



CURRY COUNTY BOARD OF COMMISSIONERS

SPECIAL MEETING

Wednesday, January 31, 2018 at 1:30PM Commissioners'

Hearing Room, Courthouse Annex

94235 Moore Street, Gold Beach, Oregon

www.co.curry.or.us

AGENDA

Items may be taken out of sequence to accommodate staff availability and the public.

For public comment, a completed speaker's slip must be submitted.

**** Please note – The Special Meeting begins at 1:30PM ****

1. Call To Order And Pledge Of Allegiance
2. Adoption/Amendment Of The Agenda
3. Hamilton Lane Nuisance Hearing – Public Hearing at 1:30P (50 minutes) John Hutt, County Counsel
4. Floras Lake Forest Lands – Grant and related work to prepare for grant to prepare a master plan for the property. – (5 minutes) Carolyn Johnson, Community Development Director
5. Requirements for a Planning Commission. – (15 minutes) Carolyn Johnson, Community Development Director
6. Consideration of Judicial Validation of Board Order Approving Petition to Annex Livestock District (20 minutes). – John Hutt, County Counsel
7. United States Forest Service Resolution. – John Hitt, Interim County Administrator (20 minutes)
8. Executive Session (30 minutes)
192.660.2 (a) To consider the employment of a public officer, employee, staff member or individual agent
9. ADJOURN

Curry County does not discriminate against individuals with disabilities and all public meetings are held in accessible locations. Auxiliary aids will be provided upon request with 48 hours advance notification. Please call 541-247-3296 if you have questions regarding this notice.

CURRY COUNTY BOARD OF COMMISSIONERS**AGENDA ITEM ROUTING SLIP**

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US**PROPOSED AGENDA ITEM TITLE: HEARING 1:30P.M. Nuisance/Abatement Property located at 97851 Hamilton Lane, Brookings, Oregon 97415****TIMELY FILED** Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01/25/18 **DEPARTMENT:** Legal **TIME NEEDED:** 75 Mins. min^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))**MEMO ATTACHED** Yes ☒ No ☐ If no memo, explain: Submitted by Counsel 1-24-18**CONTACT PERSON:** J. HuttI **PHONE/EXT:** 3218 **TODAY'S DATE:** 01-26-18**BRIEF BACKGROUND OR NOTE: (If no memo attached)****FILES ATTACHED:**

- (1) Memorandum
- (2) Notices, Warrant
- (3) Photographs & letters

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☒
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes ☐ No ☒
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes ☐ No ☒
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:☐ No Additional Activity Required

OR

☒ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

Note: Most signed documents are filed/recorded with the Clerk per standard process.*PART III - FINANCE DEPARTMENT REVIEW****EVALUATION CRITERIA 1-4:**

- 1. Confirmed Submitting Department's finance-related responses Yes ☐ No ☐ N/A ☒
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes ☐ No ☐ N/A ☒
Comment:
- 3. If job description, Salary Committee reviewed: Yes ☐ No ☐ N/A ☒
- 4. If hire order requires a Personnel Action Form (PAF)? Pending ☐ N/A ☒ No ☐ HR ☐

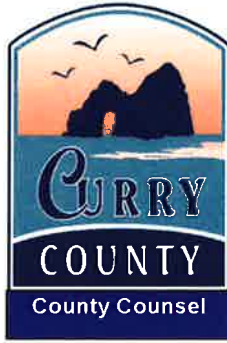
PART IV – COUNTY ADMINISTRATOR REVIEW☒ **APPROVED FOR** 01/31/18 **BOC MEETING** ☐ **Not Approved for BOC Agenda because****LEGAL ASSESSMENT:** Does this agenda item have a legal impact? Yes ☒ No ☐

(If Yes, brief detail) Show Cause Hearing Required by Curry County Code

ASSIGNED TO: ORDER**PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL****COMMISSIONERS' REQUEST TO ADD TO AGENDA:**Commissioner Sue Gold Yes ☐ No ☐Commissioner Thomas Huxley Yes ☐ No ☐

Commissioner Court Boice

Yes ☐ No ☐



MEMORANDUM

FROM John R. Huttl, Curry County Counsel

TO Curry County Board of Commissioners

RE: Hamilton Lane Nuisance Abatement Hearing Standards

DATE: January 25, 2018

INTRODUCTION

On January 31, 2018, at 1:30pm, the Board will hold a hearing to determine whether there exists a public nuisance at 97851 Hamilton Lane in Harbor; and if so, what the remedy should be.

This memorandum explains the legal standards for determining what a nuisance is, and recommends the remedy of demolition.

A. BACKGROUND: Nuisance and Due Process

In general, a nuisance is when an owner uses property to the harm of its neighbors (private nuisance), or the public at large (public nuisance). The same conduct can be a private and public nuisance. That is the case here.

In Oregon, a County can adopt ordinances that describe nuisances, establish procedures to enforce and determine whether a nuisance exists, and order abatement, and Curry County has done so. As such, the Board can determine that a nuisance exists, impose appropriate remedies.

All such procedures are subject to state and federal constitutional limitations. Those limitations prevent the government from destroying private property without due process of law. Due process generally requires notice to the offender of the violation, and opportunity to be heard before a decision is made.

As set forth below, the facts show that the property owner was given notice of the County's claimed violation, and an opportunity to appear before the Board to present his case.

Further, the facts will show that a nuisance exists, and that abatement by demolition is the clear remedy.

B. LEGAL STANDARDS

1. Notice

The law usually requires personal service of notice. When personal service is not available, some other method of service can be used. Typical “substitute” services must be reasonably calculated to give actual notice. They include but are not limited to: giving notice to another responsible person in place of the defendant, mailing notice (either certified or regular or both), posting notice on property, and in appropriate cases, email and telephone.

2. Nuisance

The County has described as nuisances:

The deposit, accumulation, storage, collection, maintenance or display on private property outside the limits of cities of waste or solid waste that is hazardous to the health and safety of the public, or which creates offensive odors or a condition of unsightliness, is hereby prohibited as a public nuisance.

Curry County Code Article 6, Division 1, Section 6.01.020; and 6.01.030 lists examples, Exhibit “A”, attached.

C. FACTS

1. Facts Regarding Notice to Owners, Greg Hamilton, Susie Hamilton and Does I-X

Curry County property tax records list the Estate of Robert Hamilton as the owner of record on the property, Exhibit “B”, attached. The estate’s address is listed as:

97851 Hamilton Lane, Brookings (Harbor) Oregon, 97415.
PO Box 773, Brookings 97415.

On January 11, 2018, pursuant to a warrant issued by the Curry County Circuit Court, Exhibit “C” attached, the County posted notice on the property of this proceeding. The notice was posted in the garage on the property where there is evidence of human habitation. Three separate notices were posted, one for the Estate, one for Susie Hamilton, and one for DOES I – X (unknown persons reported at the location).

Curry County mailed certified and regular mail to the Estate of Robert Hamilton and to Susie Hamilton at the physical address and the PO Box on the County tax records. Those were returned undeliverable.

Also, the Estate was probated in Curry County Circuit Court. That action showed Greg Hamilton as the personal representative, Exhibit “D” attached. Court records show an address for personal representative as:

218 Main Street, #293, Kirkland, WA 98033

County counsel office retained a process server deliver a copy of the notice of this hearing to the address showing in the court records for Greg Hamilton. That process server's affidavit is returned to us as undeliverable, Exhibit "E" attached.

County Counsel sent certified and regular us mail notices to the Estate at the Brookings PO Box and the Everett Washington address. Those were returned to us, Exhibit "F" attached.

Lastly, the County Administrator received an email address for Greg Hamilton. He obtained a response from Mr. Hamilton that he was working on the problem, Exhibit "G" attached.

There is evidence the Estate of Robert Hamilton and Greg Hamilton have actual notice of this proceeding. There is evidence that Susie Hamilton and Does I-X have been notified pursuant to posting. The Board can conclude that reasonable notice was given of this proceeding to the defendants.

2. Facts Regarding Nuisance

In October and December multiple citizens in the area of the house came to Board of Commissioner Meetings and described problems with the property. The prior appearances and submittals of the neighbors are incorporated herein by reference.

On January 3, 2018, the Board of Commissioners ordered the County Administrator to take steps to enforce the County's nuisance ordinance against the persons who were committing or allowing the nuisance to be committed. Those persons were identified as Susie Hamilton, Does I-X, and the Estate of Robert Hamilton, with personal representative Greg Hamilton. The materials and presentation thereof on January 3, 2018 are incorporated herein by reference.

a. House

The house is a burned-out shell. It has a brick fireplace. More than half of the house has no roof or ceiling. Part of the house has a ceiling, but it is unsafe. Persons have put a ladder up to what used to be the attic and have put a chair up there, Exhibit "H" attached (all photos).

The Curry County Building Official inspected the house and deemed it structurally unsound, Exhibit "I" attached.

b. Garage

The garage contained evidence of habitation. On the cement pad outside between the garage and house was a propane cook stove. In the garage was a cooler, and evidence of unopened food as well as empty food containers. A water pipe without a spigot had water running into a plastic tub. Presumably this water was from the public utility that served the Harbor area. Clothes were hanging on a wire. Beds and bedding was in the garage. Multiple five-gallon buckets with human feces were in the garage, Exhibit "H" attached (all photos).

3. Facts Regarding Remedy

When the Board determines there is a nuisance of the garage and the house, the question is what remedy is appropriate. Remedies available can be fines, boarding the property up, installing fencing, or demolition.

a. Fines

Fines would be ineffective to prevent the conduct. To collect a fine, a violator would need to be served with a citation, and have the ability to pay. In this case neither of those scenarios is likely. Further, the condition would likely continue. There is a high degree of immediacy in the need to stop this nuisance conduct. A fine would not likely accomplish that.

b. Cleaning-up and Boarding up.

Little purpose would be served in cleaning up and boarding up the burned out residence. The County anticipates the Sheriff will explain that boarded-up structures are commonly broken into, and the nuisance conduct resumes.

c. Fencing

The property has approximately 700 linear feet of perimeter. A general ball-park for either a cyclone or cedar fence is \$20 per linear foot. This is a \$14,000 expense. The County anticipates the Sheriff will explain that fencing does not prevent renewed nuisance activity.

d. Demolition

The house is not appropriate for reconstruction. It needs to be demolished. There is a quote in the range of \$19,000 to demolish the house, Exhibit "J" attached. The owner has said that he is working with parties to demolish the home, Exhibit "G" attached. He has expressed that if the county places a lien on the property, then it would make it harder to sell. It is permissible to conclude that a lien on a cleaned-up lot makes the property no more difficult to sell than in its current condition.

It is appropriate for the Board to determine that demolition is the appropriate remedy. The hardship on the defendant is primarily financial, most if not all of which would be incurred if the defendant hired someone to do it himself. A lien would come out of the proceeds of any future sale. The harm to the defendant from county remediation does not outweigh the harm to the general public of allowing the nuisance to continue.

Conclusion

This Memorandum summarizes the testimony and evidence the County intends to present to the Board on January 31, 2018.

After hearing all testimony and considering all evidence, the Board can conclude that a nuisance exists, and can order the County Administrator to send notice of its decision to the defendants, that a nuisance exists and that the defendants have 30 days to remediate the nuisance. If not, County Counsel shall file suit for injunctive relief in Circuit Court to abate the nuisance. All costs of the nuisance abatement shall be charged to the defendants.

A handwritten signature in blue ink, appearing to read "John R. Hutt", is written over the printed name.

John R. Hutt
Curry County Counsel

EXHIBIT "A"

ARTICLE SIX - ENVIRONMENT AND HEALTH

DIVISION ONE

SOLID WASTE NUISANCE

SECTION 6.01.010

RESERVED

SECTION 6.01.020

PROHIBITION

The deposit, accumulation, storage, collection, maintenance or display on private property outside the limits of cities of waste or solid waste that is hazardous to the health and safety of the public, or which creates offensive odors or a condition of unsightliness, is hereby prohibited as a public nuisance.

SECTION 6.01.030

DEFINITIONS

(1) The following conditions shall be deemed solid wastes that are hazardous to health and safety or a condition which creates offensive odors:

(a) Putrescible wastes not stored in fly-tight and rodent-proof containers and not removed from the premises at least every seven days.

(b) Accumulation of solid waste material conducive to rodent propagation.

(c) Where permitted, a burning barrel not receiving regular maintenance which has rusted and deteriorated to the extent that the contents are allowed to leak out.

(d) Accumulation of solid waste material conducive to mosquito production.

(e) An abandoned, unattended or discarded ice box, refrigerator, or other container which has an airtight door or lid, snaplock or other locking device which may not be opened from the inside when said door or lid, snaplock or other locking device has not been removed.

(f) Solid waste that may, by itself, or in combination with other solid wastes, be infectious, explosive, poisonous, caustic, toxic or otherwise dangerous or injurious to human, plant, or animal life.

(g) Buildings or structures in such a condition that they have become useless or dangerous for the purpose of habitation, shelter, storage or any other purpose.

(2) When exposed to view from public street or public highway the following shall be deemed solid wastes, creating a condition of unsightliness:

(a) Discarded, useless, abandoned or inoperable household appliances such as washers, dryers, refrigerators, dishwashers, water heaters, stoves and

similar items.

(b) Abandoned, discarded, useless household furniture such as sofas, beds, chairs, mattresses, tables and similar items.

(c) Abandoned, discarded, useless, or inoperable motor vehicles or parts thereof such as automobiles, trucks, farm machinery, motors, tires, chassis and similar items. For purposes of this subsection, the definition of "motor vehicle" as found in ORS 801.360 applies.

(d) Accumulation of rubble or used building material such as lumber, wire, plumbing fixtures, lighting fixtures, used stone or brick and similar items.

(3) The prohibition does not include:

Materials used for fertilizer or for other productive purposes or which are salvageable when such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

SECTION 6.01.040 INVESTIGATIONS

To determine whether there is reasonable cause to believe that a public nuisance exists on private property outside the limits of any city, the Board, or whomever it designates, may conduct an investigation for that purpose. In conducting such an investigation, the Board, or whomever it designates, may administer oaths, subpoenas and require the attendance of witnesses at public hearings, require the production of relevant documents, and take the testimony of any person.

SECTION 6.01.050 NOTICE

(1) Whenever it appears that there is reasonable cause believe that a public nuisance exists, the Board may order that a notice be issued and served upon the owner, tenant, occupant or person in possession of the premises where the nuisance is alleged or claimed to exist, requiring such person to appear before the board at the time and place stated in the notice to show cause why a nuisance should not be declared to be existing on the premises.

(2) Notice with regard to abandoned, discarded, useless or inoperable motor vehicles shall be given as provided in ORS. 819.170 to 819.200.

SECTION 6.01.060 HEARINGS AND FINDINGS

(1) At the time and place described in said notice, the Board shall conduct a public hearing on the question of the existence of the alleged nuisance, and if the Board finds that a nuisance exists, it shall declare the existence of the nuisance by order entered in its journal, and may order a suit to be brought in the name of the County to institute injunction, abatement or any other proceeding provided by law to prevent temporarily or permanently the existence of the nuisance.

(2) A hearing with regard to abandoned, discarded, useless or inoperable motor vehicles shall be conducted as set forth in ORS. 819.190 to 819.200.

SECTION 6.01.070 ALTERNATIVE ABATEMENT PROCEDURE

In lieu of and not in addition to the remedies provided above where the Board finds that a nuisance exists and declares the existence of a nuisance by order, if the owner or occupant of the property fails to abate the nuisance within 30 days after the entry of the order, the Board may cause the nuisance to be abated. Where such removal is performed by the County, or its agent, neither the County nor its agent shall be liable for any trespass or conversion as to any real or personal property and the costs may be collected from the person served with the notice provided in this division, or may be collected as a lien against such property.

SECTION 6.01.080 CUMULATIVE REMEDIES

The remedies provided for above are in addition to and not in lieu of other remedies provided by law.

SECTION 6.01.090 COMPUTATION OF OFFENSES

Each day the public nuisance exists, after the day it is declared a public nuisance by this Board under this ordinance, shall be deemed a separate and distinct offense under this division.

SECTION 6.01.100 DELEGATION

Any County employee or any body responsible to this Board may, when authorized by this Board, carry out any of the functions vested in this Board by this division. The actions of such person or body are subject to reversal or modification by this Board within 10 days of the action.

SECTION 6.01.110 LIBERAL CONSTRUCTION

The provisions of this division are to be liberally construed to achieve their object: the prevention, abatement, and punishment of the public nuisance created by solid wastes.

SECTION 6.01.120 APPLICATION

This division does not apply to:

(a) Disposal sites operated in compliance with regulations promulgated by the State Environmental Quality Commission or other ordinances or regulations of the County.

(b) Agricultural operations and growing or harvesting of crops and the raising of fowls or animals.

EXHIBIT "B"

Curry County GIS Property Tax Information Parcels

Maptaxlot: 4113-08DA-00100-00
Map Number: 41S13W08DA
Taxlot: 100
OR Maptaxlot: 0841.00S13.00W08DA--000000100
PropertyID: R11471

Owner Information:
HAMILTON, ROBERT ESTATE
P O BOX 773
BROOKINGS, OR 97415

Situs Address:
97851 HAMILTON LN
BROOKINGS, OR 97,415

P_class: 101
Co_Prop_Cls: 121
Code Area: CA:17-9
Exemptions:
Current Exempt Value: \$0
Total Tax: \$
Roll Land Market: \$135,980
Roll Total Improvement: \$9,010
Roll_Rmv_Value: \$144,990
Roll Use Value: \$0
Roll Assessed Value: \$125,770
Current Year Levy: \$1,124.78
Ca_rate: 6.60
Year Built: 1,971
Living Area: 1,152
Account Acres: 0.75
Sale Date:
Sale Price: \$0
Current Sale Deed: 15-4593

EXHIBIT "C"

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF CURRY

CURRY COUNTY, a General)	
Law County Political Subdivision	)	WARRANT
State of Oregon)	
)	
v.	)	To Enter Premises
	)	to Search for Nuisance Evidence
Estate of Robert Hamilton, Susie Hamilton,	)	to Post Notice of Hearing
and Does I – X	)	ORS 203.065; ORS 133.
	)	Curry Code Article 6.01.020

TO: John HuttI, Curry County Special Deputy District Attorney, and designated employees or agents.

RE: 97851 HAMILTON LN, BROOKINGS (HARBOR), OR 97415

IN THE NAME OF THE STATE OF OREGON:

WHEREAS, ORS 203.065 in pertinent part states:

(2) The violator of a county ordinance may be prosecuted by the county in the name of the county or be made the defendant in a civil proceeding by the county seeking redress of the violation.

(3) Every act or thing done, or anything existing with the limits of a county, which is declared by an ordinance of the county adopted under ORS 203.030 to 203.075 to be a nuisance, shall constitute a nuisance and may be regarded as such in all actions, suits and proceedings, unless the ordinance is declared void by a court of competent jurisdiction.

; and

WHEREAS, Curry County has adopted Ordinance 6.01.020 and 6.01.030 per above referenced statutes to declare nuisances and describe the process to post notice and enter property to inspect; and

WHEREAS, the application of Special Deputy District Attorney supported by affidavit of Curry County Interim County Administrator swears out facts and provides supporting documents to establish probable cause that a violation of Curry County Ordinance 6.01.020 and 6.01.030 is being violated; and

WHEREAS, the County needs to enter the above-described property to conduct an inspection of the residence, outbuildings and appurtenant land for the purpose of investigating a source of nuisance as described in Curry County Ordinance 6.01.030 and ascertaining compliance with the County Code; and

WHEREAS, based on the accompanying affidavits, it appears that the Estate of Robert Hamilton, Susie Hamilton and DOES I – X, the owner(s) or occupant(s) of the above-described property have posted the property "No Trespassing," thereby frustrating the purpose of the inspection and necessitating the issuance of an inspection warrant.

///

///

NOW THEREFORE, YOU ARE HEREBY AUTHORIZED

1. To enter the above-described property to conduct an inspection for the purpose of investigating a source of Nuisance as outlined in Curry County Code 6.01.020 and 6.01.030, to wit:

Putrescible wastes not stored in fly tight containers; accumulation of solid waste material conducive to rodent propagation, mosquito production, or otherwise dangerous or injurious to life; building or structures that have become dangerous for purpose of habitation; abandoned containers with airtight doors or lid which cannot be opened from the inside; discarded inoperable or abandoned appliances, furniture, motor vehicles and parts; accumulation of rubble or used building material.

and

2. To post notice of a hearing to show cause whether a Nuisance exists and if so whether it should be abated.

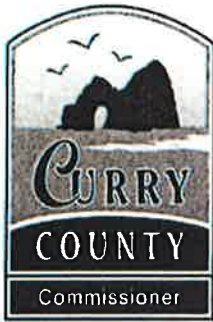
You are authorized to obtain the assistance of the Curry County Sheriff to gain access to the property, if necessary, and you are to return this warrant to the Circuit Court of Curry County, Oregon, when said inspection has been completed.

This warrant authorizes you to enter the property between the hours of 7 A.M. to 10 P.M. within five days of issuance. This warrant shall be returned not later than five days after date of search.

DATED at Gold Beach, Curry County, Oregon, at ^{3:36} 3 A.M./36 P.M., this 9th day of January 2018



Circuit Court Judge



**Curry County
Board of Commissioners**

Tom Huxley, *Chair*
Sue Gold, *Vice Chair*
Court Boice, *Commissioner*

94235 Moore Street
Gold Beach, OR 97444
541-247-3296
www.co.curry.or.us

January 11, 2018

SUSIE HAMILTON
97851 HAMILTON LANE
BROOKINGS, OR 97415

PO Box 773
Brookings, OR 97415

**NOTICE of VIOLATION
REQUIREMENT TO APPEAR FOR HEARING**

Sent First Class and Certified Return Receipt US Mail; Posted on Property

RE: Property Address: 97851 Hamilton Lane, Brookings, OR 97415

Violation

Pursuant to Curry County Ordinance 6.01.050 (1), you are hereby notified that the Curry County Board of Commissioners has reason to believe that a public nuisance exists on the above-referenced property occupied or possessed by you.

Summary of Facts: The property recently burned, and it is now rubble. As such, it meets the definition of nuisance property under Curry County Ordinance 6.01.030 (1) and (2).

Requirement to Appear

You are hereby required to appear and show cause why the Board of Commissioners should not declare a nuisance to exist at the property.

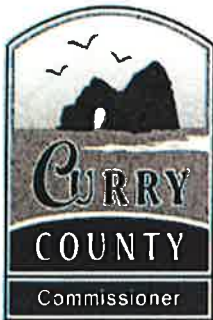
Date of Hearing: Wednesday, January 31, 2018
Place of Hearing: Curry County Offices, 94235 Moore Street, Gold Beach, OR
Time of Hearing: 1:30 p.m.

The Board will take testimony from witnesses and consider evidence. If you fail to appear, the Board will make a decision on the information available to it. Failure to appear may result in a decision that you abate the nuisance. If you fail to abate the nuisance, the County may abate the nuisance and charge expenses to you, and place a lien on your property.

This enforcement procedure does not prohibit the County from exercising any other lawful enforcement process against you. **YOU MAY APPEAR BY TELEPHONE.**

Sincerely,

John Hutt
Curry County Counsel
Special Deputy District Attorney



**Curry County
Board of Commissioners**

Tom Huxley, *Chair*
Sue Gold, *Vice Chair*
Court Boice, *Commissioner*

94235 Moore Street
Gold Beach, OR 97444
541-247-3296
www.co.curry.or.us

January 11, 2018

ESTATE of ROBERT HAMILTON c/o Greg Hamilton, Representative/Administrator
P O BOX 773 97851 Hamilton Lane 218 Main St., #923
BROOKINGS, OR 97415 Brookings, OR 97415 Kirkland, WA 98033

**NOTICE of VIOLATION
REQUIREMENT TO APPEAR FOR HEARING**

Sent first class and certified return receipt US mail and posted on property.

RE: Property Address: 97851 Hamilton Lane, Brookings, OR 97415

Violation

Pursuant to Curry County Ordinance 6.010.050 (1), you are hereby notified that the Curry County Board of Commissioners has reason to believe that a public nuisance exists on the above-referenced property owned by you.

Summary of Facts: The property recently burned, and it is now rubble. As such, it meets the definition of nuisance property under Curry County Ordinance 6.010.030 (1) and (2).

Requirement to Appear

You are hereby required to appear and show cause why the Board of Commissioners should not declare a nuisance to exist at the property.

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Place of Hearing: Curry County Offices, 94235 Moore Street, Gold Beach, OR
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Sincerely,

John Huttli
Curry County Counsel
Special Deputy District Attorney



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Tom Huxley, *Vice Chair*
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January 11, 2018

DOES, ONE THROUGH TEN
97851 HAMILTON LANE
BROOKINGS, OR 97415

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REQUIREMENT TO APPEAR FOR HEARING**

Sent First Class US Mail and Posted on Property

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This enforcement procedure does not prohibit the County from exercising any other lawful enforcement process against you.

Sincerely,

John Hutt
Curry County Counsel
Special Deputy District Attorney

[Skip to Main Content](#) [Logout My Account](#) [Search Menu](#) [Search Civil, Family, Probate and Tax Court Case Records](#) [Refine Search](#) [Back](#)

[Location : Curry](#) [Images](#) [Help](#)

REGISTER OF ACTIONS

CASE No. 16PB06534

In the Matter of: Robert Mahlon Hamilton

§
§
§
§
§

Case Type: **Small Estate**

Date Filed: **09/23/2016**

Location: **Curry**

PARTY INFORMATION

		Attorneys
Affiant	Hamilton, Greg 218 Main St. #293 Kirkland, WA 98033	
Deceased	Hamilton, Robert Mahlon 97851 HAMILTON LN BROOKINGS , OR 97415	Male White DOB: 1939 DOD: 10/10/2015 5' 9", 170 lbs
Petitioner	Hamilton, Greg 218 Main St. #293 Kirkland, WA 98033	

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS	
09/23/2016	<u>Affidavit - Small Estate</u> <i>Date of Death: 10-10-2015; 1 Cert to Pet</i> Created: 09/23/2016 4:19 PM
09/23/2016	<u>Certificate - Death</u> Created: 09/23/2016 4:20 PM
09/23/2016	<u>Closed</u> Created: 09/23/2016 4:21 PM
10/20/2016	<u>Claim - Against Estate</u> \$42.07 Created: 10/20/2016 10:08 AM

FINANCIAL INFORMATION

		Affiant Hamilton, Greg	
		Total Financial Assessment	117.50
		Total Payments and Credits	117.50
		Balance Due as of 01/05/2018	0.00
09/23/2016	Transaction Assessment		111.00
09/23/2016	Transaction Assessment		6.50
09/23/2016	Counter Payment	Receipt # 2016-2605337	(117.50)
		Hamilton, Greg	

EXHIBIT "E"

Curry County Board of Commissioners

VS.

Plaintiff(s),

**Estate of Robert Hamilton c/o Greg Hamilton,
Representative/Administrator**

Defendant(s),

Case No.:

DECLARATION OF NON-SERVICE

STATE OF WASHINGTON
COUNTY OF ss. }

The undersigned, being first duly sworn on oath deposes and says: That he/she is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen years, not a party to or interested in the above entitled action and competent to be a witness therein.

That on 1/12/2018, the following documents(s): Notice of Violation Requirement to Appear for Hearing were received for service on Estate of Robert Hamilton c/o Greg Hamilton, Representative/Administrator. Service was unable to be completed for the following reason(s):

The following service attempts were made on the date(s), time(s) and at the address(es) noted below.

1/15/2018 11:05 AM 218 Main Street, #923, Kirkland, WA 98033

UPS Store - Clerk didn't recognize Greg Hamilton and no one listed under Box #923

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 1/16/2018
TOTAL: \$ 105.00



§
L

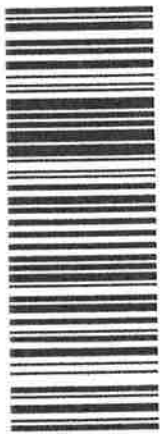


J. DeWitt
Registered Process Server
License#: 1030264 - Expiration Date: 6/2/2018
Seattle Legal Messengers
4201 Aurora Avenue N, #200
Seattle, WA 98103
(206) 443-0885

EXHIBIT "F"

Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444

12/1/18



7017 1450 0002 2994 9157



1021



97415

U.S. POSTAGE
PAID
GOLD BEACH, OR
97444
JAN 11, 18
AMOUNT

\$6.59

R2305E124225-03

UTF
Susie Hamilton
P.O. Box 773
Brookings, Oregon 97745

1-16

Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444



7017 1450 0002 2994 9156



1021



97415

U.S. POSTAGE
PAID
GOLD BEACH, OR
97444
JAN 11, 18
AMOUNT

\$6.59

R2305E124225-03

UTF
Estate of Robert Hamilton
c/o Greg Hamilton, Rep/Admin.
P.O. Box 773
Brookings, Oregon 97745

1-16

Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444

RECEIVED
County Legal Counsel

JAN 24 2018

Curry County Oregon



Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444

RECEIVED
County Legal Counsel

JAN 24 2018

Curry County Oregon

RECEIVED JAN 24 2018
JAN 24 2018 10:00 AM

Sue Hamilton
97851 Hamilton Lane

PLEASE USE DE 1 8881/22/18

RETURN TO SENDER
NO MAIL RECEPTACLE
UNABLE TO FORWARD

NMR 9741539514-3704

BC: 97444970448 *2529-08044-12-38



RECEIVED JAN 24 2018
JAN 24 2018 10:00 AM

Does, One Through Ten
97851 Hamilton Lane

PLEASE USE DE 1 8881/22/18

RETURN TO SENDER
NO MAIL RECEPTACLE
UNABLE TO FORWARD

NMR 9741539514-3704

BC: 97444970448 *2529-11960-12-35





Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444

RECEIVED
County Legal Counsel

JAN 24 2018

Curry County Oregon

EUGENE OR 974
12 JAN 2018 PM 11



Estate of Robert Hamilton
c/o Greg Hamilton, Rep/Admin
Box 773

PLEASE

974 02 1

RETURN TO SENDER
VACANT
UNABLE TO FORWARD

9741530003 VAC
97444>9704

BC: 97444970448 *2489-01294-22-28



Curry County Counsel
94235 Moore Street, Suite 123
Gold Beach OR 97444

RECEIVED
County Legal Counsel

JAN 24 2018

Curry County Oregon

EUGENE OR 974
12 JAN 2018 PM 11



Joe Hamilton
Box 773

PLEASE

974 02 1

RETURN TO SENDER
VACANT
UNABLE TO FORWARD

9741530003 VAC
97444>9704

BC: 97444970448 *2529-10713-22-35



EXHIBIT "G"

John HuttI

From: Greg Hamilton <gmha375@yahoo.com>
Sent: Friday, January 12, 2018 2:01 PM
To: John HuttI
Subject: Re: Greg Hamilton, Representative/Administrator of Hamilton Estate Letter

I'm very open to any option for getting people off of the property that doesn't compromise the estate. When I spoke to the sheriff they thought anything I did would end up with a lien on the property.

I doubt I can get it demolished and cleaned up by the end of the month. the reality of me being there with a demo crew this month is pretty unlikely.

Getting trespassers off of the property would make it a lot easier to sell. Of course any sort of liens and legal actions against the property make it much harder.

On Jan 12, 2018, at 1:49 PM, John HuttI <huttIj@co.curry.or.us> wrote:

I think Mr Hamilton, and the county (Administrator Hitt and Counsel HuttI) should have a phone conference.

We can present some form of solution at the BOC hearing, but at this point, we should still plan on making some presentation to the Board on the 31st.

And whatever solution we arrive at would need to include demolition of the burned building.

And we have some time.

As for kicking persons off, the estate would have to obtain some court order prohibiting Susie from being on the property.

Then I think we could arrest for violation of that order.

I will think on it as far as other options there.

The practical reality of arresting for trespass is that it would likely be a situation where is is a minor crime and the persons do not serve jail time, so it could be an extremely temporary solution, and on that I doubt our County has the manpower to constantly monitor.

John
John R. HuttI
Curry County Counsel
541 247 3218

From: John Hitt
Sent: Friday, January 12, 2018 11:42 AM
To: Greg Hamilton
Cc: John HuttI
Subject: RE: Greg Hamilton, Representative/Administrator of Hamilton Estate Letter

Mr. Hamilton, Thanks for your reply.

We can, as a result of the public nuisance process, force anyone living there to leave.

However, our County Attorney, John Hutt, may have a suggestion.

John Hitt
Interim Curry County Administrator
541-247-3287

From: Greg Hamilton [<mailto:gmha375@yahoo.com>]
Sent: Friday, January 12, 2018 11:27 AM
To: John Hitt
Subject: Re: Greg Hamilton, Representative/Administrator of Hamilton Estate Letter

my apologizes. I've been having every problem under the sun up here at home

I talked to the sheriff last time I was down and I'm in a bit of a quandary. They say they can't make anyone leave the property as one of the persons is a family member.

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I'm as upset about this as anyone, and am open to suggestions

Greg Hamilton

On Jan 12, 2018, at 11:15 AM, John Hitt <hittj@co.curry.or.us> wrote:

Mr. Hamilton, I am sorry that I haven't heard from you regarding the property owned (by our records) the Hamilton Estate.

As the attached "Notice of Violation" makes clear, there are some serious potential public nuisance issues concerning the property at 97851 Hamilton Lane, Brookings, OR 97415

Your attention to these matters is essential. I would strongly recommend you contact me, and/or appear at the Public Hearing scheduled for Jan. 31, 2018, 1:30 PM, Curry County Offices, 94235 Moore St., Gold Beach, OR 97444

Sincerely,

John Hitt

Interim Curry County Administrator
541-247-3287

<G. Hamilton Letter.pdf>



EXHIBIT "H"





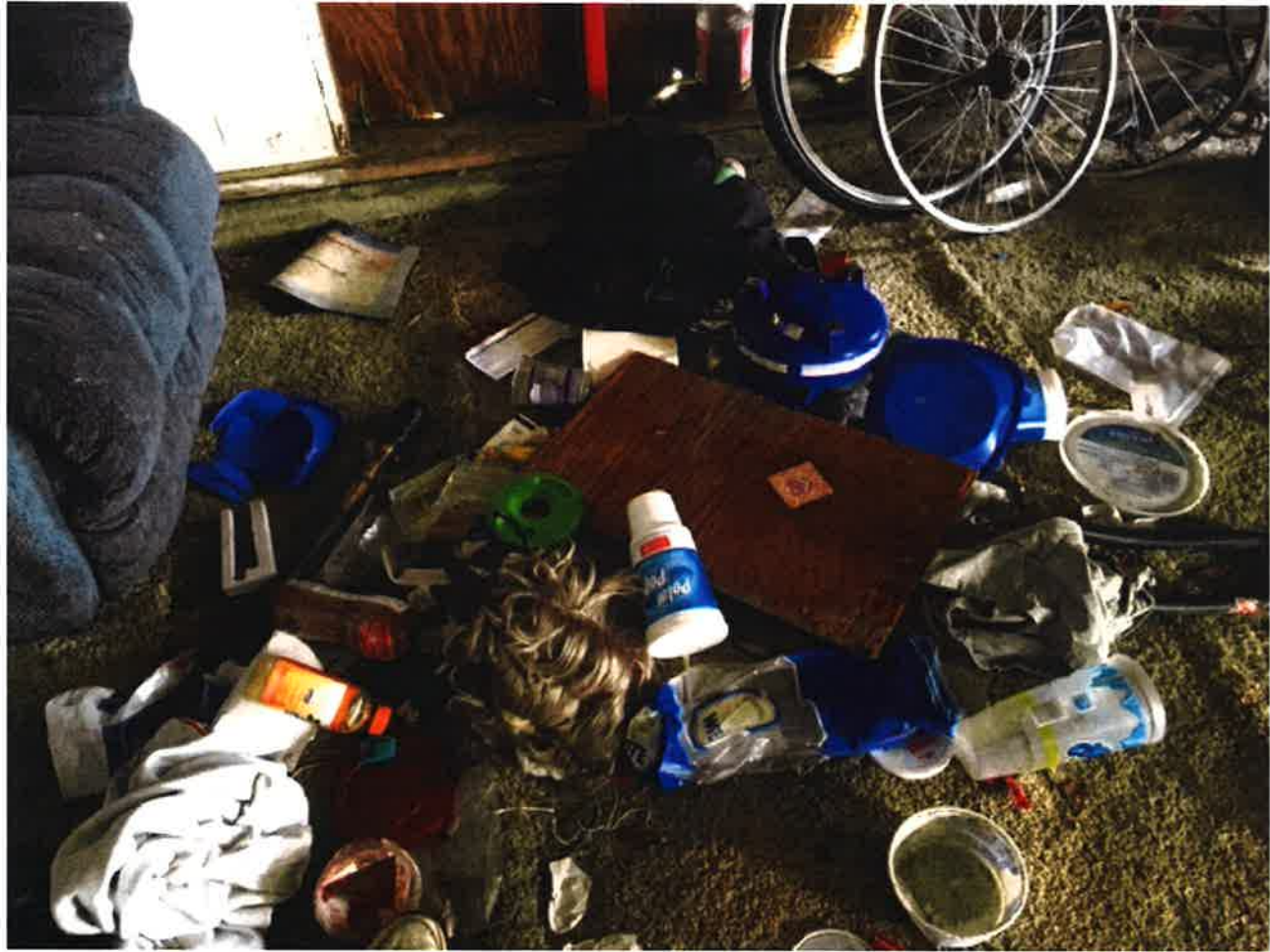








































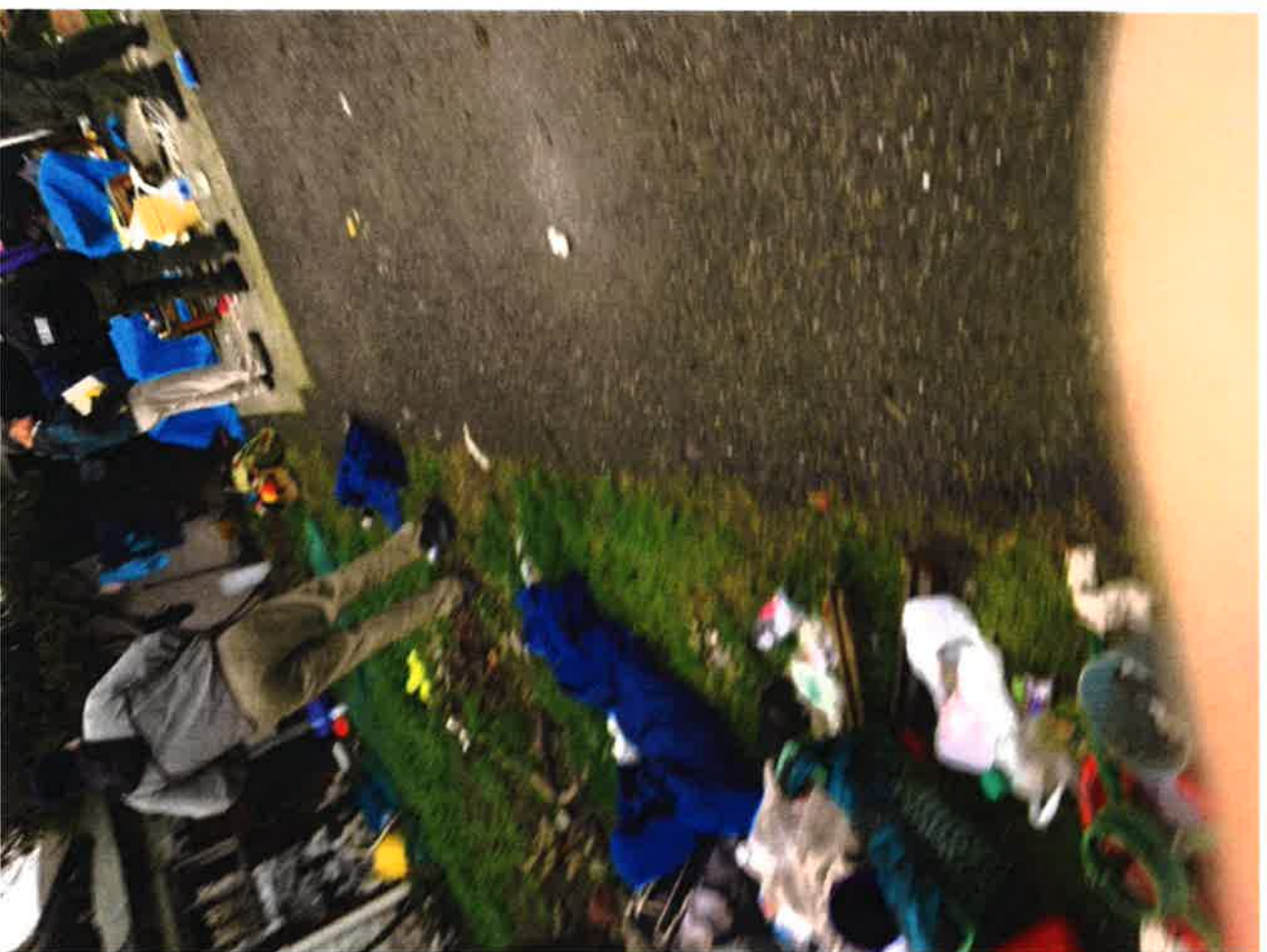












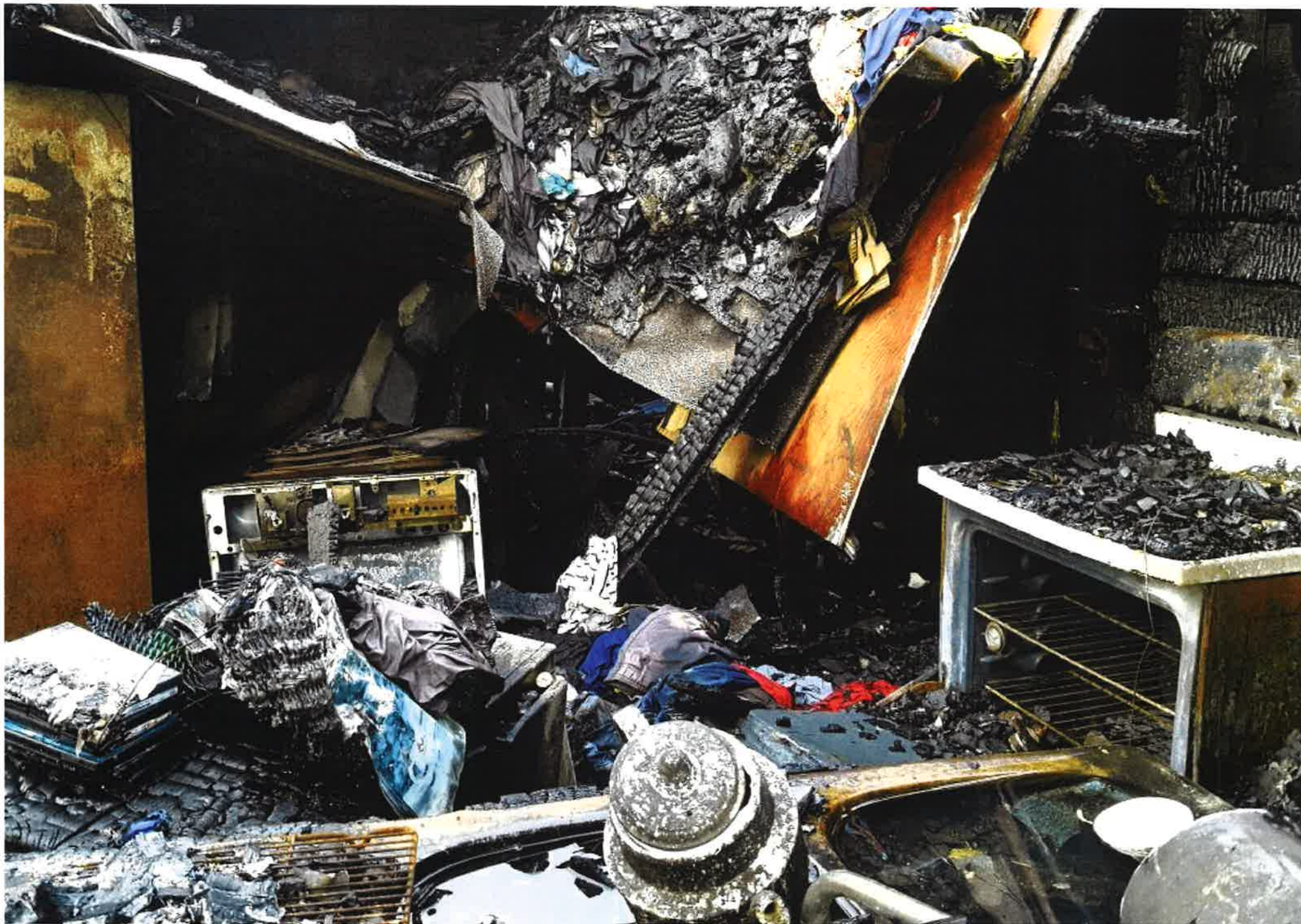


on Inspection
n 97851 Hamilton Ln
OR



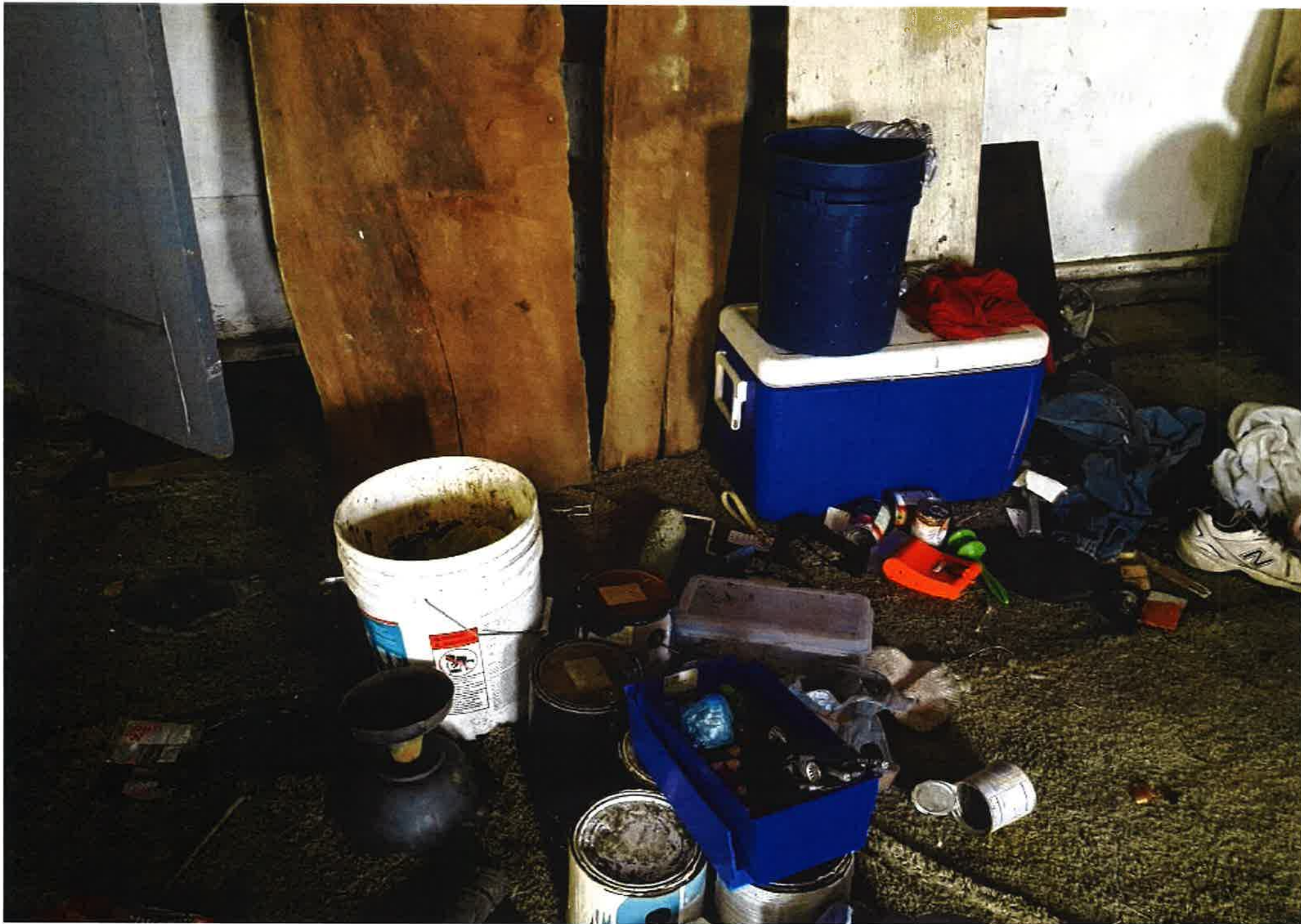




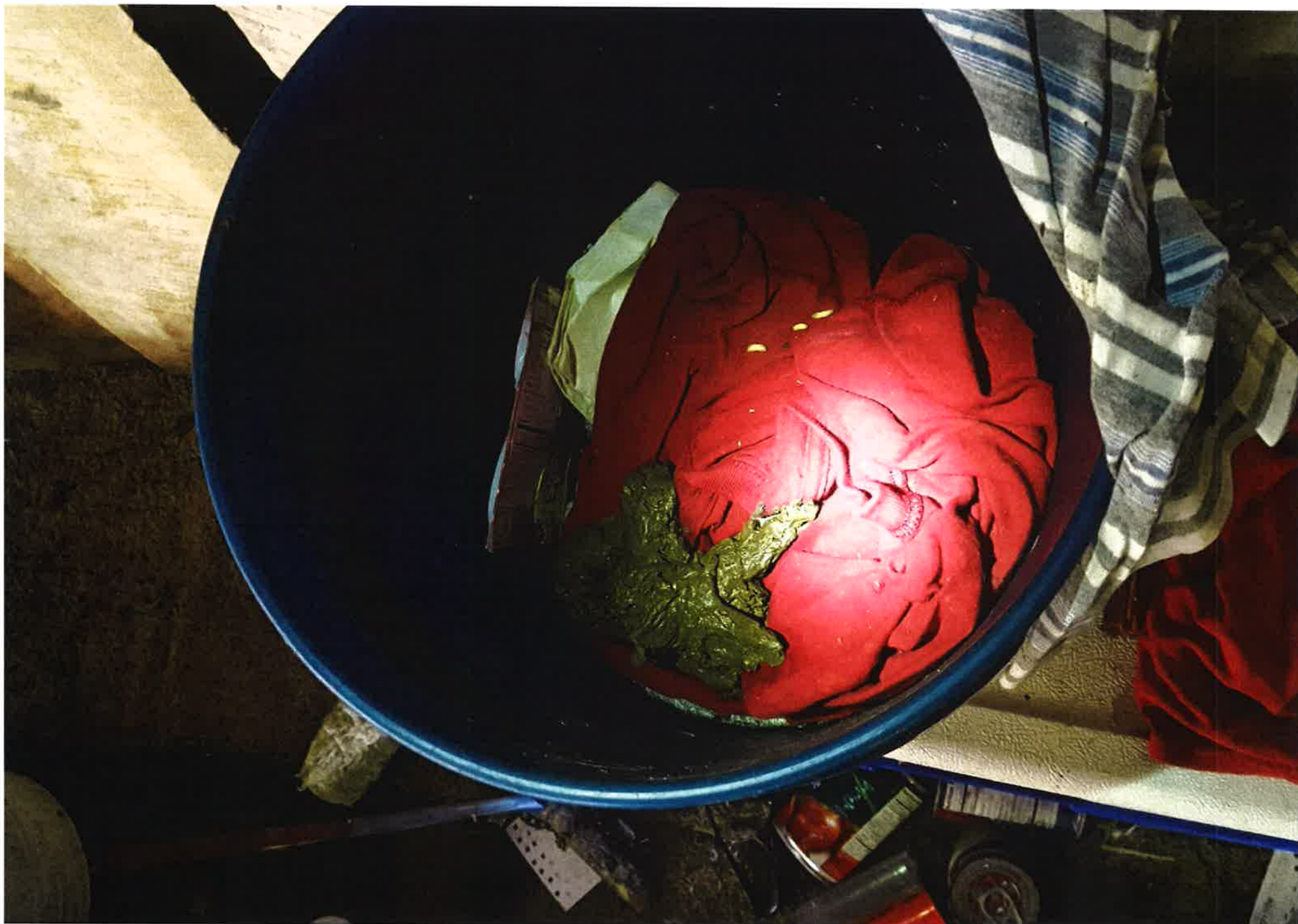


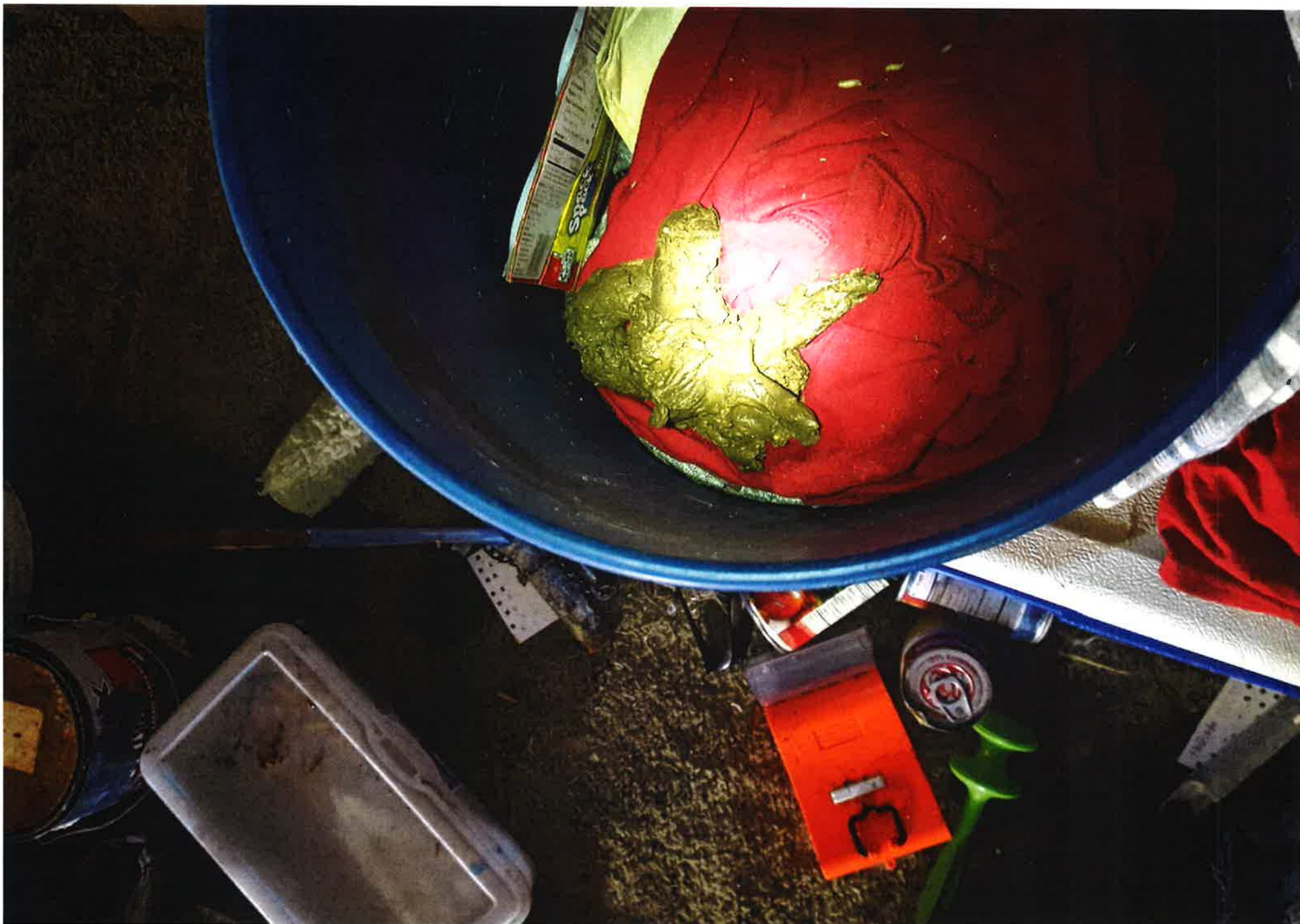














HOLY BIBLE

HOLY BIBLE

YOU MAKE ME SMILE
SAYS YOU DO

YOU MAKE ME SMILE
SAYS YOU DO







1 PULL FROM THIS END
COUNTER CLOCKWISE

POLY PACIFIC BLUE STEEL
3-STRAND DUNGENESS CRAB ROPE
ITEM NUMBER 415910
DIAMETER 7/16" (19mm)
LENGTH 1200 LBS (544kg)
LOT NO. 800/000
COLOR GREEN
MADE IN CHINA







EXHIBIT "I"

Email from John Pospishil Curry County Building Official to John HuttI, January 11, 2018:

John HuttI

From: John Pospishil

Sent: Thursday, January 11, 2018 6:03 PM

To: John HuttI

Cc: Carolyn Johnson

Subject: Re: Inspection of Hamilton Lane property

Hi John:

In follow-up today's Joint Inspection:

As to the burnt down residence, I believe the standard is met of a significant potential of serious injury or fatality.

As to the detached garage, I did not come to the same conclusion based on the inspection performed. I do recognize that access was denied to a room. I did not see a smoke detector. I do recognize that there was lots of debris, trash and even food on the ground. I do recognize that this is an older one story structure with lots of decay. However, I am not convinced that the high winds of this area would currently bring this structure down. I will defer health issues to that inspector onsite. In conclusion, this is a misuse of a structure combined with poor health issues, but not at the high level of an unsafe dangerous structure. The level of food preparation, heat, water, and sanitation facilities is unknown.

I took many pics which are available.

McLennan Excavation

PO Box 6837

Brookings, OR 97415

Phone: (541) 469-2612

Fax: (541) 469-3949

EXHIBIT "J"**Estimate**

Estimate Number

P112

Estimate Date

12/14/2017

RECEIVED

DEC 13 2017

Board of Commissioners
Curry County, Oregon**Bill To:** Commissioners of Curry County**Re:**97851 Hamilton Ln
Brookings, OR 97415

Job No	Customer Job No	Customer PO	Payment Terms	Due Date
3			Due Upon Receipt	12/14/2017
Quantity	Description	U/M	Rate/Unit	Price
1.00	Dismantle what's left of the structure including the old garage that was not burnt. It also includes removal of the concrete floor that's at the bottom of all the burnt debris.	LS	3,940.00	3,940.00
1.00	Removal of all material left over from the fire, removal of said material from property and disposing of it.	LS	12,450.00	12,450.00
1.00	Removal of all garbage and other materials that are still on the property but not part of fire damage. Haul in new material and level for proper drainage and safety.	LS	3,110.00	3,110.00

It's for the burnt out property at 97851
Hamilton Ln., Brookings, OR 97415

Subtotal	\$	19,500.00
Sales Tax (if applicable)	\$	0.00

Total Due \$ 19,500.00

Thank you for your business!

EXHIBIT "G"

John HuttI

From: Greg Hamilton <gmha375@yahoo.com>
Sent: Friday, January 12, 2018 2:01 PM
To: John HuttI
Subject: Re: Greg Hamilton, Representative/Administrator of Hamilton Estate Letter

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Curry County Counsel
541 247 3218

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Interim Curry County Administrator
541-247-3287

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Sincerely,

John Hitt

Interim Curry County Administrator
541-247-3287

<G. Hamilton Letter.pdf>

CURRY COUNTY BOARD OF COMMISSIONERS

AGENDA ITEM ROUTING SLIP

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_Office@CO.CURRY.OR.US

PROPOSED AGENDA ITEM TITLE:

Floras Lake Forest Lands – Grant and related work to prepare for grant to prepare a master plan for the property.

TIMELY FILED Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01.31.2018

DEPARTMENT: Community Development

TIME NEEDED: 5 minutes

(^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes ☐ No ☒ If no memo, explain:

CONTACT PERSON: Carolyn Johnson

PHONE/EXT: 3228

TODAY'S DATE: 01.25.2018

BRIEF BACKGROUND OR NOTE:

At the January 24, 2018 BOC meeting the Board continued discussion regarding application for a State Parks grant for the preparation of a Master Plan for the Floras Lake Forest Lands. The Board was interested in applying for the grant.

Identification of the Floras Lake Forest Lands in the County's Comprehensive Plan as a significant County natural resource would be a grant requirement. Currently the required language is not in the Comprehensive Plan so a comprehensive plan amendment would be required.

To apply for the grant timely, staff requested a joint or serial Planning Commission/Board of Commissioners public hearing process. After some discussion, Board direction was provided to determine if/how this option could be achieved. The current County Zoning Ordinance regulations require a public noticing and hearing process that would take more time than what would be needed to accomplish the amendments to meet the May 1 grant application deadline. Without the needed Comprehensive Plan amendments, the grant application could not be successful. The grant application cannot move forward at this time.

FILES ATTACHED:

- (1) none
- (2)
- (3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☒
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes ☐ No ☒
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes ☐ No ☒
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

☐ No Additional Activity Required

OR

☐ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department's finance-related responses **Yes** ☐ **No** ☐ **N/A** ☐
Comment:
2. Confirmed Submitting Department's personnel-related materials **Yes** ☐ **No** ☐ **N/A** ☐
Comment:
3. If job description, Salary Committee reviewed: **Yes** ☐ **No** ☐ **N/A** ☐
4. If hire order requires a Personnel Action Form (PAF)? **Pending** ☐ **N/A** ☐ **No** ☐ **HR** ☐

PART IV – COUNTY ADMINISTRATOR REVIEW

☒ **APPROVED FOR __01/31/18__ BOC MEETING** ☐ **Not Approved for BOC Agenda**
because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? **Yes** ☐ **No** ☐

(If Yes, brief detail)

ASSIGNED TO: DISCUSSION ONLY

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold **Yes** ☐ **No** ☐

Commissioner Thomas Huxley **Yes** ☐ **No** ☐

Commissioner Court Boice **Yes** ☐ **No** ☐

CURRY COUNTY BOARD OF COMMISSIONERS**AGENDA ITEM ROUTING SLIP**

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US**PROPOSED AGENDA ITEM TITLE:**

Requirements for a Planning Commission

TIMELY FILED Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01.31.2018**DEPARTMENT:** Community Development**TIME NEEDED:** 15 minutes^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))**MEMO ATTACHED** Yes ☒ No ☐ If no memo, explain:**CONTACT PERSON:** Carolyn Johnson**PHONE/EXT:** 3228**TODAY'S DATE:** 01.25.2018**BRIEF BACKGROUND OR NOTE:**

See attached memo

FILES ATTACHED:

(1)memo

(2)

(3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☒
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes ☐ No ☒
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes ☐ No ☒
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:☒ No Additional Activity Required

OR

☐ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

^aNote: Most signed documents are filed/recorded with the Clerk per standard process.**PART III - FINANCE DEPARTMENT REVIEW****EVALUATION CRITERIA 1-4:**

1. Confirmed Submitting Department's finance-related responses Yes ☐ No ☐ N/A ☒
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes ☐ No ☐ N/A ☒
Comment:
3. If job description, Salary Committee reviewed: Yes ☐ No ☐ N/A ☒
4. If hire order requires a Personnel Action Form (PAF)? Pending ☐ N/A ☐ No ☐ HR ☐

PART IV – COUNTY ADMINISTRATOR REVIEW☒ APPROVED FOR __01/31/18__ BOC MEETING ☐ Not Approved for BOC Agenda because**LEGAL ASSESSMENT:** Does this agenda item have a legal impact? Yes ☐ No ☒

(If Yes, brief detail)

ASSIGNED TO: DISCUSSION ONLY

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes ☐ No ☐

Commissioner Thomas Huxley Yes ☐ No ☐

Commissioner Court Boice Yes ☐ No ☐



BOARD OF COMMISSIONERS AGENDA REPORT

Meeting Date: January 31, 2018

Prepared by: Carolyn Johnson, Community Development Director

Subject: Discussion of requirement for a Planning Commission.

At the January 24, 2018 BOC meeting the Board provided direction to research the requirements for and potential alternatives to a Planning Commission. The purpose of this report is to provide information for the Board's discussion.

A planning commission is not a State requirement of the County. Oregon Statute (ORS) section 215.020 says:

- (1) The governing body of any county may create and provide the organization and operations of one or more county planning commissions.*
- (2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003.*

The County's Planning Commission advises the Board on land use regulation amendments, takes action on land divisions (this can be appealed to the Board), takes action and hears referrals from the Planning Director or appeals of the Planning Director's decision and "other" land use decisions. See Exhibit 1 for the Zoning Ordinance identification of Planning Commission and Board of Commissioners authority.

If the Board is interested in an alternative to a single Planning Commission, the following are options for discussion. In each scenario a public notification and hearing process would be in place.

- Board of Commissioners taking over Planning Commission duties. This role would include public hearings as is required now.
- Establishment of three Planning Commissions to take on appeals of director's decisions, referrals of administrative action by the director, and land divisions. This format could entail a small group of 2-3 persons of the County per Commission with each Commission representing a geographical area. (north, central, south) The action of each Planning Commission could be appealed to the Board of Commissioners. Each Planning Commission could review and advise the Board on land use regulation amendments for their particular areas, review and action on all land use regulation amendments would be continue to be the responsibility of the Board. (County Counsel if researching this option)
- Creation of a Hearings officer to hear appeals of director's decisions and referrals of administrative action by the director. Land Divisions would be decided by the Board. Actions on zoning and comprehensive plan amendments would still be decided by the Board.

EXHIBIT 1

2.060(2A) Planning Commission Authority. Notwithstanding the provisions of 2.180.(2) the Commission shall have the authority to review and approve or deny the following:

- a) Appeal of Director's decisions pursuant to Sections 2.060(1) and 2.065
- b) Referrals of Administrative Actions by the Director.
- c) Other land use actions not specified in 2.060(1) above.
- d) All plats of any subdivision or the map of any major partition as specified in the Curry County Land Division Ordinance.

2.060(2B) Advisory Planning Commission Action. All applications for Zoning and Comprehensive Plan change amendments shall first be heard by the Commission following public notice. The Commission after hearing the matter shall submit a written recommendation to the Board.

2.060(3) Board of Commissioner Authority. Notwithstanding the provisions of 2.180(4), the Board has authority to review and approve or deny the following:

- a) Zone Changes.
- b) Comprehensive Plan Amendments and Land Use regulations.
- c) Exceptions to Statewide Planning Goals.
- d) Appeals of Commission decisions, with the exception of those actions specified in Section 2.060(2A)(a) and (b).

CURRY COUNTY BOARD OF COMMISSIONERS**AGENDA ITEM ROUTING SLIP**

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US**PROPOSED AGENDA ITEM TITLE:** Consideration of Judicial Validation of Board Order Approving Petition to Annex Livestock District**TIMELY FILED** Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01/31/2018 **DEPARTMENT:** Counsel **TIME NEEDED:** 20 min(^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))**MEMO ATTACHED** Yes ☒ No ☐ If no memo, explain: Submitted by Counsel 1-24-18**CONTACT PERSON:** J. HuttI **PHONE/EXT:** 3218 **TODAY'S DATE:** 01-26-18**BRIEF BACKGROUND OR NOTE: (If no memo attached)****FILES ATTACHED:**

- (1) Memorandum
- (2) Exhibits

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☐
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes ☐ No ☐
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes ☐ No ☐
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:☐ No Additional Activity Required

OR

☒ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

Note: Most signed documents are filed/recorded with the Clerk per standard process.*PART III - FINANCE DEPARTMENT REVIEW****EVALUATION CRITERIA 1-4:**

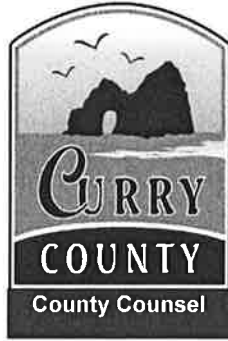
- 1. Confirmed Submitting Department's finance-related responses Yes ☐ No ☐ N/A ☒
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes ☐ No ☐ N/A ☒
Comment:
- 3. If job description, Salary Committee reviewed: Yes ☐ No ☐ N/A ☒
- 4. If hire order requires a Personnel Action Form (PAF)? Pending ☐ N/A ☒ No ☐ HR ☐

PART IV – COUNTY ADMINISTRATOR REVIEW☒ **APPROVED FOR** 01/31/18 **BOC MEETING** ☐ **Not Approved for BOC Agenda because****LEGAL ASSESSMENT:** Does this agenda item have a legal impact? Yes ☒ No ☐

(If Yes, brief detail) Authorize Counsel to commence Judicial Validation proceeding

ASSIGNED TO: STAFF DIRECTION**PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL****COMMISSIONERS' REQUEST TO ADD TO AGENDA:**

Commissioner Sue Gold	Yes <input type="checkbox"/> No <input type="checkbox"/>
Commissioner Thomas Huxley	Yes <input type="checkbox"/> No <input type="checkbox"/>
Commissioner Court Boice	Yes <input type="checkbox"/> No <input type="checkbox"/>



MEMORANDUM

FROM John R. Hutt, Curry County Counsel
TO Board of Commissioners
RE: Livestock District Annexation Issues
DATE: January 25, 2018

Introduction

After the Board adopted its order approving the petition to annex Weyerhaeuser property into the Curry Livestock District, Anne Guerin wrote a letter of opposition.

After reviewing the letter, counsel investigated further the law of livestock districts and the facts of this annexation.

Issue: Livestock District Annexation: Is there a contiguity requirement?

The law of annexations allows for both contiguous and non-contiguous annexations. Two main statutes on annexations specifically say whether annexations must be contiguous or not. The city annexation statutes describe a contiguity requirement. The special districts statutes explain that special districts can be contiguous or non-contiguous. Livestock districts are not subject to the special district annexation statutes. The statute on livestock districts is silent about contiguity. Therefore, staff did not oppose Weyerhaeuser's position that its property did not need to be contiguous to the existing district.

However, the livestock district statute explains that a district must follow certain boundary lines. When an annexation is not contiguous, does the district follow boundary lines, or does the gap between district and annexed property violate the requirement to follow boundary lines?

Some additional information may be helpful. First, the county has twice annexed to the Curry Livestock District. Both of those annexations were contiguous. Second, other counties have multiple livestock districts, which allows the conclusion that there can be separate livestock districts – instead of annexation – in our circumstances.

///

Issue: Possible Faulty Exhibit During Board Adoption Changed before Being Recorded

After receiving Weyerhaeuser's petition, County administration forwarded the petition with legal description and map to County Surveyor for review. Surveyor responded with a letter seeking clarification. Surveyor heard nothing further until after Board adoption.

There is a question whether the exhibit was clarified before the Board adoption. After the Board adoption, the maps and description were sent to Oregon Department of Revenue. They rejected the exhibits at least twice before they were approved. After that, the corrected exhibits were recorded with the Clerk. The question is whether what was recorded was different from what the Board adopted and if so, whether that is valid.

Resolution

Rescind the Order approving the petition.

I have found no authority where the Board can rescind its order. The statute says once the petition is recorded, the decision is final. The statute does not have a way for the Board to reverse its decision.

Do nothing further.

The Board can do nothing further and leave it up to the neighboring land owners to take whatever legal steps they feel are necessary. ORS 34.020 allows a party to a county proceeding to file a writ of review in circuit court. Because the neighbors did not appear, they might not be "parties." The letter questions the effectiveness of newspaper notice only for the Board action. Under Writ of Review, the parties have to take action with 60 days of the decision. The decision here was December 6, 2017, and perhaps by statute after that when it was effective.

They may also have remedy by action for Declaratory Relief. This memorandum is not legal advice to any persons other than the Board of Commissioners for Curry County.

Broker a solution.

This would be the Board or a Board member attempting to work with the parties to get some agreement. The possible time commitments of Board and staff are difficult to predict, and the outcome is also uncertain.

File a validation proceeding in Circuit Court.

The County on its own can file a procedure in circuit Court to have the court rule on the validity of the county's action. That would allow all parties to participate. The County would receive an answer to the two questions above, which could come up again.

Recommendation

Counsel recommends pursuing the judicial validation procedure. As directed, this matter will be put on the Board's agenda for January 31, 2018.



John R. Hutt
Curry County Counsel

January 18, 2018

To: Curry County Commissioners: Thomas Huxley, Court Boice, Sue Gold

Re: Order No. 20479 In the Matter of an Order Annexing Property into the Curry County Livestock District

From: Anne Guerin, owner of 520 acres in Curry County (Acct. # R15332 & R15456); property is adjacent to Weyerhaeuser timberlands, Campbell Group timberlands, and Dement Ranch acreage

Dear Commissioners,

Yesterday, I was informed by Gary Simon, contact for Dement Ranch, that Weyerhaeuser Co. has created a grazing district in the area where my acreage is located. Today, I called Al Alexander, who represents Weyerhaeuser interests, to discover that the corporation now can block and seek legal remedy and compensation against any stockmen whose cattle may wander onto their timberlands.

This is a letter of protest against the corporation that sought and received commissioner approval without the knowledge or input from landholders who will be impacted by this ruling. And I am calling into question how the two commissioners who signed the order did so without any input from me, the Dement Ranch, the Powers Ranch, and the Hermann Ranch.

According to Oregon Revised Statutes, the court will hold a hearing as requested by a petitioner, for which a public notice must be posted in local papers. Perhaps the notice was posted in the local Gold Beach newspaper, which does not come into my hands or, I suspect, the hands of the other ranchers. Why were we, who would be so sorely impacted by this ruling, not informed of the hearing so the commissioners could be made aware of how fencing in these circumstances is not viable? The public hearing was held on December 6, with the ruling in favor of the corporation. Further, I discovered that according to ORS 607.015, a special election on the issue in question is to be held within 15 days after the hearing – in the proposed district, with the petitioners paying for this special election. That did not happen and the ruling was filed on January 17, 2018, the date it became effective – and the date that Al made the Dement Ranch aware of what transpired.

Were you commissioners aware of how long and why, in part, Curry County has been open range? You would if you were to travel up into Eckley country, the property in question, and see vast timberlands (now often clearcut landscapes) intermingled with prairie lands. The Dements' thousands of acres of prairies are scattered widely; hence, a lack of fencing through the many generations of ranching in those hills. Same for my acreage of timber/prairie mix. Cost and terrain make it prohibitive.

Other timber companies (Georgia Pacific, Plum Creek, Menasha, Al Peirce) have adjusted to the presence of cattle at times on their property. As a result, ranching has had a long and honorable history in the headwaters of the Sixes with no demands to fence cattle off the corporate lands.

This ruling needs to be reversed. Its presentation is tainted with underhanded actions that removed landholders, who are also Curry taxpayers, from advocating for our own interests.

Please let me know if you would like to tour the lands in question to see for yourselves what I am describing. I would be happy to be your tour guide and have a trusty Dodge Ram that would hold all of us comfortably.

Sincerely,

Anne Guerin
541-348-2269



CURRY COUNTY SURVEYOR

94235 Moore Street, Suite 114
Gold Beach, Oregon 97444

Reilly Smith
County Surveyor

Phone: (541) 247-3225
Cell: (541) 425-0615

November 21, 2017

Mr. John Hitt
Curry County Administrative Manager

Re: Legal Description for Curry County Livestock District Annexation

Dear Mr. Hitt,

I have reviewed the description as requested and found several items that should be checked by Petition Map preparer.

T. 31 S, R. 13 W, WM

Section 22: Described as: N. $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$. *The map also shows the NE $\frac{1}{4}$ NW $\frac{1}{4}$ as shaded. Should it be included?*

Section 25: NE $\frac{1}{4}$ NE $\frac{1}{4}$, W. $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, EXCEPTING a little metes & bounds parcel in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, *The map looks like it also shows the W $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$. Should it be included?*

The shading on the map for section 36 does not seem to agree with the exception. Also, it does not mention section 36. The description just goes into the exception for section 36. Attached is a map that I plotted showing the exception. This needs clarification.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Reilly Smith".
Reilly Smith

T-400

CANCELLED NO.'S

31 13 36

John HuttI

From: Reily Smith
Sent: Friday, December 22, 2017 3:54 PM
To: John HuttI
Subject: Re: Oregon Department of Revenue Map Issue

Hi John,

If I had the legal description in a word document or something that was easy to edit, I could probably do it. However, there were some issues with the legal description when I checked it for John Hitt and I'm not so sure that those were corrected.

With the errors that I think are already on it, I really don't want to have anything to do with it.
Reily

Sent from my iPhone

On Dec 22, 2017, at 3:50 PM, John HuttI <huttli@co.curry.or.us> wrote:

Hello Reily,
We may need your assistance on this.
Weyerhaeuser is adding property to the cattle district.
State of Oregon says we need to highlight the areas added.
If it's easy for you, maybe you could do that.
Otherwise, I think Weyerhaeuser needs to do it.
John
John R. HuttI
Curry County Counsel
541 247 3218

From: John Jezuit
Sent: Friday, December 22, 2017 3:35 PM
To: Alfred.Alexander@weyerhaeuser.com
Cc: John Hitt; John HuttI
Subject: Oregon Department of Revenue Map Issue

Hello Mr Alexander –

Please see attached (1) response from the Department of Revenue to (2) what was E-Mailed to them.

How do you want to proceed?

Respectfully,

John T. Jezuit
Curry County Board of Commissioners' Office
541 247 3296

<2017_12_22 DOR Weyerhaeuser Annexation.pdf>

Notice to Taxing Districts

ORS 308.225



Cadastral Information Systems Unit
PO Box 14380
Salem, OR 97309-5075
fax 503-945-8737
boundary.changes@oregon.gov

Curry County Board of Commissioners
94235 Moore Street, Suite 122
Gold Beach OR 97444

☒ Description ☒ Map - Received from: John T Jezuit
On: 12/14/2017, 12/29/2017

This is to notify you that your boundary change in Curry County for:
Annexation to the Curry County Livestock District

Order No 20479

has been: ☐ Approved
☒ Disapproved 12/18/2017, 1/3/2018

Notes: T31S R13W
Sec22 NE1/4 NW1/4 is not in the description
Sec 36 has an exception but no description
(need larger scale map to show the exception area, show all bearings and distances)
T32S R13W
Sec 16 label Lot 3

Department of Revenue File Number: 8-165-2017

Reviewed by: Robert Ayers, 503-983-3032

Boundary: ☒ Change ☐ Proposed Change

The change is for:

- | | |
|---|--|
| <input type="checkbox"/> Formation of a new district | <input type="checkbox"/> Transfer |
| <input checked="" type="checkbox"/> Annexation of a territory to a district | <input type="checkbox"/> Merge |
| <input type="checkbox"/> Withdrawal of a territory from a district | <input type="checkbox"/> Establishment of Tax Zone |
| <input type="checkbox"/> Dissolution of a district | |

Notice to Taxing Districts

ORS 308.225



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PO Box 14380
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Curry County Board of Commissioners
94235 Moore Street, Suite 122
Gold Beach OR 97444

☒ Description ☒ Map - Received from: John T Jezuit
On: 12/14/2017

This is to notify you that your boundary change in Curry County for:
Annexation to the Curry County Livestock District

Order No 20479

has been: ☐ Approved
☒ Disapproved 12/18/2017

Notes: Please provide a map with the annexation property highlighted

Department of Revenue File Number: 8-165-2017

Reviewed by: Robert Ayers, 503-983-3032

Boundary: ☒ Change ☐ Proposed Change

The change is for:

- ☐ Formation of a new district
- ☒ Annexation of a territory to a district
- ☐ Withdrawal of a territory from a district
- ☐ Dissolution of a district

- ☐ Transfer
- ☐ Merge
- ☐ Establishment of Tax Zone

CURRY COUNTY BOARD OF COMMISSIONERS**AGENDA ITEM ROUTING SLIP**

FORM 10-001.1 Rev. 11-21-2017

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US**PROPOSED AGENDA ITEM TITLE:** Resolution Regarding Curry County Wildfires**TIMELY FILED** Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01/31/18 **DEPARTMENT:** BOC **TIME NEEDED:** 20 Mins.^a(Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))**MEMO ATTACHED** Yes ☐ No ☒ If no memo, explain: Previously submitted to BOC**CONTACT PERSON:** John Hitt **PHONE/EXT:** 3287 **TODAY'S DATE:** 01/23/18**BRIEF BACKGROUND OR NOTE: (If no memo attached)** This resolution was presented at the 01/17/18 General Meeting. At that time the BOC declined to pass it as written and asked staff to revise and bring back at a future meeting.**FILES ATTACHED:**

- (1) Revision of Former "No Confidence" resolution
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☒
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes ☐ No ☒
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes ☐ No ☒
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:☐ No Additional Activity Required

OR

☒ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

Note: Most signed documents are filed/recorded with the Clerk per standard process.*PART III - FINANCE DEPARTMENT REVIEW****EVALUATION CRITERIA 1-4:**

- 1. Confirmed Submitting Department's finance-related responses Yes ☐ No ☐ N/A ☒
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes ☐ No ☐ N/A ☒
Comment:
- 3. If job description, Salary Committee reviewed: Yes ☐ No ☐ N/A ☒
- 4. If hire order requires a Personnel Action Form (PAF)? Pending ☐ N/A ☒ No ☐ HR ☐

PART IV – COUNTY ADMINISTRATOR REVIEW☒ **APPROVED FOR** 01/31/18 **BOC MEETING** ☐ **Not Approved for BOC Agenda because****LEGAL ASSESSMENT:** Does this agenda item have a legal impact? Yes ☐ No ☒

(If Yes, brief detail)

ASSIGNED TO: RESOLUTION**PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL****COMMISSIONERS' REQUEST TO ADD TO AGENDA:**Commissioner Thomas Huxley Yes ☐ No ☐Commissioner Sue Gold Yes ☐ No ☐

Commissioner Court Boice

Yes ☐ No ☐

BEFORE THE CURRY COUNTY BOARD OF COMMISSIONERS

STATE OF OREGON

Regarding Chetco Bar Fire 2017	)	RESOLUTION
and Prior Fire Response s	)	Regarding Reducing the Number
Practices, Policy	)	and Impact of Forest Fires in Curry
Personnel	)	County and United States Forest
	)	Service Practices and Policies

WHEREAS the United States Forest Service is responsible for managing 2 million acres of public property in the Rogue Siskiyou National Forest and nearly 16 million acres of Public Lands in Oregon; and

WHEREAS during 2017, the Wildland fires in Oregon consumed nearly 680,000 acres of Federally protected lands which required \$340 million in firefighting costs; and

WHEREAS the largest fire in Oregon, the Curry County Chetco Bar Fire, destroyed 191,000 acres and cost the United States taxpayers over \$70 million in firefighting costs specific to that fire; and

WHEREAS, multiple Mega Fires have occurred primarily in Curry County: The Chetco Bar (2017), Biscuit (2002), and Silver Creek (1987) fires; and

WHEREAS unfortunate errors in judgment, strategy, and process may have occurred during the fires; and

WHEREAS these Mega Fires impact the local County's businesses, the Air Quality and health of its residents; as well as cause long-term damage to our environment, wildlife, and ecosystems;

NOW THEREFORE BE IT RESOLVED

The Curry County Board of Commissioners urges the United States Congress to assure that adequate funding be provided to the USFS and Bureau of Land Management (BLM) to better prevent and avoid future forest fires and to prepare for an effective response to small fires before they become mega fires; and

BE IT FURTHER RESOLVED that:

The Curry County Board of Commissioners will continue to aid and cooperate with other county governments, State Officials and Federal Officials, in order to contribute to constructive and effective solutions that will locally address these problems and ensure the protections of County residents.

BE IT FURTHER RESOLVED that:

The Board of Commissioners urges the US Congress to fully fund the prevention and fighting of wildfires with funding separate from and additional to the USFS regular budget, with the aim of providing adequate financial resources for proactive forest management measures.

BE IT FURTHER RESOLVED that:

The USFS and associated agencies have the funding and carefully consider, evaluate and implement feasible measures to reduce fire risk, especially at the urban and forest interface

DATED this ____ day of January, 2018

Sue Gold

Chair

Thomas Huxley

Vice Chair

Court Boice

Commissioner

Approved to Form

John HuttI, County

Counsel

CURRY COUNTY BOARD OF COMMISSIONERS**AGENDA ITEM ROUTING SLIP**

FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US**PROPOSED AGENDA ITEM TITLE:** Executive Session to consider the employment of a County Administrator**TIMELY FILED** Yes ☒ No ☐

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 01/31/18 **DEPARTMENT:** Admin. **TIME NEEDED:** 20 min(^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))**MEMO ATTACHED** Yes ☐ No ☒ If no memo, explain: No additional information or applications available other than the 3 applications provided by Prothman on 01/24. The applications of the 6 candidates who applied, but were NOT selected by Prothman for an interview, are available in the Interim Administrator's office. They may be reviewed should any one so desire.**CONTACT PERSON:** John Hitt **PHONE/EXT:** 3287 **TODAY'S DATE:** 01/25**BRIEF BACKGROUND OR NOTE:** (If no memo attached)**FILES ATTACHED:**

(1) None

(2)

(3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes ☐ No ☒
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes ☐ No ☒
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes ☐ No ☒
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:☒ No Additional Activity Required

OR

☐ File with County Clerk

Name:

☐ Send Printed Copy to:

Address:

☐ Email a Digital Copy to:

City/State/Zip:

☐ Other

Phone:

Note: Most signed documents are filed/recorded with the Clerk per standard process.*PART III - FINANCE DEPARTMENT REVIEW****EVALUATION CRITERIA 1-4:**

1. Confirmed Submitting Department's finance-related responses Yes ☐ No ☐ N/A ☒
Comment:
2. Confirmed Submitting Department's personnel-related materials Yes ☒ No ☐ N/A ☒
Comment:
3. If job description, Salary Committee reviewed: Yes ☐ No ☐ N/A ☒
4. If hire order requires a Personnel Action Form (PAF)? Pending ☐ N/A ☒ No ☐ HR ☐

PART IV – COUNTY ADMINISTRATOR REVIEW☒ APPROVED FOR __01/31/18__ BOC MEETING ☐ Not Approved for BOC Agenda because**LEGAL ASSESSMENT:** Does this agenda item have a legal impact? Yes ☐ No ☒

(If Yes, brief detail)

ASSIGNED TO: DISCUSSION ONLY**PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL****COMMISSIONERS' REQUEST TO ADD TO AGENDA:**

Commissioner Sue Gold	Yes <input type="checkbox"/> No <input type="checkbox"/>
Commissioner Thomas Huxley	Yes <input type="checkbox"/> No <input type="checkbox"/>
Commissioner Court Boice	Yes <input type="checkbox"/> No <input type="checkbox"/>