District 4

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 06-081**

Proclaiming May 23 through May 29, 2006 a Week of Remembrance for Those Who Have Died in Our Nation's Service

**The Multnomah County Board of Commissioners Finds:**

- a. The people of Multnomah County and the United States continue to honor the sacrifice of American military personnel during one of this nation's least popular wars, the Vietnam War.
- b. Located in our nation's capital, the Vietnam Veterans Memorial recognizes and honors the men and women who served in one of America's most divisive wars. The memorial grew out of a need to heal the nation's wounds as America struggled to reconcile different moral and political points of view. The memorial was conceived and designed to make no political statement whatsoever about the war.
- c. A 240-foot, three-quarter scale replica of the Vietnam Veterans Memorial Wall is traveling across America and will be escorted into Portland by a convoy of veterans and volunteers for exhibition at Lincoln Memorial Park as a service to those who may never have the opportunity to visit Washington, D.C. to see "The Wall" firsthand. The exhibit, sponsored by the Vietnam Veterans of Oregon in conjunction with Dignity Memorial, is intended to help bring healing to veterans, and to the families and friends of those who died or are missing in Vietnam. Admission is free and the exhibit will be open 24 hours a day from May 23 through May 28, 2006.
- d. All mementos deposited at the Wall during its visit to Multnomah County will be gathered and later interned at a special Veteran's Day Ceremony in November by the Vietnam Veterans of Oregon.

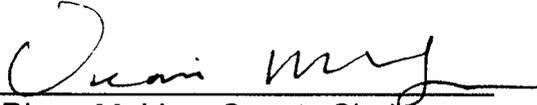
**The Multnomah County Board of Commissioners Proclaims:**

1. In recognition of the sacrifice of the veterans of the Vietnam War, and the approaching Memorial Day, the Board of Commissioners proclaims May 23 through May 29 a week of remembrance for those who have died in our nation's service.
2. The Board of County Commissioners also recognizes that in honoring those who have fallen in the service of our country, we should remember and honor those who are serving it today in many parts of the world.

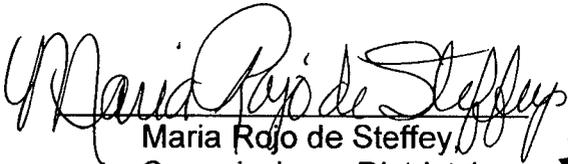
3. The Board of County Commissioners encourages all community members to join in honoring every U.S. veteran, especially our Vietnam veterans this Memorial Day; and to honor those who continue to serve.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON



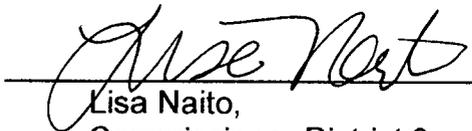
Diane M. Linn, County Chair



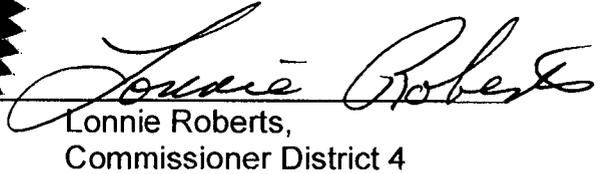
Maria Rojo de Steffey,  
Commissioner District 1



Serena Cruz Walsh,  
Commissioner District 2



Lisa Naito,  
Commissioner District 3



Lonnie Roberts,  
Commissioner District 4



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-1  
**Est. Start Time:** 9:30 AM  
**Date Submitted:** 05/11/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **RESOLUTION Authorizing Issuance and Sale of Short-Term Promissory Notes, Tax and Revenue Anticipation Notes (TRANS), Series 2006 in the Amount of \$20,000,000**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>05/18/06</u>	<b>Time Requested:</b>	<u>5 mins</u>
<b>Department:</b>	<u>DBCS</u>	<b>Division:</b>	<u>Finance, Budget &amp; Taxes</u>
<b>Contact(s):</b>	<u>Harry Morton</u>		
<b>Phone:</b>	<u>503-988-3290</u>	<b>Ext.</b>	<u>83290</u>
<b>Presenter(s):</b>	<u>Harry Morton</u>	<b>I/O Address:</b>	<u>503/531/Treasury</u>

**General Information**

**1. What action are you requesting from the Board?**

To approve a resolution authorizing issuance and sale of \$20,000,000.00 short-term promissory notes. Finance, Budget & Taxes recommends approval.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

Under ORS 288.165, the County is authorized to issue TRANS in an amount not to exceed 80% of the amount of revenues the County expects to receive in Fiscal Year 2006-2007. This note will represent approximately 11% of the County's property tax collections, adjusted for delinquencies, prior year payments and discounts. The proceeds of the notes will provide needed cash flow to the General Fund prior to the collection of property taxes for the period July 1, 2006 to November 30, 2006. Preston, Gates and Ellis LLP is Bond Counsel, Regional Financial Advisors is Financial Advisor, and bids will be taken for Paying Agent/Registrar. Each has been selected in accordance with County procurement processes. The County will issue a Request for Proposal to select an underwriter.

**3. Explain the fiscal impact (current year and ongoing).**

The Fiscal Year 2006-2007 County Budget includes \$1,000,000 to pay the estimated interest on the TRAN's. This TRAN issue meets all the requirements contained in the Financial and Budget Policy.

**4. Explain any legal and/or policy issues involved.**

Bond Counsel and the County Attorney have reviewed or will review all the necessary documents.

**5. Explain any citizen and/or other government participation that has or will take place.**

None.

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**Required Signatures**

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**Department/  
Agency Director:**

*David G. Boyer*

**Date:** 05/11/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. \_\_\_\_\_**

Authorizing the Issuance And Sale Of Short-Term Promissory Notes, (Tax And Revenue Anticipation Notes), Series 2006 In The Amount Of \$20,000,000

**The Multnomah County Board of Commissioners Finds:**

- a. Prior to the receipt of sufficient monies from tax collections and from other budgeted and unpledged revenues which the County estimates will be received from other sources during the fiscal year 2006-07, there is a need for the County to contract indebtedness, not to exceed in the aggregate its estimated maximum cumulative cash flow deficit as defined in regulations of the United States Treasury, by the issuance of tax and revenue anticipation notes (the "Notes") to meet the County's current expenses for fiscal year 2006-07.
- b. Oregon Revised Statutes Section 288.165 permits the issuance of tax and revenue anticipation notes in an amount which does not exceed eighty percent (80%) of the amount budgeted by the County to be received during the 2006-07 fiscal year.
- c. Prior to the sale and delivery of the Notes, provision therefor shall have been made in the County's duly adopted budget which shall have been filed in the manner as provided by law. The County shall levy and collect ad valorem taxes as provided in the budget.

**The Multnomah County Board of Commissioners Resolves:**

1. Issuance of Notes. The Board of County Commissioners of the County authorizes the issuance and competitive sale of Tax and Revenue Anticipation Notes, Series 2006 in an amount not to exceed \$20,000,000. The Notes are issued pursuant to Oregon Revised Statutes Section 288.165. The Notes shall be issued in denominations of \$5,000 each, or integral multiples thereof, as negotiable notes of the County and shall bear interest at a true effective rate not to exceed five percent (5.00%). The County authorizes the Chief Financial Officer, the Treasury Manager, or the Director of Finance & Risk Management (each an "Authorized Representative") to determine the principal amount, interest rate, denominations and to determine the underwriter for the purchase of the Notes. The Notes shall not be issued prior to the beginning of, and shall mature not later than, the end of the fiscal year in which such taxes or other revenues are expected to be received. The Notes issued in anticipation of taxes or other revenues shall not be issued in an amount greater than eighty percent (80%) of the amount budgeted to be received in fiscal year 2006-07.
2. Title and Execution of Notes. The Notes shall be titled "Multnomah County, Oregon Tax and Revenue Anticipation Notes, Series 2006" and shall be executed on behalf of the County with the manual or facsimile signature of the Chair of the Board of County Commissioners and shall be attested by an Authorized Representative. The Notes may be initially issued in book-entry form as a single, typewritten note and issued in the registered name of the nominee of The Depository Trust Company, New York, New York in book-entry form. The Notes may be issued without certificates being made available to the note holders except in the event that the book-entry form is discontinued in which event the Notes will be issued with certificates to be executed delivered and transferred as herein provided.
3. Appointment of Paying Agent and Note Registrar. The Authorized Representative is authorized to designate a Paying Agent and Note Registrar for the Notes.

4. Book-Entry System. The ownership of the Notes shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on The Depository Trust Company book-entry system. The Notes shall be initially issued in the form of a separate, fully registered typewritten note (the "Global Certificate"). The Global Certificate shall be registered in the name of Cede & Co. as nominee (the "Nominee") of The Depository Trust Company (the "Depository") as the "Registered Owner," and such Global Certificate shall be lodged with the Depository or the Paying Agent and Note Registrar until maturity of the Note issue. The Paying Agent shall remit payment for the maturing principal and interest on the Notes to the Registered Owner for distribution by the Nominee for the benefit of the note holders (the "Beneficial Owner" or "Record Owner") by recorded entry on the books of the Depository participants and correspondents. While the Notes are in book-entry-only form, the Notes will be available in denominations of \$5,000 or any integral multiple thereof.

The Authorized Representative has filed with the Depository a Blanket Issuer Letter of Representations, dated March 9, 1995, to induce the Depository to accept the Notes as eligible for deposit at the Depository. The County is authorized to provide the Depository with the Preliminary Official Statement, together with the completed Depository's underwriting questionnaire.

The execution and delivery of the Blanket Letter of Representations and the providing to the Depository of the Preliminary Official Statement and the underwriting questionnaire shall not in any way impose upon the County any obligation whatsoever with respect to persons having interests in the Notes other than the Registered Owners of the Notes as shown on the registration books maintained by the Paying Agent and Note Registrar. The Paying Agent and Note Registrar, in writing, shall accept the book-entry system and shall agree to take all action necessary to at all times comply with the Depository's operational arrangements for the book-entry system. The Authorized Representative may take all other action to qualify the Notes for the Depository's book-entry system.

In the event (a) the Depository determines not to continue to act as securities depository for the Notes, or (b) the County determines that the Depository shall no longer so act, then the County will discontinue the book-entry system with the Depository. If the County fails to identify another qualified securities depository to replace the Depository, the Notes shall no longer be a book-entry-only issue but shall be registered in the registration books maintained by the Paying Agent and Note Registrar in the name of the Registered Owner as appearing on the registration books of the Paying Agent and Note Registrar and thereafter in the name or names of the owners of the Notes transferring or exchanging Notes in accordance with the provisions herein.

With respect to Notes registered in the registration books maintained by the Paying Agent and Note Registrar in the name of the Nominee of the Depository, the County, and the Paying Agent and Note Registrar shall have no responsibility or obligation to any participant or correspondent of the Depository or to any Beneficial Owner on behalf of which such participants or correspondents act as agent for the Registered Owner with respect to:

- i. the accuracy of the records of the Depository, the Nominee or any participant or correspondent with respect to any ownership interest in the Notes,
- ii. the delivery to any participant or correspondent or any other person, other than a Registered Owner as shown in the registration books maintained by the Paying Agent and Note Registrar, of any notice with respect to the Notes, including any notice of redemption,

- iii. the payment to any participant, correspondent or any other person other than the Registered Owner of the Notes as shown in the registration books maintained by the Paying Agent and Note Registrar, of any amount with respect to principal or interest on the Notes. Notwithstanding the book-entry system, the County may treat and consider the Registered Owner in whose name each Note is registered in the registration books maintained by the Paying Agent and Note Registrar as the Registered Owner and absolute owner of such Note for the purpose of payment of principal and interest with respect to such Note, or for the purpose of registering transfers with respect to such Note, or for all other purposes whatsoever. The County shall pay or cause to be paid all principal of and interest on the Notes only to or upon the order of the Registered Owner, as shown in the registration books maintained by the Paying Agent and Note Registrar, or their representative attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the County's obligation with respect to payment thereof to the extent of the sum or sums so paid.

Upon delivery by the Depository to the County and to the Registered Owner of a Note of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee then the word "Nominee" in this Resolution shall refer to such new nominee of the Depository, and upon receipt of such notice, the County shall promptly deliver a copy thereof to the Paying Agent and Note Registrar.

5. Payment of Notes. If the book-entry system has been discontinued, then the principal of and interest on the Notes shall be payable upon presentation of the Notes at maturity at the corporate trust office of the Paying Agent.
6. Special Account. The County shall establish a Special Account for the Notes. The County covenants for the benefit of the owners of the Notes to deposit ad valorem property taxes and any other legally available revenues on or prior to December 30, 2006, or such other date as approved by the Authorized Representative, into the Special Account until the Special Account holds an amount sufficient to pay principal of and interest on the Notes at maturity. Investment earnings, after full funding of principal and interest in the Special Account on or prior to December 30, 2006, may be transferred to the County's general fund. Monies in the Special Account shall not be invested in instruments which mature after the maturity date of the Notes. Monies in the Special Account shall be used solely to pay principal of and interest on the Notes. Additional Notes cannot be issued which will have any claim upon the monies in the Special Account. The Special Account must be fully funded prior to establishing and financing any other special account which is fundable from the 2006-07 ad valorem property tax levy.
7. Security. The County's ad valorem property taxes, subject to the limits of Article XI, Sections 11 and 11b of the Oregon Constitution, and the full faith and credit of the County, including all unobligated revenues in the County's general fund, are hereby irrevocably pledged to the punctual payment of principal of and interest on the Notes.
8. Optional Redemption. The Notes are not subject to optional redemption prior to their stated maturity date of June 29, 2007.
9. Form of Notes. The Notes shall be issued substantially in the form as approved by the County and Note Counsel to the County.
10. Sale of Notes. The Notes shall be offered for sale at competitive bid, after publication of a Notice, or a summary thereof, as provided in ORS 288.885. The Notes shall be offered for sale upon the terms provided in the Notice, unless the Authorized Officer establishes different terms. The Authorized Officer may establish the final principal amount, the maturity date and other

terms of the Notes and may sell the Notes to the bidder offering the most favorable terms to the County. The Authorized Officer shall report to the Board the terms on which the Notes are sold.

11. Appointment of Note Counsel. The Board appoints the firm of Preston Gates & Ellis LLP of Portland, Oregon as Note Counsel.
12. Appointment of Financial Advisor. The Board appoints Regional Financial Advisors, Inc. as Financial Advisor to the County for the issuance of the Notes.
13. Covenant as to Arbitrage. The County covenants for the benefit of the owners of the Notes to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest on the Notes to be excluded from gross income for federal income tax purposes, unless the County obtains an opinion of nationally recognized bond counsel that such compliance is not required for the interest payable on the Notes to be excluded. The County makes the following specific covenants with respect to the Code:
  - i. The County shall not take any action or omit any action, if it would cause the Notes to become "arbitrage bonds" under Section 148 of the Code and shall pay any rebates to the United States which are required by Section 148(f) of the Code.
  - ii. The County shall not use the proceeds of the Notes in a manner which would cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code.

The covenants contained herein and any covenants in the closing documents for the Notes shall constitute contracts with the owners of the Notes, and shall be enforceable by such owners.

14. Notice of Material Events to Municipal Securities Rulemaking Board. Pursuant to SEC Rule 15c2-12(d)(3), the County agrees to provide or cause to be provided, in a timely manner, to the Municipal Securities Rulemaking Board (the "MSRB"), notice of the occurrence of any of the following events with respect to the Notes, if material:
  - i. principal and interest payment delinquencies;
  - ii. non-payment related defaults;
  - iii. unscheduled draws on debt service reserves reflecting financial difficulties;
  - iv. unscheduled draws on credit enhancements reflecting financial difficulties;
  - v. substitution of credit or liquidity providers, or their failure to perform;
  - vi. adverse tax opinions or events affecting the tax-exempt status of the Notes;
  - vii. modifications to rights of holders of the Notes;
  - viii. bond calls;
  - ix. defeasances;
  - x. release, substitution, or sale of property securing repayment of the Notes; and
  - xi. rating changes.

The County may from time to time choose to provide notice of the occurrence of certain other events, in addition to those listed above, if, in the judgment of the County, such other event is material with respect to the Notes, but the County does not undertake any commitment to provide such notice of any event except those events listed above.

15. Preliminary and Final Official Statement. The County shall, if required, cause the preparation of the preliminary official statement for the Notes which shall be available for distribution to prospective investors. In addition, if required, an official statement shall be prepared and ready for delivery to the purchasers of the Notes no later than the seventh (7) business day after the sale of the Notes. When advised that the final official statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, the Authorized Representative is authorized to certify the accuracy of the official statement on behalf of the County.
16. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the Notes by those who shall own the same from time to time (the "Noteowners"), the provisions of this Resolution shall be part of the contract of the County with the Noteowners and shall be deemed to be and shall constitute a contract between the County and the Noteowners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Notes, including without limitation the County's covenants and pledges contained in Section 7 hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the County shall be contracts for the equal benefit, protection and security of the Noteowners, all of which shall be of equal rank without preference, priority or distinction of any of such Notes over any other thereof, except as expressly provided in or pursuant to this Resolution.
17. Closing of the Sale and Delivery of the Notes. The Authorized Representative is authorized to execute and deliver such additional documents, including a Tax Certificate, and any and all other things or acts necessary for the sale and delivery of the Notes as herein authorized. Such acts of the Authorized Representative are for and on behalf of the County and are authorized by the Board of County Commissioners of the County.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

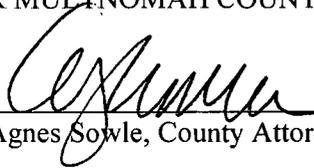
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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
Agnes Sowle, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 06-075**

Authorizing the Issuance and Sale of Short-Term Promissory Notes, (Tax and Revenue Anticipation Notes), Series 2006 in the Amount of \$20,000,000

**The Multnomah County Board of Commissioners Finds:**

- a. Prior to the receipt of sufficient monies from tax collections and from other budgeted and unpledged revenues which the County estimates will be received from other sources during the fiscal year 2006-07, there is a need for the County to contract indebtedness, not to exceed in the aggregate its estimated maximum cumulative cash flow deficit as defined in regulations of the United States Treasury, by the issuance of tax and revenue anticipation notes (the "Notes") to meet the County's current expenses for fiscal year 2006-07.
- b. Oregon Revised Statutes Section 288.165 permits the issuance of tax and revenue anticipation notes in an amount which does not exceed eighty percent (80%) of the amount budgeted by the County to be received during the 2006-07 fiscal year.
- c. Prior to the sale and delivery of the Notes, provision therefor shall have been made in the County's duly adopted budget which shall have been filed in the manner as provided by law. The County shall levy and collect ad valorem taxes as provided in the budget.

**The Multnomah County Board of Commissioners Resolves:**

1. Issuance of Notes. The Board of County Commissioners of the County authorizes the issuance and competitive sale of Tax and Revenue Anticipation Notes, Series 2006 in an amount not to exceed \$20,000,000. The Notes are issued pursuant to Oregon Revised Statutes Section 288.165. The Notes shall be issued in denominations of \$5,000 each, or integral multiples thereof, as negotiable notes of the County and shall bear interest at a true effective rate not to exceed five percent (5.00%). The County authorizes the Chief Financial Officer, the Treasury Manager, or the Director of Finance & Risk Management (each an "Authorized Representative") to determine the principal amount, interest rate, denominations and to determine the underwriter for the purchase of the Notes. The Notes shall not be issued prior to the beginning of, and shall mature not later than, the end of the fiscal year in which such taxes or other revenues are expected to be received. The Notes issued in anticipation of taxes or other revenues shall not be issued in an amount greater than eighty percent (80%) of the amount budgeted to be received in fiscal year 2006-07.
2. Title and Execution of Notes. The Notes shall be titled "Multnomah County, Oregon Tax and Revenue Anticipation Notes, Series 2006" and shall be executed on behalf of the County with the manual or facsimile signature of the Chair of the Board of County Commissioners and shall be attested by an Authorized Representative. The Notes may be initially issued in book-entry form as a single, typewritten note and issued in the registered name of the nominee of The Depository Trust Company, New York, New York in book-entry form. The Notes may be issued without certificates being made available to the note holders except in the event that the book-entry form is discontinued in which event the Notes will be issued with certificates to be executed delivered and transferred as herein provided.
3. Appointment of Paying Agent and Note Registrar. The Authorized Representative is authorized to designate a Paying Agent and Note Registrar for the Notes.

4. Book-Entry System. The ownership of the Notes shall be recorded through entries on the books of banks and broker-dealer participants and correspondents that are related to entries on The Depository Trust Company book-entry system. The Notes shall be initially issued in the form of a separate, fully registered typewritten note (the "Global Certificate"). The Global Certificate shall be registered in the name of Cede & Co. as nominee (the "Nominee") of The Depository Trust Company (the "Depository") as the "Registered Owner," and such Global Certificate shall be lodged with the Depository or the Paying Agent and Note Registrar until maturity of the Note issue. The Paying Agent shall remit payment for the maturing principal and interest on the Notes to the Registered Owner for distribution by the Nominee for the benefit of the note holders (the "Beneficial Owner" or "Record Owner") by recorded entry on the books of the Depository participants and correspondents. While the Notes are in book-entry-only form, the Notes will be available in denominations of \$5,000 or any integral multiple thereof.

The Authorized Representative has filed with the Depository a Blanket Issuer Letter of Representations, dated March 9, 1995, to induce the Depository to accept the Notes as eligible for deposit at the Depository. The County is authorized to provide the Depository with the Preliminary Official Statement, together with the completed Depository's underwriting questionnaire.

The execution and delivery of the Blanket Letter of Representations and the providing to the Depository of the Preliminary Official Statement and the underwriting questionnaire shall not in any way impose upon the County any obligation whatsoever with respect to persons having interests in the Notes other than the Registered Owners of the Notes as shown on the registration books maintained by the Paying Agent and Note Registrar. The Paying Agent and Note Registrar, in writing, shall accept the book-entry system and shall agree to take all action necessary to at all times comply with the Depository's operational arrangements for the book-entry system. The Authorized Representative may take all other action to qualify the Notes for the Depository's book-entry system.

In the event (a) the Depository determines not to continue to act as securities depository for the Notes, or (b) the County determines that the Depository shall no longer so act, then the County will discontinue the book-entry system with the Depository. If the County fails to identify another qualified securities depository to replace the Depository, the Notes shall no longer be a book-entry-only issue but shall be registered in the registration books maintained by the Paying Agent and Note Registrar in the name of the Registered Owner as appearing on the registration books of the Paying Agent and Note Registrar and thereafter in the name or names of the owners of the Notes transferring or exchanging Notes in accordance with the provisions herein.

With respect to Notes registered in the registration books maintained by the Paying Agent and Note Registrar in the name of the Nominee of the Depository, the County, and the Paying Agent and Note Registrar shall have no responsibility or obligation to any participant or correspondent of the Depository or to any Beneficial Owner on behalf of which such participants or correspondents act as agent for the Registered Owner with respect to:

- i. the accuracy of the records of the Depository, the Nominee or any participant or correspondent with respect to any ownership interest in the Notes,
- ii. the delivery to any participant or correspondent or any other person, other than a Registered Owner as shown in the registration books maintained by the Paying Agent and Note Registrar, of any notice with respect to the Notes, including any notice of redemption,

- iii. the payment to any participant, correspondent or any other person other than the Registered Owner of the Notes as shown in the registration books maintained by the Paying Agent and Note Registrar, of any amount with respect to principal or interest on the Notes. Notwithstanding the book-entry system, the County may treat and consider the Registered Owner in whose name each Note is registered in the registration books maintained by the Paying Agent and Note Registrar as the Registered Owner and absolute owner of such Note for the purpose of payment of principal and interest with respect to such Note, or for the purpose of registering transfers with respect to such Note, or for all other purposes whatsoever. The County shall pay or cause to be paid all principal of and interest on the Notes only to or upon the order of the Registered Owner, as shown in the registration books maintained by the Paying Agent and Note Registrar, or their representative attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the County's obligation with respect to payment thereof to the extent of the sum or sums so paid.

Upon delivery by the Depository to the County and to the Registered Owner of a Note of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee then the word "Nominee" in this Resolution shall refer to such new nominee of the Depository, and upon receipt of such notice, the County shall promptly deliver a copy thereof to the Paying Agent and Note Registrar.

5. Payment of Notes. If the book-entry system has been discontinued, then the principal of and interest on the Notes shall be payable upon presentation of the Notes at maturity at the corporate trust office of the Paying Agent.
6. Special Account. The County shall establish a Special Account for the Notes. The County covenants for the benefit of the owners of the Notes to deposit ad valorem property taxes and any other legally available revenues on or prior to December 30, 2006, or such other date as approved by the Authorized Representative, into the Special Account until the Special Account holds an amount sufficient to pay principal of and interest on the Notes at maturity. Investment earnings, after full funding of principal and interest in the Special Account on or prior to December 30, 2006, may be transferred to the County's general fund. Monies in the Special Account shall not be invested in instruments which mature after the maturity date of the Notes. Monies in the Special Account shall be used solely to pay principal of and interest on the Notes. Additional Notes cannot be issued which will have any claim upon the monies in the Special Account. The Special Account must be fully funded prior to establishing and financing any other special account which is fundable from the 2006-07 ad valorem property tax levy.
7. Security. The County's ad valorem property taxes, subject to the limits of Article XI, Sections 11 and 11b of the Oregon Constitution, and the full faith and credit of the County, including all unobligated revenues in the County's general fund, are hereby irrevocably pledged to the punctual payment of principal of and interest on the Notes.
8. Optional Redemption. The Notes are not subject to optional redemption prior to their stated maturity date of June 29, 2007.
9. Form of Notes. The Notes shall be issued substantially in the form as approved by the County and Note Counsel to the County.
10. Sale of Notes. The Notes shall be offered for sale at competitive bid, after publication of a Notice, or a summary thereof, as provided in ORS 288.885. The Notes shall be offered for sale upon the terms provided in the Notice, unless the Authorized Officer establishes different terms. The Authorized Officer may establish the final principal amount, the maturity date and other

terms of the Notes and may sell the Notes to the bidder offering the most favorable terms to the County. The Authorized Officer shall report to the Board the terms on which the Notes are sold.

11. Appointment of Note Counsel. The Board appoints the firm of Preston Gates & Ellis LLP of Portland, Oregon as Note Counsel.
12. Appointment of Financial Advisor. The Board appoints Regional Financial Advisors, Inc. as Financial Advisor to the County for the issuance of the Notes.
13. Covenant as to Arbitrage. The County covenants for the benefit of the owners of the Notes to comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code") which are required for the interest on the Notes to be excluded from gross income for federal income tax purposes, unless the County obtains an opinion of nationally recognized bond counsel that such compliance is not required for the interest payable on the Notes to be excluded. The County makes the following specific covenants with respect to the Code:
  - i. The County shall not take any action or omit any action, if it would cause the Notes to become "arbitrage bonds" under Section 148 of the Code and shall pay any rebates to the United States which are required by Section 148(f) of the Code.
  - ii. The County shall not use the proceeds of the Notes in a manner which would cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code.

The covenants contained herein and any covenants in the closing documents for the Notes shall constitute contracts with the owners of the Notes, and shall be enforceable by such owners.

14. Notice of Material Events to Municipal Securities Rulemaking Board. Pursuant to SEC Rule 15c2-12(d)(3), the County agrees to provide or cause to be provided, in a timely manner, to the Municipal Securities Rulemaking Board (the "MSRB"), notice of the occurrence of any of the following events with respect to the Notes, if material:
  - i. principal and interest payment delinquencies;
  - ii. non-payment related defaults;
  - iii. unscheduled draws on debt service reserves reflecting financial difficulties;
  - iv. unscheduled draws on credit enhancements reflecting financial difficulties;
  - v. substitution of credit or liquidity providers, or their failure to perform;
  - vi. adverse tax opinions or events affecting the tax-exempt status of the Notes;
  - vii. modifications to rights of holders of the Notes;
  - viii. bond calls;
  - ix. defeasances;
  - x. release, substitution, or sale of property securing repayment of the Notes; and
  - xi. rating changes.

The County may from time to time choose to provide notice of the occurrence of certain other events, in addition to those listed above, if, in the judgment of the County, such other event is material with respect to the Notes, but the County does not undertake any commitment to provide such notice of any event except those events listed above.

15. Preliminary and Final Official Statement. The County shall, if required, cause the preparation of the preliminary official statement for the Notes which shall be available for distribution to prospective investors. In addition, if required, an official statement shall be prepared and ready for delivery to the purchasers of the Notes no later than the seventh (7) business day after the sale of the Notes. When advised that the final official statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, the Authorized Representative is authorized to certify the accuracy of the official statement on behalf of the County.
16. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the Notes by those who shall own the same from time to time (the "Noteowners"), the provisions of this Resolution shall be part of the contract of the County with the Noteowners and shall be deemed to be and shall constitute a contract between the County and the Noteowners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Notes, including without limitation the County's covenants and pledges contained in Section 7 hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the County shall be contracts for the equal benefit, protection and security of the Noteowners, all of which shall be of equal rank without preference, priority or distinction of any of such Notes over any other thereof, except as expressly provided in or pursuant to this Resolution.
17. Closing of the Sale and Delivery of the Notes. The Authorized Representative is authorized to execute and deliver such additional documents, including a Tax Certificate, and any and all other things or acts necessary for the sale and delivery of the Notes as herein authorized. Such acts of the Authorized Representative are for and on behalf of the County and are authorized by the Board of County Commissioners of the County.

ADOPTED this 18th day of May, 2006.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

Agnes Sowle, County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-2  
**Est. Start Time:** 9:35 AM  
**Date Submitted:** 05/10/06

**BUDGET MODIFICATION:** -

**Agenda Title: Approval of Fiscal Year 2006 Supplemental Budget No. 2 for Submission to the Tax Supervising and Conservation Commission**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>10 Minutes</u>
<b>Department:</b>	<u>County Management</u>	<b>Division:</b>	<u>Budget Office</u>
<b>Contact(s):</b>	<u>Dave Boyer</u>		
<b>Phone:</b>	<u>503-988-3903</u>	<b>Ext.:</b>	<u>83903</u>
		<b>I/O Address:</b>	<u>503/531</u>
<b>Presenter(s):</b>	<u>Dave Boyer</u>		

**General Information**

**1. What action are you requesting from the Board?**

For approval of a supplemental budget to submit to the Tax Supervising & Conservation Commission. This supplemental budget contains "housekeeping" changes necessary to avoid potential budget law and/or audit violations for fiscal year 2006.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

This second FY 2006 Supplemental Budget is a "housekeeping" measure, and it recommends several actions to account for the following items in ten County funds.

- Several actions in the General Fund record an additional \$12,419,741 in Temporary Personal Income Tax (Itax) collections; an additional \$2,205,100 in Business Income Tax collections; and an additional \$290,987 in proceeds from the State Criminal Alien Assistance Program grant. Additionally, two expenditure lines are adjusted to properly record the repayment of several internal loans:

- An action in the Public Safety Bond fund supports the loan payment for the electronic Sheriff's Warrant Inmate System (eSWIS) mainframe migration project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan payment is budgeted. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
- An action in the Building Projects Fund supports the loan payment for the SAP/Merlin upgrade project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan payment is budgeted. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
- In response to concerns expressed by the County's external auditors, an action dissolves a trust account and records an additional \$1,632,828 in the Capital Acquisition Fund for the purchase of equipment related to the Health Department's Electronic Medical Records (EMR) system.
- The County School Fund's appropriation is increased in order to pass through FY 2006's timber receipts without incurring a budget violation.
- There are four actions contained in the supplemental budget to properly record lease transactions related moving County offices into the Lincoln Building at 426 SW Oak St. The Finance Division determined that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006. Therefore:
  - The Capital Debt Retirement Fund is increased by \$825,017 of revenue from the Facilities Fund, and by \$491,683 for principal and \$333,334 for interest expenses in FY 2006.
  - Budgeted debt retirement payments from the Facilities Management Fund are increased by \$825,017 to cover the Capital Debt Retirement Fund expenditures. To supplant this added cost for the Facilities Management Fund, two budgeted cash transfers are being reversed from this fund to the Capital Improvement Fund (\$700,000) and Asset Preservation Fund (\$400,000) and \$274,983 of budgeted Miscellaneous Revenue is reduced.
  - The Capital Improvement Fund cash transfer revenue is reduced by \$700,000. Building expenses in the Capital Improvement Fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
  - The Asset Preservation Fund cash transfer revenue is reduced by \$400,000. Building expenses in the fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
- Accounting rules require an action to increase revenues and expenses associated with Central Stores' sale of inventory items to agencies outside of Multnomah County. FY 2006 sales are projected to be \$2.5 million for these items. Previously, the method of accounting for outside sales recognized only the net revenue from the 10% markup

allowed on the sales.

**3. Explain the fiscal impact (current year and ongoing).**

Expenditures and revenues will be changed as outlined above in order to keep the County's budget within the bounds of Oregon Budget Law and/or generally accepted accounting principles. None of these expenditure or revenue changes are designed to be ongoing. These actions have no impact on the FY 2007 approved budget.

**4. Explain any legal and/or policy issues involved.**

Supplemental budgets for the purposes outlined above are required by ORS Chapter 294, Local Budget Law.

**5. Explain any citizen and/or other government participation that has or will take place.**

The Tax Supervising & Conservation Commission will hold a public hearing on the supplemental budget in June, 2006. Notice of this hearing will be published in the Oregonian from 5-30 days in advance of the hearing.

**SUPPLEMENTAL BUDGET #2 FY 2006**

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**Required Signatures**

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**Department/  
Agency Director:**

*David A. Boyer*

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**Date:** 5/10/06

**Budget Analyst:**

*Debra*

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**Date:** 5/10/06

**Department HR:**

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**Date:**

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**Countywide HR:**

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**Date:**

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**FY 2006 SUPPLEMENTAL BUDGET #2  
MESSAGE**

## Supplemental Budget #2

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## THE DOCUMENT

The document consists of three sections:

1. The budget message explaining the reasons for the changes proposed,
2. A section of detailed estimate sheets and descriptions for those actions resulting in changes in expenditures,
3. A financial summary of the resources and requirements being changed by fund.

## REASONS FOR CHANGES

A Supplemental Budget is the vehicle allowed by ORS Chapter 294 for the Board to address changes in financial conditions not anticipated at the time the budget was adopted. In cases where no fund's expenditures are increased by more than 10 percent of the adopted budget figure, the law allows the Board to make additional appropriations after advertising a hearing on the Supplemental Budget. However, since this supplemental budget increases certain funds by more than 10% and makes adjustments to other funds, the process for the supplemental budget action is to:

1. Convene the Board of County Commissioners to approve the supplemental budget for submission to the Tax Supervising & Conservation Commission,
2. Submit the approved supplemental budget to Tax Supervising,
3. Attend a Tax Supervising hearing on the supplemental budget, and
4. Adopt the supplemental budget after Tax Supervising has held the public hearing.

This second FY 2006 Supplemental Budget is a "housekeeping" measure, and it recommends several actions to account for the following items in ten County funds.

- Several actions in the General Fund record an additional \$12,419,741 in Temporary Personal Income Tax (Itax) collections; an additional \$2,205,100 in Business Income Tax collections; and an additional \$290,987 in proceeds from the State Criminal Alien Assistance Program grant. Additionally, two expenditure lines are adjusted to properly record the repayment of several internal loans:
  - An action in the Public Safety Bond fund supports the loan payment for the electronic Sheriff's Warrant Inmate System (eSWIS) mainframe migration project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan payment is budgeted. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
  - An action in the Building Projects Fund supports the loan payment for the SAP/Merlin upgrade project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan

payment is budgeted. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

- In response to concerns expressed by the County's external auditors, one action dissolves the OCHIN Trust Account (6035) and records an additional \$1,632,828 in the Capital Acquisition Fund for the purchase of equipment related to the Health Department's Electronic Medical Records (EMR) system.
- The County School Fund's appropriation is increased in order to pass through FY 2006's timber receipts without incurring a budget violation.
- There are four actions contained in the supplemental budget to properly record lease transactions related moving County offices into the Lincoln Building at 426 SW Oak St. The Finance Division determined that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006. Therefore:
  - The Capital Debt Retirement Fund is increased by \$825,017 of revenue from the Facilities Fund, and by \$491,683 for principal and \$333,334 for interest expenses in FY 2006.
  - Budgeted debt retirement payments from the Facilities Management Fund are increased by \$825,017 to cover the Capital Debt Retirement Fund expenditures. To supplant this added cost for the Facilities Management Fund, two budgeted cash transfers are being reversed from this fund to the Capital Improvement Fund (\$700,000) and Asset Preservation Fund (\$400,000) and \$274,983 of budgeted Miscellaneous Revenue is reduced.
  - The Capital Improvement Fund cash transfer revenue is reduced by \$700,000. Building expenses in the Capital Improvement Fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
  - The Asset Preservation Fund cash transfer revenue is reduced by \$400,000. Building expenses in the fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.
- Accounting rules require an action to increase revenues and expenses associated with Central Stores' sale of inventory items to agencies outside of Multnomah County. FY 2006 sales are projected to be \$2.5 million for these items. Previously, the method of accounting for outside sales recognized only the net revenue from the 10% markup allowed on the sales.

**General Fund (Fund 1000)**

Several actions in this fund record an additional \$12,419,741 in Temporary Personal Income Tax (Itax) collections; an additional \$2,205,100 in Business Income Tax collections; and an additional \$290,987 in proceeds from the State Criminal Alien Assistance Program grant. Additionally, two expenditure lines are adjusted to properly record the repayment of several internal loans.

1. The first action records an additional \$12,419,741 in Itax revenue. Measure 26-48 requires the County to pass through 75% of Itax collections to Multnomah County Schools. \$8,840,000 of these revenues will be distributed proportionally to local school districts. \$3,579,741 will be held in the General Fund Contingency account. This action will increase the County General Fund appropriation to pass through FY 2006's Itax receipts without incurring a budget violation.
2. The second action records an additional \$2,205,100 in Business Income Tax (BIT) revenue. Under terms of the intergovernmental agreement that shares revenues from the BIT, the four east Multnomah County cities of Fairview, Troutdale, Wood Village, and Gresham share 25% of the first 0.6% of BIT collections. This action will increase the County's General Fund appropriation to pass through additional FY 2006 BIT receipts without incurring a budget violation.
3. The third action records \$290,987 in federal State Criminal Alien Assistance Program grant (SCAAP) revenue. These funds will allow the Sheriff's Office to pay for two inmate transport vans which, due to a backlog order, the Sheriff's Office did not receive until August 1<sup>st</sup> of this fiscal year. These two vans are capable of transporting 29 inmates between various Multnomah County jail facilities as well as between Multnomah County and state / federal prisons in Oregon, as part of the Northwest U.S. inmate transport system established by neighboring state and county correction agencies.
4. The fourth action decreases a budgeted principal payment and increases two cash transfers in the same amount in order to re-pay internal loans made from the Public Safety Bond Fund and the Building Project Fund for the electronic Sheriff's Warrant Inmate System (eSWIS) project. This action has no net effect on General Fund revenues or expenditures, but rather allows for the proper recording of internal loan repayments in FY 2006. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

# Supplemental Budget #2

# Financial Detail Sheets

General Fund	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent	106,683,210	0	106,683,210
60100 Temporary	2,964,721	0	2,964,721
60110 Overtime	3,615,937	0	3,615,937
60120 Premium	1,732,120	0	1,732,120
60130 Salary Related	34,625,494	0	34,625,494
60135 Non-Base Salary Related	227,985	0	227,985
60140 Insurance	26,050,647	0	26,050,647
60145 Non-Base Insurance	94,126	0	94,126
<b>Total Personal Services</b>	<b>175,994,240</b>	<b>0</b>	<b>175,994,240</b>
60150 County Supplements	93,106,765	8,840,000	101,946,765
60160 Pass-through Payments	28,025,395	2,205,100	30,230,495
60170 Professional Svcs	20,052,106	0	20,052,106
60180 Printing	1,391,978	0	1,391,978
60190 Utilities	1,039	0	1,039
60200 Communications	263,915	0	263,915
60210 Rentals	89,977	0	89,977
60220 Repairs & Maintenance	602,064	0	602,064
60230 Postage	265,073	0	265,073
60240 Supplies	2,905,898	0	2,905,898
60246 Medical & Dental Supplies	321,028	0	321,028
60250 Food	2,553,586	0	2,553,586
60260 Education and Training	800,851	0	800,851
60270 Local Travel and Mileage	382,350	0	382,350
60280 Insurance	1,108	0	1,108
60290 External Data Processing	643,850	0	643,850
60310 Drugs	1,818,441	0	1,818,441
60320 Refunds	3,000	0	3,000
60340 Dues and Subscriptions	337,679	0	337,679
60360 Finance Operations	4,505,218	25,633	4,530,851
60365 Human Resource Operations	2,657,077	0	2,657,077
60370 Telephone	1,652,194	0	1,652,194
60380 Data Processing	11,500,346	0	11,500,346
60390 PC Flat Fee	1,234,673	0	1,234,673
60400 Asset Preservation	15,000	0	15,000
60410 Motor Pool	2,037,210	0	2,037,210
60420 Electronics	485,582	0	485,582
60430 Building Management	20,931,403	0	20,931,403
60440 Other Internal	114,128	0	114,128
60450 Capital Lease Retirement	1,915,000	0	1,915,000
60460 Distribution/Postage	1,834,248	0	1,834,248
<b>Total Materials and Services</b>	<b>202,448,182</b>	<b>11,070,733</b>	<b>213,518,915</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	178,850	265,354	444,204
<b>Total Capital</b>	<b>178,850</b>	<b>265,354</b>	<b>444,204</b>
60490 Principal	2,643,105	(2,643,105)	0
60500 Interest	680,545	0	680,545
<b>Total Debt Service</b>	<b>3,323,650</b>	<b>(2,643,105)</b>	<b>680,545</b>
60470 Contingency	13,649,243	3,579,741	17,228,984
60560 Cash transfers	18,046,571	2,643,105	20,689,676
<b>Total Contingencies &amp; Transfers</b>	<b>31,695,814</b>	<b>6,222,846</b>	<b>37,918,660</b>
60480 Unappropriated Fund Balance	13,000,000	0	13,000,000
<b>Fund Total:</b>	<b>426,640,736</b>	<b>14,915,828</b>	<b>441,556,564</b>

**Public Safety Bond Fund (2500)**

This action supports the loan payment for the electronic Sheriff's Warrant Inmate System (eSWIS) mainframe migration project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan payment is budgeted. This action increases a General Fund Cash Transfer by \$1,478,105 and adds the same amount to Capital in fund 2500. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

# Supplemental Budget #2

# Financial Detail Sheets

Public Safety Bond Fund	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent	0	0	0
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	0	0	0
60135 Non-Base Salary Related	0	0	0
60140 Insurance	0	0	0
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>0</b>	<b>0</b>	<b>0</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	1,684,600	0	1,684,600
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	230,400	0	230,400
60245 Library Books & Materials	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60350 Indirect Costs	0	0	0
60355 Departmental Indirect	0	0	0
60360 Finance Operations	0	0	0
60365 Human Resource Operations	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60420 Electronics	69,712	0	69,712
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>1,984,712</b>	<b>0</b>	<b>1,984,712</b>
60520 Land	0	0	0
60530 Buildings	3,780,288	0	3,780,288
60540 Other Improvements	0	0	0
60550 Equipment	575,000	1,478,105	2,053,105
<b>Total Capital</b>	<b>4,355,288</b>	<b>1,478,105</b>	<b>5,833,393</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>6,340,000</b>	<b>1,478,105</b>	<b>7,818,105</b>

**Building Project Fund (2504)**

This action supports the loan payment for the SAP/Merlin upgrade project that was approved by the Board in 2004. Based on a recommendation from our external auditors we need to reclassify the way the loan payment is budgeted. This action increases a General Fund Cash Transfer by \$1,165,000 and adds the same amount to capital in fund 2504. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

# Supplemental Budget #2

# Financial Detail Sheets

Building Project Fund	2005-2006		2005-2006
	Adopted Budget	This Action	Revised Budget
60000 Permanent	0	0	0
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	0	0	0
60135 Non-Base Salary Related	0	0	0
60140 Insurance	0	0	0
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>0</b>	<b>0</b>	<b>0</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	438,800	0	438,800
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	12,700	0	12,700
60245 Library Books & Materials	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60350 Indirect Costs	0	0	0
60355 Departmental Indirect	0	0	0
60360 Finance Operations	0	0	0
60365 Human Resource Operations	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60420 Electronics	0	0	0
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>451,500</b>	<b>0</b>	<b>451,500</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	0	1,165,000	1,165,000
<b>Total Capital</b>	<b>0</b>	<b>1,165,000</b>	<b>1,165,000</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>451,500</b>	<b>1,165,000</b>	<b>1,616,500</b>

**Capital Acquisition Fund (Fund 2508)**

This action records an additional \$1,632,828 in the Capital Acquisition Fund for the purchase of equipment related to the Health Department's Electronic Medical Records (EMR) system.

In response to concerns expressed by the County's external auditors, the Health Department with the support of the Department of County Management is moving these designated funds from the OCHIN Trust Account (6035) to the Capital Equipment fund. This action will classify and account for these resources properly.

The Health Department is in the final phase of upgrading its information technology. SAP replaced the department's financial and human resource systems in 2000. The second phase removed all Health Department applications from the mainframe. By the end of 2003, the EPIC Practice Management system had replaced the Health Information System (HIS) patient scheduling and billing system. The implementation of the EMR system over the next two years will be the final phase. This will complete the replacement of the HIS, which included functionality not found in the Practice Management system and it will replace our paper medical records system.

In October, 2003 the Board approved the creation of the trust fund, the source of trust fund revenue and the use of the trust fund for capitalizing our EMR purchase.

This action is needed in FY 2006 to satisfy the auditor's request that these resources not continue to be classified as funds held in trust. The Health Department has begun the implementation of the EMR in the current fiscal year, and is likely to incur costs that need to be paid with these funds.

# Supplemental Budget #2

# Financial Detail Sheets

Capital Acquisition Fund	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent	50,303	0	50,303
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	15,378	0	15,378
60135 Non-Base Salary Related	0	0	0
60140 Insurance	12,096	0	12,096
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>77,777</b>	<b>0</b>	<b>77,777</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	90,000	0	90,000
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	4,303,205	0	4,303,205
60250 Food	0	0	0
60260 Education and Training	3,000	0	3,000
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	1,323,622	0	1,323,622
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60245 Library Materials	0	0	0
60350 Indirect Costs	0	0	0
60360 Finance Operations	1,409	0	1,409
60365 Human Resource Operations	1,025	0	1,025
60370 Telephone	450	0	450
60380 Data Processing	0	0	0
60410 Motor Pool	0	0	0
60430 Building Management	0	0	0
60440 Other Internal	2,120	0	2,120
60450 Capital Lease Retirement	0	0	0
<b>Total Materials and Services</b>	<b>5,724,831</b>	<b>0</b>	<b>5,724,831</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	221,200	1,632,828	1,854,028
<b>Total Capital</b>	<b>221,200</b>	<b>1,632,828</b>	<b>1,854,028</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>6,023,808</b>	<b>1,632,828</b>	<b>7,656,636</b>

**County School Fund (Fund 1506)**

This action records an additional \$25,000 in additional federal timber severance revenue. State statute requires the County to distribute revenues received from the sale of timber cut on federal forest lands. These revenues are dedicated to the County School Fund and are distributed proportionally to local school districts. This action will increase the County School Fund's appropriation to pass through FY 2006's timber receipts without incurring a budget violation.

# Supplemental Budget #2

# Financial Detail Sheets

<b>County School Fund</b>	2005-2006 Adopted Budget	This Action	2005-2006 Revised Budget
60000 Permanent	0	0	0
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	0	0	0
60135 Non-Base Salary Related	0	0	0
60140 Insurance	0	0	0
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>0</b>	<b>0</b>	<b>0</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	226,000	25,000	251,000
60170 Professional Svcs	0	0	0
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	0	0	0
60250 Food	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60245 Library Materials	0	0	0
60350 Indirect Costs	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>226,000</b>	<b>25,000</b>	<b>251,000</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	0	0	0
<b>Total Capital</b>	<b>0</b>	<b>0</b>	<b>0</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>226,000</b>	<b>25,000</b>	<b>251,000</b>

**Capital Debt Retirement Fund (Fund 2002)**

This is one of four actions contained in the supplemental budget to properly record lease transactions related moving County offices into the Lincoln Building at 426 SW Oak St.

In January 2005, the County Board approved the structure and outline for the ten year lease of a portion of the Lincoln Building to house County programs. The Finance Division determined at the beginning of FY 2006 that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006.

This action adds \$825,017 of revenue from the Facilities Fund and budgets \$491,683 for principal and \$333,334 for interest in the Capital Debt Retirement Fund for FY 2006.

# Supplemental Budget #2

# Financial Detail Sheets

<b>Capital Debt Retirement Fund</b>	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent	0	0	0
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	0	0	0
60135 Non-Base Salary Related	0	0	0
60140 Insurance	0	0	0
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>0</b>	<b>0</b>	<b>0</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	376,281	0	376,281
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	0	0	0
60245 Library Books & Materials	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60350 Indirect Costs	0	0	0
60355 Departmental Indirect	0	0	0
60360 Finance Operations	0	0	0
60365 Human Resource Operations	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60420 Electronics	0	0	0
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>376,281</b>	<b>0</b>	<b>376,281</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	0	0	0
<b>Total Capital</b>	<b>0</b>	<b>0</b>	<b>0</b>
60490 Principal	10,063,078	491,683	10,554,761
60500 Interest	5,010,242	333,334	5,343,576
<b>Total Debt Service</b>	<b>15,073,320</b>	<b>825,017</b>	<b>15,898,337</b>
60470 Contingency	947,294	0	947,294
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>947,294</b>	<b>0</b>	<b>947,294</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>16,396,895</b>	<b>825,017</b>	<b>17,221,912</b>

**Facilities Fund (Fund 3505)**

This is the second of four actions contained in the supplemental budget to properly record transactions related moving County offices into the Lincoln Building at 426 SW Oak St.

In January 2005, the County Board approved the structure and outline for the ten year lease of a portion of the Lincoln Building to house County programs. The Finance Division determined at the beginning of FY 2006 that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006.

Budgeted debt retirement payments from the Facilities Management Fund are increased by \$825,017 to cover the Capital Debt Retirement Fund expenditures. To supplant this added cost for the Facilities Management Fund, two budgeted cash transfers are being reversed from this fund to the Capital Improvement Fund (\$700,000) and Asset Preservation Fund (\$400,000) as well as a reduction of \$274,983 of budgeted Miscellaneous Revenue in the Facilities Fund.

# Supplemental Budget #2

# Financial Detail Sheets

Facilities Fund	2005-2006 Adopted Budget	This Action	2005-2006 Revised Budget
60000 Permanent	4,936,238	0	4,936,238
60100 Temporary	70,000	0	70,000
60110 Overtime	156,900	0	156,900
60120 Premium	41,330	0	41,330
60130 Salary Related	1,509,008	0	1,509,008
60135 Non-Base Salary Related	5,791	0	5,791
60140 Insurance	1,160,145	0	1,160,145
60145 Non-Base Insurance	3,255	0	3,255
<b>Total Personal Services</b>	<b>7,882,667</b>	<b>0</b>	<b>7,882,667</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	36,074	0	36,074
60170 Professional Svcs	3,830,000	0	3,830,000
60180 Printing	8,900	0	8,900
60190 Utilities	5,916,542	0	5,916,542
60200 Communications	75,455	0	75,455
60210 Rentals	2,928,473	0	2,928,473
60220 Repairs & Maintenance	1,430,456	0	1,430,456
60230 Postage	0	0	0
60240 Supplies	940,592	0	940,592
60260 Education and Training	75,500	0	75,500
60270 Local Travel and Mileage	1,600	0	1,600
60280 Insurance	45,000	0	45,000
60290 External Data Processing	9,000	0	9,000
60340 Dues and Subscriptions	16,955	0	16,955
60350 Indirect Costs	149,636	0	149,636
60355 Departmental Indirect	0	0	0
60360 Finance Operations	1,138,168	0	1,138,168
60365 Human Resource Operations	148,152	0	148,152
60370 Telephone	91,517	0	91,517
60380 Data Processing	297,515	0	297,515
60390 PC Flat Fee	47,500	0	47,500
60410 Motor Pool	240,950	0	240,950
60420 Electronics	64,500	0	64,500
60430 Building Management	0	0	0
60440 Other Internal	235,989	0	235,989
60450 Capital Lease Retirement	10,213,748	825,017	11,038,765
60460 Distribution/Postage	63,861	0	63,861
<b>Total Materials and Services</b>	<b>28,006,083</b>	<b>825,017</b>	<b>28,831,100</b>
60520 Land	0	0	0
60530 Buildings	0	0	0
60540 Other Improvements	0	0	0
60550 Equipment	0	0	0
<b>Total Capital</b>	<b>0</b>	<b>0</b>	<b>0</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	5,010,401	(1,100,000)	3,910,401
<b>Total Contingencies &amp; Transfers</b>	<b>5,010,401</b>	<b>(1,100,000)</b>	<b>3,910,401</b>
60480 Unappropriated Fund Balance	0	0	0
<b>Fund Total:</b>	<b>40,899,151</b>	<b>(274,983)</b>	<b>40,624,168</b>

**Capital Improvement Fund (2507)**

This is the third of four actions contained in the supplemental budget to properly record transactions related moving County offices into the Lincoln Building at 426 SW Oak St.

In January 2005, the County Board approved the structure and outline for the ten year lease of a portion of the Lincoln Building to house County programs. The Finance Division determined at the beginning of FY 2006 that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006.

To support budgeted debt retirement payments from the Facilities Management Fund, a budgeted cash transfer is being reversed from the Facilities Fund to the Capital Improvement Fund (\$700,000). Building expenses in the Capital Improvement Fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

Supplemental Budget #2

Financial Detail Sheets

Capital Improvement Fund	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent	110,998	0	110,998
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	33,932	0	33,932
60135 Non-Base Salary Related	0	0	0
60140 Insurance	25,977	0	25,977
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>170,907</b>	<b>0</b>	<b>170,907</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	0	0	0
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	0	0	0
60250 Food	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60245 Library Materials	0	0	0
60350 Indirect Costs	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60420 Electronics	26,778	0	26,778
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	767,147	0	767,147
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>793,925</b>	<b>0</b>	<b>793,925</b>
60520 Land	0	0	0
60530 Buildings	16,176,761	(700,000)	15,476,761
60540 Other Improvements	0	0	0
60550 Equipment	0	0	0
<b>Total Capital</b>	<b>16,176,761</b>	<b>(700,000)</b>	<b>15,476,761</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	9,500,000	0	9,500,000
<b>Fund Total:</b>	<b>26,641,593</b>	<b>(700,000)</b>	<b>25,941,593</b>

**Asset Preservation Fund (2509)**

This is the fourth of four actions contained in the supplemental budget to properly record transactions related moving County offices into the Lincoln Building at 426 SW Oak St.

In January 2005, the County Board approved the structure and outline for the ten year lease of a portion of the Lincoln Building to house County programs. The Finance Division determined at the beginning of FY 2006 that the Lincoln Building lease should have been classified as a capital lease, not as an operating lease as was assumed in the Adopted Budget for FY 2006.

To support budgeted debt retirement payments from the Facilities Management Fund, a budgeted cash transfer is being reversed from the Facilities Fund to the Asset Preservation Fund (\$400,000). Building expenses in the Capital Improvement Fund are reduced in the same amount. ORS 294.450 requires an affirmative action of the Board to adjust cash transfers after the budget has been adopted.

# Supplemental Budget #2

# Financial Detail Sheets

<b>Asset Preservation Fund</b>	2005-2006 Adopted Budget	This Action	2005-2006 Revised Budget
60000 Permanent	0	0	0
60100 Temporary	0	0	0
60110 Overtime	0	0	0
60120 Premium	0	0	0
60130 Salary Related	0	0	0
60135 Non-Base Salary Related	0	0	0
60140 Insurance	0	0	0
60145 Non-Base Insurance	0	0	0
<b>Total Personal Services</b>	<b>0</b>	<b>0</b>	<b>0</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	0	0	0
60180 Printing	0	0	0
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	0	0	0
60220 Repairs & Maintenance	0	0	0
60230 Postage	0	0	0
60240 Supplies	0	0	0
60250 Food	0	0	0
60260 Education and Training	0	0	0
60270 Local Travel and Mileage	0	0	0
60280 Insurance	0	0	0
60290 External Data Processing	0	0	0
60310 Drugs	0	0	0
60340 Dues and Subscriptions	0	0	0
60245 Library Materials	0	0	0
60350 Indirect Costs	0	0	0
60370 Telephone	0	0	0
60380 Data Processing	0	0	0
60390 PC Flat Fee	0	0	0
60410 Motor Pool	0	0	0
60420 Electronics	26,777	0	26,777
60430 Building Management	0	0	0
60440 Other Internal	0	0	0
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>26,777</b>	<b>0</b>	<b>26,777</b>
60520 Land	0	0	0
60530 Buildings	5,598,447	(400,000)	5,198,447
60540 Other Improvements	0	0	0
60550 Equipment	0	0	0
<b>Total Capital</b>	<b>5,598,447</b>	<b>(400,000)</b>	<b>5,198,447</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	0	0	0
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>0</b>	<b>0</b>	<b>0</b>
60480 Unappropriated Fund Balance	2,125,000	0	2,125,000
<b>Fund Total:</b>	<b>7,750,224</b>	<b>(400,000)</b>	<b>7,350,224</b>

**Mail Distribution Fund (Fund 3504)**

This action budgets revenues and expenses associated with Central Stores' sale of inventory items to agencies outside of Multnomah County. FY 2006 sales are projected to be \$2.5 million for these items. This budgetary change is being made to put the County in compliance with generally accepted accounting principles. GAAP requires that sales and related revenue be recognized as expenses and revenue. Previously, the method of accounting for outside sales recognized only the net revenue from the 10% markup allowed on the sales.

# Supplemental Budget #2

# Financial Summary

Mail Distribution Fund	2005-2006	This Action	2005-2006
	Adopted Budget		Revised Budget
60000 Permanent.	1,042,346	0	1,042,346
60100 Temporary	12,148	0	12,148
60110 Overtime	2,525	0	2,525
60120 Premium	10,591	0	10,591
60130 Salary Related	316,511	0	316,511
60135 Non-Base Salary Related	7,723	0	7,723
60140 Insurance	293,614	0	293,614
60145 Non-Base Insurance	1,769	0	1,769
<b>Total Personal Services</b>	<b>1,687,227</b>	<b>0</b>	<b>1,687,227</b>
60150 County Supplements	0	0	0
60160 Pass-through Payments	0	0	0
60170 Professional Svcs	89,128	0	89,128
60180 Printing	3,204	0	3,204
60190 Utilities	0	0	0
60200 Communications	0	0	0
60210 Rentals	3,038	0	3,038
60220 Repairs & Maintenance	13,325	0	13,325
60230 Postage	893,837	0	893,837
60240 Supplies	13,700	0	13,700
60245 Library Books & Materials	0	0	0
60260 Education and Training	4,780	0	4,780
60270 Local Travel and Mileage	675	0	675
60280 Insurance	0	0	0
60290 External Data Processing	200	0	200
60310 Drugs	0	0	0
60340 Dues and Subscriptions	2,170	0	2,170
60350 Indirect Costs	18,942	0	18,942
60355 Departmental Indirect	0	0	0
60360 Finance Operations	45,302	0	45,302
60365 Human Resource Operations	39,402	0	39,402
60370 Telephone	13,266	0	13,266
60380 Data Processing	94,934	0	94,934
60390 PC Flat Fee	11,000	0	11,000
60410 Motor Pool	47,073	0	47,073
60420 Electronics	0	0	0
60430 Building Management	387,282	0	387,282
60440 Other Internal	214,285	0	214,285
60450 Capital Lease Retirement	0	0	0
60460 Distribution/Postage	0	0	0
<b>Total Materials and Services</b>	<b>1,895,543</b>	<b>0</b>	<b>1,895,543</b>
60550 Equipment	50,000	0	50,000
60600 Goods Issue to Scrap	4,000	0	4,000
60610 Loss-Inv Revaluation	4,000	0	4,000
60650 Mat Mgmt Small Diff	100	0	100
60670 Goods Issue-Non SD	0	2,500,000	2,500,000
<b>Total Capital</b>	<b>58,100</b>	<b>2,500,000</b>	<b>2,558,100</b>
60490 Principal	0	0	0
60500 Interest	0	0	0
<b>Total Debt Service</b>	<b>0</b>	<b>0</b>	<b>0</b>
60470 Contingency	249,084	0	249,084
60560 Cash transfers	0	0	0
<b>Total Contingencies &amp; Transfers</b>	<b>249,084</b>	<b>0</b>	<b>249,084</b>
60480 Unappropriated Fund Balance	642,349	0	642,349
<b>Fund Total:</b>	<b>4,532,303</b>	<b>2,500,000</b>	<b>7,032,303</b>

# Supplemental Budget #2

# Financial Summary

## General Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Business Income Tax	26,949,002	2,205,100	29,154,102
Temporary Personal Income Tax	125,586,130	12,419,741	138,005,871
All Other Revenues as Adopted	274,105,604	290,987	274,396,591
<b>Total Resources</b>	<b>426,640,736</b>	<b>14,915,828</b>	<b>441,556,564</b>
<b>Requirements</b>			
County Supplements	121,132,160	11,045,100	132,177,260
Principal	2,643,105	(2,643,105)	0
Cash Transfers	18,046,571	2,643,105	20,689,676
All Other Expenditures as Adopted	271,169,657	290,987	271,460,644
<b>Total Expenditures</b>	<b>412,991,493</b>	<b>11,336,087</b>	<b>424,327,580</b>
Contingency	13,649,243	3,579,741	17,228,984
<b>Total Requirements</b>	<b>426,640,736</b>	<b>14,915,828</b>	<b>441,556,564</b>

## Capital Acquisition Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Federal-State Fund Revenue	0	1,632,828	1,632,828
All Other Revenues as Adopted	6,023,808	0	6,023,808
<b>Total Resources</b>	<b>6,023,808</b>	<b>1,632,828</b>	<b>7,656,636</b>
<b>Requirements</b>			
All Expenditures as Adopted	6,023,808	1,632,828	7,656,636
<b>Total Expenditures</b>	<b>6,023,808</b>	<b>1,632,828</b>	<b>7,656,636</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>6,023,808</b>	<b>1,632,828</b>	<b>7,656,636</b>

## County School Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Government-Shared Revenue	225,000	25,000	250,000
All Other Revenues as Adopted	1,000	0	1,000
<b>Total Resources</b>	<b>226,000</b>	<b>25,000</b>	<b>251,000</b>
<b>Requirements</b>			
All Expenditures as Adopted	226,000	25,000	251,000
<b>Total Expenditures</b>	<b>226,000</b>	<b>25,000</b>	<b>251,000</b>
Contingency	0	0	0
<b>Total Requirements</b>	<b>226,000</b>	<b>25,000</b>	<b>251,000</b>

# Supplemental Budget #2

# Financial Summary

## Public Safety Bond Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Beginning Working Capital	6,340,000	0	6,340,000
All Other Revenues as Adopted	0	1,478,105	1,478,105
<b>Total Resources</b>	<b>6,340,000</b>	<b>1,478,105</b>	<b>7,818,105</b>
<b>Requirements</b>			
All Expenditures as Adopted	6,340,000	1,478,105	7,818,105
<b>Total Expenditures</b>	<b>6,340,000</b>	<b>1,478,105</b>	<b>7,818,105</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>6,340,000</b>	<b>1,478,105</b>	<b>7,818,105</b>

## Capital Debt Retirement Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Internal Service Reimbursements	14,602,895	825,017	15,427,912
All Other Revenues as Adopted	1,794,000	0	1,794,000
<b>Total Resources</b>	<b>16,396,895</b>	<b>825,017</b>	<b>17,221,912</b>
<b>Requirements</b>			
Principal	10,063,078	491,683	10,554,761
Interest	5,010,242	333,334	5,343,576
All Other Expenditures as Adopted	1,323,575	0	1,323,575
<b>Total Expenditures</b>	<b>16,396,895</b>	<b>825,017</b>	<b>17,221,912</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>16,396,895</b>	<b>825,017</b>	<b>17,221,912</b>

## Facilities Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Miscellaneous Revenue	3,333,208	(274,983)	3,058,225
All Other Revenues as Adopted	37,565,943	0	37,565,943
<b>Total Resources</b>	<b>40,899,151</b>	<b>(274,983)</b>	<b>40,624,168</b>
<b>Requirements</b>			
Cash Transfers	5,010,401	(1,100,000)	3,910,401
Capital Lease Payments	10,213,748	825,017	11,038,765
All Other Expenditures as Adopted	25,675,002	0	25,675,002
<b>Total Expenditures</b>	<b>40,899,151</b>	<b>(274,983)</b>	<b>40,624,168</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>40,899,151</b>	<b>(274,983)</b>	<b>40,624,168</b>

# Supplemental Budget #2

# Financial Summary

## Building Projects Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
All Revenues as Adopted	451,500	1,165,000	1,616,500
<b>Total Resources</b>	<b>451,500</b>	<b>1,165,000</b>	<b>1,616,500</b>
<b>Requirements</b>			
All Expenditures as Adopted	451,500	1,165,000	1,616,500
<b>Total Expenditures</b>	<b>451,500</b>	<b>1,165,000</b>	<b>1,616,500</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>451,500</b>	<b>1,165,000</b>	<b>1,616,500</b>

## Mail Distribution Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Sales to the Public	3,300	2,500,000	2,503,300
All Other Revenues as Adopted	4,529,003	0	4,529,003
<b>Total Resources</b>	<b>4,532,303</b>	<b>2,500,000</b>	<b>7,032,303</b>
<b>Requirements</b>			
Goods Issue	0	2,500,000	2,500,000
All Other Expenditures as Adopted	4,532,303	0	4,532,303
<b>Total Expenditures</b>	<b>4,532,303</b>	<b>2,500,000</b>	<b>7,032,303</b>
Unappropriated Balance	0	0	0
<b>Total Requirements</b>	<b>4,532,303</b>	<b>2,500,000</b>	<b>7,032,303</b>

## Capital Improvement Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<b>Resources</b>			
Cash Transfer Revenue	3,044,177	(700,000)	2,344,177
All Other Revenues as Adopted	23,597,416	0	23,597,416
<b>Total Resources</b>	<b>26,641,593</b>	<b>(700,000)</b>	<b>25,941,593</b>
<b>Requirements</b>			
Buildings	16,176,761	(700,000)	15,476,761
All Other Expenditures as Adopted	964,832	0	964,832
<b>Total Expenditures</b>	<b>17,141,593</b>	<b>(700,000)</b>	<b>16,441,593</b>
Unappropriated Balance	9,500,000	0	9,500,000
<b>Total Requirements</b>	<b>26,641,593</b>	<b>(700,000)</b>	<b>25,941,593</b>

# Supplemental Budget #2

# Financial Summary

## Asset Preservation Fund

	2005-2006 Adopted Budget	This Action	Revised Budget
<u>Resources</u>			
Cash Transfer Revenue	1,966,224	(400,000)	1,566,224
All Other Revenues as Adopted	5,784,000	0	5,784,000
<u>Total Resources</u>	<u>7,750,224</u>	<u>(400,000)</u>	<u>7,350,224</u>
<u>Requirements</u>			
Buildings	5,598,447	(400,000)	5,198,447
All Other Expenditures as Adopted	26,777	0	26,777
<u>Total Expenditures</u>	<u>5,625,224</u>	<u>(400,000)</u>	<u>5,225,224</u>
Unappropriated Balance	2,125,000	0	2,125,000
<u>Total Requirements</u>	<u>7,750,224</u>	<u>(400,000)</u>	<u>7,350,224</u>



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-3  
**Est. Start Time:** 9:40 AM  
**Date Submitted:** 04/28/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **RESOLUTION Authorizing Election to Receive National Forest Related Safety-Net Payments Under P.L. 106-393**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>County Management</u>	<b>Division:</b>	<u>Director's Office</u>
<b>Contact(s):</b>	<u>Bob Thomas</u>		
<b>Phone:</b>	<u>(503) 988-4283</u>	<b>Ext.</b>	<u>84283</u>
		<b>I/O Address:</b>	<u>503 / 531</u>
<b>Presenter(s):</b>	<u>Bob Thomas</u>		

**General Information**

**1. What action are you requesting from the Board?**

Approve a Resolution that designates the method of disbursement for National Forest Safety-Net payments for fiscal year 2007.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

Since 1908, all counties in Oregon have received payments from the US government from revenue generated by the sale of timber on federal forest lands. Since 1937, approximately half the counties in Oregon have also received payments from the US government from timber sales on lands formerly owned by the Oregon & California (O&C) railroad.

The "Forest Reserve" revenue was dedicated to roads and public schools. The O&C revenue has traditionally been used in support of programs budgeted in the General Fund. These are not new funds or revenue sources available to the County. Prior to FY 2002 these funds were received in two pots, one pot was dedicated to County Schools and the County Road Fund and the other portion

was unrestricted General Fund resources. Under the new federal legislation, PL 106-393, Forest Service money flowing to County Schools and the Road Fund has not changed and we are accounting for these resources funds in special revenue funds as required. In fiscal year 2002 the federal government placed restrictions on a portion of the unrestricted funds. The funds are basically categorized as follows:

Title I - Payments restricted to Road Fund, School Fund and unrestricted General Fund resources. (These resources are being treated the same as in the past)

Title II - Title II projects are selected by the Regional Advisory Committee (RAC) set up for this region of the state. Title II projects go through a long review process and are voted on by the RAC. Qualifying Title II projects on Federal Lands are:

- Projects recommended by Resource Advisory Committees (RACs) must be within the RAC boundary.
- Environmental studies/federal laws followed - ordered by Secretary.
- Project funds may be used by the Secretary for the purpose of making additional investments in, and creating additional employment opportunities through, projects that improve the maintenance of existing infrastructure, implementing stewardship objectives that enhance forest ecosystems, and restoring and improving land health and water quality. Projects shall enjoy broad-based support with objectives that may include, but are not limited to-
  - Road, trail, and infrastructure maintenance or obliteration;
  - Soil productivity improvement;
  - Improvements in forest ecosystem health;
  - Watershed restoration and maintenance;
  - Restoration, maintenance and improvement of wild-life and fish habitat;
  - Control of noxious and exotic weeds; and
  - Reestablishment of native species.
- 50% of project funds must be for:
  - road maintenance/obliteration or
  - watershed improvement/restoration

Title III - The moneys are not dedicated to individual departments but are County resources to be used for the following:

- Search, rescue, and emergency services. -- An eligible county or applicable sheriff's department may use these funds as reimbursement for search and rescue and other emergency services, including fire fighting, performed on Federal lands and paid for by the county.
- Community service work camps. -- An eligible county may use these funds as reimbursement for all or part of the costs incurred by the county to pay the salaries and benefits of county employees who supervise adults or juveniles performing mandatory community service on Federal lands.
- Easement purchases. -- An eligible county may use these funds to acquire --
  1. easements, on a willing seller basis, to provide for non-motorized access to public lands for hunting, fishing, and other recreational purposes;

- 2. conservation easements; or
- 3. both.
- Forest related educational opportunities. -- A county may use these funds to establish and conduct forest-related after school programs.
- Fire prevention and county planning. -- A county may use these funds for --
  - 1. efforts to educate homeowners in fire-sensitive ecosystems about the consequences of wildfires and techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires; and
  - 2. planning efforts to reduce or mitigate the impact of development on adjacent Federal lands and to increase the protection of people and property from wildfires.
- Community forestry. -- A county may use these funds towards non-Federal cost-share requirements of section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105).

**3. Explain the fiscal impact (current year and ongoing).**

The County must first decide what percentage (between 80% and 85%) of its Safety-Net payment will be Title I payment. For the Forest Service Resolution, we are recommending that 85% be disbursed to Title I payment. This is estimated to be \$879,750 for federal fiscal year 2006 (County FY 2007). Title I for Forest Service funds is to be split 75% to County Road Fund and 25% to County School Fund.

The remaining funds for each Resolution are to be used either for Title II or Title III projects. We are recommending that \$27,000 be disbursed to the US Forest Service as Title II which will be allocated to projects by the Salem District Resource Advisory Committee. We are also recommending that the remaining funds be disbursed as Title III payment for this Resolution. For Forest Service funds, this amount is estimated to be \$123,250 for fiscal year 2006, which should cover County Title III eligible project costs. Of this Title III payment to the County, we are proposing that \$10,000 be used to fund a "mini-grant program" for non-profit organizations with qualifying Title III projects. Board members will approve these mini-grants in June 2006.

**4. Explain any legal and/or policy issues involved.**

The annual resolutions are required by the Federal government for counties to participate in the Safety-Net program.

There are no controversial issues regarding the two elections that these resolutions address. It is believed by some that this is new money for the County. It is not new funds; the federal government has put restrictions on a portion of them. A decision will have to be made annually on how to expend the Title III funds.

**5. Explain any citizen and/or other government participation that has or will take place.**

Citizens will have the opportunity to provide written comments on the Multnomah County projects that will qualify under Title III. A 45-day comment period is required by the legislation and will begin when the list was advertised in the Oregon Daily Journal of Commerce in early May.

Each County with National Forest and/or O&C lands is required to make these elections prior to sending their decision on to the Federal government. Multnomah County has participated with Association of Oregon Counties (AOC) in developing the processes and resolutions.

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**Required Signatures**

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**Department/  
Agency Director:**

*David G Boyer*

**Date:** 04/28/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 06-**

Authorizing Election to Receive **National Forest** Related Safety-Net Payments Under P.L. 106-393

**The Multnomah County Board of Commissioners Finds:**

- a. Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from National Forest lands be paid to states for use by the counties in which the lands are situated for the benefit of public schools and roads.
- b. The sharing of revenues from the National Forest lands is, in part, a recognition that these lands are not subject to local taxation, and also that counties provide services that directly benefit the lands and the people who use the lands.
- c. The principal source of revenues from National Forest lands is from the sale and removal of timber, which has been sharply curtailed in recent years.
- d. The volume of timber sold annually from most National Forest lands has declined precipitously, with a corresponding precipitous decline in revenues shared with counties.
- e. The United States Congress recognized a need to stabilize education and road maintenance funding through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance and stewardship of federal lands, and to achieve those goals enacted P.L. 106-393 in 2000.
- f. P.L. 106-393 provides for guaranteed minimum payments for the benefit of affected counties, as well as an opportunity to invest a portion of the guaranteed minimum payments in projects on federal lands or that benefit resources on federal lands, or in county projects or activities.
- g. Title I, Section 102 of P.L. 106-393 gives each eligible county the right to elect to receive either its traditional share of revenues from the National Forest lands pursuant to the Act of May 23, 1908 and Section 13 of the Act of March 1, 1911, or instead to receive the guaranteed minimum amount, also known as the "full payment amount."
- h. The election to receive either the full payment amount, or instead, the traditional share of revenues, must be communicated to the Governor of Oregon, who in turn must communicate the election by each county to the Secretary of the United States Department of Agriculture.

- i. An election to receive the full payment amount is effective for all federal fiscal years through fiscal year 2006.
- j. Multnomah County is an eligible, affected county with the right to make an election pursuant to Title I, Section 102 of P.L. 106-393.
- k. Any county electing to receive the full payment amount must further elect to expend an amount not less than 15 percent nor more than 20 percent of its full payment amount as project funds in accordance with Title I, Section 102(d)(1)(B) of P.L. 106-393.
- l. Title I, Section 102(d)(1)(B) of P.L. 106-393 requires that counties electing to receive the full payment amount must allocate its project funds for expenditure between projects in accordance with Title II of P.L. 106-393, projects in accordance with Title III of P.L. 106-393, and a return of the balance unspent under Titles II and III to the General Treasury of the United States, and communicate such allocation to the Secretary of the United States Department of Agriculture.
- m. Title II of P.L. 106-393 provides for special projects on federal lands or that benefit resources on federal lands, which projects are recommended by local resource advisory committees ("RACs").
- n. RACs recommend projects for consideration by the Secretary of Agriculture, with project funding supplied in whole or in part out of monies allocated for such purposes by participating counties.
- o. Counties that allocate funding to projects under Title II of P.L. 106-393, and are participants in more than one RAC, may further direct that their Title II project funds be divided between different RACs according to an allocation decided by each participating county, with such funds held in the General Treasury of the United States under the name of the county with a designation of the amount allocated to each RAC.
- p. Title III of P.L. 106-393 provides for county projects or services, some of which are associated with federal lands, with Title III authorizing expenditures for search, rescue and emergency services, staffing of community service work camps, the purchase of easements, forest related educational opportunities, fire prevention and planning, and community forestry pursuant to the Cooperative Forest Assistance Act of 1978.
- q. In 2001, Multnomah County elected to receive its full payment amount rather than electing to receive its traditional share of National Forest revenues.

**The Multnomah County Board of Commissioners Resolves:**

1. Multnomah County hereby allocates 15 percent of its full payment amount for expenditure on projects under Title II and Title III of P.L. 106-393. Multnomah County will return none (zero percent) of its full payment amount to the General Treasury of the United States pursuant to Title I, Section 102(d)(1)(B)(iii).
2. Of the total amount allocated to Title II and Title III projects above in paragraph 1, hereinafter referred to as the "Project Funds," Multnomah County further allocates between such Titles for federal fiscal year 2006 (for expenditure after federal fiscal year 2006) on the following basis: \$27,000 of Project Funds for expenditure on Title II projects and the balance of the Project Funds for expenditure on Title III projects.
3. The original or a certified copy of this Resolution shall be transmitted to Mr. Rocky McVay with instructions to reconvey the Resolution to the Office of Governor of the State of Oregon with a request that the Governor communicate the elections made herein to the Secretary of the United States Department of Agriculture.

ADOPTED this 18th day of May, 2006.

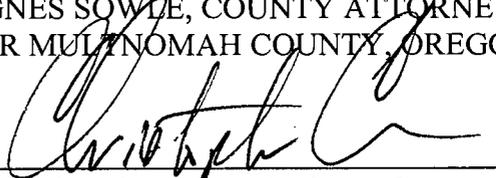
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, Chair

REVIEWED:

AGNES SOWDE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By 

Christopher Crean, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 06-076**

Authorizing Election to Receive **National Forest** Related Safety-Net Payments Under P.L. 106-393

**The Multnomah County Board of Commissioners Finds:**

- a. Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from National Forest lands be paid to states for use by the counties in which the lands are situated for the benefit of public schools and roads.
- b. The sharing of revenues from the National Forest lands is, in part, a recognition that these lands are not subject to local taxation, and also that counties provide services that directly benefit the lands and the people who use the lands.
- c. The principal source of revenues from National Forest lands is from the sale and removal of timber, which has been sharply curtailed in recent years.
- d. The volume of timber sold annually from most National Forest lands has declined precipitously, with a corresponding precipitous decline in revenues shared with counties.
- e. The United States Congress recognized a need to stabilize education and road maintenance funding through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance and stewardship of federal lands, and to achieve those goals enacted P.L. 106-393 in 2000.
- f. P.L. 106-393 provides for guaranteed minimum payments for the benefit of affected counties, as well as an opportunity to invest a portion of the guaranteed minimum payments in projects on federal lands or that benefit resources on federal lands, or in county projects or activities.
- g. Title I, Section 102 of P.L. 106-393 gives each eligible county the right to elect to receive either its traditional share of revenues from the National Forest lands pursuant to the Act of May 23, 1908 and Section 13 of the Act of March 1, 1911, or instead to receive the guaranteed minimum amount, also known as the "full payment amount."
- h. The election to receive either the full payment amount, or instead, the traditional share of revenues, must be communicated to the Governor of Oregon, who in turn must communicate the election by each county to the Secretary of the United States Department of Agriculture.

- i. An election to receive the full payment amount is effective for all federal fiscal years through fiscal year 2006.
- j. Multnomah County is an eligible, affected county with the right to make an election pursuant to Title I, Section 102 of P.L. 106-393.
- k. Any county electing to receive the full payment amount must further elect to expend an amount not less than 15 percent nor more than 20 percent of its full payment amount as project funds in accordance with Title I, Section 102(d)(1)(B) of P.L. 106-393.
- l. Title I, Section 102(d)(1)(B) of P.L. 106-393 requires that counties electing to receive the full payment amount must allocate its project funds for expenditure between projects in accordance with Title II of P.L. 106-393, projects in accordance with Title III of P.L. 106-393, and a return of the balance unspent under Titles II and III to the General Treasury of the United States, and communicate such allocation to the Secretary of the United States Department of Agriculture.
- m. Title II of P.L. 106-393 provides for special projects on federal lands or that benefit resources on federal lands, which projects are recommended by local resource advisory committees ("RACs").
- n. RACs recommend projects for consideration by the Secretary of Agriculture, with project funding supplied in whole or in part out of monies allocated for such purposes by participating counties.
- o. Counties that allocate funding to projects under Title II of P.L. 106-393, and are participants in more than one RAC, may further direct that their Title II project funds be divided between different RACs according to an allocation decided by each participating county, with such funds held in the General Treasury of the United States under the name of the county with a designation of the amount allocated to each RAC.
- p. Title III of P.L. 106-393 provides for county projects or services, some of which are associated with federal lands, with Title III authorizing expenditures for search, rescue and emergency services, staffing of community service work camps, the purchase of easements, forest related educational opportunities, fire prevention and planning, and community forestry pursuant to the Cooperative Forest Assistance Act of 1978.
- q. In 2001, Multnomah County elected to receive its full payment amount rather than electing to receive its traditional share of National Forest revenues.

**The Multnomah County Board of Commissioners Resolves:**

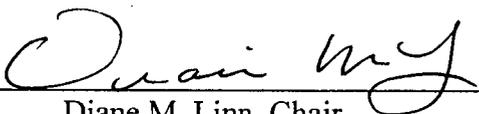
- 1. Multnomah County hereby allocates 15 percent of its full payment amount for expenditure on projects under Title II and Title III of P.L. 106-393. Multnomah County will return none (zero percent) of its full payment amount to the General Treasury of the United States pursuant to Title I, Section 102(d)(1)(B)(iii).

2. Of the total amount allocated to Title II and Title III projects above in paragraph 1, hereinafter referred to as the "Project Funds," Multnomah County further allocates between such Titles for federal fiscal year 2006 (for expenditure after federal fiscal year 2006) on the following basis: \$27,000 of Project Funds for expenditure on Title II projects and the balance of the Project Funds for expenditure on Title III projects.
3. The original or a certified copy of this Resolution shall be transmitted to Mr. Rocky McVay with instructions to reconvey the Resolution to the Office of Governor of the State of Oregon with a request that the Governor communicate the elections made herein to the Secretary of the United States Department of Agriculture.

ADOPTED this 18th day of May, 2006.



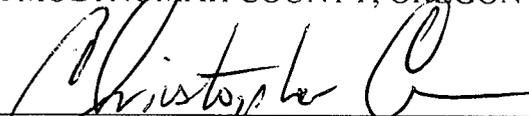
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By



\_\_\_\_\_  
Christopher Crear, Assistant County Attorney



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-4  
**Est. Start Time:** 9:43 AM  
**Date Submitted:** 04/28/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **RESOLUTION Authorizing Election to Receive O&C Land Related Safety-Net Payments Under P.L. 106-393**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>County Management</u>	<b>Division:</b>	<u>Director's Office</u>
<b>Contact(s):</b>	<u>Bob Thomas</u>		
<b>Phone:</b>	<u>(503) 988-4283</u>	<b>Ext.</b>	<u>84283</u>
<b>Presenter(s):</b>	<u>Bob Thomas</u>	<b>I/O Address:</b>	<u>503 / 531</u>

**General Information**

**1. What action are you requesting from the Board?**

Approve a Resolution that designates the method of disbursement for O&C Land Safety-Net payments during FY 2007.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

Since 1908, all counties in Oregon have received payments from the US government from revenue generated by the sale of timber on federal forest lands. Since 1937, approximately half the counties in Oregon have also received payments from the US government from timber sales on lands formerly owned by the Oregon & California (O&C) railroad.

The "Forest Reserve" revenue was dedicated to roads and public schools. The O&C revenue has traditionally been used in support of programs budgeted in the General Fund. These are not new funds or revenue sources available to the County. Prior to FY 2002 these funds were received in two pots, one pot was dedicated to County Schools and the County Road Fund and the other portion

was unrestricted General Fund resources. Under the new federal legislation, PL 106-393, Forest Service money flowing to County Schools and the Road Fund has not changed and we are accounting for these resources funds in special revenue funds as required. In fiscal year 2002 the federal government placed restrictions on a portion of the unrestricted funds. The funds are basically categorized as follows:

Title I - Payments restricted to Road Fund, School Fund and unrestricted General Fund resources. (These resources are being treated the same as in the past)

Title II - Title II projects are selected by the Regional Advisory Committee (RAC) set up for this region of the state. Title II projects go through a long review process and are voted on by the RAC. Qualifying Title II Projects on Federal Lands are:

- Projects recommended by Resource Advisory Committees (RACs) must be within the RAC boundary.
- Environmental studies/federal laws followed - ordered by Secretary.
- Project funds may be used by the Secretary for the purpose of making additional investments in, and creating additional employment opportunities through, projects that improve the maintenance of existing infrastructure, implementing stewardship objectives that enhance forest ecosystems, and restoring and improving land health and water quality. Projects shall enjoy broad-based support with objectives that may include, but are not limited to-
  - Road, trail, and infrastructure maintenance or obliteration;
  - Soil productivity improvement;
  - Improvements in forest ecosystem health;
  - Watershed restoration and maintenance;
  - Restoration, maintenance and improvement of wild-life and fish habitat;
  - Control of noxious and exotic weeds; and
  - Reestablishment of native species.
- 50% of project funds must be for:
  - road maintenance/obliteration or
  - watershed improvement/restoration

Title III - The moneys are not dedicated to individual departments but are County resources to be used for the following:

- Search, rescue, and emergency services. -- An eligible county or applicable sheriff's department may use these funds as reimbursement for search and rescue and other emergency services, including fire fighting, performed on Federal lands and paid for by the county.
- Community service work camps. -- An eligible county may use these funds as reimbursement for all or part of the costs incurred by the county to pay the salaries and benefits of county employees who supervise adults or juveniles performing mandatory community service on Federal lands.
- Easement purchases. -- An eligible county may use these funds to acquire --
  1. easements, on a willing seller basis, to provide for non-motorized access to public lands for hunting, fishing, and other recreational purposes;

- 2. conservation easements; or
- 3. both.
- Forest related educational opportunities. -- A county may use these funds to establish and conduct forest-related after school programs.
- Fire prevention and county planning. -- A county may use these funds for --
  - 1. efforts to educate homeowners in fire-sensitive ecosystems about the consequences of wildfires and techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires; and
  - 2. planning efforts to reduce or mitigate the impact of development on adjacent Federal lands and to increase the protection of people and property from wildfires.
- Community forestry. -- A county may use these funds towards non-Federal cost-share requirements of section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105).

**3. Explain the fiscal impact (current year and ongoing).**

The County must first decide what percentage (between 80% and 85%) of its Safety-Net payment will be Title I payment. For the O& C Resolution, we are recommending that 85% be disbursed to Title I payment. This is estimated to be \$1,037,000 for federal fiscal year 2006 (County FY 2007). Title I for O&C funds has no obligation as to its use.

The remaining funds for the Resolution are to be used either for Title II or Title III projects. We are recommending the Board allocate \$17,000 of the non-Title I payment to Title II for this Resolution. We are recommending that the remaining funds be disbursed as Title III payment for this Resolution. For O&C funds, this amount is estimated to be \$166,000 for federal fiscal year 2006, which should cover County Title III eligible project costs. Of this Title III payment to the County, we are proposing that \$10,000 be used to fund a "mini-grant program" for non-profit organizations with qualifying Title III projects. Board members will approve these mini-grant projects in June 2006.

**4. Explain any legal and/or policy issues involved.**

The annual resolutions are required by the Federal government for counties to participate in the Safety-Net program.

There are no controversial issues regarding the two elections that these resolutions address. It is believed by some that this is new money for the County. It is not new funds, the federal government has put restrictions on a portion of them. A decision will have to be made annually on how to expend the Title III funds.

**5. Explain any citizen and/or other government participation that has or will take place.**

Citizens will have the opportunity to provide written comments on the Multnomah County projects that will qualify under Title III. A 45-day comment period is required by the legislation and will begin when the list is advertised in the Oregon Daily Journal of Commerce in early May.

Each County with National Forest and/or O&C lands is required to make these elections prior to sending their decision on to the Federal government. Multnomah County has participated with Association of Oregon Counties (AOC) in developing the processes and resolutions.

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**Required Signatures**

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**Department/  
Agency Director:**

*David A. Boyer*

**Date:** 04/28/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 06-**

Authorizing Election to Receive **O&C Land** Related Safety-Net Payments Under P.L. 106-393

**The Multnomah County Board of Commissioners Finds:**

- a. Congress enacted in 1937 and subsequently amended a law that requires that 75 percent of the revenues derived from revested Oregon and California Railroad grant lands ("O&C Lands") be paid to counties in which the lands are situated, of which 50 percent has been available for use as general county funds.
- b. The sharing of revenues from the O&C Lands is, in part, a recognition that these lands are not subject to local taxation, and also that counties provide services that directly benefit the lands and the people who use the lands.
- c. The principal source of revenues from O&C Lands is from the sale and removal of timber, and which has been sharply curtailed in recent years.
- d. The volume of timber sold annually from O&C Lands has declined precipitously, with a corresponding precipitous decline in revenues shared with counties.
- e. The United States Congress recognized a need to stabilize communities through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance and stewardship of federal lands, and to achieve those goals enacted P.L. 106-393 in 2000.
- f. P.L. 106-393 provides for guaranteed minimum payments for the benefit of affected counties, as well as an opportunity to invest a portion of the guaranteed minimum payments in projects or activities on federal lands, or in county projects or activities.
- g. Title I, Section 103 of P.L. 106-393 gives each eligible county the right to elect to receive either its traditional share of revenues from the O&C Lands, or instead to receive the guaranteed minimum amount, also known as the "full payment amount."
- h. The election to receive either the full payment amount, or instead, the traditional share of revenues, must be communicated to the Secretary of the United States Department of the Interior.

- i. An election to receive the full payment amount is effective for all federal fiscal years through fiscal year 2006.
- j. Multnomah County is an eligible, affected county with the right to make an election pursuant to Title I, Section 103 of P.L. 106-393.
- k. Any county electing to receive the full payment amount must further elect to expend not less than 15 percent nor more than 20 percent of its full payment amount as project funds in accordance with Title I, Section 103(c)(1)(B) of P.L. 106-393.
- l. Title I, Section 103(c)(1)(B) of P.L. 106-393 requires that counties electing to receive the full payment amount must allocate its project funds for expenditure between projects in accordance with Title II of P.L. 106-393, projects in accordance with Title III of P.L. 106-393, and a return of the balance unspent under Title II and Title III to the General Treasury of the United States, and communicate such allocation to the Secretary of the United States Department of the Interior.
- m. Title II of P.L. 106-393 provides for special projects on federal lands or that benefit resources on federal lands, which projects are nominated by local resource advisory committees ("RACs").
- n. RACs recommend projects for consideration by the Secretary of the Interior, with project funding supplied in whole or in part out of monies allocated for such purposes by participating counties.
- o. Counties that allocate funding to projects under Title II of P.L. 106-393, and are participants in more than one RAC, may further direct that their Title II project funds be divided between different RACs according to an allocation decided by each participating county, with such funds held in the General Treasury of the United States under the name of the county with the amount allocated to each RAC.
- p. Title III of P.L. 106-393 provides for county projects or services, some of which are associated with federal lands, with Title III authorizing expenditures for search, rescue and emergency services, staffing of community service work camps, the purchase of easements, forest related educational opportunities, fire prevention and planning, and community forestry pursuant to the Cooperative Forest Assistance Act of 1978.
- q. In 2001, Multnomah County elected to receive its full payment amount rather than electing to receive its traditional share of O&C Lands revenues, and that election is binding through federal fiscal year 2006:

**The Multnomah County Board of Commissioners Resolves:**

1. Multnomah County hereby allocates 15 percent of its full payment amount for expenditure on projects under Title II and Title III of P.L. 106-393. Multnomah County will return none (zero percent) of its full payment amount to the General Treasury of the United States pursuant to Title I, Section 103(c)(1)(B)(iii).
2. Of the total amount allocated to Title II and Title III projects above in paragraph 1, hereinafter referred to as the "Project Funds," Multnomah County further allocates between such Titles for federal fiscal year 2006 (for expenditure after federal fiscal year 2006) on the following basis: \$17,000 of Project Funds for expenditure on Title II projects and the balance of the Project Funds for expenditure on Title III projects.
3. The original or a certified copy of this Resolution shall be transmitted to the Association of Oregon Counties, Mr. Rocky McVay, with instructions to reconvey the Resolution to the Secretary of the United States Department of the Interior.

Adopted this 18th day of May, 2006.

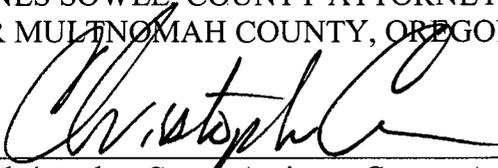
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Christopher Crean, Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 06-077**

Authorizing Election to Receive **O&C Land** Related Safety-Net Payments Under P.L. 106-393

**The Multnomah County Board of Commissioners Finds:**

- a. Congress enacted in 1937 and subsequently amended a law that requires that 75 percent of the revenues derived from revested Oregon and California Railroad grant lands (“O&C Lands”) be paid to counties in which the lands are situated, of which 50 percent has been available for use as general county funds.
- b. The sharing of revenues from the O&C Lands is, in part, a recognition that these lands are not subject to local taxation, and also that counties provide services that directly benefit the lands and the people who use the lands.
- c. The principal source of revenues from O&C Lands is from the sale and removal of timber, which has been sharply curtailed in recent years.
- d. The volume of timber sold annually from O&C Lands has declined precipitously, with a corresponding precipitous decline in revenues shared with counties.
- e. The United States Congress recognized a need to stabilize communities through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance and stewardship of federal lands, and to achieve those goals enacted P.L. 106-393 in 2000.
- f. P.L. 106-393 provides for guaranteed minimum payments for the benefit of affected counties, as well as an opportunity to invest a portion of the guaranteed minimum payments in projects or activities on federal lands, or in county projects or activities.
- g. Title I, Section 103 of P.L. 106-393 gives each eligible county the right to elect to receive either its traditional share of revenues from the O&C Lands, or instead to receive the guaranteed minimum amount, also known as the “full payment amount.”
- h. The election to receive either the full payment amount, or instead, the traditional share of revenues, must be communicated to the Secretary of the United States Department of the Interior.
- i. An election to receive the full payment amount is effective for all federal fiscal years through fiscal year 2006.

- j. Multnomah County is an eligible, affected county with the right to make an election pursuant to Title I, Section 103 of P.L. 106-393.
- k. Any county electing to receive the full payment amount must further elect to expend not less than 15 percent nor more than 20 percent of its full payment amount as project funds in accordance with Title I, Section 103(c)(1)(B) of P.L. 106-393.
- l. Title I, Section 103(c)(1)(B) of P.L. 106-393 requires that counties electing to receive the full payment amount must allocate its project funds for expenditure between projects in accordance with Title II of P.L. 106-393, projects in accordance with Title III of P.L. 106-393, and a return of the balance unspent under Title II and Title III to the General Treasury of the United States, and communicate such allocation to the Secretary of the United States Department of the Interior.
- m. Title II of P.L. 106-393 provides for special projects on federal lands or that benefit resources on federal lands, which projects are nominated by local resource advisory committees ("RACs").
- n. RACs recommend projects for consideration by the Secretary of the Interior, with project funding supplied in whole or in part out of monies allocated for such purposes by participating counties.
- o. Counties that allocate funding to projects under Title II of P.L. 106-393, and are participants in more than one RAC, may further direct that their Title II project funds be divided between different RACs according to an allocation decided by each participating county, with such funds held in the General Treasury of the United States under the name of the county with the amount allocated to each RAC.
- p. Title III of P.L. 106-393 provides for county projects or services, some of which are associated with federal lands, with Title III authorizing expenditures for search, rescue and emergency services, staffing of community service work camps, the purchase of easements, forest related educational opportunities, fire prevention and planning, and community forestry pursuant to the Cooperative Forest Assistance Act of 1978.
- q. In 2001, Multnomah County elected to receive its full payment amount rather than electing to receive its traditional share of O&C Lands revenues, and that election is binding through federal fiscal year 2006:

**The Multnomah County Board of Commissioners Resolves:**

- 1. Multnomah County hereby allocates 15 percent of its full payment amount for expenditure on projects under Title II and Title III of P.L. 106-393. Multnomah County will return none (zero percent) of its full payment amount to the General Treasury of the United States pursuant to Title I, Section 103(c)(1)(B)(iii).

2. Of the total amount allocated to Title II and Title III projects above in paragraph 1, hereinafter referred to as the "Project Funds," Multnomah County further allocates between such Titles for federal fiscal year 2006 (for expenditure after federal fiscal year 2006) on the following basis: \$17,000 of Project Funds for expenditure on Title II projects and the balance of the Project Funds for expenditure on Title III projects.
3. The original or a certified copy of this Resolution shall be transmitted to the Association of Oregon Counties, Mr. Rocky McVay, with instructions to reconvey the Resolution to the Secretary of the United States Department of the Interior.

Adopted this 18th day of May, 2006.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

  
\_\_\_\_\_  
Christopher Crean, Assistant County Attorney



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-5  
**Est. Start Time:** 9:45 AM  
**Date Submitted:** 05/09/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **Fiscal Year 2006-2007 Fiscal Parameters Update – Third Quarter Revenue Forecast**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>15 Minutes</u>
<b>Department:</b>	<u>County Management</u>	<b>Division:</b>	<u>Budget &amp; Evaluation</u>
<b>Contact(s):</b>	<u>Mark Campbell, Deputy Budget Manager</u>		
<b>Phone:</b>	<u>503-988-3312</u>	<b>Ext.</b>	<u>24213</u>
		<b>I/O Address:</b>	<u>503 / 531</u>
<b>Presenter(s):</b>	<u>Mark Campbell</u>		

**General Information**

**1. What action are you requesting from the Board?**

The Budget Office will provide the Board with an update to the General Fund fiscal parameters for the FY 06-07 budget based on the third quarter revenue forecast. This is an informational briefing, however, the Board will be asked to affirm the new General Fund ongoing revenue estimates.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The Budget Office presented the fiscal parameters for the FY 06-07 budget in November, 2005. The ongoing General Fund revenue available for use next year was originally estimated at \$287.5 million. The Board agreed to that target amount.

At that time, we said we would return to re-affirm the target for FY 06-07 if the second quarter revenue forecast warranted a revision to the original amount. That forecast indicated that revenue collections would likely exceed the November estimates. In February, 2006 the Board agreed to increase the General Fund target amount by \$3.5 million, for a total of \$291 million estimated to be available in FY 06-07.

After the Budget Office reviewed the program offers that were submitted for ranking by the Outcome Teams and the Board it was determined there was additional \$5.5 million of revenue that was not anticipated when the original FY 06-07 forecast was prepared. However, in a number of cases those revenues directly tied to program expenditures. The Board was asked and agreed to increase the General Fund target for FY 06-07 to \$296.5 million, the amount of General Fund revenue that was available to fund ongoing programs in the Chair's Executive Budget.

The Budget Office has recently completed the third quarter revenue forecast. In March we suggested that we would be reviewing revenue collections after the third quarter – typically when we receive the bulk of Business Income Tax (BIT) and ITAX revenues. The current forecast indicates that revenue collections will likely exceed the March estimates. We are asking the Board to increase the General Fund target amount by \$3 million, for a total of \$299.5 million that is forecast to be available in FY 06-07 for ongoing operations.

That will be the amount we configure in the "Purchasing Tool" for the Adopted Budget. As a result of the increased revenue collections we also expect that there will be some additional Beginning Working Capital (BWC) that can be made available for one-time-only uses. That amount has not yet been estimated. We will review spending patterns through the third quarter of the year in order to align revenues with anticipated spending. We will be prepared to address how much additional OTO revenue we can count on at Thursday's briefing.

**3. Explain the fiscal impact (current year and ongoing).**

N/A

**4. Explain any legal and/or policy issues involved.**

N/A

**5. Explain any citizen and/or other government participation that has or will take place.**

N/A

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**Required Signatures**

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**Department/  
Agency Director:**

*David G. Boyer*

**Date:** 05/09/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

## Summary of Fiscal Parameters Update

*For Presentation to Board of County Commissioners 5/18/06*

### Completed review of revenue collections through 3<sup>rd</sup> Quarter of current fiscal year

- ◆ Two major revenue sources due on April 17<sup>th</sup>, collections exceeded expectations
- ◆ BIT – April filings **30% higher** than April, 2005  
Have already collected more in FY 05-06 than we did for entire FY 04-05  
May establish a record for annual BIT collections
- ◆ ITAX – 2006 filings to date **17% higher** than April, 2005 filings  
Increased revenue to schools, actual amount will depend upon total collections  
Increased revenue for County programs (One Time Only)  
Upcoming Supplemental Budget increases payments to Schools in FY 05-06  
Recommend increasing FY 06-07 ITAX by \$5M (\$3.5M for Schools, \$1.5M for County)
- ◆ Other GF revenue sources exceeding previous forecast  
Recording Fees – will exceed \$6M in total revenue, estimated at \$5M  
Lottery Revenue – increase due to addition of Line Games  
Motor Vehicle Rental Tax – estimate 10% growth over FY 04-05

### Impact on FY 06-07 Revenues

- ◆ Recommend **adding \$3.5 million** to ongoing amount currently in purchasing tool  
BIT – increase estimated collections from \$37 - \$40.5 million  
Probably sustainable in short term, concern that economy has peaked  
FY 06-07 revenue forecast to grow by 2% (net of refunds and credits)  
Not recommending an increase to other revenues at this time; will review after first quarter FY 06-07 and update if necessary
- ◆ Recommend **adding \$13.5 million** to OTO funds available, sources include:  
  
Additional revenue forecast to be collected in FY 05-06 (**\$5 million**)
  - BIT - \$3 M
  - Recording Fees - \$1 M
  - Lottery - \$500,000
  - Motor Vehicle Rental - \$500,000  
Additional ITAX to include in FY 06-07 budget (**\$5 million**)  
\$3.5M dedicated to local school districts; \$1.5 M available for County programs  
  
Underspending in FY 05 – 06 budget (**\$3.5 million**)  
GF savings estimated at 1.25% of discretionary spending, consistent w/ past few years  
Actual savings depend on status of items in Contingency

**Other Considerations**

- ◆ Recommend Board **purchase BIT Stabilization Fund** (Offer # 10056)  
 BIT volatility remains a concern  
 Signs that economic activity has peaked, or will peak soon  
 Could be available for other uses in FY 06-07 if economic conditions remain strong
  
- ◆ Recommend Board allocate County share of increased ITAX revenue to Contingency  
 Budget not scheduled to be Adopted until June 22<sup>nd</sup>, programs that are not purchased can not likely be closed out before the start of FY 06-07  
 Additional **\$1.5 million** can be used to mitigate some program impacts and provide adequate time to notice employees, community partners, etc.
  
- ◆ Additional revenue from State of Oregon – **approximately \$3.1 million**  
 Revenue associated with FY 03-05 State Mental Health Grant (SMHG)  
 State says we do not have to repay these funds – associated with programs in DCHS and DCJ  
 Funds will be available for use in FY 06-07, departments will bring forward proposals for the Board’s consideration

**Summary of Available Funding**

	Current	Revised	Difference
Ongoing Revenue	\$ 296,500,000	\$ 300,000,000	\$ 3,500,000
One Time Only (OTO)	33,500,000	47,000,000	13,500,000
State SMHG FY 03-05	-	3,125,000	3,125,000
<b>Total GF Revenue</b>	<b>\$ 330,000,000</b>	<b>\$ 350,125,000</b>	<b>\$ 20,125,000</b>

Sources of OTO Revenue	Current	Revised	Difference
Beginning Working Capital	\$ 20,200,000	\$ 28,700,000	\$ 8,500,000
ITAX	11,500,000	16,500,000	5,000,000
City of Portland (Project 57)	1,800,000	1,800,000	-
<b>Total OTO Sources</b>	<b>\$ 33,500,000</b>	<b>\$ 47,000,000</b>	<b>\$ 13,500,000</b>



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-6 DATE 5/18/06  
DEBORAH L. BOGSTAD, BOARD CLERK

Board Clerk Use Only	
Meeting Date:	<u>05/18/06</u>
Agenda Item #:	<u>R-6</u>
Est. Start Time:	<u>10:00 AM</u>
Date Submitted:	<u>04/21/06</u>

**BUDGET MODIFICATION:** -

<b>Agenda Title:</b>	<b>NOTICE OF INTENT to Apply for Stipend from the National Consumers League to Educate Older Persons about Telemarketing Fraud</b>
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*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>5 minutes</u>
<b>Department:</b>	<u>Dept. of County Human Services</u>	<b>Division:</b>	<u>ADSD</u>
<b>Contact(s):</b>	<u>Mohammad Bader</u>		
<b>Phone:</b>	<u>503-988-4450</u>	<b>Ext.:</b>	<u>26261</u>
<b>Presenter(s):</b>	<u>Mohammad Bader and Mary Shortall</u>		
<b>I/O Address:</b>	<u>166/6/5</u>		

**General Information**

**1. What action are you requesting from the Board?**

Aging and Disability Services Division is requesting permission to apply for a National Consumers League Grant to educate elderly about telemarketing fraud. The Department of County Human Services supports this request for \$2,000.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

Telemarketing scams are likely to target older Americans. A 1995 AARP study found half of the consumers targeted for such scams were 50 or older (an age group that comprises about 40% of the adult U.S. population), while a more recent report by the National Fraud Information Center showed 34% of those victimized were over 60 (an age group that comprises 23% of the adult population). An AARP study of a phone-based lottery scam where victims were induced to pay a fee to get supposed winnings found the vast majority of victims (71%) were 75 or older. Lottery-scam victims the AARP studied also were more likely to be female (65%) and low income (half had incomes under \$30,000). The older folks who fell for a phone-based investment scam, by contrast, were more likely to be male (80%) and have higher incomes (half made more than \$75,000).

**3. Explain the fiscal impact (current year and ongoing).**

This is a \$2000 stipend which Aging and Disabilities Services Division-Adult Protective Services hopes to equally match using non-CGF funds earned by the Multi-Disciplinary Team of nurses who participated in an educational study.

**4. Explain any legal and/or policy issues involved.**

The Division does not foresee any legal and/or policy issues involved.

**5. Explain any citizen and/or other government participation that has or will take place.**

The Division is partnering with Elders in Action.

# ATTACHMENT A

## Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- **Who is the granting agency?**  
The granting agency is the National Consumers Action League.
- **Specify grant (matching, reporting and other) requirements and goals.**  
The grant requires quarterly accounting and that the funds be used by May 1, 2007.
- **Explain grant funding detail – is this a one time only or long term commitment?**  
This a one-time only grant for \$2000 for a 12-month project.
- **What are the estimated filing timelines?**  
Proposals are due by May 1, 2006.
- **If a grant, what period does the grant cover?**  
If awarded, the grant will start on June 1, 2006 and end on May 1, 2007.
- **When the grant expires, what are funding plans?**  
Once the grant ends, the project's activities will end.
- **How will the county indirect, central finance and human resources and departmental overhead costs be covered?**  
The county indirect, central finance, human resources, and departmental overhead costs will be covered through grant funds.

**ATTACHMENT B**

**Required Signatures**

**Department/  
Agency Director:**

*Ret Surface*

**Date:** 04/21/06

**Budget Analyst:**

*Michael D. Gaspin*

**Date:** 04/24/06

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

APPROVED : MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # R-7 DATE 5/18/06  
DEBORAH L. BOGSTAD, BOARD CLERK

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-7  
**Est. Start Time:** 10:03 AM  
**Date Submitted:** 04/17/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **NOTICE OF INTENT to Submit a Proposal to Kellogg Foundation for SUN Community Schools Funding**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>5 mins</u>
<b>Department:</b>	<u>OSCP</u>	<b>Division:</b>	<u>N/A</u>
<b>Contact(s):</b>	<u>Diana Hall</u>		
<b>Phone:</b>	<u>503-988-4222</u>	<b>Ext.</b>	<u>84222</u>
		<b>I/O Address:</b>	<u>167</u>
<b>Presenter(s):</b>	<u>Diana Hall, Kathy Tinkle</u>		

**General Information**

**1. What action are you requesting from the Board?**

The Department of School and Community Partnerships is requesting Board approval of a Notice of Intent to submit a proposal to the Kellogg Foundation for SUN Community School funding at three new sites: Floyd Light Middle School and Ron Russell Middle School in the David Douglas School District and Parkrose Middle School in the Parkrose School District.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

SUN Community Schools were founded by the elected officials of Multnomah County, OR and the City of Portland, in 1999 as a partnership of city, county, state, and local school districts.

SUN Community Schools (SUN CS) are part of the County's SUN Service System. The SUN Service System (created through the School Age Policy Framework) is an aligned system of care, providing the social and support services to youth, families and individuals that lead to educational success and self-sufficiency.

SUN CS are the school-based delivery sites for a comprehensive set of services within the SUN Service System. SUN CS coordinate and provide a wide range of high-quality educational, recreational and developmental activities, as well as health and social services.

SUN CS link with other community institutions, such as the libraries, parks and community centers, mental health services, school based and neighborhood health clinics and area churches and businesses in order to:

- Improve student achievement, attendance, behavior and other skills for healthy development
- Promote family involvement
- Increase business and community involvement
- Improve the system of collaboration
- Make better use of public facilities

The key goal of SUN CS is to improve student achievement, skills and assets. SUN CS link the extended-day activities with the school-day teachers and curriculum to ensure that children and families are receiving consistent, high-quality education and social service delivery. By design, the SUN CS target youth who are experiencing academic challenges and are not meeting state and local district benchmarks.

There are currently 52 SUN Community Schools located in 6 school districts. David Douglas School District, Parkrose School District and DSCP came together to partner in writing this grant with community partner Metropolitan Family Service which operates the Regional Service Center agency in this Region.

Research and data show that the middle school years are pivotal in bridging student success between elementary and high school. These years have been shown to be associated with declining academics, student motivation, and self-esteem. Oregon state report cards show that test scores for students drop dramatically in middle school and continue to worsen throughout high school. 25 of the 31 middle schools in Multnomah County are considered high-need schools based on poverty and academic outcomes; 18 of these 25 schools are currently funded as SUN CS.

For these reasons, immediate goal of the Department and our collaborative partners is to expand the SUN CS model to the remaining seven high-need middle schools. We are requesting that the Kellogg Foundation fund three of these seven sites for a period of three years; funding for the remaining four sites is being sought from other foundations.

These three schools face significant challenges to improving student success with 78% free/reduced lunch at Ron Russell, 66% at Floyd Light, and 55% at Parkrose. In addition, Ron Russell has 28% English Language Learners, Floyd Light has 23%, and Parkrose has 17%. Floyd Light and Parkrose have not met adequate yearly progress (AYP) as defined by the No Child Left Behind Act for the past three years. Ron Russell just opened this year in response to increasing student enrollment and has quickly become one of the highest need schools in the district with district assessment tests showing that students are not meeting academic standards. Further analysis of those students not meeting state standards shows a considerable achievement gap between student ethnic and racial groups, particularly among African American and Hispanic students. The trend in low academic achievement at these middle schools continues at the high school level as shown through each of the feeder high schools having not met AYP for the past three years. The Kellogg Foundation grant

would allow the County to partner with these schools to support their work toward improving student achievement.

These schools have strong championship of the Principals and staff for this effort, as well as a number of assets that will make SUN CS successful. This grant would allow SUN CS to significantly support these struggling schools and would create a link with the high school SUN CS site in its catchment area in the Parkrose School District and the elementary school CS sites in its catchment area in the David Douglas School District.

**3. Explain the fiscal impact (current year and ongoing).**

If the proposal is funded, program funding in the amount of \$985,875 (\$328,625 per year) would be available through the Kellogg Foundation. The grant is being requested for three years beginning in August 2006. The grant will fund contracted SUN CS programming and site management services, Department overhead and indirect costs. Over the course of the grant, DSCP and partners will be working on local, state and private levels to identify funding that can be secured, leveraged or blended to sustain services when the grant period ends.

**4. Explain any legal and/or policy issues involved.**

The work under this grant is integrated into the SUN Service System/School Age Policy Framework and covered under Intergovernmental agreements between the County and Districts.

**5. Explain any citizen and/or other government participation that has or will take place.**

In the current application, Metropolitan Family Service, the City of Portland, David Douglas School District, and Parkrose School District are participating as partners and have been involved in the planning. The school principal, staff, parents and students have been involved in needs assessment and planning of the SUN Community School design and specific activities.

Once SUN CS development is underway, stakeholders (including parents, youth and community members) will be systematically involved in SUN CS planning through advisory committees, informal feedback and surveys/focus groups.

# ATTACHMENT A

## Grant Application/Notice of Intent

If the request is a Grant Application or Notice of Intent, please answer all of the following in detail:

- Who is the granting agency?  
Kellogg Foundation
- Specify grant (matching, reporting and other) requirements and goals.  
The purpose of the grant is to provide an opportunity for Floyd Light Middle School, Ron Russell Middle School and Parkrose Middle School to establish SUN Community Schools to:
  - Provide opportunities for academic enrichment
  - Offer a broad array of additional services such as youth development; counseling; and art, music and recreation.
  - Offer family literacy and related educational developmentGoals include raising student achievement in reading and math. Annual reporting on progress and outcomes is required.
- Explain grant funding detail – is this a one time only or long term commitment?  
The grant is being requested for three years beginning in August 2006.
- What are the estimated filing timelines?  
Kellogg Foundation has a revolving application process, so applications can be submitted at any time. DSCP will file the proposal as soon as Board approval of the NOI is gained.
- If a grant, what period does the grant cover?  
The grant period has been requested for August 2006 through August 2009.
- When the grant expires, what are funding plans?  
For any programs supported by the grant, but beyond the ability of the SUN Service System to fund, DSCP will continue to pursue program dollars from local, state and private sources and build the schools' capacity for fundraising as part of the resource development for the SUN Service System/School Age Policy Framework.
- How will the county indirect, central finance and human resources and departmental overhead costs be covered?  
The County and Departmental indirect of 10% will be requested in the grant proposal.

**ATTACHMENT B**

**Required Signatures**

**Department/  
Agency Director:**

*Salvatore T. Paet*

**Date:** 04/17/06

\_\_\_\_\_  
/MAS

**Budget Analyst:**

*Michael D. Gaspin*

**Date:** 04/19/06

**Department HR:**

**Date:** \_\_\_\_\_

**Countywide HR:**

**Date:** \_\_\_\_\_



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-8  
**Est. Start Time:** 10:05 AM  
**Date Submitted:** 05/10/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **PROCLAMATION Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County, Oregon**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Date Requested:** May 18, 2006      **Time Requested:** 10 minutes  
**Department:** Non-Departmental      **Division:** Commission District 1  
**Contact(s):** David Martinez, District 1  
**Phone:** 503 988-4435      **Ext.** 94435      **I/O Address:** 503/600  
**Presenter(s):** Commissioner Maria Rojo de Steffey, American Heart Association Volunteers

**General Information**

1. **What action are you requesting from the Board?**  
 Adoption of PROCLAMATION Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County, Oregon
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
 Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County and encouraging the public to attend the Portland Metro American Heart Walk to be held Saturday, May 20, 8am – Noon, Downtown Portland.
3. **Explain the fiscal impact (current year and ongoing).**  
 N/A
4. **Explain any legal and/or policy issues involved.**  
 N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

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**Required Signatures**

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**Department/  
Agency Director:**

*Maria Pijo de Steffey*

**Date:** 05/10/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. \_\_\_\_\_**

Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County,  
Oregon

**The Multnomah County Board of Commissioners Finds:**

- a. Strokes are the third leading cause of death in the United States and a leading cause of severe, long-term disability.
- b. Every year about 700,000 people in the United States suffer a stroke, resulting in nearly 158,000 deaths.
- c. On average a stroke occurs every 45 seconds in the United States.
- d. On average, someone dies of a stroke every 3 minutes.
- e. In 2006 the estimated direct and indirect cost of stroke will be about \$57.9 billion dollars.
- f. Despite a national decrease in the stroke death rate, Oregon has seen an alarming increase in stroke deaths in the past decade, up 19 percent.
- g. Oregon has the fifth highest death rate from stroke in the nation, accounting for more than 8 percent of all deaths in the state.
- h. The majority of Americans are not aware of their risk factors for a stroke, nor are they aware of the signs and symptoms of an impending stroke.
- i. Warning signs of stroke include: sudden numbness or weakness of the face, arm or leg, especially on one side of the body; sudden confusion, trouble speaking or understanding; sudden trouble seeing in one or both eyes; sudden trouble walking, dizziness, loss of balance or coordination; and sudden severe headache with no known cause.
- j. New and effective treatments have been developed to treat and minimize the severity and damaging effects of strokes, but much more research is needed.
- k. On Saturday, May 20, the American Heart Association is presenting the Portland Metro American Heart Walk to help educate people about stroke and raise money to help fund further research.

**The Multnomah County Board of Commissioners Proclaims:**

1. The month of May 2006 is American Stroke Month in Multnomah County. We urge everyone to familiarize themselves with the warning signs, symptoms, and risk factors associated with stroke so that we might begin to reduce the devastating effects that stroke has on our population.
2. The Board of County Commissioners encourages all community members to participate in the Portland Metro American Heart Walk to be held on Saturday, May 20, 8:00 AM to Noon, at the World Trade Center, SW First and Salmon, Portland, Oregon.

ADOPTED this 18th day of May, 2006.

**BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

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Diane M. Linn, County Chair

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Maria Rojo de Steffey,  
Commissioner District 1

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Serena Cruz Walsh,  
Commissioner District 2

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Lisa Naito,  
Commissioner District 3

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Lonnie Roberts,  
Commissioner District 4

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 06-078**

Proclaiming the Month of May 2006 as American Stroke Month in Multnomah County, Oregon

**The Multnomah County Board of Commissioners Finds:**

- a. Strokes are the third leading cause of death in the United States and a leading cause of severe, long-term disability.
- b. Every year about 700,000 people in the United States suffer a stroke, resulting in nearly 158,000 deaths.
- c. On average a stroke occurs every 45 seconds in the United States.
- d. On average, someone dies of a stroke every 3 minutes.
- e. In 2006 the estimated direct and indirect cost of stroke will be about \$57.9 billion dollars.
- f. Despite a national decrease in the stroke death rate, Oregon has seen an alarming increase in stroke deaths in the past decade, up 19 percent.
- g. Oregon has the fifth highest death rate from stroke in the nation, accounting for more than 8 percent of all deaths in the state.
- h. The majority of Americans are not aware of their risk factors for a stroke, nor are they aware of the signs and symptoms of an impending stroke.
- i. Warning signs of stroke include: sudden numbness or weakness of the face, arm or leg, especially on one side of the body; sudden confusion, trouble speaking or understanding; sudden trouble seeing in one or both eyes; sudden trouble walking, dizziness, loss of balance or coordination; and sudden severe headache with no known cause.
- j. New and effective treatments have been developed to treat and minimize the severity and damaging effects of strokes, but much more research is needed.
- k. On Saturday, May 20, the American Heart Association is presenting the Portland Metro American Heart Walk to help educate people about stroke and raise money to help fund further research.

**The Multnomah County Board of Commissioners Proclaims:**

1. The month of May 2006 is American Stroke Month in Multnomah County. We urge everyone to familiarize themselves with the warning signs, symptoms, and risk factors associated with stroke so that we might begin to reduce the devastating effects that stroke has on our population.
2. The Board of County Commissioners encourages all community members to participate in the Portland Metro American Heart Walk to be held on Saturday, May 20, 8:00 AM to Noon, at the World Trade Center, SW First and Salmon, Portland, Oregon.

ADOPTED this 18th day of May, 2006.

**BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**



Diane M. Linn, County Chair



Maria Rojo de Steffey,  
Commissioner District 1



Serena Cruz Walsh,  
Commissioner District 2



Lisa Naito,  
Commissioner District 3



Lonnie Roberts,  
Commissioner District 4



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-9  
**Est. Start Time:** 10:10 AM  
**Date Submitted:** 05/11/06

### BUDGET MODIFICATION:

**Agenda Title:** **PROCLAMATION Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>10 minutes</u>
<b>Department:</b>	<u>Sheriff's Office</u>	<b>Division:</b>	<u></u>
<b>Contact(s):</b>	<u>Christine Kirk</u>		
<b>Phone:</b>	<u>503-988-4301</u>	<b>Ext.:</b> <u>84301</u>	<b>I/O Address:</b> <u>503 / 350</u>
<b>Presenter(s):</b>	<u>Christine Kirk and Members of Multnomah County Sheriff's Office River Patrol</u>		

### General Information

**1. What action are you requesting from the Board?**

Adoption of PROCLAMATION Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

As boating season approaches the Multnomah County Sheriff's Office wishes to join efforts with national partners in the North American Safe Boating Campaign. As more persons will utilize the rivers in Multnomah County for recreation while our rivers it is important to educate people on wearing livevests and not consuming intoxicants while driving a boat.

The North American Safe Boating Campaign began in 1957 and has developed throughout the years into a large scale, international campaign. What began as a small, grassroots outreach program has evolved into a targeted media effort, stretching across the United States and into Canada. Working with partner organizations such as the National Association of State Boating Law Administrators and the Canadian Safe Boating Council, the North American Safe Boating Campaign aims at

spreading a message of boating safety, encourages boater education, and helps to save lives. The campaign produces a variety of safe boating information intended to enhance and supplement the individual campaigns that take place through groups, associations and organizations across the United States and Canada during National Safe Boating Week. More information, including educational materials can be found at this web site: <http://www.art4use.com/06campaign/06-campaign/web-content/index.html>

3. Explain the fiscal impact (current year and ongoing).

N/A

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

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### Required Signatures

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Department/  
Agency Director:



Date: May 11, 2006

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. \_\_\_\_\_

Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon

**The Multnomah County Board of Commissioners Finds:**

- a. Multnomah County waterways are heavily used for economic and recreational purposes. The protection of these waterways and the people who use them is vitally important to the economic, environmental, and recreational interests of our County.
- b. The vast majority of Boating accidents occur because of user neglect, such as not wearing a life vest and drinking while driving a boat.
- c. Not wearing your life jacket is like not wearing your seatbelt in a car. It cannot help in emergencies if not used. Modern life jackets are more comfortable, more attractive, and more wearable than styles of years past and deserve a fresh look by today's boating public.
- d. A significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets.
- e. Education of the boating public on wearing a life vest, not drinking while driving, and in the rules of boat use will do much to prevent accidents on our waterways.

**The Multnomah County Board of Commissioners Proclaims:**

1. May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon in support for the goals of the North American Safe Boating Campaign.
2. Multnomah County affirms its commitment to maintaining the economic, environmental and recreational vitality of our waterways and to working with citizens and businesses to educate on how to be safe on our rivers.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, County Chair

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Maria Rojo de Steffey,  
Commissioner District 1

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Serena Cruz Walsh,  
Commissioner District 2

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Lisa Naito,  
Commissioner District 3

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Lonnie Roberts,  
Commissioner District 4

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 06-079**

Proclaiming May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon

**The Multnomah County Board of Commissioners Finds:**

- a. Multnomah County waterways are heavily used for economic and recreational purposes. The protection of these waterways and the people who use them is vitally important to the economic, environmental, and recreational interests of our County.
- b. The vast majority of Boating accidents occur because of user neglect, such as not wearing a life vest and drinking while driving a boat.
- c. Not wearing your life jacket is like not wearing your seatbelt in a car. It cannot help in emergencies if not used. Modern life jackets are more comfortable, more attractive, and more wearable than styles of years past and deserve a fresh look by today's boating public.
- d. A significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets.
- e. Education of the boating public on wearing a life vest, not drinking while driving, and in the rules of boat use will do much to prevent accidents on our waterways.

**The Multnomah County Board of Commissioners Proclaims:**

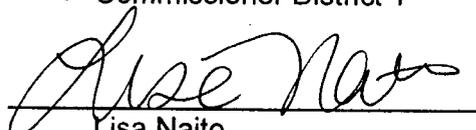
1. May 20 through 26, 2006, as National Safe Boating Week in Multnomah County, Oregon in support for the goals of the North American Safe Boating Campaign.
2. Multnomah County affirms its commitment to maintaining the economic, environmental and recreational vitality of our waterways and to working with citizens and businesses to educate on how to be safe on our rivers.

ADOPTED this 18th day of May, 2006.

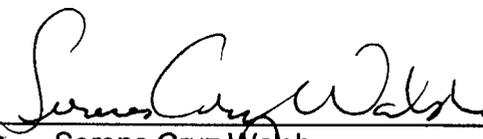
BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

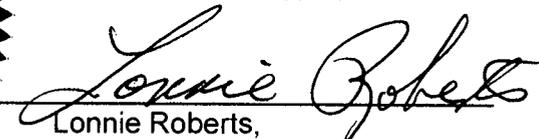
  
Diane M. Linn, County Chair

  
Maria Rojo de Steffey,  
Commissioner District 1

  
Lisa Naito,  
Commissioner District 3



  
Serena Cruz Walsh,  
Commissioner District 2

  
Lonnie Roberts,  
Commissioner District 4



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

Meeting Date: 05/18/06  
 Agenda Item #: R-10  
 Est. Start Time: 10:15 AM  
 Date Submitted: 05/10/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **Weatherization Program Audit: Improvements Needed to Serve More Clients**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>15 minutes</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>Auditor - Suzanne Flynn</u>
<b>Contact(s):</b>	<u>Judy Rosenberger</u>		
<b>Phone:</b>	<u>503 988-3320</u>	<b>Ext.</b>	<u>83320</u>
		<b>I/O Address:</b>	<u>503/601</u>
<b>Presenter(s):</b>	<u>Suzanne Flynn</u>		

**General Information**

1. **What action are you requesting from the Board?**  
Board Briefing
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
The Auditor's office has completed an audit of the Energy Services Program in the Department of School and Community Partnerships. The Auditor will brief the Board on the findings and recommendations in the audit.
3. **Explain the fiscal impact (current year and ongoing).**
4. **Explain any legal and/or policy issues involved.**
5. **Explain any citizen and/or other government participation that has or will take place.**

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**Required Signatures**

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**Department/  
Agency Director:**

**Date:** 05/04/05



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**Budget Analyst:**

**Date:**

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**Department HR:**

**Date:**

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**Countywide HR:**

**Date:**

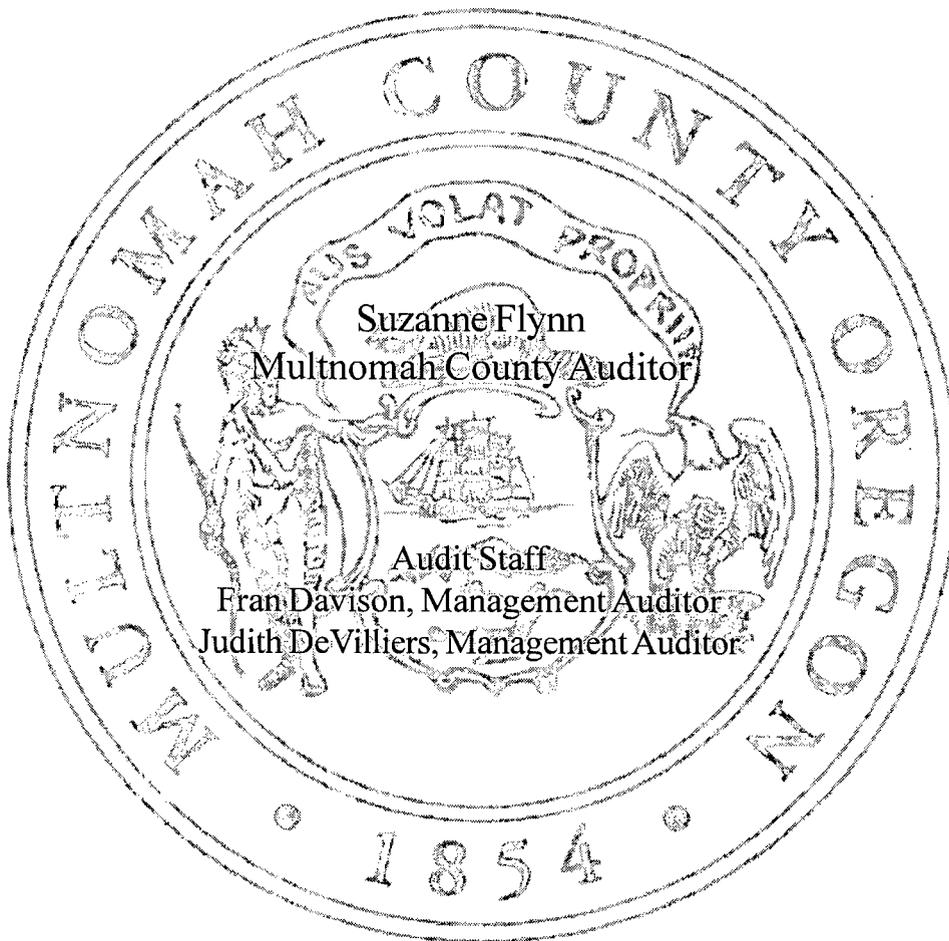
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## Weatherization Program

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Improvements needed to serve more clients  
May 2006





**SUZANNE FLYNN, Auditor**  
**Multnomah County**

501 S.E. Hawthorne, Room 601  
Portland, Oregon 97214  
Telephone (503) 988-3320  
Telefax 988-3019  
[www.multnomah.co.or.us/auditor](http://www.multnomah.co.or.us/auditor)

**MEMORANDUM**

Date: May 10, 2006

To: Diane Linn, Multnomah County Chair  
Maria Rojo de Steffey, Commissioner, District 1  
Serena Cruz Walsh, Commissioner, District 2  
Lisa Naito, Commissioner, District 3  
Lonnie Roberts, Commissioner, District 4

From: Suzanne Flynn, Multnomah County Auditor

Subject: Audit of Weatherization Program

The attached report covers our audit of the County's Weatherization Program in the Department of School and Community Partnerships. This audit was included in our FY05-06 Audit Schedule.

We compared the program to best practices and found both strengths and weaknesses. The County is a recognized leader in the State for its knowledge of weatherization technology. However, the program needs to improve project management so more services can be delivered and in a more efficient manner.

We have discussed our findings and recommendations with the management of School and Community Partnerships and the Energy Services Program. A formal follow-up to this audit will be scheduled within 1-2 years.

We would like to acknowledge and thank the management and staff in the Department of School and Community Partnerships for the cooperation and assistance extended to us.

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## Summary

The mission of the County's Low Income Weatherization Program is to reduce energy costs for low income households by increasing energy efficiency and lowering fuel bills. Other objectives are to safeguard the health of those who live in the homes, increase the comfort of homes, and improve the affordable housing stock. In FY05 nearly \$3 million was spent by the program that has the equivalent of 5.5 full-time staff. The objective of the audit was to determine if the Program could improve its effectiveness with more careful selection and prioritization of clients and investment levels.

The audit compared the County's Weatherization Program to best practices and found both strengths and weaknesses. Program strengths include the use and understanding of advanced techniques to determine cost-effective weatherization measures and a team of contractors that have been working with the program for many years. Creative leadership and many years of staff experience have created a program with a reputation as a leader in its knowledge of weatherization measures and innovative weatherization practices. In fact, Multnomah County practices to address mobile homes and weatherization training have been adopted by the State for use across jurisdictions.

However, we found that the Programs lacked a clear strategy to ensure that the neediest are served. We found that the program's strategy is mostly passive with limited outreach efforts. While more active recruitment would possibly create longer waiting lists, it would also increase the likelihood that households with the greatest need were reached.

We also found that better project management practices such as scheduling and resource planning would place the Program in a better position to serve clients more efficiently and use resources more effectively. Currently the work needed to weatherize a house is scheduled one step at a time with one task not being completed until the other is completed and paid for. If work was scheduled simultaneously, full weatherization could be completed more quickly. The Program could also better use data reports to review the work completed and anticipate when new work could be scheduled.

In FY05 a rapid increase in funding could not be accommodated and an estimated \$267,000 originally allocated to the County was reallocated to other jurisdictions. We believe that the Program did not adequately plan for this increase and does not have the capacity to operate the program effectively. A State manager stated that the program is understaffed in

both in-house and contractors to perform the jobs. The County's contracting process also caused delays during the summer months as the new fiscal year began. These months are a key time for contractors to do County weatherization work.

The audit recommends improvements in five areas. The Program should:

- Develop a strategy and priorities to focus resources on the neediest people.
- Work with the County Contracting and County Attorney's Offices to improve contracting processes.
- Improve its staff and contractor capacity to better spend funds.
- Improve project management to complete projects more quickly and do more.
- Put the computer system on a secure and stable platform to ensure that it is available for use.

# Background

Multnomah County's Low Income Weatherization Program, which began in 1984, operates within Energy Programs, in the Department of School and Community Partnerships (DSCP). The overall mission and goals are to increase energy efficiency in order to reduce energy costs for low income households by lowering fuel bills, particularly for the elderly, people with disabilities, and families with young children. Other objectives are to safeguard the health of these home dwellers, increase the comfort of homes and improve the affordable housing stock.

Federal money is distributed to the states which have the authority to run their own programs and establish their own rules. In Oregon, Oregon Housing and Community Services (OHCS) is responsible for oversight and monitoring of programs receiving federal funds and other money coming to the county through the state. The OHCS Weatherization Program contracts with local agencies such as Multnomah County to deliver services.

DSCP Organizational Chart

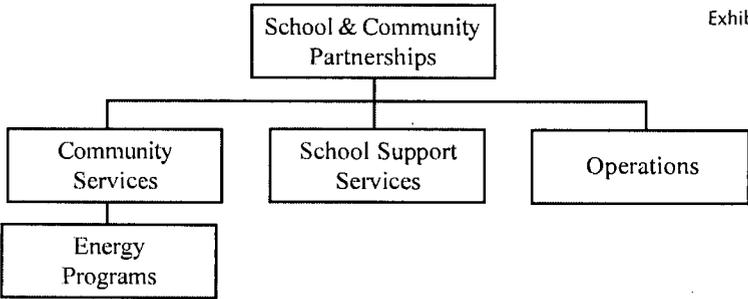


Exhibit 1

In FY05 nearly \$3 million was spent by the Weatherization Program. This represents a 65% increase over FY04 and more than double the FY01 level. It is important to note that some funds available in FY04 were not spent until FY05 resulting, in part, for the jump in spending in FY05.

Total Weatherization Program Spending FY01 to FY05 (adjusted for inflation)

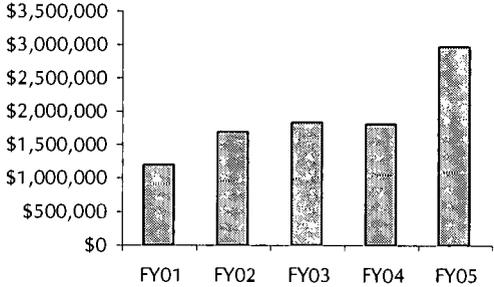


Exhibit 2

The Program has the equivalent of 5.5 full-time staff. Until the recent departure of two staff, four had been with the program since the early 1990s and had developed strong technical expertise over the years. One half-time position was added in FY04 to focus on weatherizing multi-family housing.

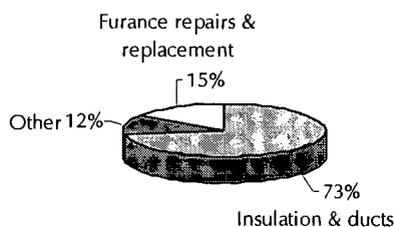
The money to pay for weatherization services comes primarily from federal sources and rate-payer fees collected by local utilities. More specifically, current funding sources include federal funding from the U.S. Department of Energy (DOE) and the Low Income Energy Assistance Program (LIEAP), rate-payer fees from local utilities called Public Purpose Charges (PPC), and a small amount of funding from the City of Portland for plumbing repairs. Federal funding and PPC money from electric utilities (ECHO funds) is allocated by the State to the County while money from other utilities comes in the form of rebates from NW Natural and the State for oil rebates.

Before a home is weatherized, an energy auditor visits the dwelling and conducts tests to determine the particular weatherization needs of each home. Weatherization services typically include furnace repair or replacement, ceiling, wall and floor insulation, plumbing repairs, duct sealing and related minor home repairs. Home repairs may be done to address health and safety problems or if needed to complete weatherization measures. The County uses private contractors to provide these services.

In FY04 and FY05 a total of 864 dwellings were weatherized, including 531 single-family homes and 16 multi-family projects (consisting of 323 units). The largest category of spending on contractor work went toward insulation and duct sealing (73%) while furnace repairs and replacements accounted for 15% and 12% for other work.

Contractor Spending  
FY04 and FY05

Exhibit 3



### Scope and Methodology

The audit objective was to determine if the County could improve its effectiveness in the Weatherization Program with more careful selection and prioritization of clients and investment levels.

We reviewed state and federal rules and regulations related to the Weatherization Program. We also reviewed budgets, organizational charts, policies and procedures, work plans and job descriptions for the Weatherization Program.

We interviewed the management and staff involved with the program. We talked with state managers from Oregon Housing and Community Services. Other jurisdictions were contacted to see how they administer their weatherization programs. We interviewed local weatherization experts including staff at PacifiCorp, the Energy Trust of Oregon, and NW Natural about weatherization programs and regional weatherization issues. We reviewed current research on best practices from Oak Ridge Laboratories and other organizations.

We selected a sample of 25 dwellings that had been weatherized during FY04 and FY05 to include in a case study of weatherization clients and were able to interview 11 clients, including four in-person interviews conducted in participants' homes. We reviewed energy usage data for 117 NW Natural customers who had received weatherization services and reviewed some electric usage. We also reviewed weatherization files of current and past clients.

We analyzed project data from the Weatherization Computer Software Program for projects with activity during FY04 and FY05 and reviewed associated accounting records.

This audit was included in our FY05-06 audit schedule and was conducted in accordance with generally accepted audit standards.

## Results

The Multnomah County Weatherization Program is strong in some areas and weak in others when compared to best practices. Program strengths include the use and understanding of advanced techniques to determine cost-effective weatherization measures as well as a team of contractors that have been with the program for many years.

Creative leadership and many years of staff experience have created a program with a reputation as a leader in its knowledge of weatherization measures and innovative weatherization practices. In fact, Multnomah County protocols to address mobile homes and weatherization training have been adopted by the State for use across jurisdictions.

The Program operates within the infrastructure of a large, multi-program public community action agency that has experience serving low income households. The benefit of such a framework is a depth of experience dealing with problems related to poverty and the ability to make referrals to a wide range of community services. We observed a high level of compassion and concern for clients from all staff.

Most contractors have been with the program many years and have been rated highly by clients. In our case study, all client comments related to contractors were positive. Contractors were often described as efficient and friendly and clients appreciated the thorough cleanup when the project was done.

- *"They treated me like I was paying for the work to be done."*
- *"They were kind and mannerly. You couldn't ask for a better crew."*

We found Weatherization measures were effective in reducing energy usage in homes. We reviewed usage history on 117 customers of NW Natural and found a downward trend in usage after weatherization was completed.

- *"I compared bills and I noticed a difference....after the weatherization there was a significant drop in what we were paying."*

Strategy needed to serve those with the highest need

With more than 58,000 Multnomah County households eligible for the program, there is a great need among low income residents for lower fuel bills and safer and more comfortable living conditions. At the rate the County is able to weatherize, we estimate it would take more than 100 years to serve all qualified households. Weatherization can make a big difference in the energy bills and the overall comfort level of these homes.

- An elderly client said - *"After the weatherization the house stayed warmer. It gets warm more quickly and stays warmer longer."*
- One mother of young children said - *"You did more than I would have dreamed. You saved my house...I can't say enough about that program."*

Because the need is great, it is important to develop a strategy to meet that need and improve the ability of the County to use all resources potentially available for the weatherization program.

We found that Multnomah County has a mostly passive recruitment strategy. For example, limited outreach and education is conducted at energy fairs, senior centers and mobile home communities and referrals are made through other agencies and social service organizations. In our case study we found that some find out about the program through word of mouth and in some cases contractors and service providers make referrals.

Program administrators say they do not actively recruit clients since the waiting list is 'what they are able to do.' It is the program's opinion that a longer list would create expectations that could not be met for several years. However, without active recruitment the program cannot be assured that they are serving those with the highest need.

Multnomah County should consider a recruitment strategy that includes identifying houses and households with the greatest need. Energy burden, the proportion of a household's monthly income that is spent on energy costs, is also used by some jurisdictions. Energy burden has increased recently due to dramatic increases in energy prices. Between 1999 and 2004, natural gas prices increased 94%; and between 1999 and 2003 residential electric prices increased by 23% and the cost of heating oil increased by 39%. Increased energy prices create a much greater impact on low income households than others. The Department of Energy estimates low income households spend approximately 14% of their total income on energy compared with 3.5% of other households.

Because cold houses can affect the health and welfare of the elderly, disabled and young children, they should be considered in the county's recruitment strategy. Low income households may lower the heat to avoid high energy bills. Although the county does some recruitment at senior centers, a greater outreach effort is needed to target this vulnerable population.

- One elderly client noted, *"As I have gotten older, I need more heat to keep warm and [I] turn the thermostat up."*
- One mother told us, *"The house is drafty and we use a space heater to keep the baby's room warm."*

Applications which have been received and are on the waiting list should be prioritized in keeping with the program's overall strategy. Many jurisdictions we interviewed use a point system based on: high energy

usage, high energy burden and/or households with priority members. The Multnomah County program has a first come, first served policy for prioritizing applicants (except for emergency situations involving no heat). The program does give preference to homes heated with electricity in order to spend funds required to weatherize homes heated with electricity. The average wait for an energy audit was just over one month for an electrically heated home compared to four and one half months for a home with another heat source.

Outreach efforts should also reflect the County's program goal of improving the housing stock for low income households. If the County's goal is to improve the low income housing stock, it needs to determine what constitutes low income housing and develop a strategy to target that segment. We found other counties target mobile homes as a way to invest in the low income housing pool. Only 25% of the Program's resources go to mobile homes compared to 50-90% for many other weatherization programs in Oregon.

Client education program  
needs strengthening

In the period we reviewed, Multnomah County did not have a strong client education program. The County Workplan (prepared for the state) stated the Multnomah County Program offered energy education, yet, we found little evidence or documentation of educational effort for the Weatherization Program.

Client education was generally limited to information provided by staff when an energy audit was conducted. Best practices encourage strong client education programs and other jurisdictions have strong educational components. One jurisdiction requires attendance in a program-sponsored Energy Education class while another has a staff member dedicated to in-home education. Other organizations offer post-weatherization instruction to help clients understand how to get the greatest benefit for the work done on their home. We recommend client education be strengthened and tied to a client recruitment program.

Better project  
management would get  
services to citizens  
sooner

Professional project management practices include time management, scheduling and resource planning. Improvement in some of the project management processes would help the project scheduler, contractors and clients. The program would be in a better position to spend all of its money and possibly receive more as projects could be completed faster and total capacity managed more efficiently.

Exhibit 4

Current process	What would be better
<ul style="list-style-type: none"> <li>Files placed in drawers in order, 1<sup>st</sup> come, 1<sup>st</sup> served</li> </ul>	<ul style="list-style-type: none"> <li>Clients prioritized based on Weatherization Strategy</li> </ul>
<ul style="list-style-type: none"> <li>Few lists or reports are generated</li> </ul>	<ul style="list-style-type: none"> <li>Reports are generated to aid in project management</li> </ul>
<ul style="list-style-type: none"> <li>Energy Auditors check the audit drawer and select the next file in line for an audit</li> </ul>	<ul style="list-style-type: none"> <li>Energy Auditors are assigned work based on client priority and other funding issues</li> </ul>
<ul style="list-style-type: none"> <li>Work is scheduled sequentially without overall planning</li> </ul>	<ul style="list-style-type: none"> <li>Work is scheduled according to an overall plan</li> </ul>
<ul style="list-style-type: none"> <li>Monitor quality of work but don't evaluate the process</li> </ul>	<ul style="list-style-type: none"> <li>Evaluation of process including cost and time per job</li> </ul>

Work should be scheduled systematically

Lack of systematic scheduling, inadequate planning and inability to fully use the Weatherization Computer Software Program, causes unnecessary delays in getting work completed and may be contributing to the inability of the Program to spend all of its available funding. If project work was scheduled more systematically, staff could exercise more control over project planning, anticipate upcoming work and determine resources needed to complete projects.

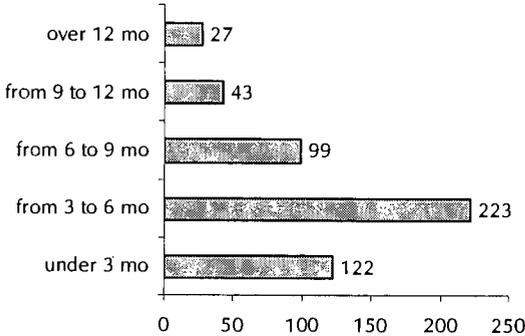
A large volume of work flows through the Weatherization Program. As of mid-November, 2005 there were:

- 154 applications waiting for an audit
- 272 work orders waiting to be issued
- 170 work orders in process

Dwellings typically have work orders for multiple activities, such as furnace repair, plumbing work and insulation. In FY04 and FY05, the average number of work orders per project was four and the average time from audit to project completion was five and one-half months, with some taking over a year

Time from audit to completion for single family homes FY04-FY05

Exhibit 5



Although applicant information and energy audit results are entered into the Weatherization Computer Software Program, the scheduling staff do not generate reports to provide an overview of the work being conducted or where applications are in the process. Rather than using an electronic system to manage the workflow, paper files are moved from drawer to drawer to track workflow.

As applications come in, they remain on the scheduler's desk until they can be reviewed and processed. Applications are entered into the Weatherization Computer Software Program where they are assigned a project number, and a paper file is created. If an applicant has no heat, the file is placed in the "emergency drawer" and a furnace check is scheduled. Otherwise, the project is filed in the "to be audited drawer." Once the energy audit is complete, the project is usually filed in the "specialty work" drawer and when specialty work is completed, the file is moved to the "major measure" drawer where it stays until project completion. The constant handling and movement of files is inefficient and slows down the scheduling process. Also files can be misplaced or lost in the system.

Usually, multiple work orders for a project are scheduled sequentially rather than simultaneously, lengthening the time from energy audit to project completion. Example of sequential scheduling of multiple work orders for one project:

- ↓ Work order # 1 is issued
- ↓ Work order # 1 is completed and billed by contractor
- ↓ Invoice is received and work is inspected for work order # 1
- ↓ File is moved to another drawer
- ↓ Work order #2 is issued, etc.

Sequential scheduling not only lengthens the time for project completion, it limits the ability of the staff to control the work because the scheduler doesn't know when the invoice will come in. With this system, the more work orders a project has, the less predictable the timeline. A planned approach that scheduled work simultaneously would help to shorten the time from audit to project completion, and identify the level of needed contractor capacity. A central filing system combined with effective use of the Weatherization Computer Software Program would simplify the process and reduce the need to handle files multiple times.

Workload can be better anticipated

Although staff has said work is not predictable, with careful planning workloads can be estimated and anticipated. Work can be distributed to contractors on a more predictable basis.

The energy audit specifies the amount of insulation and specialty work needed for a project. Starting with the energy audit and anticipated work orders, overall workload can be estimated by considering all projects in the system. The Program should be able to use the information on an ongoing basis to predict the volume of contractor capacity needed. If

contractors are not able to meet the need, additional contractors may be needed to enable the program to use all available funding.

Although overall scheduling depends on client cooperation, contractor availability, staff available for inspection, and the unique variables of each house, professional project management would factor in those variables.

Some staff may lack the expertise and training needed to make all scheduling decisions and may not always know whether specific work needs to be completed before other work can be started. However, the energy auditor or inspector should be able to determine if some work needs to be completed before other work can be started. With the increased workload resulting from increased funding, the responsibility for scheduling and monitoring of contractors needs to be realigned.

Ineffective planning and contracting processes resulted in loss of funds

In FY05, rapid increases in program funding could not be accommodated and an estimated \$267,000 in ECHO funds originally allocated to Multnomah County were reallocated to other jurisdictions. Part of the increase came from ECHO funds, which were required to be spent by the end of the two-year allocation period. These funds were collected from Multnomah County citizens as a public purpose charge on their utility bill and could have been spent to weatherize low income households in Multnomah County.

Due to the inability of the program to spend the full allocation, ECHO funds for the following two-year period were reduced by 18%. Further, additional ECHO money was available. Had the program been able to spend its full allocation in FY04 and FY05, it could have applied for an increase. Contractor capacity and the County contracting process caused delays that contributed to the loss of funds.

Funding might have been preserved if the need for greater capacity had been anticipated through adequate planning and an understanding of contractor capacity. Contractors were unable to keep up with work orders and by early spring of 2005, the county had not used all of its ECHO allotment. Since the program had two years to spend the ECHO allotments, managers knew well in advance of the potential loss of funds and should have secured contractor capacity to complete weatherization projects. It is unclear whether contractors were aware of this. Had contractors known work would be forfeited, they might have found a way to meet the need.

The weatherization program does not have the capacity to operate the program effectively. The state manager said that the program is understaffed in both in-house and contractor staff. While other jurisdictions increased their staff two-fold and three-fold and increased the number of contractors to respond to the ECHO funding, Multnomah County increased staff .5 FTE for multi-family projects. Program managers report that it has been difficult to hire additional contractors. The program may want to consider in-house crews as an option to hiring additional contractors. Two jurisdictions that have been able to respond to increased funding have in-house crews that do insulation work. Multnomah County should be spending their full allocation and requesting more money.

The County contracting process also caused delays which may have contributed to weatherization dollars lost to other counties. Contracts expire at the end of June and must be renewed before work orders can be issued for the new fiscal year. The contract approval process may take two to three months and work orders cannot be issued during that time, leaving applications and work to pile up while waiting for contract approval. Although the contract process is complex and involves many staff and many departments, losing three months of work time due to contract approval creates an enormous obstacle for this program.

In two of the three years we studied (FY04 and FY06), very few work orders were issued during the months of July, August and September. These months are a key time for contractors to do county weatherization work due to better weather conditions and increased availability. Contractors have less work from the private sector during the warmer months. During this time, contractors were forced to lay off staff due to lack of work.

Abundance of data  
available but needs to  
be used

The Weatherization Program does not take advantage of data to make decisions about program direction for day-to-day operations or for strategic program planning. The Weatherization Computer Software Program is a critical tool. It is not fully utilized and is at risk because it is written with outdated software. The Program is a complex integration of information including:

- Household demographic data from the client application
- Dwelling characteristics and data from the energy audit and list of work to be done
- Calculation of lowest bid from contractor database and issue of contractor work orders along with pricing and cost for each work order
- Project management information with start and completed dates for energy audits and work orders
- Monitoring and allocation funding sources

We analyzed the data tables from this system which allowed us to calculate the cost for weatherizing dwellings and to determine household and dwelling demographics and weatherization work completed. This rich supply of historical information based on weatherizing thousands of homes over the years could also be used for evaluating program performance and planning for the future.

## Recommendations

- I. Because the unmet need is great, the program should focus its limited resources on the neediest people. To better focus resources, the Program should:
  - A. Develop strategies and set priorities to meet program goals.
  - B. Actively recruit low income households based on the programs stated strategy and goals.
  - C. Manage the waiting list based on the strategy and goals of the program.
- II. To improve the contracting process so work can continue year round without three-month interruptions, the Program should work with the County's Contracting office and County Attorney's office to expedite contracts.
- III. In order to spend available funds and take advantage of opportunities to increase funding, the program needs to address need for increased capacity.
  - A. Consider adding both staff and contractors.
  - B. Investigate alternative forms of program delivery.
- IV. Improve project management to increase the ability to complete projects more quickly and to do more projects.
  - A. Manage all projects in the pipeline rather than one project at a time.
  - B. Utilize and improve existing computer system's capabilities for file management and reporting both internally and with contractors.
  - C. Realign project management duties among staff or add a professional project manager position.
  - D. Improve costing reports and verify financial cost data in the computer system to SAP program data.
- V. Put the computer system on a secure and stable platform which will maintain its history and allow for enhancements.

**Responses**



Diane M. Linn, Multnomah County Chair

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## MEMORANDUM

TO : Suzanne Flynn, Multnomah County Auditor  
FROM: Diane Linn, Multnomah County Chair  
DATE : May 9, 2006  
RE : Energy Services Audit

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Thank you for allowing me the opportunity to review the results of your recent audit of the Weatherization Program. I appreciate the recognition of the good work and your assistance in strengthening and improving the Program.

I have reviewed your recommendations with the Department of School and Community Partnerships. Attached is the Department's response to those recommendations. They are confident the action steps they propose will adequately address the issues you have raised. I support their proposal to come back to the Board in the next 90 days with a progress report and further recommendations for the Board's review. Based upon my discussion with the Department, I am confident the County will be able to implement many of the recommendations to increase the efficiency and performance of this important program.

Please let me know if you need anything further from my office of the Department. Thank you again for your work

## **MEMORANDUM**

TO: Diane Linn, Chair  
Maria Rojo de Steffey, Commissioner  
Serena Cruz Walsh, Commissioner  
Lisa Naito, Commissioner  
Lonnie Roberts, Commissioner  
Multnomah County Board of Commissioners

Suzanne Flynn, County Auditor

FROM: Lorenzo T. Poe, Jr., Director  
Department of School and Community Partnerships

SUBJECT: Energy Services Audit Response

DATE: April 27, 2006

---

Thank you for the invitation to respond to the Energy Services Audit. The Department of School and Community Partnerships (DSCP) appreciates your thorough examination of the Weatherization Program and the opportunity to improve this valuable service to the community.

We especially appreciate the acknowledgement of the high quality work that has been and is being provided to the community by the Weatherization Program.

Before responding to the specific recommendations in the Audit, I want to address two issues.

The issue of under spending of new ECHO funds has been an on-going concern for the Department. It has also been an issue statewide. The reason there are additional funds to be accessed is that a number of other counties across the State have also had challenges in implementing the new program. The County's strategy of focusing on multi-family dwellings with 10-year affordability requirements attached to the deed of the property is an innovative one that required a significant amount of program development before being marketed.

The Department underestimated both the programmatic and contractor capacity necessary in getting such an ambitious program up and running.

We believe we now have the right combination of staffing and knowledge about the program to be on track to fully spend out all ECHO funds allocated to the County. We anticipate with the changes we will make as a result of this Audit's recommendations that we may well be in the position to request additional funds in the next biennium.

The issue of total number of contractors continues to be a challenge. The potential pool of contractors to do this type of work is relatively small to begin with. In fact, Clark, Washington, and Yamhill counties all use Multnomah County contractors because the lack of vendors in their own areas. When the standards and expertise required to perform this work is combined with the amount the County is able to pay for that work is factored in, the current shortage of available contractors exists.

When doing our most recent outreach to add contractors for the multi-family program, we were able to select one new contractor. We are hopeful that the efforts of the Energy Trust of Oregon and others in the field are beginning to pay off in terms of developing potential new contractors. We anticipate that when the next competitive bid process is conducted that the Department will be able to increase the number of contractors working with the County.

### **Recommendations**

- I. Because unmet need is great, the program should focus its limited resources on the neediest people. To better focus resources, the Program should:
  - A. Develop strategy and set priorities to meet program goals.
  - B. Actively recruit low income households based on the programs stated strategy and goals.
  - C. Manage waiting list based on the strategy and goals of the program.

### ***DSCP Response***

The Department will return to the Board within 90 days with a set of recommendations to prioritize Weatherization Program resources. Included in this set of recommendations will be an analysis of the current waiting list and proposed recruitment strategy for the coming fiscal year, based upon recommended priorities.

- II. To improve the contracting process so work can continue year round without three-month interruptions, the Program should work with the County's contracting office and County Attorney's office to expedite contracts.

### ***DSCP Response***

The Department plans to make a number of changes to current practice to allow the release of work as soon as possible on July 1<sup>st</sup>. We will work with CPCA and County Attorney to ensure that these changes do not create unreasonable risk for the County.

- III. In order to spend available funds and take advantage of opportunities to increase funding, the program needs to address increased capacity issues.
  - A. Consider adding both staff and contractors.
  - B. Investigate alternative forms of program delivery.

### ***DSCP Response***

The Department is reviewing and realigning current job responsibilities in response to issue raised in the Audit, such as increasing client education activities. In addition,

program service dollars will be utilized to create the recommended project manager position recommended.

As the challenges connected to increasing the number of qualified contractors are regional and statewide ones, we will continue to explore ways, at a statewide level, to mitigate the barriers affecting the availability of contractors.

Finally, the Program has operated in house work crews in the past. A new analysis of the potential advantages and disadvantages to returning to this model will be explored, along with the potential for an innovative, fee-for-service component to be added to the Program.

- IV. Improve project management to facilitate the ability to complete projects more quickly and to do more projects.
  - A. Manage all projects in the pipeline rather than one project at a time.
  - B. Utilize and improve existing computer system's capabilities for file management and reporting both internally and with contractors.
  - C. Realign project management duties among staff or add a professional project manager position.
  - D. Improve costing reports and verify financial cost data in the computer system to SAP program data.

***DSCP Response***

While the Department is proud that 67% of all jobs are completed within 6 months, we recognize that this rate can be increased. As stated above, the Department is currently realigning job responsibilities to respond to these recommendations, as well as creating a project manager position to better oversee the flow of work at a system level. We expect that these changes will result in increased workload and enhanced system oversight. The anticipated implementation date for this position will be September 30, 2006.

- V. Put the computer system on a secure and stable platform which will maintain its history and allow for enhancements.

***DSCP Response***

The Department has already had a number of conversations with IT about moving the current database onto a more secure platform. The scope of work required to make this project happen will be included in the Service Level Agreement (SLA) negotiated for FY 07.

- C: Mary Li, Manager  
Kathy Tinkle, Manager

**BOGSTAD Deborah L**

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**From:** FLYNN Suzanne J**Sent:** Tuesday, May 16, 2006 8:57 AM**To:** WEST Kristen; BELL Iris D; BOGSTAD Deborah L; BRUNER Thomas; CARROLL Mary P; FERNANDES April; FUSSELL Rob; GORDON Kathy; LASHUA Matthew; LIEUALLEN Matt; MARTIN Chuck T; MARTINEZ David; MATTIODA Gina M; MILES Darcy; NAITO Terri W; PAINE Robert E; SMITH Andy J; SOWLE Agnes; WALKER Gary R; WESSINGER Carol M**Subject:** Response to question about Weatherization Audit

Yesterday at the Board Staff meeting the question was asked why we didn't audit energy assistance. When we finished our initial survey phase, one of the areas that we considered auditing was the energy assistance program. We noted that the average payment was higher than in other jurisdictions and that the number served had decreased. We also had questions about whether decisions were being made consistently by the nonprofit agencies which raised an issue of equity. We decided to not audit this area because there was a new manager who seemed to be making changes and might address these areas. We also noted that a state audit was being completed that also might address these areas. It was a choice to not duplicate efforts and one of timing.

If you have any further questions, please let me know.

*Suzanne Flynn  
Multnomah County Auditor  
501 SE Hawthorne, Room 601  
Portland, OR 97214  
503-988-3320  
[www.co.multnomah.or.us/auditor](http://www.co.multnomah.or.us/auditor)*

5/16/2006

**BOGSTAD Deborah L**

---

**From:** BOGSTAD Deborah L  
**Sent:** Thursday, May 18, 2006 6:43 AM  
**To:** ROSENBERGER Judy K  
**Subject:** RE: Opps

Done.

**Deb Bogstad, Board Clerk**  
**Multnomah County Commissioners**  
**501 SE Hawthorne Boulevard, Suite 600**  
**Portland, Oregon 97214-3587**  
**(503) 988-3277 phone**  
**(503) 988-3013 fax**  
**[deborah.l.bogstad@co.multnomah.or.us](mailto:deborah.l.bogstad@co.multnomah.or.us)**  
**<http://www.co.multnomah.or.us/cc/index.shtml>**

-----Original Message-----

**From:** ROSENBERGER Judy K  
**Sent:** Wednesday, May 17, 2006 3:53 PM  
**To:** BOGSTAD Deborah L  
**Subject:** Opps

I sent you the Audit with out the response – can you put the correction up?

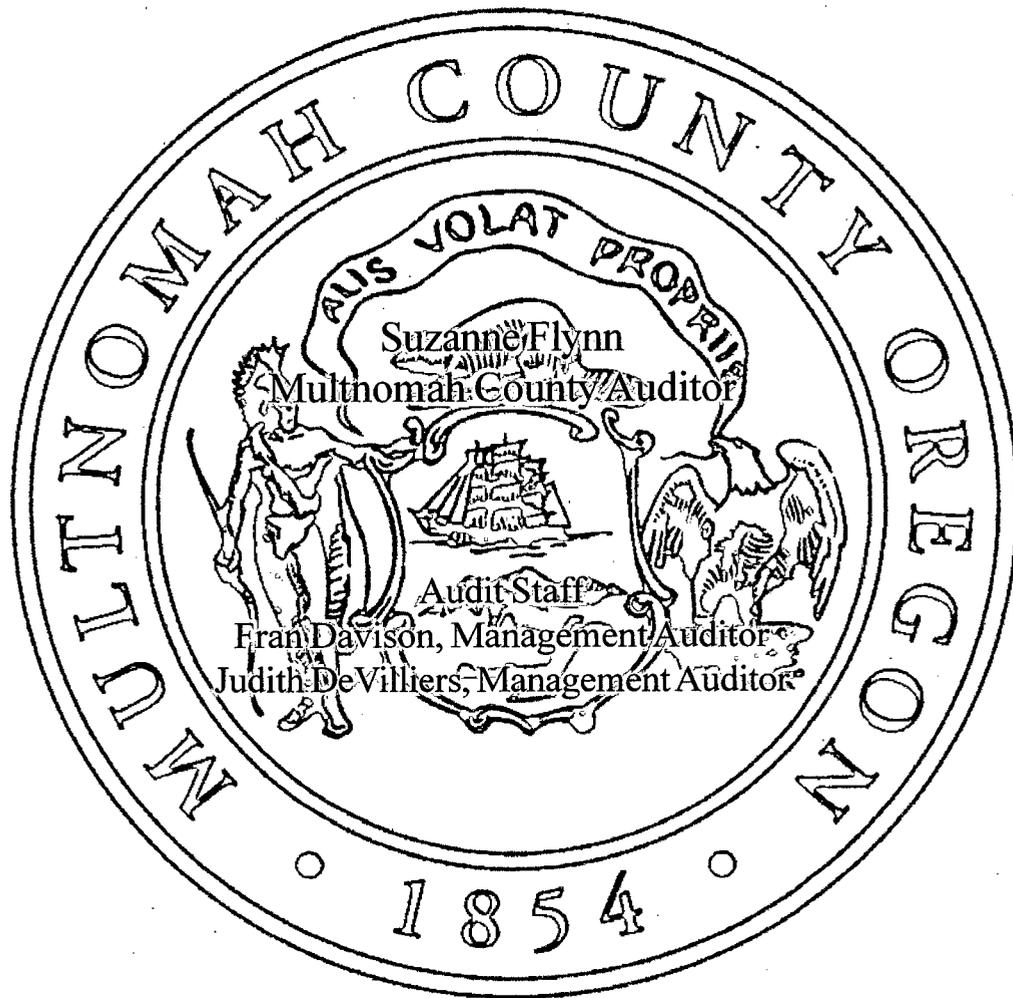
Judy Rosenberger  
Multnomah County Auditor's Office  
501 SE Hawthorne, Room 601  
Portland, OR 97214  
503/988-3320

## Weatherization Program

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Improvements needed to serve more clients  
May 2006





**SUZANNE FLYNN, Auditor**  
**Multnomah County**

501 S.E. Hawthorne, Room 601  
Portland, Oregon 97214  
Telephone (503) 988-3320  
Telefax 988-3019  
[www.multnomah.co.or.us/auditor](http://www.multnomah.co.or.us/auditor)

## MEMORANDUM

Date: May 10, 2006

To: Diane Linn, Multnomah County Chair  
Maria Rojo de Steffey, Commissioner, District 1  
Serena Cruz Walsh, Commissioner, District 2  
Lisa Naito, Commissioner, District 3  
Lonnie Roberts, Commissioner, District 4

From: Suzanne Flynn, Multnomah County Auditor

Subject: Audit of Weatherization Program

The attached report covers our audit of the County's Weatherization Program in the Department of School and Community Partnerships. This audit was included in our FY05-06 Audit Schedule.

We compared the program to best practices and found both strengths and weaknesses. The County is a recognized leader in the State for its knowledge of weatherization technology. However, the program needs to improve project management so more services can be delivered and in a more efficient manner.

We have discussed our findings and recommendations with the management of School and Community Partnerships and the Energy Services Program. A formal follow-up to this audit will be scheduled within 1-2 years.

We would like to acknowledge and thank the management and staff in the Department of School and Community Partnerships for the cooperation and assistance extended to us.

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## Summary

The mission of the County's Low Income Weatherization Program is to reduce energy costs for low income households by increasing energy efficiency and lowering fuel bills. Other objectives are to safeguard the health of those who live in the homes, increase the comfort of homes, and improve the affordable housing stock. In FY05 nearly \$3 million was spent by the program that has the equivalent of 5.5 full-time staff. The objective of the audit was to determine if the Program could improve its effectiveness with more careful selection and prioritization of clients and investment levels.

The audit compared the County's Weatherization Program to best practices and found both strengths and weaknesses. Program strengths include the use and understanding of advanced techniques to determine cost-effective weatherization measures and a team of contractors that have been working with the program for many years. Creative leadership and many years of staff experience have created a program with a reputation as a leader in its knowledge of weatherization measures and innovative weatherization practices. In fact, Multnomah County practices to address mobile homes and weatherization training have been adopted by the State for use across jurisdictions.

However, we found that the Programs lacked a clear strategy to ensure that the neediest are served. We found that the program's strategy is mostly passive with limited outreach efforts. While more active recruitment would possibly create longer waiting lists, it would also increase the likelihood that households with the greatest need were reached.

We also found that better project management practices such as scheduling and resource planning would place the Program in a better position to serve clients more efficiently and use resources more effectively. Currently the work needed to weatherize a house is scheduled one step at a time with one task not being completed until the other is completed and paid for. If work was scheduled simultaneously, full weatherization could be completed more quickly. The Program could also better use data reports to review the work completed and anticipate when new work could be scheduled.

In FY05 a rapid increase in funding could not be accommodated and an estimated \$267,000 originally allocated to the County was reallocated to other jurisdictions. We believe that the Program did not adequately plan for this increase and does not have the capacity to operate the program effectively. A State manager stated that the program is understaffed in

both in-house and contractors to perform the jobs. The County's contracting process also caused delays during the summer months as the new fiscal year began. These months are a key time for contractors to do County weatherization work.

The audit recommends improvements in five areas. The Program should:

- Develop a strategy and priorities to focus resources on the neediest people.
- Work with the County Contracting and County Attorney's Offices to improve contracting processes.
- Improve its staff and contractor capacity to better spend funds.
- Improve project management to complete projects more quickly and do more.
- Put the computer system on a secure and stable platform to ensure that it is available for use.

## Background

Multnomah County's Low Income Weatherization Program, which began in 1984, operates within Energy Programs, in the Department of School and Community Partnerships (DSCP). The overall mission and goals are to increase energy efficiency in order to reduce energy costs for low income households by lowering fuel bills, particularly for the elderly, people with disabilities, and families with young children. Other objectives are to safeguard the health of these home dwellers, increase the comfort of homes and improve the affordable housing stock.

Federal money is distributed to the states which have the authority to run their own programs and establish their own rules. In Oregon, Oregon Housing and Community Services (OHCS) is responsible for oversight and monitoring of programs receiving federal funds and other money coming to the county through the state. The OHCS Weatherization Program contracts with local agencies such as Multnomah County to deliver services.

DSCP Organizational Chart

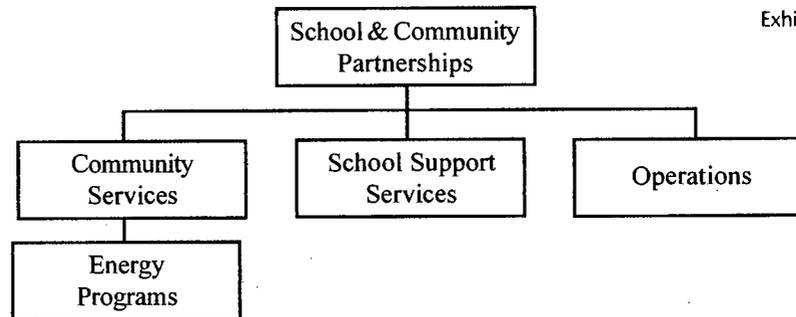


Exhibit 1

In FY05 nearly \$3 million was spent by the Weatherization Program. This represents a 65% increase over FY04 and more than double the FY01 level. It is important to note that some funds available in FY04 were not spent until FY05 resulting, in part, for the jump in spending in FY05.

Total Weatherization Program Spending FY01 to FY05 (adjusted for inflation)

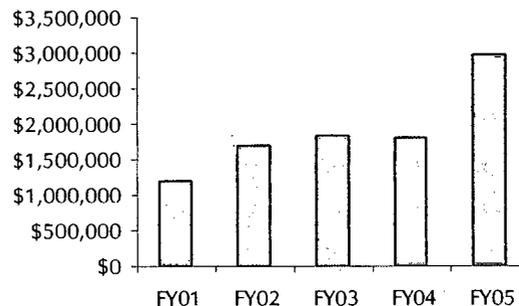


Exhibit 2

The Program has the equivalent of 5.5 full-time staff. Until the recent departure of two staff, four had been with the program since the early 1990s and had developed strong technical expertise over the years. One half-time position was added in FY04 to focus on weatherizing multi-family housing.

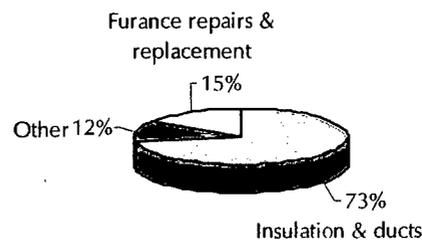
The money to pay for weatherization services comes primarily from federal sources and rate-payer fees collected by local utilities. More specifically, current funding sources include federal funding from the U.S. Department of Energy (DOE) and the Low Income Energy Assistance Program (LIEAP), rate-payer fees from local utilities called Public Purpose Charges (PPC), and a small amount of funding from the City of Portland for plumbing repairs. Federal funding and PPC money from electric utilities (ECHO funds) is allocated by the State to the County while money from other utilities comes in the form of rebates from NW Natural and the State for oil rebates.

Before a home is weatherized, an energy auditor visits the dwelling and conducts tests to determine the particular weatherization needs of each home. Weatherization services typically include furnace repair or replacement, ceiling, wall and floor insulation, plumbing repairs, duct sealing and related minor home repairs. Home repairs may be done to address health and safety problems or if needed to complete weatherization measures. The County uses private contractors to provide these services.

In FY04 and FY05 a total of 864 dwellings were weatherized, including 531 single-family homes and 16 multi-family projects (consisting of 323 units). The largest category of spending on contractor work went toward insulation and duct sealing (73%) while furnace repairs and replacements accounted for 15% and 12% for other work.

Contractor Spending  
FY04 and FY05

Exhibit 3



### Scope and Methodology

The audit objective was to determine if the County could improve its effectiveness in the Weatherization Program with more careful selection and prioritization of clients and investment levels.

We reviewed state and federal rules and regulations related to the Weatherization Program. We also reviewed budgets, organizational charts, policies and procedures, work plans and job descriptions for the Weatherization Program.

We interviewed the management and staff involved with the program. We talked with state managers from Oregon Housing and Community Services. Other jurisdictions were contacted to see how they administer their weatherization programs. We interviewed local weatherization experts including staff at PacifiCorp, the Energy Trust of Oregon, and NW Natural about weatherization programs and regional weatherization issues. We reviewed current research on best practices from Oak Ridge Laboratories and other organizations.

We selected a sample of 25 dwellings that had been weatherized during FY04 and FY05 to include in a case study of weatherization clients and were able to interview 11 clients, including four in-person interviews conducted in participants' homes. We reviewed energy usage data for 117 NW Natural customers who had received weatherization services and reviewed some electric usage. We also reviewed weatherization files of current and past clients.

We analyzed project data from the Weatherization Computer Software Program for projects with activity during FY04 and FY05 and reviewed associated accounting records.

This audit was included in our FY05-06 audit schedule and was conducted in accordance with generally accepted audit standards.

## Results

The Multnomah County Weatherization Program is strong in some areas and weak in others when compared to best practices. Program strengths include the use and understanding of advanced techniques to determine cost-effective weatherization measures as well a team of contractors that have been with the program for many years.

Creative leadership and many years of staff experience have created a program with a reputation as a leader in its knowledge of weatherization measures and innovative weatherization practices. In fact, Multnomah County protocols to address mobile homes and weatherization training have been adopted by the State for use across jurisdictions.

The Program operates within the infrastructure of a large, multi-program public community action agency that has experience serving low income households. The benefit of such a framework is a depth of experience dealing with problems related to poverty and the ability to make referrals to a wide range of community services. We observed a high level of compassion and concern for clients from all staff.

Most contractors have been with the program many years and have been rated highly by clients. In our case study, all client comments related to contractors were positive. Contractors were often described as efficient and friendly and clients appreciated the thorough cleanup when the project was done.

- *"They treated me like I was paying for the work to be done."*
- *"They were kind and mannerly. You couldn't ask for a better crew."*

We found Weatherization measures were effective in reducing energy usage in homes. We reviewed usage history on 117 customers of NW Natural and found a downward trend in usage after weatherization was completed.

- *"I compared bills and I noticed a difference....after the weatherization there was a significant drop in what we were paying."*

Strategy needed to serve those with the highest need

With more than 58,000 Multnomah County households eligible for the program, there is a great need among low income residents for lower fuel bills and safer and more comfortable living conditions. At the rate the County is able to weatherize, we estimate it would take more than 100 years to serve all qualified households. Weatherization can make a big difference in the energy bills and the overall comfort level of these homes.

- An elderly client said - *"After the weatherization the house stayed warmer. It gets warm more quickly and stays warmer longer."*
- One mother of young children said - *"You did more than I would have dreamed. You saved my house...I can't say enough about that program."*

Because the need is great, it is important to develop a strategy to meet that need and improve the ability of the County to use all resources potentially available for the weatherization program.

We found that Multnomah County has a mostly passive recruitment strategy. For example, limited outreach and education is conducted at energy fairs, senior centers and mobile home communities and referrals are made through other agencies and social service organizations. In our case study we found that some find out about the program through word of mouth and in some cases contractors and service providers make referrals.

Program administrators say they do not actively recruit clients since the waiting list is 'what they are able to do.' It is the program's opinion that a longer list would create expectations that could not be met for several years. However, without active recruitment the program cannot be assured that they are serving those with the highest need.

Multnomah County should consider a recruitment strategy that includes identifying houses and households with the greatest need. Energy burden, the proportion of a household's monthly income that is spent on energy costs, is also used by some jurisdictions. Energy burden has increased recently due to dramatic increases in energy prices. Between 1999 and 2004, natural gas prices increased 94%; and between 1999 and 2003 residential electric prices increased by 23% and the cost of heating oil increased by 39%. Increased energy prices create a much greater impact on low income households than others. The Department of Energy estimates low income households spend approximately 14% of their total income on energy compared with 3.5% of other households.

Because cold houses can affect the health and welfare of the elderly, disabled and young children, they should be considered in the county's recruitment strategy. Low income households may lower the heat to avoid high energy bills. Although the county does some recruitment at senior centers, a greater outreach effort is needed to target this vulnerable population.

- One elderly client noted, *"As I have gotten older, I need more heat to keep warm and [I] turn the thermostat up."*
- One mother told us, *"The house is drafty and we use a space heater to keep the baby's room warm."*

Applications which have been received and are on the waiting list should be prioritized in keeping with the program's overall strategy. Many jurisdictions we interviewed use a point system based on: high energy

usage, high energy burden and/or households with priority members. The Multnomah County program has a first come, first served policy for prioritizing applicants (except for emergency situations involving no heat). The program does give preference to homes heated with electricity in order to spend funds required to weatherize homes heated with electricity. The average wait for an energy audit was just over one month for an electrically heated home compared to four and one half months for a home with another heat source.

Outreach efforts should also reflect the County's program goal of improving the housing stock for low income households. If the County's goal is to improve the low income housing stock, it needs to determine what constitutes low income housing and develop a strategy to target that segment. We found other counties target mobile homes as a way to invest in the low income housing pool. Only 25% of the Program's resources go to mobile homes compared to 50-90% for many other weatherization programs in Oregon.

Client education program  
needs strengthening

In the period we reviewed, Multnomah County did not have a strong client education program. The County Workplan (prepared for the state) stated the Multnomah County Program offered energy education, yet, we found little evidence or documentation of educational effort for the Weatherization Program.

Client education was generally limited to information provided by staff when an energy audit was conducted. Best practices encourage strong client education programs and other jurisdictions have strong educational components. One jurisdiction requires attendance in a program-sponsored Energy Education class while another has a staff member dedicated to in-home education. Other organizations offer post-weatherization instruction to help clients understand how to get the greatest benefit for the work done on their home. We recommend client education be strengthened and tied to a client recruitment program.

Better project  
management would get  
services to citizens  
sooner

Professional project management practices include time management, scheduling and resource planning. Improvement in some of the project management processes would help the project scheduler, contractors and clients. The program would be in a better position to spend all of its money and possibly receive more as projects could be completed faster and total capacity managed more efficiently.

Exhibit 4

Current process	What would be better
<ul style="list-style-type: none"> <li>Files placed in drawers in order, 1<sup>st</sup> come, 1<sup>st</sup> served</li> </ul>	<ul style="list-style-type: none"> <li>Clients prioritized based on Weatherization Strategy</li> </ul>
<ul style="list-style-type: none"> <li>Few lists or reports are generated</li> </ul>	<ul style="list-style-type: none"> <li>Reports are generated to aid in project management</li> </ul>
<ul style="list-style-type: none"> <li>Energy Auditors check the audit drawer and select the next file in line for an audit</li> </ul>	<ul style="list-style-type: none"> <li>Energy Auditors are assigned work based on client priority and other funding issues</li> </ul>
<ul style="list-style-type: none"> <li>Work is scheduled sequentially without overall planning</li> </ul>	<ul style="list-style-type: none"> <li>Work is scheduled according to an overall plan</li> </ul>
<ul style="list-style-type: none"> <li>Monitor quality of work but don't evaluate the process</li> </ul>	<ul style="list-style-type: none"> <li>Evaluation of process including cost and time per job</li> </ul>

Work should be scheduled systematically

Lack of systematic scheduling, inadequate planning and inability to fully use the Weatherization Computer Software Program, causes unnecessary delays in getting work completed and may be contributing to the inability of the Program to spend all of its available funding. If project work was scheduled more systematically, staff could exercise more control over project planning, anticipate upcoming work and determine resources needed to complete projects.

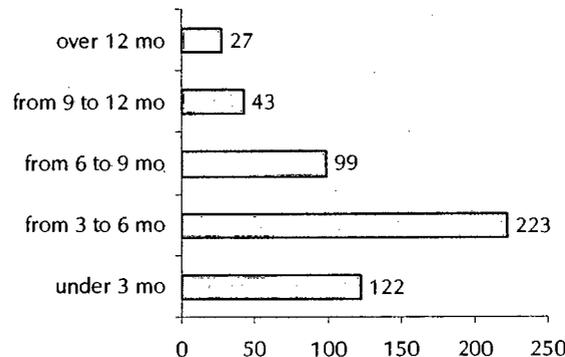
A large volume of work flows through the Weatherization Program. As of mid-November, 2005 there were:

- 154 applications waiting for an audit
- 272 work orders waiting to be issued
- 170 work orders in process

Dwellings typically have work orders for multiple activities, such as furnace repair, plumbing work and insulation. In FY04 and FY05, the average number of work orders per project was four and the average time from audit to project completion was five and one-half months, with some taking over a year

Time from audit to completion for single family homes FY04-FY05

Exhibit 5



Although applicant information and energy audit results are entered into the Weatherization Computer Software Program, the scheduling staff do not generate reports to provide an overview of the work being conducted or where applications are in the process. Rather than using an electronic system to manage the workflow, paper files are moved from drawer to drawer to track workflow.

As applications come in, they remain on the scheduler's desk until they can be reviewed and processed. Applications are entered into the Weatherization Computer Software Program where they are assigned a project number, and a paper file is created. If an applicant has no heat, the file is placed in the "emergency drawer" and a furnace check is scheduled. Otherwise, the project is filed in the "to be audited drawer." Once the energy audit is complete, the project is usually filed in the "specialty work" drawer and when specialty work is completed, the file is moved to the "major measure" drawer where it stays until project completion. The constant handling and movement of files is inefficient and slows down the scheduling process. Also files can be misplaced or lost in the system.

Usually, multiple work orders for a project are scheduled sequentially rather than simultaneously, lengthening the time from energy audit to project completion. Example of sequential scheduling of multiple work orders for one project:

- ↓ Work order # 1 is issued
- ↓ Work order # 1 is completed and billed by contractor
- ↓ Invoice is received and work is inspected for work order # 1
- ↓ File is moved to another drawer
- ↓ Work order #2 is issued, etc.

Sequential scheduling not only lengthens the time for project completion, it limits the ability of the staff to control the work because the scheduler doesn't know when the invoice will come in. With this system, the more work orders a project has, the less predictable the timeline. A planned approach that scheduled work simultaneously would help to shorten the time from audit to project completion, and identify the level of needed contractor capacity. A central filing system combined with effective use of the Weatherization Computer Software Program would simplify the process and reduce the need to handle files multiple times.

Workload can be better anticipated

Although staff has said work is not predictable, with careful planning workloads can be estimated and anticipated. Work can be distributed to contractors on a more predictable basis.

The energy audit specifies the amount of insulation and specialty work needed for a project. Starting with the energy audit and anticipated work orders, overall workload can be estimated by considering all projects in the system. The Program should be able to use the information on an ongoing basis to predict the volume of contractor capacity needed. If

contractors are not able to meet the need, additional contractors may be needed to enable the program to use all available funding.

Although overall scheduling depends on client cooperation, contractor availability, staff available for inspection, and the unique variables of each house, professional project management would factor in those variables.

Some staff may lack the expertise and training needed to make all scheduling decisions and may not always know whether specific work needs to be completed before other work can be started. However, the energy auditor or inspector should be able to determine if some work needs to be completed before other work can be started. With the increased workload resulting from increased funding, the responsibility for scheduling and monitoring of contractors needs to be realigned.

Ineffective planning and contracting processes resulted in loss of funds

In FY05, rapid increases in program funding could not be accommodated and an estimated \$267,000 in ECHO funds originally allocated to Multnomah County were reallocated to other jurisdictions. Part of the increase came from ECHO funds, which were required to be spent by the end of the two-year allocation period. These funds were collected from Multnomah County citizens as a public purpose charge on their utility bill and could have been spent to weatherize low income households in Multnomah County.

Due to the inability of the program to spend the full allocation, ECHO funds for the following two-year period were reduced by 18%. Further, additional ECHO money was available. Had the program been able to spend its full allocation in FY04 and FY05, it could have applied for an increase. Contractor capacity and the County contracting process caused delays that contributed to the loss of funds.

Funding might have been preserved if the need for greater capacity had been anticipated through adequate planning and an understanding of contractor capacity. Contractors were unable to keep up with work orders and by early spring of 2005, the county had not used all of its ECHO allotment. Since the program had two years to spend the ECHO allotments, managers knew well in advance of the potential loss of funds and should have secured contractor capacity to complete weatherization projects. It is unclear whether contractors were aware of this. Had contractors known work would be forfeited, they might have found a way to meet the need.

The weatherization program does not have the capacity to operate the program effectively. The state manager said that the program is understaffed in both in-house and contractor staff. While other jurisdictions increased their staff two-fold and three-fold and increased the number of contractors to respond to the ECHO funding, Multnomah County increased staff .5 FTE for multi-family projects. Program managers report that it has been difficult to hire additional contractors. The program may want to consider in-house crews as an option to hiring additional contractors. Two jurisdictions that have been able to respond to increased funding have in-house crews that do insulation work. Multnomah County should be spending their full allocation and requesting more money.

The County contracting process also caused delays which may have contributed to weatherization dollars lost to other counties. Contracts expire at the end of June and must be renewed before work orders can be issued for the new fiscal year. The contract approval process may take two to three months and work orders cannot be issued during that time, leaving applications and work to pile up while waiting for contract approval. Although the contract process is complex and involves many staff and many departments, losing three months of work time due to contract approval creates an enormous obstacle for this program.

In two of the three years we studied (FY04 and FY06), very few work orders were issued during the months of July, August and September. These months are a key time for contractors to do county weatherization work due to better weather conditions and increased availability. Contractors have less work from the private sector during the warmer months. During this time, contractors were forced to lay off staff due to lack of work.

Abundance of data  
available but needs to  
be used

The Weatherization Program does not take advantage of data to make decisions about program direction for day-to-day operations or for strategic program planning. The Weatherization Computer Software Program is a critical tool. It is not fully utilized and is at risk because it is written with outdated software. The Program is a complex integration of information including:

- Household demographic data from the client application
- Dwelling characteristics and data from the energy audit and list of work to be done
- Calculation of lowest bid from contractor database and issue of contractor work orders along with pricing and cost for each work order
- Project management information with start and completed dates for energy audits and work orders
- Monitoring and allocation funding sources

We analyzed the data tables from this system which allowed us to calculate the cost for weatherizing dwellings and to determine household and dwelling demographics and weatherization work completed. This rich supply of historical information based on weatherizing thousands of homes over the years could also be used for evaluating program performance and planning for the future.

## Recommendations

- I. Because the unmet need is great, the program should focus its limited resources on the neediest people. To better focus resources, the Program should:
  - A. Develop strategies and set priorities to meet program goals.
  - B. Actively recruit low income households based on the programs stated strategy and goals.
  - C. Manage the waiting list based on the strategy and goals of the program.
  
- II. To improve the contracting process so work can continue year round without three-month interruptions, the Program should work with the County's Contracting office and County Attorney's office to expedite contracts.
  
- III. In order to spend available funds and take advantage of opportunities to increase funding, the program needs to address need for increased capacity.
  - A. Consider adding both staff and contractors.
  - B. Investigate alternative forms of program delivery.
  
- IV. Improve project management to increase the ability to complete projects more quickly and to do more projects.
  - A. Manage all projects in the pipeline rather than one project at a time.
  - B. Utilize and improve existing computer system's capabilities for file management and reporting both internally and with contractors.
  - C. Realign project management duties among staff or add a professional project manager position.
  - D. Improve costing reports and verify financial cost data in the computer system to SAP program data.
  
- V. Put the computer system on a secure and stable platform which will maintain its history and allow for enhancements.

## Responses



Diane M. Linn, Multnomah County Chair

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**MEMORANDUM**

**TO :** Suzanne Flynn, Multnomah County Auditor  
**FROM:** Diane Linn, Multnomah County Chair  
**DATE :** May 9, 2006  
**RE :** Energy Services Audit

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Thank you for allowing me the opportunity to review the results of your recent audit of the Weatherization Program. I appreciate the recognition of the good work and your assistance in strengthening and improving the Program.

I have reviewed your recommendations with the Department of School and Community Partnerships. Attached is the Department's response to those recommendations. They are confident the action steps they propose will adequately address the issues you have raised. I support their proposal to come back to the Board in the next 90 days with a progress report and further recommendations for the Board's review. Based upon my discussion with the Department, I am confident the County will be able to implement many of the recommendations to increase the efficiency and performance of this important program.

Please let me know if you need anything further from my office of the Department. Thank you again for your work

## MEMORANDUM

TO: Diane Linn, Chair  
Maria Rojo de Steffey, Commissioner  
Serena Cruz Walsh, Commissioner  
Lisa Naito, Commissioner  
Lonnie Roberts, Commissioner  
Multnomah County Board of Commissioners

Suzanne Flynn, County Auditor

FROM: Lorenzo T. Poe, Jr., Director  
Department of School and Community Partnerships

SUBJECT: Energy Services Audit Response

DATE: April 27, 2006

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Thank you for the invitation to respond to the Energy Services Audit. The Department of School and Community Partnerships (DSCP) appreciates your thorough examination of the Weatherization Program and the opportunity to improve this valuable service to the community.

We especially appreciate the acknowledgement of the high quality work that has been and is being provided to the community by the Weatherization Program.

Before responding to the specific recommendations in the Audit, I want to address two issues.

The issue of under spending of new ECHO funds has been an on-going concern for the Department. It has also been an issue statewide. The reason there are additional funds to be accessed is that a number of other counties across the State have also had challenges in implementing the new program. The County's strategy of focusing on multi-family dwellings with 10-year affordability requirements attached to the deed of the property is an innovative one that required a significant amount of program development before being marketed.

The Department underestimated both the programmatic and contractor capacity necessary in getting such an ambitious program up and running.

We believe we now have the right combination of staffing and knowledge about the program to be on track to fully spend out all ECHO funds allocated to the County. We anticipate with the changes we will make as a result of this Audit's recommendations that we may well be in the position to request additional funds in the next biennium.

The issue of total number of contractors continues to be a challenge. The potential pool of contractors to do this type of work is relatively small to begin with. In fact, Clark, Washington, and Yamhill counties all use Multnomah County contractors because the lack of vendors in their own areas. When the standards and expertise required to perform this work is combined with the amount the County is able to pay for that work is factored in, the current shortage of available contractors exists.

When doing our most recent outreach to add contractors for the multi-family program, we were able to select one new contractor. We are hopeful that the efforts of the Energy Trust of Oregon and others in the field are beginning to pay off in terms of developing potential new contractors. We anticipate that when the next competitive bid process is conducted that the Department will be able to increase the number of contractors working with the County.

### **Recommendations**

- I. Because unmet need is great, the program should focus its limited resources on the neediest people. To better focus resources, the Program should:
  - A. Develop strategy and set priorities to meet program goals.
  - B. Actively recruit low income households based on the programs stated strategy and goals.
  - C. Manage waiting list based on the strategy and goals of the program.

### ***DSCP Response***

The Department will return to the Board within 90 days with a set of recommendations to prioritize Weatherization Program resources. Included in this set of recommendations will be an analysis of the current waiting list and proposed recruitment strategy for the coming fiscal year, based upon recommended priorities.

- II. To improve the contracting process so work can continue year round without three-month interruptions, the Program should work with the County's contracting office and County Attorney's office to expedite contracts.

### ***DSCP Response***

The Department plans to make a number of changes to current practice to allow the release of work as soon as possible on July 1<sup>st</sup>. We will work with CPCA and County Attorney to ensure that these changes do not create unreasonable risk for the County.

- III. In order to spend available funds and take advantage of opportunities to increase funding, the program needs to address increased capacity issues.
  - A. Consider adding both staff and contractors.
  - B. Investigate alternative forms of program delivery.

### ***DSCP Response***

The Department is reviewing and realigning current job responsibilities in response to issue raised in the Audit, such as increasing client education activities. In addition,

program service dollars will be utilized to create the recommended project manager position recommended.

As the challenges connected to increasing the number of qualified contractors are regional and statewide ones, we will continue to explore ways, at a statewide level, to mitigate the barriers affecting the availability of contractors.

Finally, the Program has operated in house work crews in the past. A new analysis of the potential advantages and disadvantages to returning to this model will be explored, along with the potential for an innovative, fee-for-service component to be added to the Program.

- IV. Improve project management to facilitate the ability to complete projects more quickly and to do more projects.
  - A. Manage all projects in the pipeline rather than one project at a time.
  - B. Utilize and improve existing computer system's capabilities for file management and reporting both internally and with contractors.
  - C. Realign project management duties among staff or add a professional project manager position.
  - D. Improve costing reports and verify financial cost data in the computer system to SAP program data.

***DSCP Response***

While the Department is proud that 67% of all jobs are completed within 6 months, we recognize that this rate can be increased. As stated above, the Department is currently realigning job responsibilities to respond to these recommendations, as well as creating a project manager position to better oversee the flow of work at a system level. We expect that these changes will result in increased workload and enhanced system oversight. The anticipated implementation date for this position will be September 30, 2006.

- V. Put the computer system on a secure and stable platform which will maintain its history and allow for enhancements.

***DSCP Response***

The Department has already had a number of conversations with IT about moving the current database onto a more secure platform. The scope of work required to make this project happen will be included in the Service Level Agreement (SLA) negotiated for FY 07.

- C: Mary Li, Manager  
Kathy Tinkle, Manager



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-11  
**Est. Start Time:** 10:30 AM  
**Date Submitted:** 04/19/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **PROCLAMATION Declaring the Week of May 21 though May 27, 2006, as NATIONAL PUBLIC WORKS WEEK, and Recognizing the Contributions of all Multnomah County Transportation Employees**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b> <u>May 18, 2006</u>	<b>Time Requested:</b> <u>5 minutes</u>
<b>Department:</b> <u>Community Services</u>	<b>Division:</b> <u>Land Use &amp; Trans Program</u>
<b>Contact(s):</b> <u>Robert Maestre and Don Newell</u>	
<b>Phone:</b> <u>503 988-5050</u> <b>Ext.</b> <u>29611</u>	<b>I/O Address:</b> <u>425</u>
<b>Presenter(s):</b> <u>Don Hauskins</u>	

### General Information

**1. What action are you requesting from the Board?**

The Department of Community Services' Land Use and Transportation Program requests a reading of the Proclamation Declaring the Week of May 21 through May 27, 2006, as **NATIONAL PUBLIC WORKS WEEK**, recognition of the contributions of all Multnomah County Transportation Employees, and adoption of the Proclamation by the Board.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The DCS Land Use and Transportation Program annually recognizes the dedication and contributions of their public works employees to our community by a Proclamation presented to the Board of County Commissioners. The annual recognition corresponds with **NATIONAL PUBLIC WORKS WEEK** which this year is May 21st through the 27th, 2006. Several events to celebrate the accomplishments of public works employees across the country are scheduled during that week in the nation's capital.

3. Explain the fiscal impact (current year and ongoing).

N/A

4. Explain any legal and/or policy issues involved.

N/A

5. Explain any citizen and/or other government participation that has or will take place.

N/A

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### Required Signatures

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Department/  
Agency Director:

*Robert A Maestre*

Date: 04/19/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. \_\_\_\_\_

Declaring the Week of May 21 through May 27, 2006, as "**NATIONAL PUBLIC WORKS WEEK,**" and Recognizing the Contributions of all Multnomah County Transportation Employees.

**The Multnomah County Board of Commissioners Finds:**

- a. Transportation services provided in Multnomah County are an integral part of the everyday lives of its citizens, promoting clean, healthy neighborhoods establishing Vibrant Communities;
- b. The County's regional transportation infrastructure is essential in sustaining a Thriving Economy which greatly impacts our livability, business, and commerce;
- c. That citizens recognize the importance and value of our nation's transportation system and those components built and maintained by Multnomah County; such as our rural roads, city streets, bikeways, pedestrian facilities, rights of way, and Willamette River Bridges, and
- d. The quality and effectiveness of transportation projects and services enjoyed by citizens of Multnomah County are dependent upon the skills of the qualified and dedicated Transportation Employees.

**The Multnomah County Board of Commissioners Proclaims:**

The Week of May 21 through May 27, 2006, as "**NATIONAL PUBLIC WORKS WEEK**" with the 2006 theme "**Public Works: The Heart of Every Community,**" and calls upon the citizens of our community to realize the contributions that all Transportation Employees make every day to our health, safety, comfort, environmental quality, and economic prosperity.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Diane M. Linn, County Chair

\_\_\_\_\_  
Maria Rojo de Steffey,  
Commissioner District 1

\_\_\_\_\_  
Serena Cruz Walsh,  
Commissioner District 2

\_\_\_\_\_  
Lisa Naito,  
Commissioner District 3

\_\_\_\_\_  
Lonnie Roberts,  
Commissioner District 4

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 06-080**

Declaring the Week of May 21 through May 27, 2006 as "NATIONAL PUBLIC WORKS WEEK", and Recognizing the Contributions of All Multnomah County Transportation Employees

**The Multnomah County Board of Commissioners Finds:**

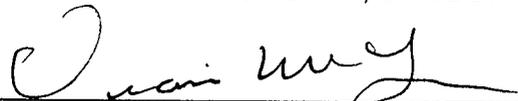
- a. Transportation services provided in Multnomah County are an integral part of the everyday lives of its citizens, promoting clean, healthy neighborhoods establishing Vibrant Communities;
- b. The County's regional transportation infrastructure is essential in sustaining a Thriving Economy which greatly impacts our livability, business, and commerce;
- c. That citizens recognize the importance and value of our nation's transportation system and those components built and maintained by Multnomah County; such as our rural roads, city streets, bikeways, pedestrian facilities, rights of way, and Willamette River Bridges, and
- d. The quality and effectiveness of transportation projects and services enjoyed by citizens of Multnomah County are dependent upon the skills of the qualified and dedicated Transportation Employees.

**The Multnomah County Board of Commissioners Proclaims:**

The Week of May 21 through May 27, 2006 as "NATIONAL PUBLIC WORKS WEEK" with the 2006 theme "*Public Works: The Heart of Every Community*," and calls upon the citizens of our community to realize the contributions that all Transportation Employees make every day to our health, safety, comfort, environmental quality, and economic prosperity.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

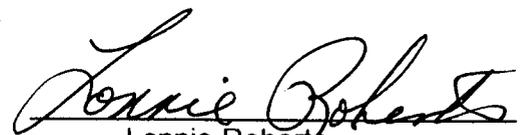
  
Diane M. Linn, County Chair

  
Maria Rojo de Steffey,  
Commissioner District 1



  
Serena Cruz Walsh,  
Commissioner District 2

  
Lisa Naito,  
Commissioner District 3

  
Lonnie Roberts,  
Commissioner District 4



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

### Board Clerk Use Only

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-12  
**Est. Start Time:** 10:35 AM  
**Date Submitted:** 05/08/06

**BUDGET MODIFICATION:** -

**PUBLIC HEARING to Consider and Possibly Act Upon a Measure 37 Claim**  
**Agenda Item #:** **Filed by Albert and Deane Dilnik Seeking a Waiver of Land Use Rules that**  
**Title:** **Allow them to Construct Homes on Three Existing Lots that they Own**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b> <u>May 18th, 2006</u>	<b>Time Requested:</b> <u>30 minutes</u>
<b>Department:</b> <u>Community Services</u>	<b>Division:</b> <u>Land Use and Transportation</u>
<b>Contact(s):</b> <u>Adam Barber, Derrick Tokos</u>	
<b>Phone:</b> <u>503-988-3043</u> <b>Ext.</b> <u>22599</u>	<b>I/O Address:</b> <u>455/1/116</u>
<b>Presenter(s):</b> <u>Adam Barber, Sandy Duffy</u>	

## General Information

**1. What action are you requesting from the Board?**

Action requested is to provide a public hearing and render a decision regarding a Measure 37 claim for property known as TL 2300 (Subdivision Lot 35), T2N, R2W, W.M., Section 24D and TL 1700 (Subdivision Lots 37 & 38), T2N, R1W, W.M., Section 19C (Case file T1-05-042).

This Agenda Placement Request contains summary information related to the claim. A staff report and exhibits related to the claim are attached which provide more detailed information. The staff report contains the analysis conducted by land use planning staff. The exhibits to the staff report contain information supporting that analysis including an appraisal supplied by the applicant, a map, an aerial photo, and ownership information.

**2. Please provide sufficient background information for the Board and the public to understand this issue.**

The claimants currently own four adjacent, 5-acre subdivision lots, one of which contains a home and is not involved in this claim. This Measure 37 claim is for the three vacant lots. The claimants have indicated that the challenged regulations enacted after they purchased the three vacant properties have prevented them from constructing homes on each of the lots.

Albert J. and Deane M. Dilnik (claimants) acquired the properties on April 5th of 1966. The claimant's narrative description, title report, appraisal and professional opinion by a Century 21 real estate broker assert that the challenged regulations have restricted the use and reduced the value of the lots.

Under current rules, the claimant's properties are aggregated as one 20-acre Lot of Record. The existing home on the 20-acres is the only dwelling that is allowed. The requirements that the lots be aggregated and the prohibition of additional dwellings in the forest zone would need to be waived in order for the claimants to establish a single family dwelling on each of the three undeveloped subdivision lots.

Staff believes this claim is valid in that the claimants have established that land use regulations enacted after they acquired Lots 35, 37 and 38 have restricted the use and reduced the fair market values of the properties. The detailed evaluation of the particular land use regulations which have restricted the use of the properties is presented in the staff report. These restrictive regulations are referred to as "Category 1" regulations in the report.

At this point, the Board could either elect to:

- A) Provide monetary compensation for the value reduction, or
- B) Waive the Category 1 regulations to allow the claimants to develop the property as set forth in this claim.

When this Measure 37 claim was originally submitted last year, the claimants requested the right to transfer the ability to build the homes to a third party. A Board hearing was scheduled on April 20<sup>th</sup>, 2006 to hear this request. Soon after the Board hearing was scheduled, the claimants decided they no longer sought transferable rights and amended their claim to reflect their desire to construct the homes themselves. Staff believed this was a significant change in the relief sought and consequently, the Board hearing was continued to May 18<sup>th</sup>. The continuance allowed staff the necessary time to evaluate this change and amend the staff report.

**3. Explain the fiscal impact (current year and ongoing).**

The claimants assert a reduction in value of roughly \$405,000; however, this dollar figure is not supported by an appraisal prepared in accordance with the County ordinance. If the Board decides to pay compensation, the claimants will need to submit a more detailed appraisal for the vacant lots to determine the amount of compensation due.

**4. Explain any legal and/or policy issues involved.**

Policy and legal issues are outlined in a staff report from Land Use Planning dated May 2, 2006. The County Attorney has advised that any property rights obtained by relief from land use regulations are not transferable under Ballot Measure 37, consistent with the DOJ opinion of February 2005.

**5. Explain any citizen and/or other government participation that has or will take place.**

Deliberation and any action on this item will be done following a public hearing at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing. Public notice of the claim was mailed to all property owners within 750 feet of the subject property. This notice provided a 14 day opportunity to comment period. No written comments were received.

The State of Oregon issued a Measure 37 decision on this development request on April 7<sup>th</sup>, 2006. The State recommended that the identified state laws be waived for the claimants. A copy of that decision is provided as an Exhibit to the staff report.

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 05/08/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**



**LAND USE & TRANSPORTATION  
PLANNING PROGRAM**

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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## Staff Analysis of Measure 37 Claim

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The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

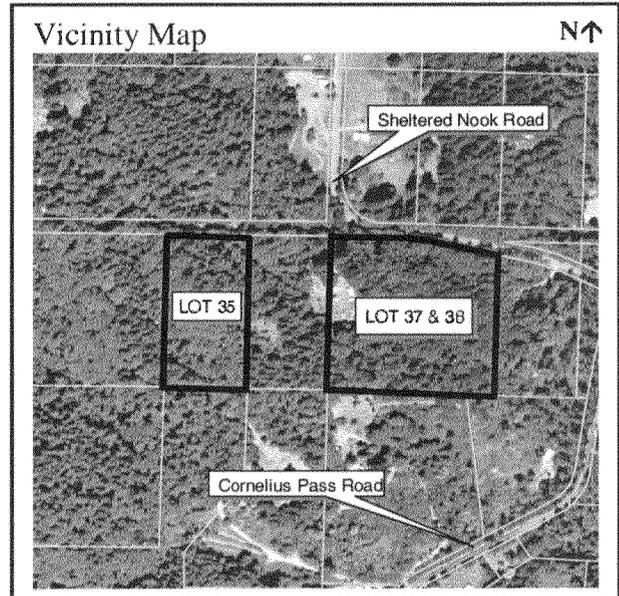
Hearing Date, Time, & Place:

**May 18<sup>th</sup>, 2006 at 9:35 am** or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

**Case File:** T1-05-042

**Claimants:** Albert & Deane Dilnik  
17666 NW Shorewood Dr.  
Beaverton, Oregon 97006

**Locations:** TL 2300 (Subdivision Lot 35),  
T2N, R2W, W.M., Section 24D  
&  
TL 1700 (Subdivision Lots 37 & 38),  
T2N, R1W, W.M., Section 19C



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**Claim:** Demand to not apply Multnomah County land use regulations which restrict the ability for the owners to establish a single family dwelling on each of three undeveloped subdivision lots. The claimants currently own a 20 acre property consisting of one home on one 5 acre lot and three other undeveloped 5 acre lots (acreages are approximate).

**Zoning:** Commercial Forest Use-2 (CFU-2), Significant Environmental Concern (SEC) for wildlife habitat, stream protection and scenic views, and Hillside Development (HD).

**Site Size:** Lot 35 = 4.74 acres  
Lot 37 ≈ 5.0 Acres  
Lot 38 ≈ 4.6 Acres

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### Approach to Deciding the Claim:

Albert J. and Deane M. Dilnik (claimants) acquired the properties on April 5<sup>th</sup>, 1966. The claimants have indicated that the challenged regulations enacted after they purchased the properties have prevented them from establishing a single family dwelling on each of the three undeveloped lots within the Sheltered Nook Subdivision (Exhibit A8). The claimants own a single family dwelling on Lot 36 which is not involved in this claim but is located between lots that are. The claimant's narrative, title report, and alternative data submitted assert that the challenged regulations have restricted the use and reduced the value of the three undeveloped lots.

## Staff Analysis

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*(The following is a step-by-step evaluation of the claim, which consists of the application materials submitted by Albert and Deane Dilnik. The analysis is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24th, 2005 memo authored by the State Attorney General's Office.)*

1. *Has the owner made a complete written demand under Ballot Measure 37?*

**Yes. The materials submitted by the claimant constitute a complete "written demand for compensation" within the meaning of the measure. The effective County ordinance at the time of submittal was Ordinance 1060.**

On July 12<sup>th</sup>, 2005, Albert and Deane Dilnik submitted a completed Measure 37 claim form, a \$1,500 deposit, a narrative (Exhibit A1), an appraisal (Exhibit A2), letter from a Century 21 broker (Exhibit A5) and a chain of title with copies of the referenced deeds (Exhibits A4 and A7, respectively). The claimants submitted under county ordinance #1060. These materials constitute a complete written demand for compensation complying with the county's Measure 37 requirements of section 7.520. The real estate appraisal and opinion provided by the real estate broker qualify as acceptable alternative data because this claim involves a single family dwelling request on each lot (MCC 7.520(10)(b)). The records submitted demonstrate the claimants are in fact the owners of the lots involved in this Measure 37 claim. This alternative data by itself is not adequate to determine the exact amount of any value reduction, although it has been used as a rough approximation for purposes of this staff report.

2. *Did the claimant acquire the property before the laws in question were adopted?*

**Yes. The Claimants first held interest in the identified lots on April 5<sup>th</sup>, 1966 (Deed recorded in Book 485, Page 66), prior to the county adopting the challenged regulations set out in the claim.**

The zoning of the three lots was Suburban Residential in 1966 when the claimants purchased the properties. A copy of the Suburban Residential regulations in effect in 1966 is presented as Exhibit B2. The zoning did not change from Suburban Residential to Multiple Use Forest-20 until October of 1977. Zoning of the properties changed again on August 14, 1980 to Multiple Use Forest-19. It is with this change that the lot aggregation requirements were first imposed. On January 7<sup>th</sup>, 1993 the zoning changed to Commercial Forest Use. The current Commercial Forest Use-2 regulations challenged by the claimants first came into effect in August of 1998 and were later amended in 2002.

3. *Have the challenged regulations restricted the use of the property?*

**Yes, the challenged regulations prohibit establishment of a dwelling on each undeveloped lot. A discussion of the identified regulations is presented below. Other regulations not identified by the claimants have been determined by planning staff to also have restricted the use of the property. These additional regulations have been incorporated into this analysis.**

County maps indicate Tax Lots 35, 37 & 38 are currently zoned Commercial Forest Use-2 (CFU-2) with Significant Environmental Concern Zoning overlays for wildlife habitat, stream protection and scenic views. Portions of all three lots are also located within a Hillside Development zone. The

CFU-2 regulations allow a new dwelling on an undeveloped tract of land if all approval criteria can be met.

The claimants highlighted land use regulations they believe restrict the use of the lots. Staff created a list of the challenged regulations presented as Exhibit A6 because the highlighted copy of the regulations submitted by the claimants failed to photocopy clearly. The identified regulations have been grouped into the following four main categories for discussion purposes:

- Category 1 – Regulations that restrict the claimants use of the property
- Category 2 – Regulations that would be premature to find that they restrict the use
- Category 3 – Regulations exempt from Measure 37
- Category 4 – Unrelated regulations

### **Category 1 - Regulations that restrict the use of the property.**

The following regulations have been identified by the claimant and planning staff collaboratively as regulations that restrict the use of the three identified properties.

- *MCC § 33.2235 (B) & (C) - The County may not approve a Large Acreage dwelling if the 160 acre tract already contains a dwelling*
- *MCC § 33.2240 (A)(3)(e) - The County may not approve a Template Tract dwelling on a tract that already contains a dwelling.*
- *MCC § 33.2240 (B)(1)(a) - The County may not approve a Heritage Tract dwelling on a tract that already contains a dwelling.*

New dwellings are authorized in the CFU-2 zone under the provisions of MCC 33.2235 (Large Acreage Dwelling) or MCC 33.2240 (Template and Heritage Tract Dwellings). A Large Acreage dwelling may be established on a single tract measuring at least 160 acres or two or more tracts of at least 200 combined acres (MCC 33.2235 (B)). Because the claimants' tract is smaller than 160 acres and already contains a dwelling, MCC 33.2235 (B) and (C), prohibit additional dwellings on lots 35, 37 and 38.

A Template Dwelling may be established when a tract does not contain a residence and can pass a template test which evaluates the level of surrounding development in 1990. Because the claimants' tract already contains a dwelling, MCC 33.2240(A)(3)(e) prohibits additional dwellings on lots 35, 37 and 38. A "Tract" is defined by Multnomah County Code section 33.2210 as one or more contiguous Lots of Record in the same ownership. Because the claimants have owned contiguous Lots 35, 36, 37 and 38 since 1966, all four lots are considered to be part of one Tract of land for development purposes.

A Heritage Tract dwelling may be established on a tract with little commercial forest use potential if the tract is within 1,500 feet of a public road, has been owned by the applicant since 1985 and when a single family residence does not exist anywhere else on the tract. Because the claimants' tract already contains a dwelling, MCC 33.2240(B)(1)(a) prohibits additional dwellings on lots 35, 37 and 38.

- *MCC 33.2275(A)(1) & (2) – Lot of Record Aggregation Requirements*

The county's Lot of Record provisions above require contiguous properties in the same ownership on February 20th, 1990 to be at least 19-acres in size if they are to be considered separate Lots of

Record eligible for a new residential development request. Because Lots 35, 37 and 38 are each smaller than 19-acres in size, all are considered aggregated into one Lot of Record including the developed Lot 36. Under the current rules, the claimant's properties are considered one 20-acre Lot of Record that can not be separated into smaller lots for development purposes. These aggregation requirements would need to be waived in conjunction with the forest zone requirements in order for the claimants to build additional dwellings.

### **Category 2 – Regulations that would be premature to find that they restrict the use**

- *MCC 33.2260(C) – Dimensional requirements for new structures*

This provision requires all new structures in the Commercial Forest Use-2 zone district be located at least 130-feet from all property lines with exception to the property line paralleling the access road where the setback is 60-feet from the road center. It would be premature to find that these regulations restrict the use because the specifics of the proposed development have not been presented.

- *MCC 33.2240(A)(1)(3)(c) – Template Dwelling Requirements for tracts capable of producing above 85 cf/ac/yr of Douglas Fir*

These standards require that at least all or part of 11 other lots and at least five dwellings were located within a 160-acre square centered on the tract on January 1, 1993 for an undeveloped tract to qualify for a new Template Dwelling. On average, the Goble Silt Loam soils blanketing each lot are anticipated to produce 140 cubic feet per acre, per year of commercial timber<sup>1</sup> making these regulations the applicable Template Test requirements.

A cursory review of historic maps suggests that if each of the three undeveloped lots were considered separate tracts, that each has a reasonable chance to meet these Template Test Requirements. Each undeveloped lot would be considered a separate tract eligible for a development request if the Category 1 regulations are waived. Because the claimants have not demonstrated that the provisions of MCC 33.2240(A)(1)(3)(c) have restricted the use of the properties, Staff finds it premature to waive these regulations.

### **Category 3 – Regulations exempt from Measure 37 because they relate to health and safety or federal law**

- *MCC 33.2305(A)(5)(d) – Development standard requiring the building site slope less than 40 percent.*

This is a fire safety standard prohibiting a dwelling or structure from being located on slopes steeper than 40%. This standard is exempt from Measure 37 because it relates to public safety.

### **Category 4 – Unrelated regulations**

- *MCC 33.2240(B)(1)(b) – Requirement that a heritage tract dwelling can only be located on a tract not capable of producing 5,000 cubic feet per year of commercial timber*

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<sup>1</sup> "Estimates taken from Multnomah County's Table entitled "Soil Unit Symbols and Names; Productivity Ratings and Classifications for Douglas Fir Yields."

- *MCC 33.2240(B)(1)(c) – Requirement that the heritage tract be located within 1,500 feet of a public road*

On average, the Goble Silt Loam soils blanketing each lot are anticipated to produce 140 cubic feet per acre, per year of commercial timber<sup>2</sup>. Staff has estimated a total potential yield of approximately 2,800 cubic feet of commercial timber per year for the entire 20-acre tract. The provisions of MCC 33.2240(B)(1)(b) are not likely to restrict the use of the property because this projected timber yield for the entire tract is not expected to be able to exceed 5,000 cubic feet per year. If each undeveloped lot is separated into a separate tract, this forest production estimate would be reduced further. This would occur if the Category 1 regulations are waived.

Because all the undeveloped lots have public road frontage, the requirement that each tract be located within 1,500 feet would not prevent a dwelling request. In conclusion, Staff finds MCC 33.2240(B)(1)(c) is unrelated to this claim.

- *MCC 33.2240(A)(5) – Requirement that long-term road access permit or agreement be provided*

This regulation only applies if the road access to a dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. All lots involved in this request either abut Sheltered Nook Road, a County Road, or a public road right of way. This regulation does not apply to this claim.

4. *Have the restrictions reduced the fair market value of the property?*

**Yes, the alternative data submitted supports the claim that the Category 1 regulations have reduced the fair market value of the property by approximately \$405,000.**

The zoning of Lots 35, 37 and 38 was Suburban Residential when the claimants acquired the properties as previously discussed. This zone district allowed the construction of “single family dwellings” at that time (MCC 3.1521).

Kimberly Marcellius, Century 21 Broker, submitted a letter of professional opinion on the potential value of the undeveloped lots as developable properties (Exhibit A5). Ms. Marcellius concludes that assuming each of the three vacant lots had adequate vehicular access and adequate septic disposal options, that a starting value of \$160,000 would be reasonable *per* lot. Ms. Marcellius also indicates in that letter that Lot 36 containing the home would be valued between \$340,000 and \$360,000. An opinion by Bob Alcantara, Multnomah County Senior Appraisal Supervisor, confirms these value estimates are within an appropriate range (Exhibit B6).

Assuming a median value of \$350,000 for developed Lot 36 and \$160,000 for each of the undeveloped lots, it appears from Ms. Marcellius’s opinion that a **total estimated value of \$830,000** would be a reasonable total value for the entire tract (Lots 35, 36, 37 and 38) if the undeveloped lots could be developed. It should be noted that the \$830,000 total was calculated by Staff using the alternative data submitted.

Even though Lot 36 is not involved in this claim, it is necessary to be included in this total of estimated developed value for the tract because the professional appraisal provides a current value of the entire 20-acre tract. Because the potential developed value of the tract will be subtracted from

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<sup>2</sup> “Estimates taken from Multnomah County’s Table entitled “Soil Unit Symbols and Names; Productivity Ratings and Classifications for Douglas Fir Yields.”

the current value of the tract, including Lot 36 in the two values will have no impact on the hypothetical value reduction.

The residential appraisal report prepared by Barry Wilson (#C000345) provides a **current value estimate of \$425,000** for the entire tract (Lots 35, 36, 37 and 38) - (Exhibit A2). Comparing the estimated value of the entire 20-acre tract with development rights provided by Kimberly Marcellius (Broker) to those of Barry Wilson (Appraiser), it appears the claimant is asserting that the value of the tract has been reduced by roughly \$405,000 ( $\$830,000^3 - \$425,000^4 = \$405,000$ ).

The claimants assert a difference in value between existing developable lots and existing non-developable lots does exist. After reviewing the alternative data submitted, Staff finds there has been a reduction in fair market value estimated at approximately \$405,000<sup>5</sup>.

5. *Have those regulations that reduce the fair market value of the property been enforced?*

**Yes, enforcement has occurred through the adoption of the prohibitive Category 1 regulations after the claimants acquired the lots. The claimants have not yet submitted an application to establish a dwelling on Lot 35, 37 or 38 under the current regulations and therefore have not yet received a denial. Staff would not encourage the claimants to submit such an application under the current regulations because it would not likely be approved due to the Category 1 regulation restrictions previously discussed.**

### **Public Comment**

**After a claim for compensation is declared complete pursuant to MCC 7.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate (MCC 7.530(A)).**

Pursuant to the provisions of MCC 7.530, a 14-day Opportunity to Comment packet was mailed on August 10<sup>th</sup>, 2005. Only one written comment was submitted by Kate Dreyfus (Multnomah County Transportation Planning Specialist) which is attached as Exhibit B5. Ms. Dreyfus indicated that no conditions of approval would be required from the Transportation Department at this time but any future construction on the lots may require access permits, on and off-site improvements and drainage discharge permits.

An opinion was also submitted by Bob Alcantara, Multnomah County Senior Appraisal Supervisor regarding the alternative data submitted. Mr. Alcantara provides estimated values for the parcels if they are determined to be buildable. Mr. Alcantara's estimates are reasonably consistent with the value

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<sup>3</sup> Rough estimate provided by Staff for the total value of Lots 35, 36, 37 and 38 if a single family dwelling of similar value to that on Lot 36 could be constructed on lots 35, 37 and 38.

<sup>4</sup> Current value of Lots 35 (undeveloped), 36 (developed), 37 (undeveloped) and 38 (undeveloped) provided by Barry Wilson, Oregon State Certified General Appraiser.

<sup>5</sup> The alternative data submitted assumes the ability to develop the lots is transferable by sale which contradicts the Attorney General's opinion on transferability. Also, the alternative data looks only at the current market value of the property and comparable properties. It does not look at the impact of the regulations at the time they were imposed. The land use regulations challenged in this claim have constrained the supply of developable properties in this area, the result of which may impact land values of the remaining developable properties in a positive manner [(2006) Jaeger, W., The effects of Land-Use Regulations on Property Values, Environmental Law (VOL 36) Pages 105 – 130]. That impact on the value is not considered in the analysis.

estimates provided by Kimberly Marcellus, realtor. Mr. Alcantara's opinion is presented as Exhibit B6. The opinion submitted by Ms. Marcellus is presented as Exhibit A5.

### **Conclusion**

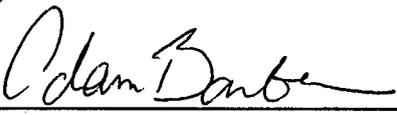
Considering the above findings, Staff believes this claim is valid in that the claimants have established that land use regulations enacted after they acquired Lots 35, 37 and 38 have restricted the use and reduced the fair market values of the properties. Considering that the Attorney General has issued an opinion that Measure 37 rights are not transferable, it should be clearly noted that any development rights gained through regulation waiver are likely to have no value once the lots are sold to a third party (Exhibit B7). Any right obtained by a claimant through the Board's grant of a waiver of county land use regulations is transferable only to the extent allowed by law (MCC 7.530(L)).

At this point, the Board could either elect to:

- A) Provide monetary compensation for the value reduction, or
- B) Waive the Category 1 regulations to allow the claimants to develop the property as set forth in this claim.

Alternative data was used to estimate the value reduction rather than a professional estimate of the current vs. developed value prepared by an Oregon licensed appraiser (MCC 7.520(10)(b)). Additional data would need to be presented by the claimant if compensation is granted in order to substantiate the estimated value reduction that has occurred.

Issued by:

By:   
Adam Barber, Planner

For: Karen Schilling- Planning Director

Date: May 2, 2006

### **Exhibits**

Copies of the exhibits, referenced herein, are included with this report. All other materials submitted to the County related to this claim are included in the case record that is on file at the Land Use and Transportation Planning Office.

#### **Applicant Exhibits**

- A1. Narrative, submitted July 12, 2005
- A2. Appraisal prepared by Barry Wilson, Barry C. Wilson Appraisals, submitted July 12, 2005
- A3. Assessment & Taxation Records
- A4. Title Report, submitted July 12, 2005
- A5. Letter from Kimberly Marcellus, Century 21 Broker, submitted July 12, 2005
- A6. List of identified land use regulations restricting use of lots
- A7. Deeds submitted July 12, 2005
- A8. Measure 37 claim form

## Staff Exhibits

- B1. Text of Ballot Measure 37 and effective Ordinance
- B2. Suburban Residential ordinance in place on date claimants purchased property
- B3. Current Zoning Map
- B4. Vicinity Map and 2004 Aerial Photo of subject lots
- B5. Comments from Kate Dreyfus, Multnomah County Transportation Planning Specialist, received August 24, 2005
- B6. Comments from Bob Alcantara, Multnomah County Senior Appraisal Supervisor, received February 23, 2006
- B7. Oregon Department of Land Conservation and Development – Measure 37 Recommendation and Order

In 1908 Multnomah County approved Sheltered Nook Subdivision of 5 acre buildable lots with the owners right of sale at his discretion. That was over 96 years ago. We purchased our home on lot # 36 along with lots #35,37,38 in 1966 with the same rights still in place. We have owned and lived on this property for over 39 years. As senior citizens with serious medical problems we can no longer maintain our property as it should be. So with deep regret we must sell and move to a much smaller place with less responsibility, close to public transportation and other conveniences.

Now we learn that Multnomah County has in place, land use regulations that will not only delay the sale at fair market value, but also remove our rights that were in place since 1908. Who in there right mind would want to buy land they could not build on? People that choose this lifestyle know immediately a given property is there dream place. We are left with the impression that there are some people that work for Multnomah County Planning Commission that are overly concerned about wildlife. The wildlife we see here are doing fine. Example: Our small vegetable garden, 20+ elk pass through enjoying the fruits of our labor (they have come through more than once) and we were in awe, running for the camera. The deer at night, enjoying our rose blossoms, or the BEAR just 10 feet from the house swatting at the bird feeder. He was very hungry.(We have that one on video.) Just one more for you, a crow,(we named TOTO) with a serious wing injury. We kept him in a cage while he recovered, for his own protection. He had the run of the yard after healing for weeks until one day knowing that we were watching him, muttering in crow talk as he walked up the hill and left us. (THAT WAS CROW TALK FOR GOODBYE.)

We have 39 years of country folk memories. Is there any one writing up these restrictions enjoying this kind of life style? My bet is they are all city dwellers.

Barry Wilson's appraisal as you will note was made with land use restrictions in place. Kimberly Marcellus we chose because of her knowledge of land values in this area, came up with an evaluation with no county restrictions resulting in a large discrepancy between the two scenarios.

I spoke to a person in Salem in the department working measure 37 issues and I was told that after we submit a claim with them it would be approved . For our future, please approve our request.

Barry C Wilson Appraisals  
3238 Watercrest Rd  
Forest Grove, OR 97116

March 16, 2005

Albert J & Deane M Dilnik  
15725 NW Sheltered Nook Rd  
Portland, OR 97231

Re: Property: 15725 NW Sheltered Nook Rd  
Portland, OR 97231  
Client: Albert J & Deane M Dilnik  
File No: 0503028

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of this appraisal is to estimate the market value of the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership. The final estimated Market Value of the subject is \$425,000.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The value conclusions reported are as of the effective date stated in the body of the report and contingent upon the certification and limiting conditions attached, along with additional comments in the Appraisal Addendum.

I was assisted in the preparation of this Appraisal Report by an appraiser assistant.

If I may be of further service to you, please do not hesitate to contact me.

Sincerely,

  
Barry C Wilson  
Oregon State Certified  
General Appraiser #C000345

A-2

Summary Appraisal Report

UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 0503028

Property Description, Property Address, Legal Description, Assessor's Parcel No., Borrower, Property rights appraised, Neighborhood or Project Name, Sale Price, Lender/Cient, Appraiser, Location, Built up, Growth rate, Property values, Demand/supply, Marketing time.

Note: Race and the racial composition of the neighborhood are not appraisal factors. Neighborhood boundaries and characteristics: The market area is bounded by Dutch Canyon on the north, Hwy 30 on the east, NW Germantown Rd on the south and NW Mason Hill Rd on the west.

Market conditions in the subject neighborhood (including support for the above conclusions related to the trend of property values, demand/supply, and marketing time -- such as data on competitive properties for sale in the neighborhood, description of the prevalence of sales and financing concessions, etc.):

Project Information for PUDs (If applicable) - Is the developer/builder in control of the Home Owners' Association (HOA)? Approximate total number of units in the subject project.

Dimensions, Site area, Specific zoning classification and description, Zoning compliance, Highest & best use as improved, Utilities, Electricity, Gas, Water, Sanitary sewer, Storm sewer.

Comments (apparent adverse easements, encroachments, special assessments, slide areas, illegal or legal nonconforming zoning use, etc.): See attached Supplemental Text Addendum.

GENERAL DESCRIPTION, EXTERIOR DESCRIPTION, FOUNDATION, BASEMENT, INSULATION. Table with rows for No. of Units, No. of Stories, Type, Design, Existing/Proposed, Age, Effective Age.

ROOMS table with columns: Foyer, Living, Dining, Kitchen, Den, Family Rm., Rec. Rm., Bedrooms, # Baths, Laundry, Other, Area Sq. Ft.

Interior materials/condition, Heating, Kitchen equip., Attic, Amenities, Car storage. Includes sections for Floors, Walls, Trim/Finish, Bath floor, Bath wainscot, Doors.

Additional features (special energy efficient items, etc.): See attached Supplemental Text Addendum.

Condition of the improvements, depreciation (physical, functional, and external), repairs needed, quality of construction, remodeling/additions, etc.: See attached Supplemental Text Addendum.

Adverse environmental conditions (such as, but not limited to, hazardous wastes, toxic substances, etc.) present in the improvements, on the site, or in the immediate vicinity of the subject property: At the time of inspection there were no adverse environmental conditions noted within the improvements, on the site or in the immediate vicinity.

# UNIFORM RESIDENTIAL APPRAISAL REPORT

File No. 0503028

Valuation Section

ESTIMATED SITE VALUE	= \$ 260,000
ESTIMATED REPRODUCTION COST-NEW-OF IMPROVEMENTS:	
Dwelling 1,683 Sq. Ft. @ \$ 84.00	= \$ 141,372
756 Sq. Ft. @ \$ 19.00	= 14,364
Garage/Carport _____ Sq. Ft. @ \$ _____	= _____
Total Estimated Cost New	= \$ 155,736
Less Physical Functional External	= \$ 18,688
Depreciation 18,688	= \$ 137,000
Depreciated Value of Improvements Rounded	= \$ 15,000
*As-Is* Value of Site Improvements Site prep./landscaping	= \$ 412,000
INDICATED VALUE BY COST APPROACH Rounded	= \$ 412,000

Comments on Cost Approach (such as, source of cost estimate, site value, square foot calculation and for HUD, VA and FmHA, the estimated remaining economic life of the property): See attached addenda for building sketch and square foot calculations. Estimated reproduction cost new of improvements is derived from Marshall & Swift Residential Cost Handbook. Site value is estimated by market comparison. Assessed values are also compared.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Address	15725 NW Sheltered Nook Rd Portland	18211 NW Collins Rd North Plains	19401 NW Cleetwood Ave Portland	24005 NW Dixie Mountain Rd North Plains
Proximity to Subject		6.30 miles	2.18 miles	6.19 miles
Sales Price	\$ NA	\$ 387,500	\$ 307,500	\$ 440,000
Price/Gross Living Area	\$ NA	\$ 203.41	\$ 166.22	\$ 153.63
Data and/or Verification Source		RMLS #4032395 Realtor	RMLS #4077900 Realtor	RMLS #4043977 Doc Ref #113157
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	DESCRIPTION	DESCRIPTION
Sales or Financing Concessions		Conventional Closing costs -10,000	Pending Sale No concessions	Conventional Closing costs -5,000
Date of Sale/Time		Closed 8/04	To close 3/28/05	Closed 10/04
Location	Average	Average	Average	Average
Leasehold/Fee Simple	Fee simple	Fee simple +50,000	Fee simple +90,000	Fee simple +75,000
Site	20 acres	9.55	1.80 acres	5 acres
View	Woods	Woods	Woods	Woods
Design and Appeal	Cottage / Ave	Contemp / Ave	Ranch / Ave	Old-PDX / Ave
Quality of Construction	Average	Average	Average	Average
Age	72 A / 15 E	27 A / 15 E	34 A / 15 E	75 A / 5 E
Condition	Average	Average	Average	Average
Above Grade Room Count	Total : Bdrms : Baths 8 : 3 : 1	Total : Bdrms : Baths 6 : 2 : 2	Total : Bdrms : Baths 8 : 3 : 2	Total : Bdrms : Baths 9 : 4 : 3
Gross Living Area	1,683 Sq. Ft.	1,905 Sq. Ft.	1,850 Sq. Ft.	2,864 Sq. Ft.
Basement & Finished Rooms Below Grade	756 / 0% Fin None	None NA	None NA	None NA
Functional Utility	Average	Average	Average	Average
Heating/Cooling	EFWA / Central	EFWA / Central	GFWA / None	OFWA / None
Energy Efficient Items	Average	Average	Average	Average
Garage/Carport	None	None	None	2 Car Att
Porch, Patio, Deck, Fireplace(s), etc.	Porch, Patio, Deck 2 Fireplaces	Porch, Deck 1 Fireplace	Deck Wood stove	Porch, Deck 2 Fireplaces
Fence, Pool, etc.	No Fence	No Fence	Fence	Fence
Updating	Miscellaneous	Miscellaneous	Miscellaneous	Extensive
Net Adj. (total)		\$ 39,200	\$ 93,900	\$ 6,600
Adjusted Sales Price of Comparable		\$ 426,700	\$ 401,400	\$ 446,600

Comments on Sales Comparison (including the subject property's compatibility to the neighborhood, etc.): See attached Supplemental Text Addendum.

ITEM	SUBJECT	COMPARABLE NO. 1	COMPARABLE NO. 2	COMPARABLE NO. 3
Date, Price and Data Source, for prior sales within year of appraisal	No sale within previous 3 years located in records	No sale within previous 3 years located in records	No sale within previous 3 years located in records	No sale within previous 3 years located in records

Analysis of any current agreement of sale, option, or listing of subject property and analysis of any prior sales of subject and comparables within one year of the date of appraisal: A review of the current sale agreement does not indicate any significant concessions on the sellers part. The property has been exposed to the market for a reasonable period of time.

INDICATED VALUE BY SALES COMPARISON APPROACH	\$ 425,000
INDICATED VALUE BY INCOME APPROACH (if Applicable)	\$ NA

This appraisal is made  "as is"  subject to the repairs, alterations, inspections or conditions listed below  subject to completion per plans & specifications.  
Conditions of Appraisal: None

Final Reconciliation: Direct sales comparison is the most reliable indicator of the subject's value. The Income Approach is not used, as typical purchasers are owner occupants and are not motivated by potential rental income. The Cost Approach establishes a more general estimate of value.

The purpose of this appraisal is to estimate the market value of the real property that is the subject of this report, based on the above conditions and the certification, contingent and limiting conditions, and market value definition that are stated in the attached Freddie Mac Form 439/FNMA form 1004B (Revised 6/93).  
(WE) ESTIMATE THE MARKET VALUE, AS DEFINED, OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS REPORT, AS OF 3/11/2005  
(WHICH IS THE DATE OF INSPECTION AND THE EFFECTIVE DATE OF THIS REPORT) TO BE \$ 425,000

APPRaiser: Barry Wilson  
Signature: *[Signature]*  
Name: Barry Wilson  
Date Report Signed: 3/16/2005  
State Certification #: C000345  
State: OR  
Or State License #: \_\_\_\_\_

SUPERVISORY APPRAISER (ONLY IF REQUIRED):  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Date Report Signed: \_\_\_\_\_  
State: \_\_\_\_\_  
Or State License #: \_\_\_\_\_

Did  Did Not Inspect Property



## Supplemental Text Addendum

File No. 0503028

Borrower/Client	NA		
Property Address	15725 NW Sheltered Nook Rd		
City	Portland	County	Multnomah
		State	OR
		Zip Code	97231
Lender	Private Party - Albert J & Deane M Dilnik		

## COMMENTS REGARDING THE SUBJECT SITE

The subject site is approximately 25% cleared, with the balance of the site in timber. These percentages were provided by the owner. No timber value has been included in this report. The site is considered as a large acreage residential site, offering privacy and closeness to nature. There may be timber value over and above the final value recorded in this report.

There were no visible easements, encroachments or other adverse conditions noted.

There are no special assessments of record.

Zoning permits single family residences on a variety of site sizes. The required size of parcel for the construction of a new residence is variable and the Planning Department should be consulted for a specific site. The subject is grandfathered and can be rebuilt if destroyed.

Nothing in this appraisal analysis attempts to address Measure 37 impacts.

## COMMENTS REGARDING SUBJECT IMPROVEMENTS

Summarized features of the property:

- There is wood flooring in the foyer, living room, hall and main floor bedrooms.
- Skylights in the upper bedroom.
- The windows are fully wrapped with wood.
- The family room has a fireplace with full height brick surround and hearth and a wood mantel. There are built in cabinets on both sides of the fireplace.
- The living room has a fireplace with brick surround and hearth and a wood mantel.
- The house has double pane vinyl and aluminum window units and some wood double hung windows.
- There is a vinyl double pane slider from the bonus room upstairs to a newer deck.
- The heat pump is approximately five years old.
- There are several miscellaneous out buildings on the property.
- The well serving the property is approximately 185' deep and pumps an adequate supply of water, according to the owner.

## COMMENTS REGARDING THE SALES COMPARISON ANALYSIS

All major data sources were searched in an effort to identify better comps. It was impossible to locate any that were more appropriate than the ones selected. Even though four of the comps sold more than six months ago, they are all still considered the best available.

Comp #6 was a house of no value located on 11.44 acres. The adjusted sales price of that comp is a good indicator of the land value of the subject, and is used in the cost approach.

The adjustments at the Site line are calculated at \$5,000 per acre for differences between the subject and the comps. The differences in size are rounded to the nearest whole acre. The \$5,000 does not reflect the current market value of acreage, but the difference expected in the market place for incremental differences in small acreage sites.

The adjustments for updating are combined with effective age on the Age line.

The adjustments at the Room Count line are for differences in bathrooms only. Full baths are adjusted at \$2,000 and half baths at \$1,500.

Adjustments at the Gross Living Area are calculated at \$40 per square foot of floor area.

Unfinished basement areas are calculated at \$10 per square foot.

Adjustments at the Heating/Cooling line reflect a \$1,500 factor for a forced air heating system instead of a zonal type of heat. Central cooling is adjusted for by \$1,500.

**Supplemental Text Addendum**

File No. 0503028

Page #b)

Borrower/Client	NA		
Property Address	15725 NW Sheltered Nook Rd		
City	Portland	County	Multnomah
		State	OR
		Zip Code	97231
Lender	Private Party - Albert J & Deane M Dilnik		

The adjustment at the Garage/Carport line reflects \$2,500 per garage parking space.

The adjustments at the Porch, Patio, Deck line reflect \$500 for a porch, \$500 for a patio and \$1,000 for a deck.

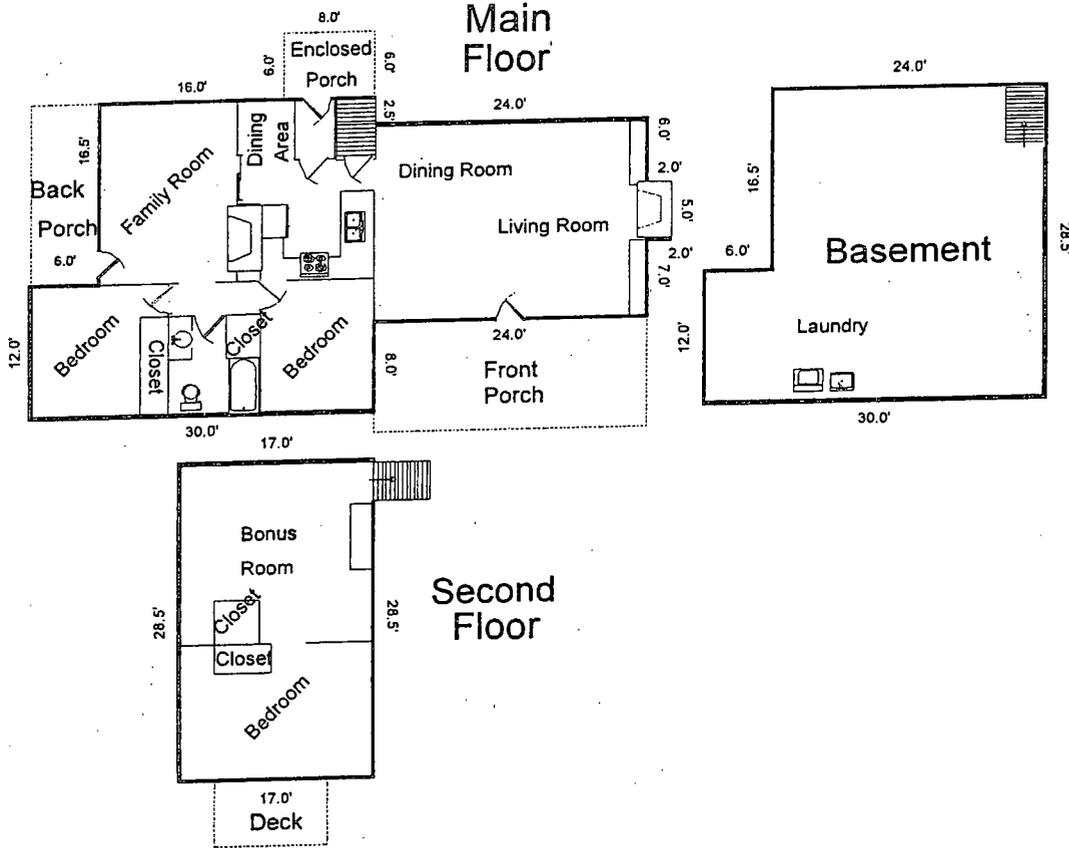
At the Fireplace line, adjustments reflect \$2,000 for each fireplace and \$1,000 for each wood stove.

Adjustments at the Fence, Pool, etc line reflect \$1,000 for fencing.

In arriving at the Indicated Value by Sales Comparison, the first five comps were all considered, with the most weight given to the first three sales.

### Building Sketch

Borrower/Client NA			
Property Address 15725 NW Sheltered Nook Rd			
City Portland	County Multnomah	State OR	Zip Code 97231
Lender Private Party - Albert J & Deane M Dilnik			



Sketch by Apex IV™

Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	1198.0	1198.0
GLA2	Second Floor Attic	484.5	484.5
BSMT	Basement	756.0	756.0
P/P	Deck	60.0	
	Porch	240.0	
	Covered Back Porch	99.0	
	Enclosed Porch	48.0	447.0
<b>Net LIVABLE Area</b>		<b>( Rounded )</b>	<b>1683</b>

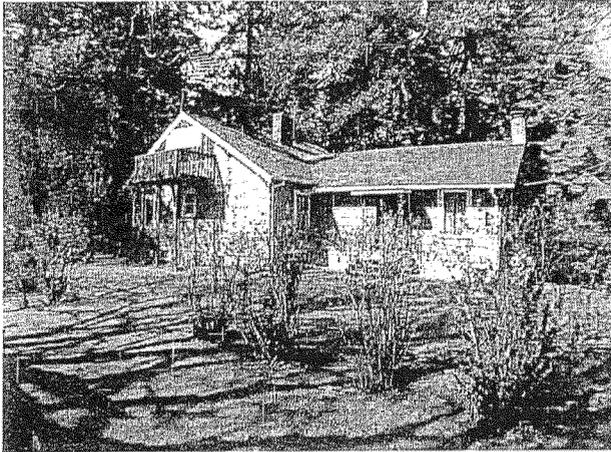
LIVING AREA BREAKDOWN		
	Breakdown	Subtotals
<b>First Floor</b>		
	2.0 x 5.0	10.0
	18.0 x 24.0	432.0
	16.0 x 28.5	456.0
	6.0 x 12.0	72.0
	8.0 x 28.5	228.0
<b>Second Floor Attic</b>		
	17.0 x 28.5	484.5
<b>6 Items</b>	<b>( Rounded )</b>	<b>1683</b>

# Subject Photos Page 1

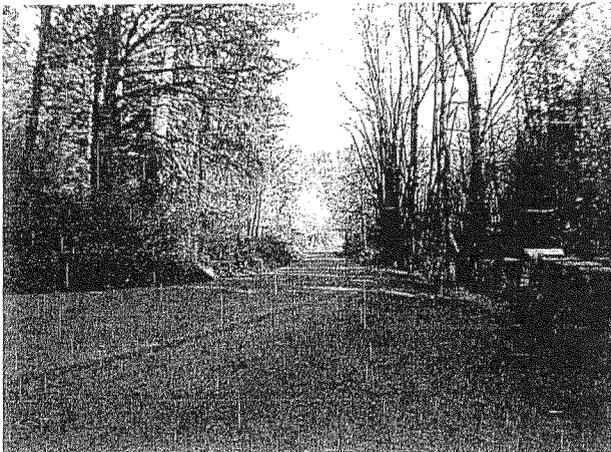
Borrower/Client NA			
Property Address 15725 NW Sheltered Nook Rd			
City Portland	County Multnomah	State OR	Zip Code 97231
Lender Private Party - Albert J & Deane M Dilnik			



**Front**



**Rear**

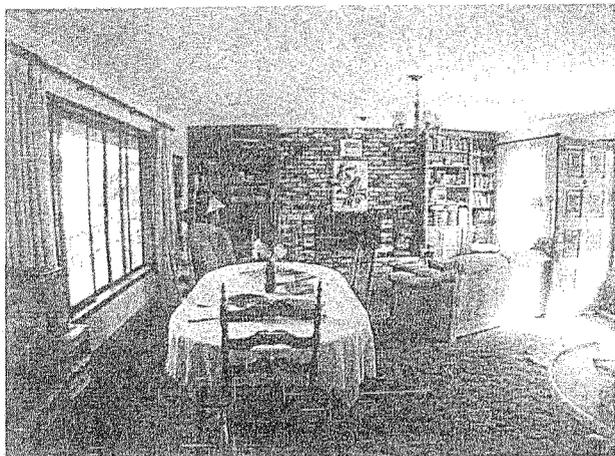


**Street**

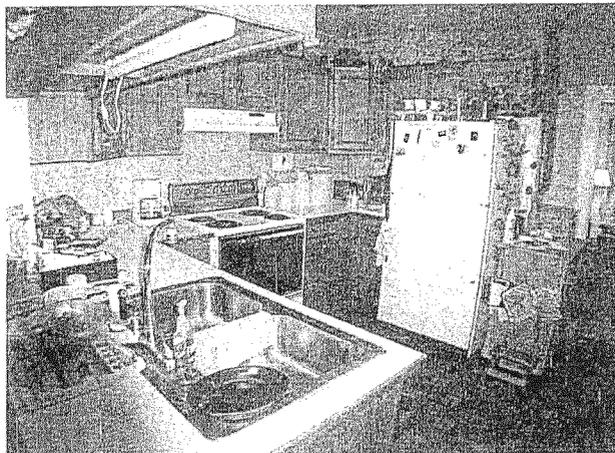
Subject Photos Page 2

Borrower/Client NA			
Property Address 15725 NW Sheltered Nook Rd			
City Portland	County Multnomah	State OR	Zip Code 97231
Lender Private Party - Albert J & Deane M Dilnik			

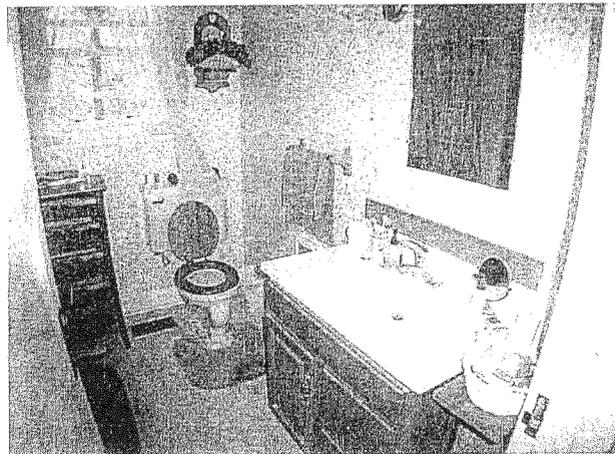
Family Room



Kitchen



Bathroom



Subject Photos Page 3

Borrower/Client NA			
Property Address 15725 NW Sheltered Nook Rd			
City Portland	County Multnomah	State OR	Zip Code 97231
Lender Private Party - Albert J & Deane M Dilnik			

Living Room



Rear Of House & Grounds



Looking South From House





**MULTNOMAH COUNTY, OREGON  
PROPERTY RECORDS**

PROPERTY INFORMATION

- Property Information
- Tax Summary
- Assessment History
- Improvement Information
- New Search
- Search Results
- Printable Summary
- Logoff

**Search Results for R269574**

<b>Owner Name</b>	<b>Property ID Number</b>
DILNIK,ALBERT J & DEANE M	R269574
<b>Owner Address</b>	<b>Situs Address</b>
15725 NW SHELTERED NOOK RD PORTLAND, OR 97231-2002	PORTLAND, OR 97231
<b>Alternate Account Number</b>	<b>Neighborhood</b>
R764203410	R220
<b>Map Tax Lot - <u>Get Map</u></b>	<b>Levy Code Area - <u>Taxing Districts</u></b>
2N2W24D -02300	002

**Property Description**

<b>Deed</b>	<b>Instrument</b>	<b>Year</b>
INST	28081733	
<b>Exemption</b>	<b>Expiration Date</b>	
<b>Tax Roll Description</b>	<b>Map Number</b>	
SHELTERED NOOK; LOT 35	242N2W OLD	2N2W24D -02300
<b>Parcel</b>	<b>Account Status</b>	
	A - Active	
<b>Property Use</b>	<b>Year Built</b>	<b>Acreage</b>
B - RESIDENTIAL IMPROVED		Current: Last Cert: 4.75

**Related Accounts**

**Linked Accounts**

**Split/Merge Account**

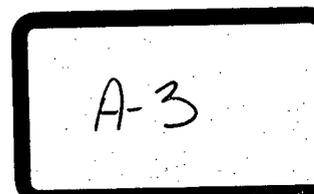
**Split/Merge Account Message**

**Special Account Information**

DEFERRAL - POTENTIAL ADDITIONAL TAX  
 2004 - (FC) FOREST LAND DEFERRAL  
 2003 - (FC) FOREST LAND DEFERRAL  
 2002 - (FC) FOREST LAND DEFERRAL  
 2001 - (FC) FOREST LAND DEFERRAL  
 2000 - (FC) FOREST LAND DEFERRAL  
 1999 - (FC) FOREST LAND DEFERRAL

**2005 Land Information (Unedited and Uncertified)**

<b>ID Type</b>	<b>Acres</b>	<b>Sq Ft</b>
L1 FC - ZN A, CL C [FOREST LAND DEFERRAL]	4.74	206408





Information  
2005 Land Information (Unedited and Uncertified)

ID	Type	Acres	Sq Ft
L1	FC - ZN A, CL C [FOREST LAND DEFERRAL]	6.61	
L2	FE - ZN A, CL E [FOREST LAND DEFERRAL]	3	

INFORMATION SUBJECT TO DISCLAIMER - SEE [HOME PAGE](#)

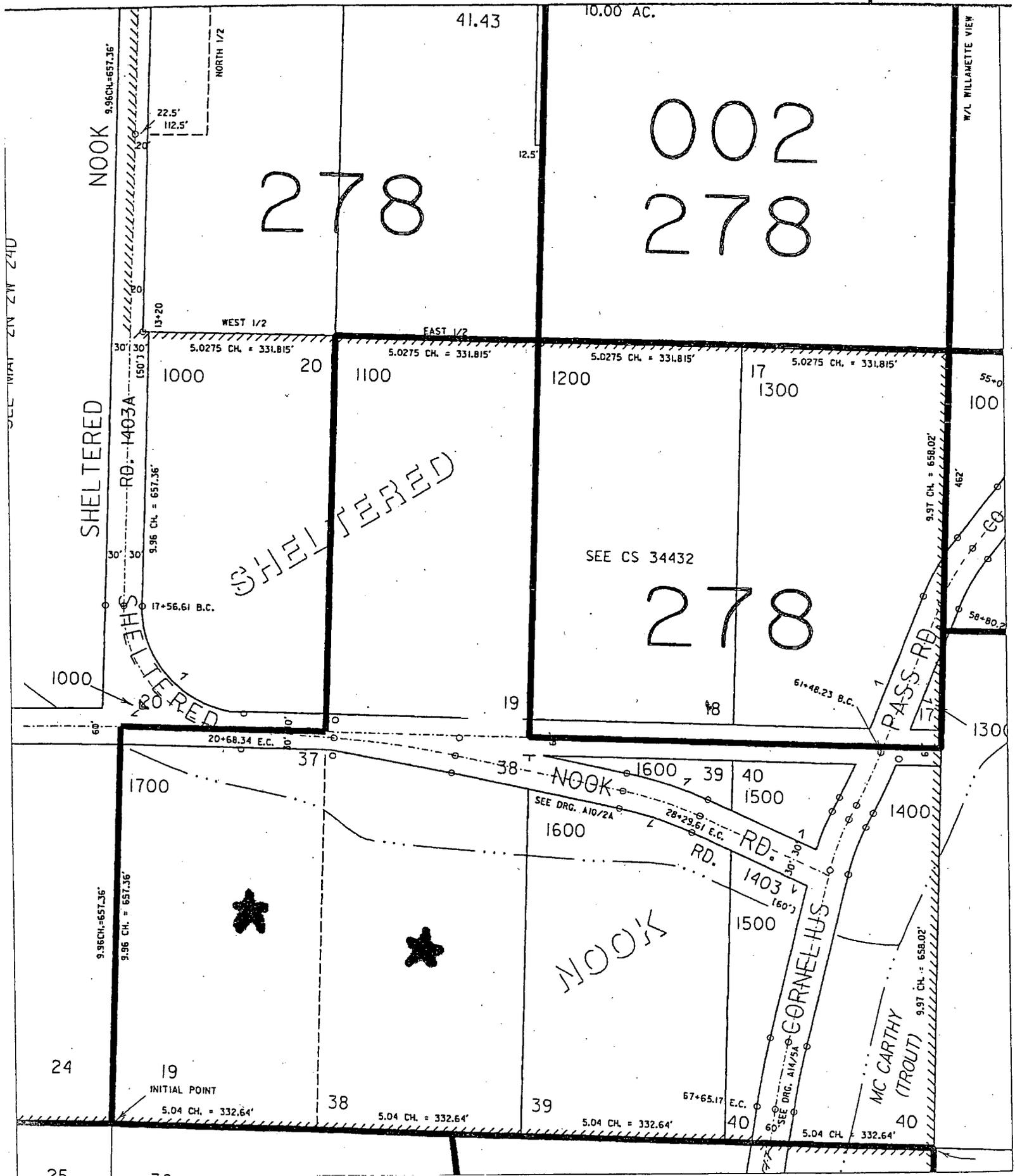


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# TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



 **TICOR TITLE INSURANCE COMPANY**

**STATUS OF RECORD TITLE REPORT**

**TITLE PLANT**

1629 SW Salmon • Portland OR 97205  
(503) 224-0550 • FAX: (503) 219-2212

April 25, 2005

Ticor Title Insurance Company  
Kathy Sexton  
52131 Columbia River Highway  
Scappoose OR 97056

**Title Number:** 842764  
**Regarding:** Dilnik  
**Property Address:** 15725 NW Sheltered Nook Road  
Portland, OR 97231-2002  
**County:** Multnomah

**DATED AS OF:** April 20, 2005, 8:00 am

**PROPERTY**

We have searched our Tract Indices as to the following described real property:

Lots 35, 36, 37 and 38, SHELTERED NOOK, County of Multnomah, State of Oregon.

**VESTING**

ALBERT J. DILNIK AND DEANE M. DILNIK, AS TENANTS BY THE ENTIRETY

**RECORDED INFORMATION**

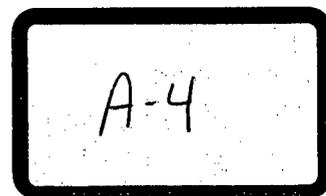
Said property is subject to the following on record matter(s):

NOTE: Property taxes **PAID**

Tax Year: 2004-05  
Tax Amount: \$36.56  
Tax Acct Number: R269574, 2N2W24D-02300, Code 002  
Affects: Lot 35

NOTE: Property taxes **PAID**

Tax Year: 2004-05  
Tax Amount: \$1,697.26  
Tax Acct Number: R269575, 2N2W24D-02400, Code 278  
Affects: Lot 36



NOTE: Property taxes **PAID**

Tax Year: 2004-05

Tax Amount: \$50.47

Tax Acct Number: R269576, 2N1W19C-01700, Code 002

Affects: Lots 37 and 38

1. As disclosed by the tax rolls, the premises herein described have been zoned or classified for forestland. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
2. Rights of the public in and to that portion lying within Sheltered Nook Road.
3. Any adverse claim based upon the assertion that:
  - A) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the unnamed creek or has been formed by accretion to any such portion.
  - B) Some portion of said property has been created by deposit of artificial fill.  
And Excepting;
  - C) The rights of the public and governmental bodies for fishing, navigation and commerce in and to any portion of the premises herein described, lying below the high water line of the unnamed creek.
  - D) The right, title and interest of the State of Oregon in and to any portion lying below the high water line of unnamed creek.
4. Covenants, Conditions and Restrictions, including the terms and provisions thereof, contained in Patent.

To: Robert Carr  
Recorded Date: October 20, 1893  
Recording Number: Book 205, Page 168  
Affects: Lots 1 to 16 inclusive and Lots 21 to 36 inclusive

But omitting any covenant or restriction based upon race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons and omitting restrictions, if any, based on limitations on facilities authorized under provisions of ORS 443.400 to 443.455 (Residential Facilities and Homes) or 443.705 to 443.825 (Adult Foster Homes).
5. Rights to the "old roads" shown on the original plat of Sheltered Nook, recorded December 2, 1908 in Book 440, Page 56.

**THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY.** Any use of this report as a basis for transferring, encumbering or foreclosing the real property described will require payment in an amount equivalent to applicable title insurance premium as required by the rating schedule on file with the Oregon Insurance Division.

The liability for TICOR TITLE INSURANCE COMPANY is limited to the addressee and shall not exceed the premium paid hereunder.

TICOR TITLE INSURANCE COMPANY

*Kathie Healy*  
Kathie Healy  
Title Officer



Wright-Christie & Assoc., Inc.

May 4, 2005

Albert & Deane Dilnik  
15725 NW Sheltered Nook Rd  
Portland, 97231

Dear Mr. and Mrs. Dilnik,

Thank you for giving me the opportunity of viewing your home and property.

As you know, I am not a licensed appraiser, and can not offer you a true "appraisal." However, I have worked in rural properties for nearly 20 years, and I know the Skyline area very well.

You have asked me to evaluate your property with the home on approximately five acres, and three five acre parcels. The values I give you assume that your home, along with access, well, and septic, are all on the one five acre lot.

Using those assumptions, I would price your home in the \$340,000 to \$360,000 price range. I have included several comparables including listings that are active, under contract but not yet closed, and closed sales.

Under normal circumstances, we would give the most weight to sold comparables. However, we are currently in a very strong sellers' market, and I am using active competition to help determine value.

In evaluating the three five acre parcels, I am assuming that they each have their own access, that they would pass a "perk" test for a septic tank system, and that potential buyers would have no more than the usual problems obtaining building permits. I have not "walked" each property, and issues such as topography, timber values, and any potential views, could alter the value of any one parcel. Keeping all of this in mind, I would use a starting price of \$160,000 per parcel. Obviously, any improvements you make to the property would increase the value.

As I stated above, we are currently experiencing a very strong sellers' market, and prices are climbing rapidly. Some experts are guessing that we are in a "bubble," and that prices will level out or even fall a bit in the near future. I would just say that property values are always subject to change, and that we should monitor the market constantly to track values.

If you have any further questions, please feel free to call me anytime.

Kimberly Marcellus, Broker  
Century 21 Wright Christie & Assoc.

2645 SW 153rd Drive  
Beaverton, OR 97006  
Office (503) 644-2560  
Fax (503) 626-2915

20795 NW Cornell Rd. #200  
Hillsboro, OR 97123  
Office (503) 533-4900  
Fax (503) 533-5140

Each Office is Independently Owned and Operated

A-5

**T1-05-042**

**List of Challenged Regulations**

1. MCC 33.2210- Definition of "Tract"
2. MCC 33.2240(A)(1) – Requirement that the Lot of Record standards of MCC 33.2275 be met
3. MCC 33.2240(A)(1)(c) – Requirement that eleven lots and five dwellings be located within 160-acres of the site to qualify a template dwelling
4. MCC 33.2240(A)(1)(e) – Requirement that no other dwellings be located on the tract
5. MCC 33.2240(A)(1)(f) – Requirement that no other dwellings are allowed on other lots that make up the tract
6. MCC 33.2240(A)(1)(g) – Requirement that all lots that are part of the tract be precluded from all future dwelling rights
7. MCC 33.2240(A)(1)(h) – Requirement that no other lot part of the tract be used to qualify another tract for siting of a dwelling
8. MCC 33.2240(A)(5) – Requirement that long-term road access permit or agreement be provided
9. MCC 33.2240(B)(1)(b) – Requirement that a heritage tract dwelling can only be located on a tract not capable of producing 5,000 cubic feet per year of commercial timber
10. MCC 33.2240(B)(1)(c) – Requirement that the heritage tract dwelling be located within 1,500 feet of a public road
11. MCC 33.2240(B)(3) – Requirement that when the proposed tract consists of more than one lot that the remaining lots be consolidated into a single lot prior to issuance of development permits.
12. MCC 33.2260(C) – Dimensional requirements for new structures
13. MCC 33.0005(L)(13) – Lot of Record definition
14. MCC 33.2275(A)(1) & (2) – Lot of Record Requirements
15. MCC 33.2305(A)(5)(d) – Development standard requiring the building site slope less than 40 percent.

A-6

OK

SPECIAL WARRANTY DEED—STATUTORY FORM  
INDIVIDUAL GRANTOR

BOOK 2808 PAGE 1733

BEN RALPH PETERSON AND EARL ALFRED PETERSON Grantor,  
conveys and specially warrants to ALBERT J. DILNIK AND DEANE M. DILNIK, husband & wife Grantee,  
the following described real property free of encumbrances created or suffered by the Grantor except as specifically set forth herein, situated in Multnomah County, Oregon to-wit:

Lots 35, 36, 37, and 38, SHELTERED NOOK, in the County of Multnomah and State of Oregon; subject to the right of the public in and to the portions in streets and roads.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

The said property is free of all encumbrances created or suffered by the Grantor except forest land tax deferral, conditions, reservation and exceptions set forth in the Patent to Robert Carr of record and any encumbrances suffered by the grantee hereinafter April 12, 1966.

The true consideration for this conveyance is \$23,500.00. (Here comply with the requirements of ORS 93.030)

THIS DEED IS GIVEN IN FULFILLMENT OF THAT CERTAIN CONTRACT OF SALE BY AND BETWEEN THE GRANTOR AND GRANTEE THEREIN, DATED April 5, 1966, RECORDED April 12, 1966, IN BOOK 485 PAGE 66, DEED RECORDS.

Dated this 9th day of January, 1991.

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 OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Ben Ralph Peterson  
BEN RALPH PETERSON

Earl Alfred Peterson  
EARL ALFRED PETERSON



NOTA STATE OF OREGON, County of Multnomah, ss. January 9th, 1991.

Personally appeared the above named Ben Ralph Peterson and Earl Alfred Peterson and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Cynthia D. Richter  
Notary Public for Oregon—My commission expires: 5/19/91

(OFFICIAL SEAL)

SPECIAL WARRANTY DEED

BEN RALPH PETERSON GRANTOR

EARL ALFRED PETERSON GRANTEE

ALBERT J. DILNIK AND DEANE M. DILNIK

DILNIK GRANTEE'S ADDRESS, ZIP

ALBERT J. DILNIK AND DEANE M. DILNIK

15725 NW SHELTERED NOOK ROAD

PORTLAND, OREGON 97231

NAME, ADDRESS, ZIP

Until a change is requested, all tax statements shall be sent to the following address:

ALBERT J. DILNIK & DEANE M. DILNIK

15725 NW SHELTERED NOOK ROAD

PORTLAND, OREGON 97231

NAME, ADDRESS, ZIP

STATE OF OREGON,

STATE OF OREGON  
Multnomah County

I, a Deputy for the Recorder of Conveyances, in and for said County, do hereby certify that the within instrument of writing was received for record and recorded in the record of said County

93 DEC 28 PM 12:45

RECORDING SECTION  
MULTNOMAH CO. OREGON

In Book  
BOOK 2808 PAGE 1733

On Page  
Recorder of Conveyances

C Swick  
Deputy

178778

5/30

A-7





STATE OF OREGON, )  
County of Multnomah )

SURVEYOR'S CERTIFICATE.

Smith-Wagoner Co. (a corporation) to the Public.

We, Smith-Wagoner Co., a corporation, declare the annexed map to be a true plat of the property owned and laid out by us as "Sheltered Nook", situated and described as follows, to-wit :

Southeast one-quarter (1/4) of Section twenty-four (24), Township two (2) North, Range two (2) West, and the southwest one-quarter (1/4) of southwest one-quarter (1/4) of Section nineteen (19), Township two (2) North, Range one (1) West of Willamette Meridian. Situated in Multnomah County, Oregon.

We hereby dedicate to the use of the public forever the roads as laid out thereof, without exception or reservation.

Smith-Wagoner Co. (Incorporated).

L. H. Smith (Seal) President.

Harry E. Wagoner (Seal) Treasurer.

IN WITNESS WHEREOF, the Smith-Wagoner Co., pursuant to a resolution of its Board of Directors duly and legally adopted, has caused these presents to be signed by its President and Secretary, and its corporate seal to be hereunto affixed, this 23rd day of November, A. D. 1908.

Signed, sealed and delivered in

the presence of us as witnesses :

Eva Jeannet.

L. O. Leonard.

Smith-Wagoner Co.

L. H. Smith (Seal) President.

Harry E. Wagoner (Seal) Treasurer.

I, William Anderson, being first duly sworn, depose and say that I have surveyed the tract of land as represented on the annexed plat called Sheltered Nook; that I have accurately surveyed and marked the same with suitable monuments, taking for the initial point of said survey the southeast corner of Sec. 24, township 2.N. of rang 2 W. of the Willamette meridian, Multnomah county, state of Oregon; the same being marked by a cedar post three inches by three inches by thirty-six inches.

Witness :

Harry E. Wagoner.

Eva Jeannet.

Wm. Anderson.

Seal

STATE OF OREGON, )  
County of Multnomah )

THIS CERTIFIES, That on this 27th day of October A. D. 1908. before me the undersigned, a Notary Public in and for said County and State, personally appeared the within named William Anderson, who is known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that he executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial seal the day and year last above written.

(Notarial Seal.)

Harry E. Wagoner

Notary Public for Oregon.

Taxes from 1901 to 1907 inclusive are "Paid". R. L. Stevens Sheriff.

S. B. Martin Deputy.

All taxes prior to 1901 due Multnomah County Paid.

F. S. Fields County Clerk.

By P. G. Wilds Deputy.

Approved- Dec. 2, 1908.

B. D. Sigler Assessor.

Martin T. Pratt Dept.

Approved- Dec. 2, 1908.

Philo Holbrook Jr.

Co. Surveyor.

Approved December 2nd, 1908.

Lionel R. Webster County Judge.

F. O. Barnes County Commissioner.

W. L. Lightner County Commissioner.

(Co. Court Seal.) Attest : F. S. Fields

County Clerk.

Received for Record Dec. 2, 1908, at 10:56 A. M.

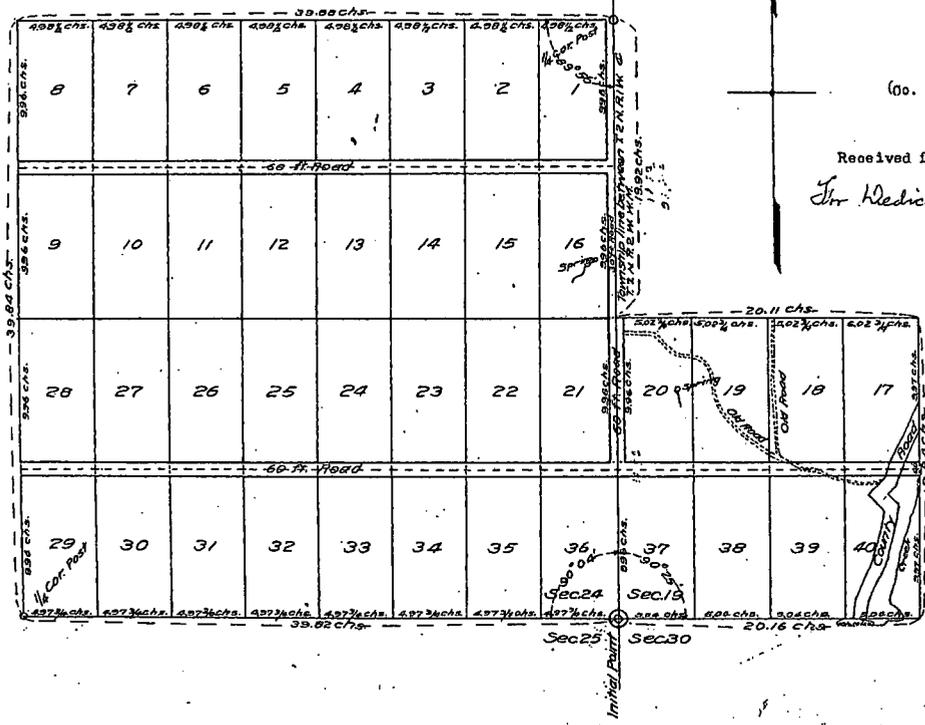
*For Medication See Road Book No 528 Page 15 Jan 11/1909*

## PLAT OF SHELTERED NOOK

Being a Subdivision into 5 Acre Tracts of the SE 1/4 of Sec. 24 T. 2 N. R. 2 W. and the SW 1/4 of S.W. 1/4 of Sec. 19 T. 2 N. R. 1 W. Will. Mer.

Situated in Multnomah County Oregon

Scale 1 ch. = 1/8 in.



N.



LAND USE & TRANSPORTATION  
 PLANNING PROGRAM  
 1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
 Ph. 503.988.3043 Fax 503.988.3389  
 www.co.multnomah.or.us/dbcs/LUT/land\_use

# MEASURE 37 CLAIM FORM

05 JUL 12 PM 3:19  
 COMMUNITY PLANNING SECTION

**CLAIMANT INFORMATION:**

Name: ALBERT & DEANÉ DILNIK  
 Mailing Address: 15725 N.W. SHELTERED NOOK RD  
 City: PORTLAND State: OR Zip Code: 97231  
 Phone: 503 621 3341 Fax: \_\_\_\_\_

**OFFICE USE:**  
 File Number: 11-05-042  
 Date Received: 7/12/05  
 Zoning: CFU-2

SAP# 4342

Please check as applicable:

- I am the sole owner or interest holder in the property for which I am making this claim.
- There are others with an ownership interest, security interest, or other interest in the property for which I am making this claim, as listed in the attachments.
- There are others with an ownership interest, security interest or other interest in the property as listed in the attachments; however, **this claim is on my behalf only.**

**PROPERTY INFORMATION:**

Street Address: 15725 N.W. SHELTERED NOOK RD Map Tax Lot: 2N2W-24D-35436  
 A&T Alternate Acct No. (9 digits): R764203510 Date Property Acquired: APRIL 5, 1966  
 BASIS FOR CLAIM (ATTACH IF SEPERATELY PREPARED): R764203410, R764203610

The regulation that restricts the use of the property (include code citation): See Submitted Attachment  
West hills rural plan area, Commercial Forestal CFU 2  
Starting with 33.2200

Describe the manner and extent to which the regulation restricts the use of the property:  
These regulations prohibit - in transferring ownership -  
the right to build on said property is lost, which  
greatly reduces the value of each lot.

**PREFERRED RESOLUTION (CHECK ONE):**

- Monetary payment of claim. Amount of claim \$ \_\_\_\_\_
- Modification of applicable land use regulation (describe desired modification): \_\_\_\_\_

Waive the applicable regulation.

By signing below, I am certifying that the information contained in and attached to this form is accurate and complete.

Albert Dilnik & Deane Dilnik  
 Claimant's Signature

7-1  
 Date:

A-8

MEASURE 37 TEXT

The following provisions are added to and made a part of ORS chapter 197:

- (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.
- (2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.
- (3) Subsection (1) of this act shall not apply to land use regulations:
  - (A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;
  - (B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
  - (C) To the extent the land use regulation is required to comply with federal law;
  - (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or
  - (E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
- (4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.
- (5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land

mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

(B) "Land use regulation" shall include:

- (i) Any statute regulating the use of land or any interest therein;
- (ii) Administrative rules and goals of the Land Conservation and Development Commission;
- (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
- (iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
- (v) Statutes and administrative rules regulating farming and forest practices.

(C) "Owner" is the present owner of the property, or any interest therein.

(D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.

(12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.

(13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

RECEIVED  
'03 MAR 14 PM 3 34  
BILL BRADBURY  
SECRETARY OF STATE

**REAL PROPERTY COMPENSATION LAW**

(Ord. 1055, Added, 12/02/2004)

**§ 7.500- PURPOSE.**

The purpose of this subchapter is to implement Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, and to:

- establish a procedure to process demands for compensation (claims) quickly, openly, thoroughly, and consistent with the law;
- enable present real property owners (claimants) making claims to have an adequate and fair opportunity to present their claims to the county's Board of County Commissioners (Board);
- provide the Board with the factual and analytical information necessary to adequately and fairly consider claims;
- ascertain county liability for compensation apart from State of Oregon (State) and Metropolitan Service District (Metro) liability;
- take appropriate action under the alternatives provided by law;
- to preserve and protect limited public funds;
- preserve and protect the interests of the community by providing for public input into the process of reviewing claims; and
- establish a record of decisions capable of withstanding legal review.

(Ord. 1055, Added, 12/02/2004)

**§ 7.505 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply:

**APPRAISAL.** A written appraisal concluding to Fair Market Value of real property prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon pursuant to

ORS Chapter 674 and meeting the appraisal requirements set forth in Uniform Standards of Professional Appraisal Practice (USPAP). In the case of commercial or industrial property, the term "appraisal" additionally means a written appraisal concluding to Fair Market Value prepared by an appraiser holding an MAI qualification (Member Appraisal Institute), as demonstrated by written certificate.

**CLAIM.** The "written demand for compensation" required to be made by an "owner" of "real property" under Ballot Measure 37. Demands shall not be considered made under Ballot Measure 37 until the county accepts the demand as complete, i.e. meeting the requirements for making a demand under this subchapter.

**CLAIMANT.** Present owner(s) of real property. See definition for "owner."

**DEMAND.** "Claim" and "written demand for compensation" as defined herein.

**DIRECTOR.** The Planning Director for Multnomah County.

**EXEMPT LAND USE REGULATION.** Those land use regulations that are specifically listed as exempt from compensation or waiver requirements as set forth in Ballot Measure 37 and in MCC 7.510.

**FAMILY MEMBER.** The wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

**LAND USE.** A physical improvement on real property related to use of the land or an activity which is conducted on real property (examples: residential use, commercial use, industrial use, community service use, farm use or forest use). A further division of real property is not a land use.

lic health and safety and minimize pollution by limiting soil erosion attributed to earthwork, and

c) Flood Hazard regulations are building codes necessary to protect health and safety to minimize loss due to flood conditions and allow property owners within the County to participate in the National Flood Insurance Program.

(3) A county regulation required to comply with federal law; and specifically no claims will be accepted for those properties situated within the Columbia River Gorge National Scenic Act area. These properties are exempt from ORS 197, as amended by Ballot Measure 37. The county comprehensive plan and zoning code provisions applicable to these properties are regulations required to comply with federal law.

(4) A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

(5) A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

(6) Land division regulations, except where they restrict the use of a property.  
(Ord. 1055, Added, 12/02/2004)

#### § 7.515 SCOPE OF CLAIMS.

(A) An owner of private real property located within unincorporated Multnomah County, or an owner of contiguous parcels purchased at the same time, who asserts a right to compensation under ORS 197, as amended by Ballot Measure 37, shall make a claim for compensation as provided in this subchapter. Owners of noncontiguous properties, or contiguous properties purchased at different times, must file separate claims.

(B) Claims based on regulations that contain discretionary criteria for approval of development on a property may only be filed after Multnomah County has enforced its regulations through approval or denial of a land use application. Such an approval or

denial is necessary to establish whether a particular land use regulation "restricts the use" of a property.  
(Ord. 1060, Amended, 05/19/2005; Ord. 1055, Added, 12/02/2004)

#### § 7.520 CONTENT OF WRITTEN CLAIM.

(A) A Claim pursuant to MCC 7.510 shall only be submitted to and accepted for review by the Director, or the Director's designee, and shall include the following information:

(1) A description of the private real property for which the owner is claiming compensation, including the street address and either a legal description or a County Tax Assessor's description of the property, specifically identifying whether the claim relates to real property other than land or, to a portion of the ownership less than fee simple absolute;

(2) The name, address, and telephone number of all owners and anyone with an interest in the property, including lien holders, trustees, renters, and lessees, together with a description of the ownership interest of each;

(3) The date the claimant acquired ownership of or an interest in the private real property and a copy of the document which provides proof of first ownership;

(4) A title report, including title history, current within 30 days prior to the claim date, verifying the ownership or interests in the private real property;

(5) Copies of any land use decisions claimant believes are related to the claim.

(6) If the claim is based upon the date a family member acquired the property, then documentation sufficient to establish the familial relationship along with a chain of title showing continual ownership;

(7) Copies of any Covenants, Conditions and Restrictions (CCR's), leases, or other encumbrances applicable to the real property;

and assessments and shall include interest at 0.5% per month accruing from the date the billing is sent to the owner of the property.

(E) The lien provided for in subsection (C) shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

(F) In compliance with MCC 37.0560, no permits will be approved on properties with a lien for unpaid processing fees required by this subsection.

(G) County shall collect reasonable attorney's fees and costs for collection of the debt, which may be made part of the lien and the debt.  
(Ord. 1055, Add, 12/02/2004)

**§ 7.530 CLAIM REVIEW PROCESS.**

(A) After a claim for compensation is declared complete pursuant to MCC 7.520(B), the Director shall mail notice of the claim to the claimant, other owners of record of the property, and all owners of property within 750 feet of the subject property. Additional mail notice shall be sent to any public entities with land use regulatory authority over the property and other organizations or persons as the Director may designate.

(B) The Director's notice under subsection (A) shall:

(1) Indicate the date that the claim was filed;

(2) State the basis of the claim, the amount of the compensation or waiver sought and the land use regulation that the owner asserts gives rise to a claim;

(3) Identify the property by the street address or other easily understood geographical reference;

(4) State that persons noticed may provide written comments on the claim, and provide the date written comments are due;

(5) Indicate a timeframe within which the Board will take action on the claim and identify how

interested persons can learn of the specific date the Board will meet on the matter, once a meeting date is set;

(6) Provide the name and phone number of a county representative who can be contacted for additional information; and

(7) State that a copy of the claim and the supporting documents submitted by the owner are available for inspection at no cost, or that copies will be provided at reasonable cost.

(C) Written comments regarding a demand may be submitted to the Director by any interested person. Comments must be received by the Director within 14 days from the date of the notice required under subsections (A) and (B) above. The owner shall have an additional 7 days after the deadline set out above to respond to any written comments received by the Director. It is the duty of the owner to determine if comments have been received by the Director.

(D) The Director shall prepare a draft staff report within 30 days after the comment period has ended. The report shall apply the standards of Oregon Revised Statutes Chapter 197, as implemented through this subchapter, to the claim.

(E) After the Director has completed a draft staff report, the Director shall send a copy of it to Assessment and Taxation for review of the appraisal(s) submitted by the owner and shall send a copy of it to the County Attorney's Office for review. Assessment and Taxation and the County Attorney's Office will have 30 days for review.

(F) After the Director receives the comments from Assessment and Taxation and the County Attorney's Office, the Director will prepare a final staff report and make it available to the public at least 10 days prior to the Board meeting. The final staff report shall include options for Board action.

(G) The Board shall conduct a public hearing before taking final action on the claim. The procedures for the hearing must include, but are not limited to staff presentation and public testimony, followed by deliberation and a decision by the Board.

(M) If the Board issues an Order finding that an owner has a valid claim and granting compensation or a modification or a waiver, the Planning Director or the Director's designee shall record a copy of the Order in the Recorder's Office of Multnomah County. The Order must include a legal description of the subject property.

(N) Notwithstanding the provisions of MCC 7.520, which sets out the contents of a claim and authorizes the Director to determine whether a claim is complete, the Director, or the Director's designee, may review a claim and may recommend to the Board that the claim be denied if it is invalid on its face.

(O) This subchapter shall be interpreted in a manner consistent with Oregon Revised Statutes Chapter 197, as amended by Ballot Measure 37, Passed November 2, 2004, and other implementing statutes or regulations and as interpreted by Oregon appellate courts.

(Ord. 1060, Amended, 05/19/2005; Ord. 1055, Added, 12/02/2004)

**§ 7.535      CONDITIONS OF APPROVAL,  
REVOCATION OF DECISION.**

(A) The Board may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under MCC 7.530 of this subchapter.

(B) Failure to comply with any condition of approval is grounds for revocation of the approval of the claim, grounds for recovering any compensation paid and grounds for revocation of any other action taken under this subchapter.

(C) In the event the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval or otherwise does not comply fully with the conditions of approval, the Director may institute a revocation or modification proceeding before the Board under the same process for Board review of a claim under this subchapter.  
(Ord. 1055, Add, 12/02/2004)

**§ 7.540      EX PARTE CONTACTS,  
CONFLICT OF INTEREST AND  
BIAS.**

The following rules govern any challenges to Board participation in the review or hearings regarding compensation claims:

(A) Any factual information obtained by a member of the Board outside the information provided by Director or county staff, or outside of the formal written comments process or hearing will be deemed an *ex parte* contact. A member of the Board that has obtained any material factual information through an *ex parte* contact must declare the content of that contact, and allow any interested party to rebut the substance of that contact. This rule does not apply to contacts between county staff and a member of the Board.

(B) Whenever a member of the Board, or any member of their immediate family or household, has a financial interest in the outcome of a particular demand or lives within the area entitled to notice of the demand, that member of the Board shall not participate in the deliberation or decision on that application.

(C) All decisions on demands must be fair, impartial and based on the applicable review standards and the evidence in the record. Any member of the Board who is unable to render a decision on this basis must refrain from participating in the deliberation or decision on that matter.  
(Ord. 1055, Added, 12/02/2004)

**§ 7.545      ATTORNEY FEES ON DELAYED  
COMPENSATION.**

(A) If a demand under Oregon Revised Statutes Chapter 197 and MCC 7.500 *et. seq.* is denied or not fully paid within 180 days of the date of filing a

## 3.15 SUBURBAN-RESIDENTIAL-DISTRICT - SR

- 3.151 PURPOSE. This section provides minimum standards designed to assure the orderly and beneficial development of the district as the area becomes more densely populated and assumes urban characteristics. No provision of this section shall regulate lands used for grazing, agriculture, horticulture or for the growing of timber.
- 3.152 USE. No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the following uses:
- 3.1521 Single family dwellings
- 3.1522 Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached.
- 3.1523 On lots of forty-thousand (40,000) square feet or larger, dwelling or dwellings for owner, operator and/or help required to carry out grazing, agriculture, horticulture or the growing of timber.
- 3.1524 Grazing, agriculture, horticulture, or the growing of timber, provided that no retail or wholesale business sales office is maintained on a lot of less than two (2) acres and provided that no poultry or livestock, other than normal household pets, shall be housed within one hundred (100) feet of any residence other than a dwelling on the same lot.
- 3.1525 Special Uses:
- (a) Parks, playground or community centers, golf courses and other uses of a similar nature as provided in the Community Service Section (7.00), when approved by the Planning Commission.
- (b) Churches and schools, subject to the review of the Planning Commission and the restrictions provided in Section 7.20.
- 3.1526 Temporary structures may be allowed in this district if these structures relate to the building or sale of land or homes, provided, however, that a temporary permit shall be issued for these structures by the Board of Adjustment. This permit shall expire at the end of one (1) year, but may be renewed by the Board of Adjustment at the end of that p

3.1527 Where the side of a lot abuts on a commercial or industrial district, the following transitional uses are permitted provided they do not extend more than one hundred (100) feet into the more restricted (residential) district.

- (a) Two-family dwellings.
- (b) Medical offices, dental offices, and clinics.
- (c) Parking, as required in Section 6.20.
- (d) Other uses of a transitional nature as determined by the Planning Commission. These transitional uses shall conform to all other requirements of this Ordinance which apply.

3.1528 Signs. The following signs, non-illuminated, shall be permitted in this district.

- (a) A sign advertising the sale or rental of a premises; of a temporary nature, with a maximum area on one side of eighty (80) square feet, when erected at least ten (10) feet behind the front property line.
- (b) A sign advertising the sale of a tract of land or a legally approved subdivision or development of a temporary nature, with a maximum area on one side of eight (80) square feet, when erected at least ten (10) feet behind the front property line. Any such sign shall be approved by the Building Inspector as to location in regard to health, safety, view obstruction, or other such conditions, before erection.
- (c) A sign stating the name of the owner or occupant of the property; with a maximum area on one side of two (2) square feet.
- (d) On lots of two (2) acres or larger, not more than two (2) signs, with a maximum total area of eighteen (18) square feet, advertising the sale of agricultural products raised or grown on the premises.

3.1529 Uses customarily incident to any of the above uses, including home occupations.

3.153 RESTRICTIONS.

3.1531 Lot Size. When topography, character and other considerations are favorable, and the following minimum standards are met, the minimum lot size in this district shall be:

<u>LOT AREA</u>	<u>MINIMUM STANDARDS</u>
Forty-thousand (40,000) square feet	1. Approved water supply (public or private). 2. Approved individual sewage disposal system. 3. Approved public access. 4. Approved plan for future re-subdivision of total tract when urban conditions develop.
Twenty-thousand (20,000) square feet	1. Approved public water supply. 2. Approved individual sewage disposal system. 3. Approved public access. 4. Approved plan for future re-subdivision of total tract when urban conditions develop.
Ten-thousand (10,000) square feet	1. Approved public water supply. 2. Approved public sewer (or when conditions permit, State Code cesspool). 3. Approved public access. 4. Approved plan for the subdivision of the total tract. 5. Other established community facilities are available to serve the area and <u>similar lot sizes exist in the vicinity.</u>
	(a) Approval of water supply and sewage disposal facilities shall be by the County Department of Public Health. Other approvals as above shall be by the Planning Commission. All such approvals shall be consistent with the purposes of this Ordinance.
	(b) Any further reduction in lot sizes shall require a change in district boundary. (Section 8.30). Such change may be considered on the basis of established character and community facilities in addition to the above.

- (c) The minimum average lot width shall be seventy (70) feet, and the minimum lot width at the building line shall be seventy (70) feet. The minimum lot depth shall be one hundred (100) feet.

3.1532 Yard Requirements:

- (a) Front Yard. There shall be a front yard having a minimum depth of thirty (30) feet, unless a previous building line less than this has been established, in which case the minimum front yard for interior lots shall be the average of the set-backs of the main structures on abutting lots on either side if both lots are occupied; if one lot is occupied and the other vacant, the set-back shall be the set-back of the occupied lot plus one-half the remaining distance to the required thirty (30) foot setback. If neither of the abutting side lots of tracts are occupied by a structure, the set-back shall be thirty (30) feet.
- (b) Side Yard. Side yards shall be a minimum of ten (10) feet.
- (c) Rear Yard. There shall be a rear yard with a minimum depth of twenty-five (25) feet to the main building.
- (d) Lot Coverage. The maximum area that may be covered by the dwelling unit and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.
- (e) A wholesale or retail sales office, limited to the sale of agricultural products raised or grown on the premises, may be maintained on a lot of two (2) acres or larger, with a minimum front yard depth of sixty (60) feet and a maximum ground floor area of four hundred (400) square feet. Such maximum floor area shall include lath houses over five (5) feet in height used for display or sales.

3.1533 Accessory Buildings. Accessory buildings may be allowed if they fulfill the following requirements:

- (a) If attached to the main building or separated by a breeze way they shall fulfill the front and side yard requirements of the main building.
- (b) If detached and located behind the rear-most line of the main building, or a minimum of fifty-five (55) feet from the front lot line, whichever is greater, any one (1) story accessory building may be located adjacent to or on a rear and/or side lot line not fronting on a street, when in compliance with the Building Code.

3.1534 Off-Street Parking. One (1) automobile space on the lot shall be provided for each dwelling unit.

- 3.1535 Height Restrictions. Maximum height of any structure shall be two and one-half ( $2\frac{1}{2}$ ) stories or thirty-five (35) feet, which ever is less.
- 3.1536 All lots in this district shall abut a street, or shall have such other access held suitable by the Planning Commission.
- 3.1537 Half Streets. The minimum front or side yards or other set-backs as stated herein, shall be increased where such yard or setback abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and the additional yard or setback requirements in such cases.
- 3.1538 No sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot yard or setback requirements of this district.
- 3.1539 These requirements shall apply to lots that abut a future street as indicated on an approved and recorded subdivision plat.
- 3.154 EXCEPTIONS.
- 3.1541 Housing Project. When a developer of four (4) or more acres of land submits plans for an entire development program, with the objective of providing suitable view, ample yard area and other conditions in harmony with the neighborhood, the Planning Commission may waive the front, side or rear yard requirements if it finds that the proposed design is in the best interest of the public and adequate to provide desirable places in which to live. In such case the lot area, width and depth requirements shall remain the same as for this residential district.
- 3.1542 Where a lot less than the minimum size required, in this section was held under separate ownership, and was on public record at the time this Ordinance became effective, such lot may be occupied by any use permitted in this district. In no case, however, shall a dwelling unit have a lot area of less than three-thousand (3,000) square feet.
- 3.1543 If topographical or other conditions exist which make these requirements unreasonable, the Board of Adjustment may waive the front, side or rear yard requirements.

AN ORDINANCE amending the Zoning Ordinance of Multnomah County, deleting and changing provisions therein, creating new provisions and repealing all prior portions and amendments in conflict herewith to the extent of such conflict.

The Board of County Commissioners of Multnomah County, Oregon

ORDAINS as follows:

This ordinance is enacted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve, stabilize, and protect property values; to encourage the most appropriate use of land; to provide adequate light, air and access; to prevent the over-crowding of land; to avoid undue concentration of population; to secure safety from fire and other dangers; to insure sanitary conditions; to lessen traffic congestion, and to facilitate adequate and economical provisions for public improvements, all in accordance with the Development Pattern of the county; and to provide a method of administration - all as authorized by the provisions of Sections 215.010 to 215.190, and Section 215.990 Oregon Revised Statutes.

Title: This ordinance shall be known and may be cited as the "Zoning Ordinance of Multnomah County, Oregon."

1.00 GENERAL DEFINITIONS. For the purposes of this ordinance, the following terms are hereby defined:

1.01 ACCESSORY BUILDING. A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

1.02 AGRICULTURE. The tilling of the soil, the raising of crops, dairying and/or animal husbandry, but not including the keeping or raising of fowl, pigs, or fur-bearing animals unless such is clearly incidental to the principal use of the property for the raising of crops.

1.03 AIRPORT OR AIRCRAFT LANDING FIELD. Any landing area, runway or other facility designed, used or intended to be used either publicly or by any person or persons for the landing and taking-off of aircraft and including all necessary taxi-ways, aircraft storage, tie-down areas, hangars and other necessary buildings and open spaces.

1.04 ALLEY. A minor way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

1.05 ALTERATION. An "alteration" may be a change in construction or a change of occupancy. Where the term "alteration" is applied to a change of construction, it is intended to apply to any change addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another.

1.06 ALTERATION, STRUCTURAL. Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

1.07 APARTMENT. Any building or portion thereof which is designed, built, rented, leased, let or hired out, to be occupied, or which is occupied as residence of three (3) or more families, living independently of each other and doing their own cooking in the said building.

1.08 BASEMENT. A portion of a building which has more than one-half ( $\frac{1}{2}$ ) of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground; and not deemed a story unless the ceiling is six (6) feet or more above the grade.

1.09 BOARD OF ADJUSTMENT. A Committee of the Planning Commission, which may grant temporary permits, and variances from the requirements of this ordinance with or without conditions according to the provisions of Section (8.3) of this ordinance.

1.10 BOARDING, LODGING OR ROOMING HOUSE. A building or portion thereof, other than a hotel, where meals and/or lodging are provided for compensation for five (5) or more persons, not transients.

1.11 BUILDING. Any structure built, for the support, shelter, or enclosure of any persons, animals, chattels or property of any kind.

1.12 BUILDING DEPARTMENT. The Planning Department is designated as the Building Department and is therefore charged with the administration and enforcement of this ordinance.

1.13 BUILDING HEIGHT. The vertical distance measured from the adjoining curb level to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip, or gambrel roof, provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

1.14 BUILDING LINE. A horizontal line that coincides with the front side of the main building.

1.15 COURT. An open unoccupied space, other than a yard, on the same lot with a building and bounded on two (2) or more sides by such building.

- 1.16 DORMITORY. A room for sleeping purposes for more than four (4) persons, which is rented.
- 1.17 DWELLING UNIT. One or more rooms designed for occupancy by one (1) family for living purposes and having only one (1) cooking facility
- 1.18 DWELLING, ONE-FAMILY OR SINGLE FAMILY. A detached building designed for occupancy by one (1) family.
- 1.19 DWELLING, DUPLEX OR TWO-FAMILY. A building designed exclusively for occupancy by two (2) families living independently of each other.
- 1.20 DWELLING, APARTMENT. A building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.
- 1.21 FENCE, SIGHT OBSCURING. A fence, consisting of wood, metal, or masonry, or an evergreen hedge or other evergreen planting, arranged in such a way as to obstruct vision.
- 1.22 FLOOR AREA. The maximum horizontal area of the building at the finished floor line.
- 1.23 FRONTAGE. All the property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway and/or dead-end street, or county boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

1.24 GRADE, GROUND LEVEL. The average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk.

1.25 GRAZING. The use of land for pasture of horses, cattle, sheep, goats, and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits.

1.26 HOME OCCUPATION. Any lawful activity, not otherwise specifically provided for in this ordinance, commonly carried on within a dwelling by a member or members of a family, no employee or other person being engaged in the same, and in which said activity is secondary to the use of the dwelling for living purposes; provided, that there is no outside advertising or display of merchandise and that no sale or sales of merchandise shall be made in such dwelling or on the premises connected therewith.

1.27 HORTICULTURE. The cultivation of plants, garden crops, trees and/or nursery stocks.

1.28 HOTEL. A building or portion thereof designed or used for occupancy of individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

1.29 HOUSING PROJECT. An area of four (4) or more acres arranged according to a site plan on which the amount of land to be devoted to housing facilities, their arrangement thereon, together with the arrangement of access streets and alleys, and other public facilities is shown.

1.30 EDUCATIONAL INSTITUTION. A college or university supported by public or private funds, tuitions, contributions or endowments, giving advanced academic instruction as approved by a recognized accrediting

agency, including fraternity and sorority houses, excluding elementary and high schools, and trade and commercial schools.

1.31 JUNK YARD. The use for more than two hundred (200) square feet of the area of any lot, or the use of any portion of that half of any lot, but not exceeding a depth or width, as the case may be, of one hundred (100) feet, which half adjoins any street, for the dismantling or "wrecking" of automobiles or other vehicles or machinery, or for the storage or keeping of the parts or equipment resulting from such dismantling or "wrecking," or for the storage or keeping of junk, including scrap metals or other scrap material.

1.32 KENNEL. Any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

1.33 LOADING SPACE. An off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

1.34 LOT. A plot, parcel or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

1.35 LOT COVERAGE. The area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

1.36 LOT LINES. The lines bounding a lot as defined herein.

1.37 LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest frontage of the lot from the street.

1.38 LOT LINE, REAR. The line dividing one lot from another and on the opposite side of the lot from the front lot line, and in the case of an irregular or triangular shaped lot, a line ten (10) feet in length within the lot parallel to and at the maximum distance from the front lot line.

1.39 LOT LINE, SIDE. In the case of an interior lot, a line separating one lot from the abutting lot or lots fronting on the same street; and in the case of a corner lot, a line separating the greatest frontage of the lot from the street.

1.40 LOT WIDTH. The horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

1.41 LOT WIDTH, AVERAGE. The average horizontal distance between the side lot lines.

1.42 LOT AREA. The total horizontal area within the lot lines of a lot.

1.43 MOTEL. See Tourist court.

1.44 NON-CONFORMING USE. A use to which a building or land was put at the time this ordinance became effective and which does not conform with the use regulations of the district in which it is located.

1.45 PARKING SPACE. A minimum gross area, ten (10) feet in width and twenty (20) feet in length, available for the parking of a standard American automobile.

1.46 PREMISES. A lot with or without buildings.

1.47 PROFESSIONAL OFFICE. An office containing the activities such as those offered by a physician, surgeon, dentist, lawyer, architect, engineer, accountant, artist or teacher, but not real estate or insurance sales.

- 1.48 ROOMING HOUSE. Same as boarding house.
- 1.49 SCHOOL, COMMERCIAL. A building or land where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.
- 1.50 SCHOOL, PRIMARY, ELEMENTARY OR HIGH, including Private or Parochial, but not including nursery school, kindergarten or day nursery, except those operated in conjunction with a school.
- 1.51 SHALL is mandatory, MAY is permissive.
- 1.52 SIGN AREA. The greatest width multiplied by the greatest height of the display portion of a sign.
- 1.53 STORY. That portion of a building included between a floor and the ceiling next above it, exclusive of a basement.
- 1.54 STORY, HALF. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.
- 1.55 STREET. A public way which provides vehicular and pedestrian access to adjacent properties. It shall include the terms street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place and other such terms.
- 1.56 STRUCTURE. Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground.
- 1.57 TIMBER GROWING. The growing of trees for the production of timber.
- 1.58 TOURIST COURT. One or more buildings designed or used as temporary living quarters for automobile transients.
- 1.59 TRAILER. Any vehicle or similar portable device, having no foundation other than wheels, jacks or skirtings and so designed or con-

structed as to permit human occupancy for living or sleeping purposes.

1.60 TRAILER PARK. Land designed or used for the temporary or permanent parking of two (2) or more vehicles used for human habitation.

1.61 TRANSITIONAL AREA. An area consisting of a lot, lots, or parts of lots, within any residential district, having side lot lines abutting a boundary of a commercial or industrial district, and extending not more than one hundred (100) feet from such boundary into the residential district.

1.62 TRANSITIONAL USES. A use allowed in a transitional area which is intended to create a gradual change in uses from industrial and commercial areas to residential areas.

1.63 YARD. An open space, on a lot with a building and bounded on one (1) or more sides by such building, such space being unoccupied and unobstructed from thirty (30) inches above the ground upward.

1.64 YARD, FRONT. A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

1.65 YARD, REAR. A yard extending across the full width of the lot between the most rear building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the building. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten (10) foot line parallel to the front lot line, measured from one side line to the other.

1.66 YARD, SIDE. A yard between any building and the side lot line, extending from the front yard, or front lot line where no front yard is required; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the building.



SZM34

SEE MAPS IN ORD.  
830, 853, & 882 FOR  
SEC-STREAMS INFO

SZM35

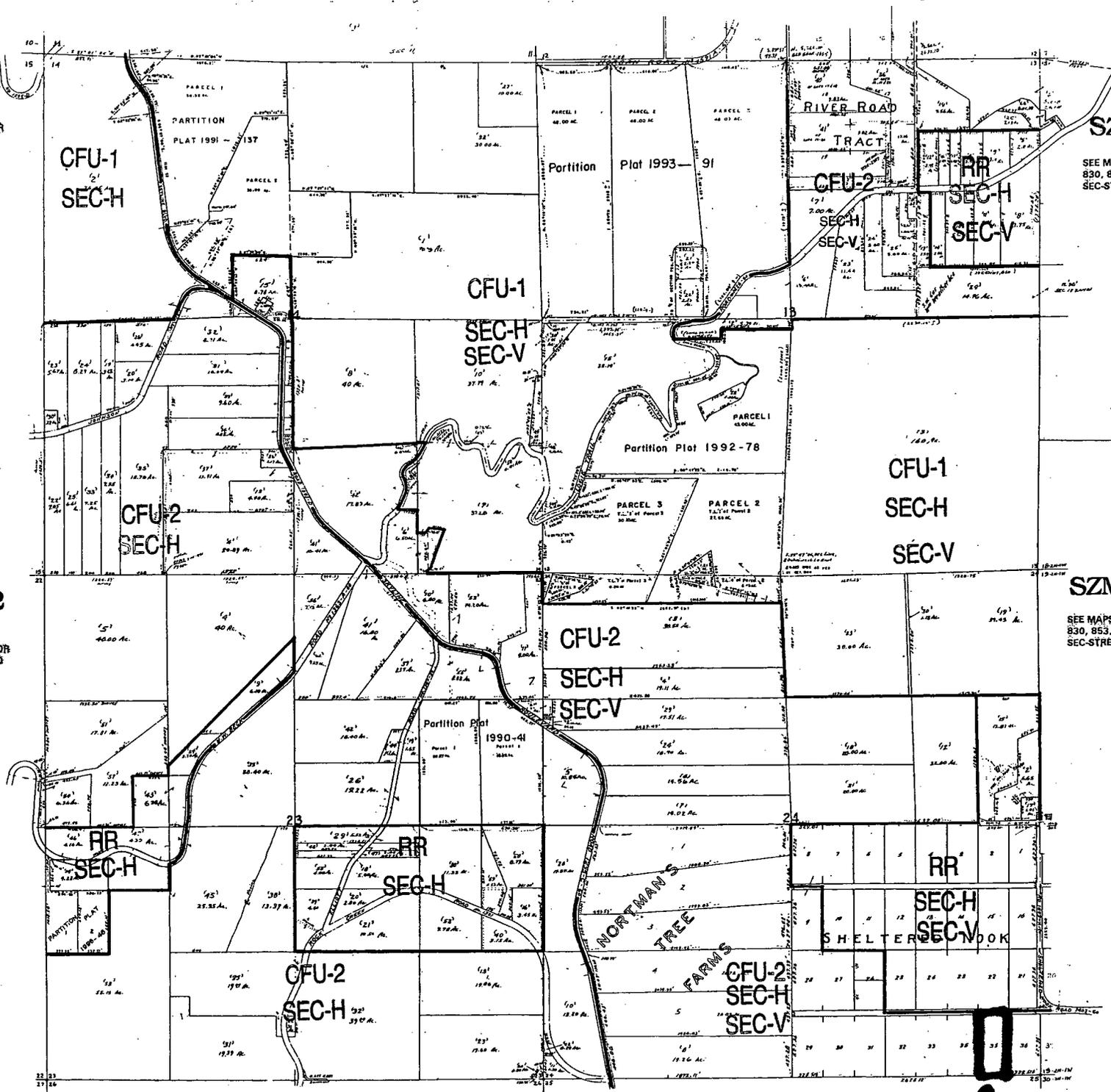
SEE MAPS IN ORD.  
830, 853, & 882 FOR  
SEC-STREAMS INFO

SZM42

SEE MAPS IN ORD.  
830, 853, & 882 FOR  
SEC-STREAMS INFO

SZM43

SEE MAPS IN ORD.  
830, 853, & 882 FOR  
SEC-STREAMS INFO



**LOT 35** ↗

13,14,23,24-2N2W



MULTNOMAH  
COUNTY  
2004 Aerial  
Photo

Tax Lots

Lot 35

Lot 37 & 38

Sheltered Nook Rd.

NW Cornelius Pass Rd.

0 89 178 267 356 Feet

1" = 356 feet



1600 SE 190th Ave.  
Portland, OR 97233  
503.248.3043 Fax 503.248.3389  
Email: [land.use.planning@co.multnomah.or.us](mailto:land.use.planning@co.multnomah.or.us)

This map is based on data from Metro  
Multnomah County cannot accept responsibility  
for errors, omissions or positional accuracy.  
There are no warranties expressed or implied.



Department of Community Services  
**MULTNOMAH COUNTY OREGON**  
Land Use and Transportation Program

1600 SE 190th Avenue  
Portland, Oregon 97233-5910  
(503) 988-5050

RECEIVED  
03 AUG 24 AM 8:17  
MULTNOMAH COUNTY  
PLANNING SECTION

**MEMORANDUM**

**TO:** Adam Barber, Ed Abrahamson, Alison Winter, Pat Hinds and Alan Young  
**FROM:** Kate Dreyfus, Transportation Planning Specialist *KAD*  
**DATE:** August 22, 2005  
**SUBJECT:** T1-05-042; 2N 2W 24D Tax Lot 2300; EP 2005102

The Transportation Division has reviewed the applicant's proposal to waive regulations prohibiting construction of a single-family dwelling on each lot. The subject property is adjacent to Sheltered Nook Road, which is a County road with a Local Access Road functional classification.

No conditions of approval are required at this time. However, on-site and/or off-site improvements and permits for access or construction within the County right of way may be required prior to the issuance of a building permit for any new residences on the site.

Also, any drainage discharge into the County right of way must be approved by a Multnomah County permit. Please contact Greg Kirby at (503) 988-5050 x29623 for further information concerning drainage discharge.

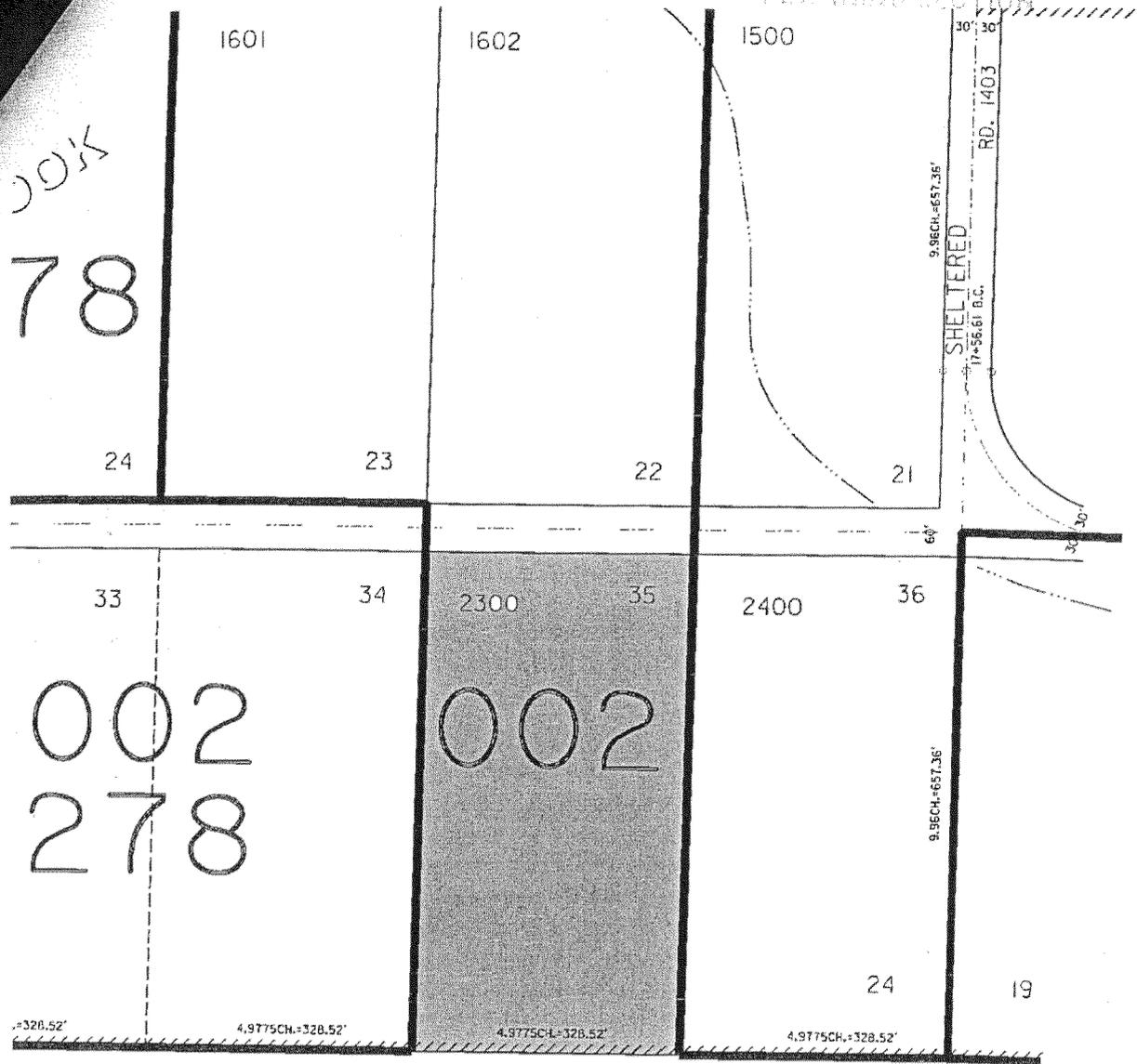
KDMP1129.MEM (TRANPCPD520)

B-5

RECEIVED

05 AUG 24 AM 8:17

CLATSOP COUNTY  
PLANNING SECTION



SEE CS 52737

NOTE:

RFPD WITHIN NORTHWEST  
FIRE PATROL 509

T.F.V. & R. =  
TUALATIN VALLEY FIRE & RESCUE

S.F.P. = SCAPPOOSE FIRE PATROL

2W 25



Division of Assessment and Taxation

**MULTNOMAH COUNTY OREGON**

Real Property Appraisal Section  
501 SE Hawthorne Blvd, Suite 200  
Portland, Oregon 97214  
(503) 988-3367 phone  
(503) 988-3356 fax

RECEIVED  
OCT 23 PM 2:05

MULTNOMAH COUNTY  
CLERK'S OFFICE

October 14, 2005

Owner: Dilnik, Albert & Deane

Assessor's #: R269574, R269576

Size: 4.74Ac, 9.61Ac

Zone: CFU-2, sec

Topography: Gentle to moderate sloping

I have reviewed the appraisal prepared by Barry Wilson as well as the letter submitted by Kimberly Marcellus, realtor, on behalf of Albert & Deane Dilnik. The appraisal is for the entire ownership of Assessor's accounts R269574, R269575 and R269576. The land totals 20.10 acres and is valued as 1 building site per current zoning regulations. The estimated land value is stated to be \$260,000 which does not include on site improvements. R269575 is improved with a low quality house built in 1933. The estimated value of \$160,000 per lot offered by the realtor addresses only the 3 vacant pre-platted lots with the assumption that each lot has access and are buildable.

I was unable to locate any recent sales of small buildable parcels zoned CFU. I did however find 4 sales of vacant parcels zoned either RF or RR in NW Multnomah County. All sales had road access to the site, City water and no sewers. They ranged in size from 2.00 acres to 4.79 acres. Sales prices ranged from \$240,000 to \$480,000. Adjusted sales prices ranged from \$187,000 to \$362,000. Parcels zoned CFU of approximately 20 acres in size are selling for \$172,000 to \$216,000.

I would estimate the value of the 5 acre parcels if buildable to be \$200,000 each. As developed as one 20 acre parcel to be \$245,000.

Respectfully,

Bob Alcantara  
Senior Appraisal Supervisor

SAP#4745

B-6



BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,  
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF  
THE STATE OF OREGON

IN THE MATTER OF THE CLAIM FOR ) FINAL ORDER  
COMPENSATION UNDER ORS 197.352 ) CLAIM NO. M118495  
(BALLOT MEASURE 37) OF )  
Albert J. and Deane Dilnik, CLAIMANTS )

Claimants: Albert J. and Deane Dilnik (the Claimants)

Property: Township 2N, Range 2W, Section 19C, Tax lots 2300 and 2400; and  
Section 24D, Tax lot 1700, Multnomah County (the Property)

Claim: The demand for compensation and any supporting information received from the  
Claimants by the State of Oregon (the Claim).

Claimants submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

The Claim is approved as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report, and subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Albert J. and Deane Dilnik's establishment of a single-family dwelling on each of three existing platted lots on their 20-acre property: applicable provisions of Statewide Planning Goal 4, ORS 215, and OAR 660 division 6. These land use regulations will not apply to Mr. and Ms. Dilnik's use of their property only to the extent necessary to allow them to use the property for the use described in this report, to the extent that use was permitted at the time they acquired the property on April 5, 1966.
2. The action by the State of Oregon provides the state's authorization to the claimants to use their property for the use described in this report, subject to the standards in effect on April 5, 1966.
3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, the order will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such

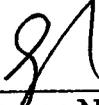
requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or ORS 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.

4. Any use of the property by the claimants under the terms of the order will remain subject to the following laws: (a) those laws not specified in Condition 1 above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

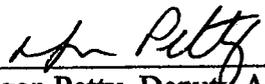
5. Without limiting the generality of the foregoing terms and conditions, in order for the claimants to use the property, it may be necessary for them to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves the claimants from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the property by the claimants.

This Order is entered by the Deputy Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR 125, division 145, and by the Deputy Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND CONSERVATION  
AND DEVELOPMENT COMMISSION:

  
\_\_\_\_\_  
George Naughton, Deputy Director  
DLCD  
Dated this 7<sup>th</sup> day of April, 2006.

FOR the DEPARTMENT OF ADMINISTRATIVE  
SERVICES:

  
\_\_\_\_\_  
Dugan Petty, Deputy Administrator  
DAS, State Services Division  
Dated this 7<sup>th</sup> day of April, 2006.

## **NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF**

You are entitled, or may be entitled, to judicial remedies including the following:

1. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352<sup>1</sup>, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

### **FOR INFORMATION ONLY**

The Oregon Department of Justice has advised the Department of Land Conservation and Development that "[i]f the current owner of the real property conveys the property before the new use allowed by the public entity is established, then the entitlement to relief will be lost."

---

<sup>1</sup> By order of the Marion County Circuit Court, "all time lines under Measure 37 [were] suspended indefinitely" on October 25, 2005. This suspension was lifted on March 13, 2006 by the court. As a result, a period of 139 days (the number of days the time lines were suspended) has been added to the 180-day time period under ORS 197.352(6) for claims that were pending with the state on October 25, 2005.

**BALLOT MEASURE 37 (ORS 197.352)  
CLAIM FOR COMPENSATION**

**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
Final Staff Report and Recommendation**

April 7, 2006

**STATE CLAIM NUMBER:** M118495

**NAMES OF CLAIMANTS:** Albert J. and Deane Dilnik

**MAILING ADDRESS:** 15725 Northwest Sheltered Nook Road  
Portland, Oregon 97231

**PROPERTY IDENTIFICATION:** \*  
Township 2N, Range 2W, Section 19C  
Tax lots 2300 and 2400; and  
Section 24D, Tax lot 1700  
Multnomah County

**DATE RECEIVED BY DAS:** May 23, 2005

**180-DAY DEADLINE:** April 7, 2006<sup>1</sup>

**I. SUMMARY OF CLAIM**

The claimants, Albert J. and Deane Dilnik, seek compensation in amount of approximately \$395,000 to \$415,000 for the reduction in fair market value as a result of certain land use regulations that are alleged to restrict the use of certain private real property. The claimants desire compensation or the right to develop a dwelling on each of three existing platted lots on a portion of their 20-acre property.<sup>2</sup> The property is located at 15725 Northwest Sheltered Nook Road, north of Portland, in Multnomah County. (See claim.)

**II. SUMMARY OF STAFF RECOMMENDATION**

Based on the findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid. Department staff recommends that, in lieu of compensation, the requirements of the following state laws enforced by the Land Conservation and Development Commission (the Commission) or the department not apply to Albert J. and Deane Dilnik's development of a dwelling on each of three existing platted lots: applicable provisions of Statewide Planning Goal 4 (Forest Lands), ORS 215, and

<sup>1</sup> This date reflects 180 days from the date the claim was submitted as extended by the 139 days enforcement of Ballot Measure 37 was suspended during the pendency of the appeal of *MacPherson v. Dep't of Admin. Servs.*, 340 Or \_\_\_, 2006 Ore. LEXIS 104 (February 21, 2006).

<sup>2</sup> The property is comprised of four, five-acre lots platted in 1908, with an existing dwelling on one of the lots.

OAR 660 division 6. These laws will not apply to the claimants only to the extent necessary to allow Mr. and Ms. Dilnik to use their property for the use described in this report, to the extent that use was permitted at the time they acquired the property in 1966. (See the complete recommendation in Section VI. of this report.)

### **III. COMMENTS ON THE CLAIM**

#### **Comments Received**

On July 19 and July 20 of 2005, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services (DAS) provided written notice to the owners of surrounding properties. According to DAS, one written comment was received in response to the 10-day notice.

The comment does not address whether the claim meets the criteria for relief (compensation or waiver) under ORS 197.352 (Ballot Measure 37). Comments concerning the effects a use of the property may have on surrounding areas generally are not something that the department is able to consider in determining whether to waive a state law. If funds do become available to pay compensation, then such effects may become relevant in determining which claims to pay compensation for instead of waiving a state law. (See the comment letter in the department's claim file.)

### **IV. TIMELINESS OF CLAIM**

#### **Requirement**

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of Ballot Measure 37 (December 2, 2004), within two years of that effective date or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of Ballot Measure 37 (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

#### **Findings of Fact**

This claim was submitted to DAS on May 23, 2005 for processing under OAR 125 division 145. The claim identifies regulations that restrict residential use of the property as the basis for the claim. Only laws that were enacted prior to December 2, 2004, the effective date of Ballot Measure 37, are the basis for this claim. (See citations of statutory and administrative rule history of the Oregon Revised Statutes and Oregon Administrative Rules.)

## **Conclusions**

The claim has been submitted within two years of December 2, 2004; the effective date of Ballot Measure 37, based on land use regulations adopted prior to December 2, 2004, and is therefore timely filed.

## **V. ANALYSIS OF CLAIM**

### **1. Ownership**

ORS 197.352 provides for payment of compensation or relief from specific laws for “owners” as that term is defined in ORS 197.352. ORS 197.352(11)(C) defines “owner” as “the present owner of the property, or any interest therein.”

### **Findings of Fact**

The claimants, Albert J. and Deane Dilnik, acquired the subject property on April 5, 1966, as reflected by a 1991 Special Warranty Deed included with the claim, showing fulfillment of the 1966 real estate contract. A copy of a “status of record title report” dated April 20, 2005 indicates that Albert J. and Deane Dilnik are the current owners of the subject property.

### **Conclusions**

The claimants, Albert J. and Deane Dilnik, are “owners” of the subject property as that term is defined by ORS 197.352(11)(C), as of April 5, 1966.

### **2. The Laws that are the Basis for this Claim**

In order to establish a valid claim, ORS 197.352(1) requires, in part, that a law must restrict the claimants’ use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants or a family member acquired the property.

### **Findings of Fact**

The claim is based on land use regulations that restrict the development of a dwelling on each of the claimants’ three, vacant platted five-acre lots. The claim explains that, as a result of regulations enacted after they acquired the property in 1966, “instead of four 5-acre lots we have one 20-acre lot.”

The claim is based, generally, on Multnomah County’s current Commercial Forest Use (CFU-2) zone and the applicable provisions of state law that require such zoning. This zone implements Statewide Planning Goal 4 (Forest Lands) and statutes applicable to land zoned for forest use under ORS 215, including ORS 215.705 to 215.755 and 215.780, and provisions of OAR 660 division 6 that restrict the property’s zoning, use and division.

Goal 4 became effective on January 25, 1975, and required forest land as defined by the Goal to be zoned for forest use. (See citations to statutory and rule history under OAR 660-015-0000(4).) The forest land administrative rule, OAR 660 division 6, became effective September 1, 1982. ORS 215.705 to 215.755 and 215.780 became effective on November 4, 1993 (Chapter 792, Or Laws 1993) and were implemented by OAR 660-006-0026 and -0027 on March 1, 1994. (See citations to rule history under OAR 660-006-0026 and 0027.) ORS 215.730(1)(b) establishes approval standards for dwellings on lands zoned for forest use to protect the public health and safety with regard to fire safety, water supply and development on steep slopes.

Together, ORS 215.705 to 215.755 and 215.780 and OAR 660-006-0026 and -0027 establish an 80-acre minimum lot size for the creation of a new parcel in a forest zone and also establish the standards for dwellings in forest zones.

The claimants acquired the subject property on April 5, 1966 prior to the establishment of the statewide planning goals and their implementing statutes and rules. Multnomah County's Single Suburban Residential (SR) zoning applied to the subject property when the claimants acquired it. The SR zone allowed single-family dwellings by right and minimum lot sizes ranged from one-quarter acre to one acre, depending on types of water and sanitary disposal services.

### **Conclusions**

The zoning requirements, minimum lot size and dwelling standards established by Statewide Planning Goal 4, ORS 215.705 to 215.755, 215.780 and OAR 660-06-0026 and 0027, as well as the Multnomah County's CFU-2 zone were all adopted after Albert J. and Deane Dilnik acquired the subject property in 1966 and do not allow any additional residential dwellings, thereby restricting the use of the property relative to the uses allowed when the claimants acquired the property in 1966.

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the property based on the uses that the claimants have identified. There may be other laws that currently apply to the claimants' use of the property, and that may continue to apply to the claimants' use of the property, that have not been identified in the claim. In some cases, it will not be possible to know what laws apply to a use of property until there is a specific proposal for that use. When the claimants seek a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use.

### **3. Effect of Regulations on Fair Market Value**

In order to establish a valid claim, ORS 197.352(1) requires that any land use regulation described in Section V.(2) of this report must have "the effect of reducing the fair market value of the property, or any interest therein."

## **Findings of Fact**

The claim indicates that the value of the property has been reduced by approximately \$395,000 to \$415,000 as a result of regulations enforced after the claimants acquired the property. This amount is based on a realtor's estimate of \$480,000<sup>3</sup> as the value of the three, vacant five-acre lots, if developable (15 acres in three platted lots) plus an estimate of \$340,000 to \$360,000 as the value of existing dwelling on one five-acre lot (totaling \$820,000 to \$840,000). The claim also includes an appraisal of the entire property under existing regulations, indicating a value of \$425,000. Subtracting the appraised value of the property from the realtor's estimated value of the property without regulation, the estimated reduction in value equals approximately \$395,000 to \$415,000.

## **Conclusions**

As explained in Section V.(1) of this report, the current owners of the subject property are Albert J. and Deane Dilnik, who acquired the property on April 5, 1966. Under ORS 197.352, Albert J. and Deane Dilnik are due compensation for land use regulations that restrict the use of the subject property in a manner that reduces its fair market value. Based on the findings and conclusions in Section V.(2) of this report, laws adopted since the claimants acquired the property restrict additional residential development of the subject property. The claimants estimate the reduction in value due to the restrictions to be \$395,000 to \$415,000.

Based on the current record, it is not possible to substantiate the specific dollar amount that the claimants demand for compensation. Nevertheless, based on the submitted information, the department determines that it is more likely than not that there has been some reduction in the fair market value of the subject property as a result of land use regulations enforced by the Commission or the department.

### **4. Exemptions under ORS 197.352(3)**

ORS 197.352 does not apply to certain land use regulations. In addition, under ORS 197.352(3), certain types of laws are exempt from ORS 197.352.

## **Findings of Fact**

The claim is based on land use regulations that restrict the use of the property relative to what would have been allowed in 1966 when Albert J. and Deane Dilnik acquired the property. These provisions include Statewide Planning Goal 4 and applicable provisions of ORS 215 and OAR 660, division 6, which Multnomah County has implemented through its CFU-2 zone. None of these laws appear to be exempt under ORS 197.352(3)(E), which exempts laws in effect when the claimants acquired the property.

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<sup>3</sup> A real estate broker's estimate of the value of a five-acre home site is approximately \$160,000 for each unimproved lot, and totals \$480,000 for three lots.

## **Conclusions**

Without a specific development proposal for the property, it is not possible for the department to determine what laws may apply to a particular use of the property, or whether those laws may fall under one or more of the exemptions under ORS 197.352. It does appear that the general statutory, goal and rule restrictions on residential development and use of farm land apply to the claimants' use of the property, and for the most part these laws are not exempt under ORS 197.352(3)(E).

Laws in effect when the claimants acquired the property are exempt under ORS 197.352(3)(E), and will continue to apply to the claimants' use of the property. There may be other laws that continue to apply to the claimants' use of the property that have not been identified in the claim. In some cases, it will not be possible to know what laws apply to a use of property until there is a specific proposal for that use. When the claimants seek a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use. Some of these laws may be exempt under ORS 197.352(3)(A) to (D).

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the property based on the uses that the claimants have identified. Similarly, this report only addresses the exemptions provided for under ORS 197.352(3) that are clearly applicable given the information provided to the department in the claim. The claimants should be aware that the less information they have provided to the department in their claim, the greater the possibility that there may be additional laws that will later be determined to continue to apply to their use of the property.

## **VI. FORM OF RELIEF**

ORS 197.352(1) provides for payment of compensation to an owner of private real property if the Commission or the department has enforced a law that restricts the use of the property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law in order to allow the present owner to carry out a use of the property permitted at the time the current owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the director must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

## **Findings of Fact**

Based on the findings and conclusions set forth in this report, laws enforced by the Commission or the department restrict the claimants' development of their property with a dwelling on each of three platted five-acre lots. The claim asserts that the laws enforced by the Commission or department reduce the fair market value of the subject property by approximately \$395,000 to \$415,000. Based on the record submitted, a specific amount of compensation cannot be determined. Nevertheless, based on the record for this claim, the department acknowledges that the laws on which the claim is based likely have reduced the fair market value of the property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, ORS 197.352 authorizes the department to modify, remove or not apply all or parts of certain land use regulations to allow Albert J. and Deane Dilnik to use the subject property for a use permitted at the time they acquired the property on April 5, 1966.

### **Conclusion**

Based on the record, the department recommends that the claim be approved, subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Albert J. and Deane Dilnik's establishment of a single-family dwelling on each of three existing platted lots on their 20-acre property: applicable provisions of Statewide Planning Goal 4, ORS 215, and OAR 660 division 6. These land use regulations will not apply to Mr. and Ms. Dilnik's use of their property only to the extent necessary to allow them to use the property for the use described in this report, to the extent that use was permitted at the time they acquired the property on April 5, 1966.
2. The action by the State of Oregon provides the state's authorization to the claimants to use their property for the use described in this report, subject to the standards in effect on April 5, 1966.
3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license, or other form of authorization or consent, the order will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or ORS 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the property imposed by private parties.
4. Any use of the property by the claimants under the terms of the order will remain subject to the following laws: (a) those laws not specified in Condition 1 above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).
5. Without limiting the generality of the foregoing terms and conditions, in order for the claimants to use the property, it may be necessary for them to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves the claimants from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the property by the claimants.

## **VII. COMMENTS ON THE DRAFT STAFF REPORT**

The department issued its draft staff report on this claim on March 13, 2006. OAR 125-145-0100(3), provided an opportunity for the claimant or the claimant's authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation. Comments received have been taken into account by the department in the issuance of this final report.

Proposed  
E-12

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Order Approving Claim Under ORS 197.352 (Ballot Measure 37 (2004))

**The Multnomah County Board of Commissioners Finds:**

- a. Albert and Deane Dilnik are the owners of real property located along NW Sheltered Nook Road, more particularly described as:  
  
TL 2300 (Subdivision Lot 35), T2N, R2W, W.M., Section 24D and  
TL 1700 (Subdivision Lots 37 & 38), T2N, R1W, W.M., Section 19C.
- b. The Dilniks acquired the property on April 5, 1966. The property consists of three undeveloped subdivision lots, each approximately 5 acres. These lots are referred to as Lot 35, 37 and 38. The lots are contiguous to a fourth 5-acre lot (Lot 36) that is developed with a single-family dwelling. Lot 36 was acquired along with and at the same time as lots 35, 37 and 38. Together the lots create a single tract of approximately 20-acres. MCC § 33.2210.
- c. On July 12, 2005, the Dilniks filed a claim under ORS 197.352 with the Multnomah County Land Use and Transportation Planning Program. The claim and accompanying materials constitute a complete "written demand for compensation" under ORS 197.352 (5) and Multnomah County Code 7.520.
- d. The claim seeks compensation for or waiver of Multnomah County land use regulations that restrict residential development of the lots in order to allow them to develop a single-family residence on each of lots 35, 37 and 38.
- e. The property is subject to the West Hills Rural Plan Area land use regulations and is zoned for commercial forest use (CFU-2). MCC §§ 33.2200 et seq.
- f. Each of the lots is a legal "lot of record" established in accordance with applicable law. MCC §§ 33.0005 (L)(13).
- g. All four lots are jointly considered a "tract." ("One or more contiguous Lots of Record in the same ownership.") MCC § 33.2210.
- h. Dwellings are authorized in the CFU-2 zone under the provisions of MCC § 33.2235 (Large Acreage Dwelling) or MCC § 33.2240 (Template and Heritage Tract Dwellings).
- i. A large acreage dwelling may be established on a single tract measuring at least 160 acres or two or more tracts of at least 200 combined acres. MCC § 33.2235 (B).
- j. The County may not approve a large acreage dwelling if the property already contains a dwelling. MCC § 33.2235.
- k. The County may not approve a template tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.

- l. The County may not approve a heritage tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.
- m. Because the claimants' tract is smaller than 160 acres and already contains a dwelling, MCC § 33.2235 and 33.2240 prohibit additional dwellings on lots 35, 37 and 38.
- n. The aggregation requirements of MCC § 33.2275 (A)(2) treat all four of the claimant's parcels as a single Lot of Record in the CFU-2 zone. The County may not approve more than one dwelling on a lot of record.
- o. MCC §§ 33.2235, 33.2240 and 33.2275 were adopted after the claimants acquired the property and restrict the claimants' use of the property in a manner that reduces its real market value.
- p. The claimants have established an entitlement to relief under ORS 197.352 (1).
- q. In lieu of compensation, the County may modify, remove or not apply the regulation to the claimants' use of the property.
- r. The facts set forth in the "Staff Analysis of Measure 37 Claim" for claimants Albert and Deane Dilnik dated March 23, 2006 are adopted and made a part of this order.

**The Multnomah County Board of Commissioners Orders:**

1. In lieu of compensation under ORS 197.352, the County shall not apply the following regulations to Albert and Deane Dilnik use of the property described in this Order:
  - MCC § 33.2235;
  - MCC § 33.2240; and
  - MCC § 33.2275.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

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Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By \_\_\_\_\_  
Christopher D. Crean, OSB# 94280  
Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 08-082 typo

Order Approving Claim Under ORS 197.352 (Ballot Measure 37 (2004))

**The Multnomah County Board of Commissioners Finds:**

- a. Albert and Deane Dilnik are the owners of real property located along NW Sheltered Nook Road, more particularly described as:  
  
TL 2300 (Subdivision Lot 35), T2N, R2W, W.M., Section 24D and  
TL 1700 (Subdivision Lots 37 & 38), T2N, R1W, W.M., Section 19C.
- b. The Dilniks acquired the property on April 5, 1966. The property consists of three undeveloped subdivision lots, each approximately 5 acres. These lots are referred to as Lot 35, 37 and 38. The lots are contiguous to a fourth 5-acre lot (Lot 36) that is developed with a single-family dwelling. Lot 36 was acquired along with and at the same time as lots 35, 37 and 38. Together the lots create a single tract of approximately 20-acres. MCC § 33.2210.
- c. On July 12, 2005, the Dilniks filed a claim under ORS 197.352 with the Multnomah County Land Use and Transportation Planning Program. The claim and accompanying materials constitute a complete "written demand for compensation" under ORS 197.352 (5) and Multnomah County Code 7.520.
- d. The claim seeks compensation for or waiver of Multnomah County land use regulations that restrict residential development of the lots in order to allow them to develop a single-family residence on each of lots 35, 37 and 38.
- e. The property is subject to the West Hills Rural Plan Area land use regulations and is zoned for commercial forest use (CFU-2). MCC §§ 33.2200 et seq.
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- h. Dwellings are authorized in the CFU-2 zone under the provisions of MCC § 33.2235 (Large Acreage Dwelling) or MCC § 33.2240 (Template and Heritage Tract Dwellings).
- i. A large acreage dwelling may be established on a single tract measuring at least 160 acres or two or more tracts of at least 200 combined acres. MCC § 33.2235 (B).
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- k. The County may not approve a template tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.

- l. The County may not approve a heritage tract dwelling on a tract that already contains a dwelling. MCC § 33.2240.
- m. Because the claimants' tract is smaller than 160 acres and already contains a dwelling, MCC § 33.2235 and 33.2240 prohibit additional dwellings on lots 35, 37 and 38.
- n. The aggregation requirements of MCC § 33.2275 (A)(2) treat all four of the claimant's parcels as a single Lot of Record in the CFU-2 zone. The County may not approve more than one dwelling on a lot of record.
- o. MCC §§ 33.2235, 33.2240 and 33.2275 were adopted after the claimants acquired the property and restrict the claimants' use of the property in a manner that reduces its real market value.
- p. The claimants have established an entitlement to relief under ORS 197.352 (1).
- q. In lieu of compensation, the County may modify, remove or not apply the regulation to the claimants' use of the property.
- r. The facts set forth in the "Staff Analysis of Measure 37 Claim" for claimants Albert and Deane Dilnik dated March 23, 2006 are adopted and made a part of this order.

**The Multnomah County Board of Commissioners Orders:**

- 1. In lieu of compensation under ORS 197.352, the County shall not apply the following regulations to Albert and Deane Dilnik use of the property described in this Order:
  - MCC § 33.2235;
  - MCC § 33.2240; and
  - MCC § 33.2275.

ADOPTED this 18th day of May, 2006.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

*Diane M. Linn*  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By *Christopher D. Crean*  
Christopher D. Crean, OSB# 94280  
Assistant County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 06-082**

Order Approving Claim Under ORS 197.352 (Ballot Measure 37 (2004))

**The Multnomah County Board of Commissioners Finds:**

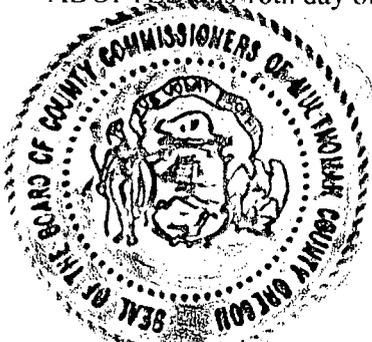
- a. Albert and Deane Dilnik are the owners of real property located along NW Sheltered Nook Road, more particularly described as:  
  
TL 2300 (Subdivision Lot 35), T2N, R2W, W.M., Section 24D and  
TL 1700 (Subdivision Lots 37 & 38), T2N, R1W, W.M., Section 19C.
- b. The Dilniks acquired the property on April 5, 1966. The property consists of three undeveloped subdivision lots, each approximately 5 acres. These lots are referred to as Lot 35, 37 and 38. The lots are contiguous to a fourth 5-acre lot (Lot 36) that is developed with a single-family dwelling. Lot 36 was acquired along with and at the same time as lots 35, 37 and 38. Together the lots create a single tract of approximately 20-acres. MCC § 33.2210.
- c. On July 12, 2005, the Dilniks filed a claim under ORS 197.352 with the Multnomah County Land Use and Transportation Planning Program. The claim and accompanying materials constitute a complete "written demand for compensation" under ORS 197.352 (5) and Multnomah County Code 7.520.
- d. The claim seeks compensation for or waiver of Multnomah County land use regulations that restrict residential development of the lots in order to allow them to develop a single-family residence on each of lots 35, 37 and 38.
- e. The property is subject to the West Hills Rural Plan Area land use regulations and is zoned for commercial forest use (CFU-2). MCC §§ 33.2200 et seq.
- f. Each of the lots is a legal "lot of record" established in accordance with applicable law. MCC §§ 33.0005 (L)(13).
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- o. MCC §§ 33.2235, 33.2240 and 33.2275 were adopted after the claimants acquired the property and restrict the claimants' use of the property in a manner that reduces its real market value.
- p. The claimants have established an entitlement to relief under ORS 197.352 (1).
- q. In lieu of compensation, the County may modify, remove or not apply the regulation to the claimants' use of the property.
- r. The facts set forth in the "Staff Analysis of Measure 37 Claim" for claimants Albert and Deane Dilnik dated March 23, 2006 are adopted and made a part of this order.

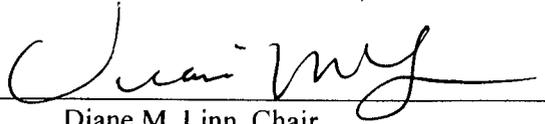
**The Multnomah County Board of Commissioners Orders:**

1. In lieu of compensation under ORS 197.352, the County shall not apply the following regulations to Albert and Deane Dilnik use of the property described in this Order:
  - MCC § 33.2235;
  - MCC § 33.2240; and
  - MCC § 33.2275.

ADOPTED this 18th day of May, 2006.

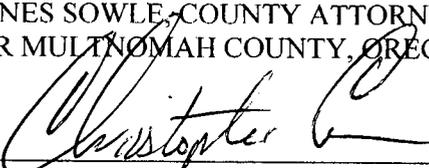


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Christopher D. Crean, OSB# 94280  
Assistant County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** R-13  
**Est. Start Time:** 11:05 AM  
**Date Submitted:** 05/10/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **PUBLIC HEARING to Consider a Supplemental Measure 37 Claim by Dorothy English, et. al., for the Right to Create Three Parcels and Construct Homes on Each Parcel, on Property Located at 13100 NW McNamee Road**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

**Date Requested:** May 18, 2006                      **Time Requested:** 1 hour  
**Department:** Non-Departmental                      **Division:** Chair's Office  
**Contact(s):** Karen Schilling, Derrick Tokos, Sandra Duffy and John Thomas  
**Phone:** 503 988-3043                      **Ext.** 22682                      **I/O Address:** 455/116  
**Presenter(s):** Derrick Tokos, Sandra Duffy and John Thomas

**General Information**

1. **What action are you requesting from the Board?**  
Approval of Board Order on Supplemental Claim.
2. **Please provide sufficient background information for the Board and the public to understand this issue.**

On December 2, 2004, Joe Willis, attorney, on behalf of claimants Dorothy English, Christie Verhoef, and Douglas Sellers, submitted a letter seeking \$1,150,000 or the right to divide the property into 8 parcels and develop 8 homes. By Order No. 05-041 the Board determined to not apply certain regulations to allow up to 8 dwellings on up to 8 lots on the subject property. The Board also denied the request by claimants with respect to some regulations, found the claim to be premature with respect other regulations and found that certain other regulations which claimants sought to have not applied were not relevant to construction of eight homes on eight lots. Claimants now seek approval to create three of

the eight parcels and to construct homes on each of the parcels. This public hearing is a forum for the Board to hear and possibly decide this supplemental claim.

**3. Explain the fiscal impact (current year and ongoing).**

The demand in the original claim is for \$1,150,000 in compensation. No separate demand for compensation has been made with respect to claimant's supplemental claim.

**4. Explain any legal and/or policy issues involved.**

Policy and legal issues are outlined in a staff report from Land Use Planning dated May 10, 2006.

**5. Explain any citizen and/or other government participation that has or will take place.**

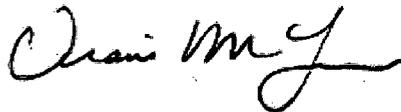
Deliberation and any action on this item will be done following a public hearing, at which interested citizens will have an opportunity to testify and provide written comment in accordance with the Board of Commissioners rules of procedure for the hearing. Notice was published in the Oregonian and was provided by mail to adjoining property owners 14 days prior to the hearing.

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### Required Signatures

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Department/  
Agency Director:



Date: 05/10/06

Budget Analyst:

Date:

Department HR:

Date:

Countywide HR:

Date:



**LAND USE & TRANSPORTATION  
PLANNING PROGRAM**

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

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## Staff Analysis of Supplemental Measure 37 Claim

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The following matter is scheduled for public hearing, deliberation and possible action before the Multnomah County Board of Commissioners

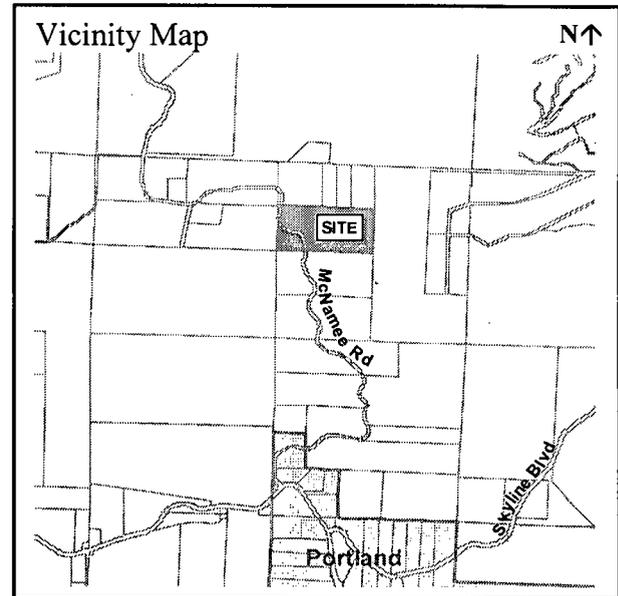
Hearing Date, Time, & Place:

**Thursday, May 18, 2006, at 10:05 AM** or soon thereafter, in the Commissioners' Board Room of the Multnomah Building, located at 501 SE Hawthorne, Portland, Oregon.

**Case File:** T1-04-044

**Claimant:** Dorothy English

**Location:** 13100 NW McNamee Road  
TL 1200, Sec 32A, T2N, R1W, W.M.  
Tax Account #R971320170



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**Claim:** Request for regulatory relief to create three parcels and construct homes on each parcel.

**Zoning:** Commercial Forest Use (CFU-2) with Protected Aggregate and Mineral, Significant Environmental Concern for views and habitat, and Hillside Development overlays.

**Site Size:** 19.74 acres

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### Summary of the issue before the Board:

On December 2, 2004, Joe Willis, attorney, on behalf of claimants Dorothy English, Christie Verhoef, and Douglas Sellers, submitted a letter seeking \$1,150,000 or the right to divide the property into 8 parcels and develop 8 homes. By Order No. 05-041 the Board determined to not apply certain regulations to allow Mrs. English to develop up to 8 dwellings and create up to 8 lots on the subject property. The Board also denied the request by claimants with respect to some regulations, found the claim to be premature with respect other regulations and found that certain other regulations which claimants sought to have not applied were not relevant to construction of eight homes on eight lots. Claimant now seeks approval to create three of the eight parcels and to construct homes on each of the parcels. They have also provided additional information about how they intend to divide and develop the property. This public hearing is a forum for the Board of Commissioner's to hear and possibly decide this supplemental claim.

### Options for Deciding the Claim:

The claimant's appraisal provided with the original claim is adequate to show that regulations have reduced the property's value notwithstanding the change in desired use, meaning that the Board must either:

- a. Pay compensation equal to the reduction in fair market value of the property attributed to the regulations; **or**.

- b. Not apply land use regulations to allow Mrs. English to divide the property into three parcels and construct a home on each parcel. Health, safety, and procedural regulations exempt from the Ballot Measure are listed in this report. All other regulations challenged by the claimant and listed in Order No. 05-041 should be set aside, with the exception of those that were found to be exempt as part of that decision.

The claimant's appraisal, by its own terms, is inadequate as evidence of value, so additional appraisal work would be needed if compensation is the desired course of action.

## Staff Analysis

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*(The following is a step-by-step evaluation of the claim. It is structured as a series of questions that must be answered to establish if a claim is valid, comparable to the methodology outlined in a February 24, 2005 memo authored by the State Attorney General's Office.)*

1. *Has the owner made a written demand under Ballot Measure 37?*

**Yes. The claimant's letter of May 24, 2006, in conjunction with their prior submittals, constitutes a "written demand for compensation" within the meaning of the measure.**

Claimant Dorothy English has made a supplemental claim by letter from counsel dated March 24, 2006, copy attached as Exhibit A1. She seeks to create three lots at the locations shown on a map attached to the letter. Mrs. English claims that under Ballot Measure 37 she can create legal parcels by recording deeds describing the parcels to be created. She says this is the process by which parcels were created in 1953 when she purchased the property. She further asserts that after recording the deeds she is entitled to apply for a building permit for construction of a home on each parcel so created. She claims that she is entitled to establish compliance with health and safety regulations in conjunction with her building permit application. She says that the County has no authority under Ballot Measure 37 to consider compliance with health and safety related code provisions at the time of creation of the parcels.

By Order No. 05-041 the Board determined to not apply certain code sections to allow claimant Dorothy English to establish an eight lot subdivision. The new claim to create three specific parcels requires that the Board consider whether it should further determine to not apply additional code sections, listed in the Order, that do not concern health and safety.

2. *Did the claimant acquire the property before the laws in question were adopted?*

**Yes. Claimant Dorothy English acquired an interest in the property in 1953, prior to the enactment of the regulations discussed in this report.**

Order No. 05-041 established that claimant Dorothy English acquired an interest in the property in 1953, prior to adoption of the challenged regulations. Assessment and taxation records show that Mrs. English still possesses an ownership interest in the property.

3. *Have the County codes challenged in this claim restricted the use of the property?*

**Yes. Challenged regulations prohibit the claimant from creating three parcels and constructing three homes.**

By Order No. 05-041 the Board found that land use restrictions prohibit Claimant Dorothy English from constructing additional homes and creating additional parcels or lots. The finding applies to the supplemental claim.

4. *Have the restrictions reduced the fair market value of the property?*

**Yes. The appraisal provided by the claimant establishes that challenged regulations reduce the fair market value of the property.**

With Order No. 05-041 the Board found that the appraisal submitted by the claimant was sufficient to support a finding of diminution in value. The finding applies to this supplemental claim.

5. *Have those regulations that reduce the fair market value of the property been enforced?*

**Yes. The plain language of the zoning rules prohibit additional permanent dwellings and the creation of additional parcels or lots.**

By Order No. 05-041 the Board found that there is no land use application that Claimant Dorothy English can apply for that could lead to the approval of additional homes on her property and that regulations, on their face, have been enforced. The finding applies to the supplemental claim.

6. *Are regulations that reduce the fair market value of the property otherwise exempt under the measure, such as those required to protect public health and safety, restrict historically recognized nuisances or are required by federal law.*

**Yes. While the Commercial Forest Use (CFU-2) and Protected Aggregate and Mineral zoning rules set aside in Order No. 05-041 do not qualify under these exemptions, several of the challenged regulations that the Board found to be premature to waive do qualify.**

Considering the claimant's March 24, 2006 letter and map showing the three parcels they intend to create, the regulations discussed below are exempt for health and safety reasons. This is in addition to those the Board found to be exempt in Order No. 05-041.

County regulations that are procedural in nature are exempt because they are beyond the scope of the Ballot Measure, which is directed at rules that restrict the use of land. Citations to procedural requirements relevant to exempt land use regulations are listed so that it is clear that they are still in effect.

#### Land Partition

A partition plat is required to create the three proposed parcels. Its purpose is to ensure that the properties are accurately described, and that the configuration and size of the parcels is appropriate for the intended use considering the terrain, sanitation, drainage, availability of a domestic water supply, and safe access to and from the property. The recording of deeds, proposed by the claimant, does not supply the information necessary to evaluate these health and safety issues.

The map attached to the March 24, 2006 letter shows two parcels, one with frontage on McNamee Road and the other landlocked and requiring easement access. The County requires properties abut a public street or have other access that is safe for pedestrian, passenger, and emergency vehicles (MCC §33.2290). The County has standard specifications for private roads that meet this health and safety standard; however, they are limited to a maximum of 300 feet, which is shorter than what would be needed to create parcels in this configuration (MCC §33.7910). The County can consider an alternative to the standard road designs using variance provisions in the land division code (MCC §33.8005). If access is to occur via an easement, then a copy of the easement will be required to ensure that the easement is of sufficient width to accommodate a road and any turnouts, is tied to the landlocked parcel as a permanent means of access, and contains language that provides for on-going maintenance so that safe access to the property is assured into the future.

Specific code citations related to partitioning the property that are exempt from the Ballot Measure are as follows:

§33.2290, Access. Requires properties abut a public street or have other access that is safe for pedestrian, passenger, and emergency vehicles.

§33.7860, Content of Category 3 Tentative Plan. This section of the County code lists the types of information that must be included on a tentative plan for a partition. It is a submittal requirement for filing a partition application.

§33.7865, Tentative Plan Approval Time Limits; Staged Development. This is a procedural requirement regarding the expiration and extension of tentative plan approvals.

§33.7890, Land Suitability. This section prohibits approval of a land division unless there is evidence that the new parcels are suitable, or can be made suitable for the intended use considering soil, slope, or subsurface constraints.

§33.7950 and 33.7985, Water Systems. These sections address the provision of water service to new properties, requiring evidence that a suitable domestic water supply is or can be made available to each proposed parcel.

§33.7955 and 33.7990 Sewage Disposal. These sections require that new parcels be sized such that they have sufficient area to support a waste disposal system appropriate to the intended use.

§33.7960 and 33.7995, Surface Drainage. These sections require surface drainage be appropriately managed.

§33.8005, Variance. This section includes rules that would need to be met to ensure that a private street that does not conform to a standard county design is safe and convenient for pedestrian, passenger, and emergency vehicles.

§33.8015 through 33.8035, Information Required for Final Partition Plat. These sections of the code list the types of information that need to be included on the final partition plat and steps that need to be followed to record the document and create the parcels.

Chapter 37, Administration and Procedures. This chapter of the code lists the procedures by which the County reviews and decides upon applications for all permits related to the use or division of land. The process the County has adopted for reviewing partitions is a Type II process.

#### Development Standards in Forest Zones

The County has specific development standards for new dwellings on forestland. Their purpose is to minimize potential hazard or damage from fire. They include confirmation that the property is in a fire district, design standards for roads, fire break requirements, verification that the domestic water supply is from a source approved by the Department of Water Resources, and a prohibition on constructing homes on slopes greater than 40 percent. The specific standards are listed under MCC §33.2305, starting at (A)(5). An exception to the 100' secondary fire break can be granted if the alternative standards of MCC §33.2310 are met. These standards focus on improving the ignition resistance of construction materials, alarms, and sprinkler systems as an alternative to the fire break. The County tailored these standards to generally conform with the Oregon Department of Forestry recommendations in their March 1991 publication titled "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads." Several standards are also

required pursuant to ORS 215.730, which the State called out as applicable to the English development in its Measure 37 Order.

The County has adopted optional state building code regulations for fire-flow and access for fire vehicles. This was done in consultation with the fire districts and is evaluated as part of this review. The fire code standards are listed under MCC §29.001.

All of these requirements are related to the safety of the ultimate occupants of the homes on the newly created parcels and their neighbors. To establish compliance with these standards, an applicant must provide specific information about the type and size of dwelling to be built and the design of the access road. A Type II process is used for this review.

### Approach Permit

An approach permit will be required for work within the public right-of-way, such as widening, paving, or reconfiguring the approach onto McNamee Road. Drainage improvements may also be required should run-off be directed onto the road. County road rules and building codes require approach permits to ensure that access from private property onto a public road is constructed such that it is safe and does not result in an appreciable amount of gravel, dirt or runoff being directed onto the public road which can be hazardous. This permit can be obtained and work inspected concurrent with building permitting.

### Conclusion

Considering the above, Mrs. English has established that land use regulations enacted after she purchased the property have prevented her from building additional homes and creating additional parcels. If the Board of Commissioner's chooses to not apply regulations in lieu of compensation, Land Use Planning would recommend that the following be addressed in the Board Order:

1. Include a statement that any waiver or modification of the county land use regulations does not constitute a waiver or modification of corresponding state laws, or administrative rules.
2. Action by the Board of Commissioner to not apply regulations does not authorize immediate construction of the dwellings. Health and safety rules discussed in this report still apply and land use and building permits must be approved by the County before development can proceed.
3. A decision to not apply land use regulations, in lieu of compensation, is transferable only to the extent provided by law. The Board Order should require the claimant advise buyers of this risk.

Issued by:

By:   
Derrick Tokos, Principal Planner

For: Karen Schilling- Planning Director

Date: Wednesday, May 10, 2006

### **Exhibits**

A copy of the March 24, 2006 claim letter is attached as Exhibit A1. All other information referenced herein, or submitted to the County related to this claim is included in the case record that is on file at the Land Use and Transportation Planning Office.



**SCHWABE, WILLIAMSON & WYATT**  
ATTORNEYS AT LAW

Pacwest Center, 1211 SW 5th Ave., Suite 1900, Portland, OR 97204 | Phone 503-222-9981 | Fax 503-796-2900 | www.schwabe.com

DONALD LEE WILLIS  
Direct Line: Portland (503) 796-2929; Bend (541) 749-4012  
E-Mail: [dwillis@schwabe.com](mailto:dwillis@schwabe.com)

RECEIVED  
 MAR 28 2006  
 COUNTY COUNSEL OF  
 MULTNOMAH COUNTY

March 24, 2006

VIA FIRST CLASS MAIL

Mr. John S. Thomas  
Office of the Multnomah County Attorney  
501 SE Hawthorne Blvd., Suite 500  
Portland, OR 97214

Re: English Measure 37 Claim

**Settlement Discussions**

Dear John:

Thanks for meeting with us last Friday to review the next steps for development of the English property, and to negotiate a settlement in order to head off litigating this case. This letter is a continuance of those settlement discussions. In your previous correspondence, reference was made to a conceptual land division plan. Since that time, Mrs. English's funds for the engineering consultant have been exhausted. At our meeting, we proposed a solution that will allow the county and other agencies to check that the proposed development meets the various safety standards that apply to new lots and homes, without the need for a formal plat review.

We believe Mrs. English is entitled to create at least two new lawful parcels out of her existing property by simply deeding them based on what she could have done when she acquired the property in 1953. At that time, there were no county requirements – land use or otherwise – that restricted Mrs. English's ability to partition the property by recording deeds with the legal descriptions of the new parcels. We have double checked the State waiver and it can be done per that waiver, because in 1953 there were no state requirements restricting the ability to partition. We also checked this with a real estate lawyer here in my firm.

We propose creation of two new parcels by having Mrs. English execute and record deeds conveying the new parcels from herself to herself. Legal descriptions will be included in the deeds, conforming with Parcels 2 and 3 in the attached drawing of the legal descriptions. Those two new parcels will be lawfully created lots pursuant to the approved County and State Measure 37 Orders.

Portland, OR 503-222-9981 | Salem, OR 503-399-7712 | Bend, OR 541-749-4044  
Seattle, WA 206-622-1711 | Vancouver, WA 360-694-7551 | Washington, DC 202-488-4302

PDX/107686/140351/JW/1405204.1

EXHIBIT  
 A1

Mr. John S. Thomas  
March 24, 2006  
Page 2

The next step will be to submit a building permit application to the City of Portland, which as you know administers the building code for properties in the County. The building permit application will include a detailed site plan, drawn to scale. The City will, as its custom, circulate the application among the pertinent people and agencies, including the County planning office. We are asking you to approve the building permit application regarding the parcels' status as legal lots and other zoning requirements, and in the meantime take whatever action required so that approval will occur within the Measure 37 claim we have filed. We understand the Board of Commissioners will likely need to amend their original Order on the claim, and need that to occur before the City of Portland sends the building permit papers over to the County planning office.

As we explained at the meeting, we are confident that legitimate safety requirements that you assert are exempt from Measure 37 can be met. We have previously met with the Tualatin Valley Fire and Rescue staff to ensure fire safety and emergency vehicle access. They will also receive a copy of the building permit application, and will need to review and approve it, in writing, before the City will issue a building permit for a dwelling. This is the usual process for ensuring compliance with the fire code, and assures the County that the safety requirements are met.

The City's staff will review the whole gamut of other safety and building code issues, including slopes, foundation engineering, potable water, grading, and erosion control. As you know, Parcel 2 was previously approved, developed and used as a home site, so we know that it works. The City will allow a new home to be placed in the same location, and reconnection of the existing electrical and septic services that were capped off when the prior dwelling was removed. We provided copies of the City's permit papers reflecting this, including sketches of the original septic system layout. Our plan is to pull the building permit for Parcel 2 as soon as possible, and apply for a building permit on Parcel 3 at a later time, but using the same process.

Mrs. English just does not have the funds to provide a formal plat as you have suggested and we are confident she could not be made to do that if we had to litigate, because there was no requirement for a plat in 1953. Once she gets the first two parcels built, she will transfer them, which will generate funds for a plat with details, including the details regarding the County road alignment, hopefully early in 2007. Our willingness to have her do the partition and building is a way to avoid a further fight on the transferability issue but understand that we believe she is lawfully entitled to transfer both her rights under Measure 37 and certainly parcels alone once created.

Please understand that while we disagree with any assertion that Mrs. English can be required to apply for an expensive and time consuming land use approval, we do intend to provide information as needed to satisfy any safety or health concerns that arise in the course of the building permit application, and have the County approve it within its Measure 37 final action. This will avoid a litigious fight over the several issues we discussed.

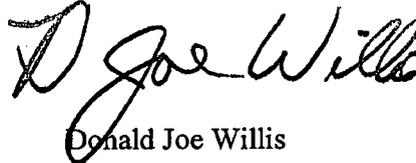
Considering the remarkably small scale of the proposed development, and the willingness of the State, the City and TVFR to approve the project, we hope you'll agree that litigation



Mr. John S. Thomas  
March 24, 2006  
Page 3

would not be a responsible use of the County's resources. Thanks again for your assistance, and please let me know if the County is amenable to this plan for development of the English property.

Sincerely,

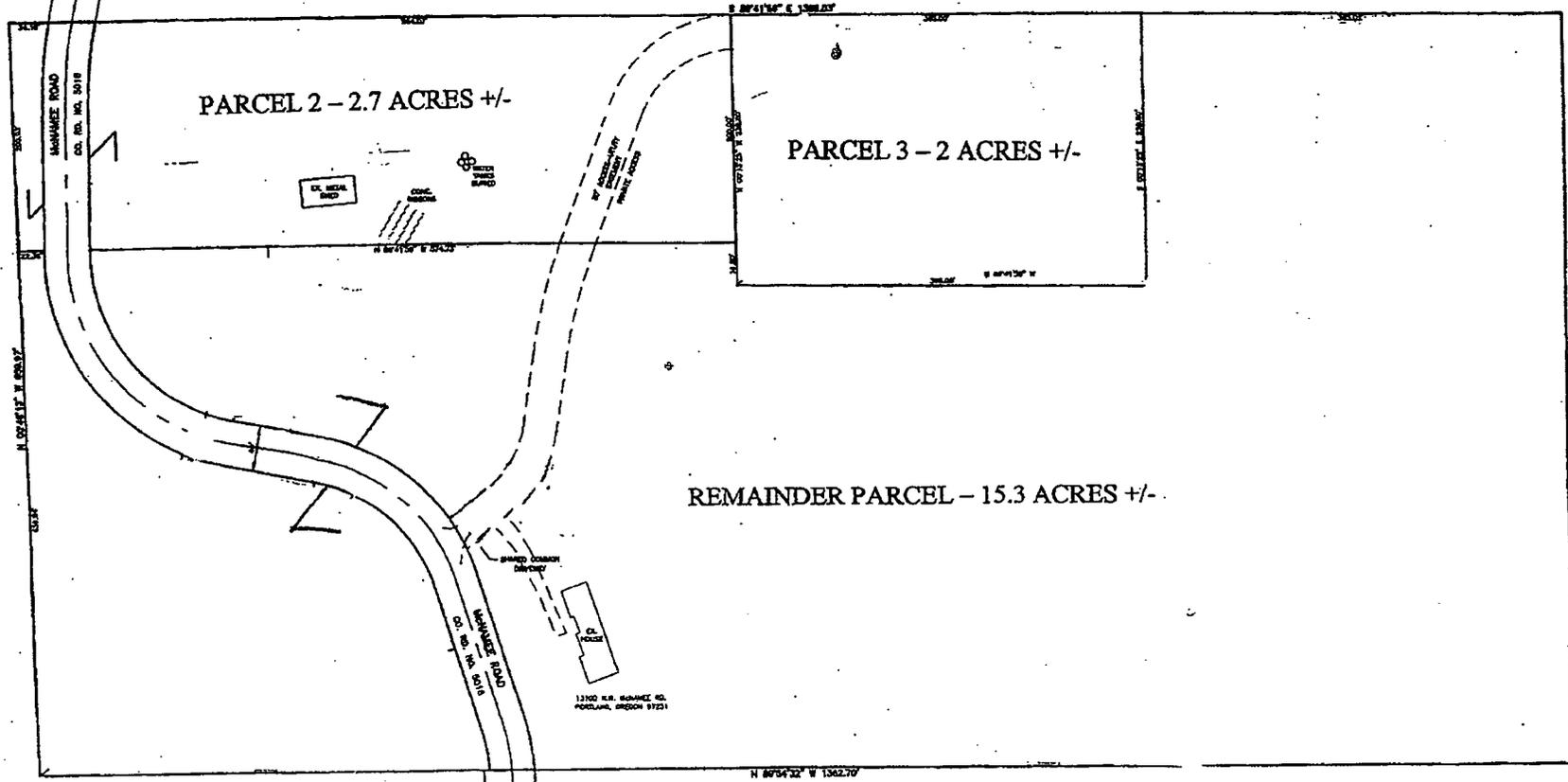


Donald Joe Willis

JW:  
Enclosure  
cc: Dorothy English  
Joseph Schaefer



ENGLISH MEASURE 37 CLAIM  
MAP OF LEGAL DESCRIPTIONS



PARCEL 2 - 2.7 ACRES +/-

PARCEL 3 - 2 ACRES +/-

REMAINDER PARCEL - 15.3 ACRES +/-

12100 R.R. SUMNER RD.  
PORTLAND, OREGON 97211

S. BENNETT ST.

302

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. \_\_\_\_\_

Supplemental Order to Not Apply Land Use Regulations to 13100 NW McNamee Road Under Ballot Measure 37

**The Multnomah County Board of Commissioners Finds:**

- a. **Parties:** Dorothy Pauline English, Christie Anne Verhoef and Douglas James Sellers
- b. **Subject Real Property:** This claim relates to real property commonly known as 13100 NW McNamee Road, Multnomah County, Portland, Oregon 97231, and more specifically described as:

Section 32A, T2N, R.1W, Willamette Meridian, consisting of 19.74 acres in Multnomah County, Oregon; Tax Account #R971320170 (Tax Lot 1200).

**Adequacy of Demand for Compensation:** By Order No. 05-041 the Board determined that the materials submitted by the claimants with the original claim were adequate to satisfy the requirements of Ballot Measure 37.

**Relevant Dates of Property Ownership:** The relevant dates and property ownership were discussed in Order No. 05-041. There has been no change in ownership since the date of that Order.

- c. **Supplemental Claim:** Claimant Dorothy English has made a supplemental claim by letter from counsel dated March 24, 2006, copy attached as Exhibit 1. She seeks to create three lots at the locations shown on a map attached to the letter. Ms. English claims that under Ballot Measure 37 she can create legal parcels by recording deeds describing the parcels to be created. She says this is the process by which parcels were created in 1953 when she purchased the property. She further asserts that after recording the deeds she is entitled to apply for a building permit for construction of a home on each parcel so created. She claims that she is entitled to establish compliance with health and safety regulations in conjunction with her building permit application. She says that the County has no authority under Ballot Measure 37 to consider compliance with health and safety related code provisions at the time of creation of the parcels.

By Order No. 05-041 the Board determined to not apply certain code sections to allow claimant Dorothy English to establish an eight lot subdivision. The new claim to create three specific parcels requires that the Board consider whether it should further determine to not apply additional code sections that do not concern health and safety.

The Board's Order, below, lists each code provision that the Board has determined will continue to apply and be enforced with respect to the request by Claimant Dorothy English to create three legal parcels and construct homes on each parcel. The Board finds that under Ballot Measure 37 the County is required to apply and enforce health and safety regulations related to the creation of parcels or development of property. The Board further finds that procedural regulations relating to the manner in which applications for land use approvals are submitted and reviewed are not within the purview of Measure 37 and should continue to apply to the supplemental claim of

claimant Dorothy English. The Board also finds that all code provisions not listed should not be applied to the supplemental claim of claimant Dorothy English.

- d. **County Code Restrictions Reduce Fair Market Value:** By Order No. 05-041 the Board found that land use restrictions prohibit Claimant Dorothy English from constructing additional homes or creating additional lots and that the appraisal she submitted to the County is evidence to support a finding of diminution in value. The finding applies to the supplemental claim.
- e. **Enforcement of County Code Restrictions:** By Order No. 05-041 the Board found that there is no land use application that Claimant Dorothy English can apply for that could lead to the approval of additional homes or the creation of additional lots and that regulations, on their face, have been enforced. The finding applies to the supplemental claim
- f. **Validity of Claim for Compensation:** By Order No. 05-041 the Board made certain findings concerning the validity of the claim by Dorothy English. Those findings apply to the supplemental claim. The Board reaffirms its election not to pay the compensation demanded by Claimant Dorothy English.

**The Multnomah County Board of Commissioners Orders:**

1. Claimant Dorothy English's request be granted with respect to all Multnomah County land use regulations restricting the use of her property except:
  - (a) Those regulations that the Board determined will continue to apply and be enforced by Order 05-041, and
  - (b) The following code provisions relating to health and safety and the procedure for application for land use approvals:
    - §4.000 et. seq., Access to County Roads. This section of the road rules regulates access onto County roads, to ensure that it is safe.
    - §6.000, Improvement Requirements. This section of the road rules addresses how what is required for work within the public right-of-way, which in this case is a modification to the approach road onto McNamee Road to ensure that the access is safe.
    - §9.000, Compliance Method. This section of the road rules addresses how infrastructure improvements are guaranteed (e.g. developer constructs them, they pay the County to build, non-remonstrance, etc.). These are administrative criteria that may not be relevant given the limited scale of the project.
    - §18.000 et. seq., Right-of-way Permits. Section of the road rules that includes criteria for how and where approaches onto a County Road are constructed to ensure they are safe.
    - §29.001 through 29.013, Fire Codes. These sections implement optional state building code regulations providing standards for fire flow and emergency access.

- §29.506, Permits Required. Section of the building code that regulates work within the right-of-way which will be necessary for safety improvements to be made to the approach road.
- §29.571 through 29.573, Right-of-Way and Drainage. These sections of the building code regulate how work is conducted within road rights-of-way and drainage improvements that impact rights-of-way. They are drafted to ensure that work does not compromise safety of the County roads.
- §33.2290, Access. Requires properties abut a public street or have other access that is safe for pedestrian, passenger, and emergency vehicles.
- §33.2305(A)(5) through 33.2305(D), Development Standards for Dwellings and Structures. The requirements listed in this section apply to construction of homes on forest land and designed to minimize potential hazard or damage from fire.
- §33.2310, Exception to Secondary Fire Safety Zones and Forest Practice Setbacks. Alternative to fire break requirement, relying instead on certain fire resistant building materials, sprinkler systems, alarms, etc.
- §33.7860, Content of Category 3 Tentative Plan. This section of the County code lists the types of information that must be included on a tentative plan for a partition. It is a submittal requirement for filing a partition application.
- §33.7865, Tentative Plan Approval Time Limits; Staged Development. This is a procedural requirement regarding the expiration and extension of tentative plan approvals.
- §33.7890, Land Suitability. This section prohibits approval of a land division unless there is evidence that the new parcels are suitable, or can be made suitable for the intended use considering soil, slope, or subsurface constraints.
- §33.7950 and 33.7985, Water Systems. These sections address the provision of water service to new properties, requiring evidence that a suitable domestic water supply is or can be made available to each proposed parcel.
- §33.7955 and 33.7990 Sewage Disposal. These sections require that new parcels be sized such that they have sufficient area to support a waste disposal system appropriate to the intended use.
- §33.7960 and 33.7995, Surface Drainage. These sections require surface drainage be appropriately managed.
- §33.8005, Variance. This section includes rules that would need to be met to ensure that a private street that does not conform to a standard county design is safe and convenient for pedestrian, passenger, and emergency vehicles.
- §33.8015 through 33.8035, Information Required for Final Partition Plat. These sections of the code list the types of information that need to be included on the final

partition plat and steps that need to be followed to record the document and create the parcels.

- Chapter 37, Administration and Procedures. This chapter of the code lists the procedures by which the County reviews and decides upon applications for all permits related to the use or division of land.

2. **Conditions of Approval:**

- (a) This Board Order does not constitute a waiver or modification of state law or administrative rules.
- (b) This action by the Board, to not apply certain regulations to Claimant Dorothy. English's property does not authorize immediate construction of the dwellings. Rules that still apply to the property require that land use and building permits be approved by the County before development can proceed.
- (c) Any plat must include a note that the plat is being recorded pursuant to Ballot Measure 37.

ADOPTED this 18th day of May, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

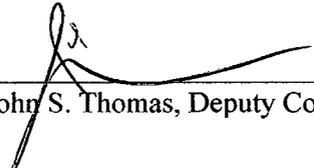
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Diane M. Linn, Chair

REVIEWED:

AGNES A. SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By



---

John S. Thomas, Deputy County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDER NO. 06-083**

Supplemental Order to Not Apply Land Use Regulations to 13100 NW McNamee Road Under Ballot Measure 37

**The Multnomah County Board of Commissioners Finds:**

- a. **Parties:** Dorothy Pauline English, Christie Anne Verhoef and Douglas James Sellers
- b. **Subject Real Property:** This claim relates to real property commonly known as 13100 NW McNamee Road, Multnomah County, Portland, Oregon 97231, and more specifically described as:

Section 32A, T2N, R.1W, Willamette Meridian, consisting of 19.74 acres in Multnomah County, Oregon; Tax Account #R971320170 (Tax Lot 1200).

**Adequacy of Demand for Compensation:** By Order No. 05-041 the Board determined that the materials submitted by the claimants with the original claim were adequate to satisfy the requirements of Ballot Measure 37.

**Relevant Dates of Property Ownership:** The relevant dates and property ownership were discussed in Order No. 05-041. There has been no change in ownership since the date of that Order.

- c. **Supplemental Claim:** Claimant Dorothy English has made a supplemental claim by letter from counsel dated March 24, 2006, copy attached as Exhibit 1. She seeks to create three lots at the locations shown on a map attached to the letter. Ms. English claims that under Ballot Measure 37 she can create legal parcels by recording deeds describing the parcels to be created. She says this is the process by which parcels were created in 1953 when she purchased the property. She further asserts that after recording the deeds she is entitled to apply for a building permit for construction of a home on each parcel so created. She claims that she is entitled to establish compliance with health and safety regulations in conjunction with her building permit application. She says that the County has no authority under Ballot Measure 37 to consider compliance with health and safety related code provisions at the time of creation of the parcels.

By Order No. 05-041 the Board determined to not apply certain code sections to allow claimant Dorothy English to establish an eight lot subdivision. The new claim to create three specific parcels requires that the Board consider whether it should further determine to not apply additional code sections that do not concern health and safety.

The Board's Order, below, lists each code provision that the Board has determined will continue to apply and be enforced with respect to the request by Claimant Dorothy English to create three legal parcels and construct homes on each parcel. The Board finds that under Ballot Measure 37 the County is required to apply and enforce health and safety regulations related to the creation of parcels or development of property. The Board further finds that procedural regulations relating to the manner in which applications for land use approvals are submitted and reviewed are not within the purview of Measure 37 and should continue to apply to the supplemental claim of

claimant Dorothy English. The Board also finds that all code provisions not listed should not be applied to the supplemental claim of claimant Dorothy English.

- d. **County Code Restrictions Reduce Fair Market Value:** By Order No. 05-041 the Board found that land use restrictions prohibit Claimant Dorothy English from constructing additional homes or creating additional lots and that the appraisal she submitted to the County is evidence to support a finding of diminution in value. The finding applies to the supplemental claim.
- e. **Enforcement of County Code Restrictions:** By Order No. 05-041 the Board found that there is no land use application that Claimant Dorothy English can apply for that could lead to the approval of additional homes or the creation of additional lots and that regulations, on their face, have been enforced. The finding applies to the supplemental claim.
- f. **Validity of Claim for Compensation:** By Order No. 05-041 the Board made certain findings concerning the validity of the claim by Dorothy English. Those findings apply to the supplemental claim. The Board reaffirms its election not to pay the compensation demanded by Claimant Dorothy English.

**The Multnomah County Board of Commissioners Orders:**

1. Claimant Dorothy English's request be granted with respect to all Multnomah County land use regulations restricting the use of her property except:
  - (a) Those regulations that the Board determined will continue to apply and be enforced by Order 05-041, and
  - (b) The following code provisions relating to health and safety and the procedure for application for land use approvals:
    - §4.000 et. seq., Access to County Roads. This section of the road rules regulates access onto County roads, to ensure that it is safe.
    - §6.000, Improvement Requirements. This section of the road rules addresses how what is required for work within the public right-of-way, which in this case is a modification to the approach road onto McNamee Road to ensure that the access is safe.
    - §9.000, Compliance Method. This section of the road rules addresses how infrastructure improvements are guaranteed (e.g. developer constructs them, they pay the County to build, non-remonstrance, etc.). These are administrative criteria that may not be relevant given the limited scale of the project.
    - §18.000 et. seq., Right-of-way Permits. Section of the road rules that includes criteria for how and where approaches onto a County Road are constructed to ensure they are safe.
    - §29.001 through 29.013, Fire Codes. These sections implement optional state building code regulations providing standards for fire flow and emergency access.

- §29.506, Permits Required. Section of the building code that regulates work within the right-of-way which will be necessary for safety improvements to be made to the approach road.
- §29.571 through 29.573, Right-of-Way and Drainage. These sections of the building code regulate how work is conducted within road rights-of-way and drainage improvements that impact rights-of-way. They are drafted to ensure that work does not compromise safety of the County roads.
- §33.2290, Access. Requires properties abut a public street or have other access that is safe for pedestrian, passenger, and emergency vehicles.
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- §33.2310, Exception to Secondary Fire Safety Zones and Forest Practice Setbacks. Alternative to fire break requirement, relying instead on certain fire resistant building materials, sprinkler systems, alarms, etc.
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- §33.8015 through 33.8035, Information Required for Final Partition Plat. These sections of the code list the types of information that need to be included on the final

partition plat and steps that need to be followed to record the document and create the parcels.

- Chapter 37, Administration and Procedures. This chapter of the code lists the procedures by which the County reviews and decides upon applications for all permits related to the use or division of land.

2. **Conditions of Approval:**

- (a) This Board Order does not constitute a waiver or modification of state law or administrative rules.
- (b) This action by the Board, to not apply certain regulations to Claimant Dorothy. English's property does not authorize immediate construction of the dwellings. Rules that still apply to the property require that land use and building permits be approved by the County before development can proceed.
- (c) Any plat must include a note that the plat is being recorded pursuant to Ballot Measure 37.

ADOPTED this 18th day of May, 2006.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn, Chair

REVIEWED:

AGNES A. SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By

John S. Thomas, Deputy County Attorney



**MULTNOMAH COUNTY  
AGENDA PLACEMENT REQUEST**

**Board Clerk Use Only**

**Meeting Date:** 05/18/06  
**Agenda Item #:** E-1  
**Est. Start Time:** 11:45 AM  
**Date Submitted:** 05/11/06

**BUDGET MODIFICATION:** -

**Agenda Title:** **Executive Session Pursuant to ORS 192.660(2)(h)**

*Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title.*

<b>Date Requested:</b>	<u>May 18, 2006</u>	<b>Time Requested:</b>	<u>15-30 mins</u>
<b>Department:</b>	<u>Non-Departmental</u>	<b>Division:</b>	<u>County Attorney</u>
<b>Contact(s):</b>	<u>Agnes Sowle</u>		
<b>Phone:</b>	<u>503 988-3138</u>	<b>Ext.</b>	<u>83138</u>
<b>Presenter(s):</b>	<u>Agnes Sowle and Invited Others</u>		
<b>I/O Address:</b>	<u>503/500</u>		

**General Information**

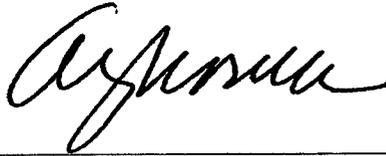
1. **What action are you requesting from the Board?**  
 No Final Decision will be made in the Executive Session.
2. **Please provide sufficient background information for the Board and the public to understand this issue.**  
 Only Representatives of the News Media and Designated Staff are allowed to Attend. Representatives of the News Media and All Other Attendees are Specifically Directed Not to Disclose Information that is the Subject of the Executive Session.
3. **Explain the fiscal impact (current year and ongoing).**
4. **Explain any legal and/or policy issues involved.**  
 ORS 192.660(2)(h).
5. **Explain any citizen and/or other government participation that has or will take place.**

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**Required Signatures**

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**Department/  
Agency Director:**



**Date:** 05/11/06

**Budget Analyst:**

**Date:**

**Department HR:**

**Date:**

**Countywide HR:**

**Date:**