

T9E4

**AGENDA COVER MEMO**

**DATE:** January 3, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** K. Robert Ezell, Lane County Surveyor *KR Ezell*  
**DEPARTMENT:** Public Works - Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING RUST ROAD STUB (A PORTION OF COUNTY ROAD NUMBER 996) LOCATED NORTH AND WEST OF STATE HIGHWAY NUMBER 36 NEAR TRIANGLE LAKE IN SECTION 17, TOWNSHIP 16 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN (16-07-17)

**I. MOTION:**

**TO APPROVE THE ORDER FOR THE VACATION OF RUST ROAD STUB (A PORTION OF COUNTY ROAD NUMBER 996) LOCATED NORTH AND WEST OF STATE HIGHWAY NUMBER 36 NEAR TRIANGLE LAKE IN SECTION 17, TOWNSHIP 16 SOUTH, RANGE 7 WEST OF THE WILLAMETTE MERIDIAN (16-07-17)**

**II. ISSUE OR PROBLEM:**

To decide whether it is in the public interest to vacate the described portion of Rust Road Stub, said portion being 40 feet wide and 20 feet in length.

**III. DISCUSSION:****A. Background**

The Surveyor's Office of the Department of Public Works has received a request from the County Engineer to vacate Rust Road Stub (a portion of County Road Number 996). The reason for the request is to remove from Lane County's Transportation System, the stub road and bridge which appears to be used solely for the purpose of providing a driveway access to one single-family residence. A valid petition has been submitted, signed by Valerie Disla, the sole owner of 100% of the property abutting the proposed vacation.

Rust Road (County Road Number 996) is located in the Northwest Quarter (NW 1/4) of Section 17, Township 16 South, Range 7 West of the Willamette Meridian, and runs from Hwy 36, westerly, to the west line of said section. Rust Road Stub is located at Milepost 0.368 and runs

southerly, crossing Pontius Creek. In 1981 Lane County acquired a dedication of a 20 foot by 40 foot parcel of land, as recorded on Reel 1156R, Instrument Number 8138410, with the intent to provide right of way for reconstructing and maintaining the bridge. The county rebuilt the bridge in 1981, which is concrete and measures 16 feet in length and 20 feet in width.

The Surveyor's Office has notified Qwest Communications, Blachly-Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works and the adjoining landowner regarding the vacation. The agencies and landowner either had no objection or did not respond to the referral. The Lane County Bridge Department Supervisor stated that he agrees with, and supports the vacating of Rust Road Stub.

#### **B. Analysis**

Vacating Rust Road Stub will not deny legal access to any property and there are no known utilities within the right of way. The stub road and bridge provides access to a single family residence and is not an integral part of the county road system. If the stub road is vacated the parcel of land will revert back to private ownership and the bridge will be removed from County inventory. The public interest will be served as vacating the stub road and bridge will eliminate the expenditure of public funds to maintain it.

#### **C. Alternative/Options**

The Board has the following options:

1. Approve the proposed vacation of Rust Road Stub, as petitioned for.
2. Deny the proposed vacation of Rust Road Stub, as petitioned for.
3. Continue the matter for further consideration.

#### **D. Recommendation**

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the order to vacate Rust Road Stub. It is therefore recommended that the Board vacate Rust Road Stub, as described in the Order. The public interest will be served, as it will eliminate the expenditure of county funds to maintain the stub road and bridge.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right of way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

#### **E. Timing**

Timing is not critical in this matter.

**IV. IMPLEMENTATION/FOLLOW-UP:**

If the Board of County Commissioners approves the Order vacating said Rust Road Stub, it is to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor who will update appropriate County Road records. If the Board wishes to postpone the matter or to terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

**V. ATTACHMENTS:**

Order w/attachments:

Director's Report – Exhibit "A"

Findings of Fact – Exhibit "B"

Map – Attachment "A"

## RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

## IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

## STATE OF OREGON

FILE NO. 4056

<b>IN THE MATTER OF VACATING RUST ROAD STUB</b>	)	
<b>(A PORTION OF COUNTY ROAD NUMBER 996)</b>	)	
<b>LOCATED NORTH AND WEST OF STATE HIGHWAY</b>	)	<b>ORDER NO.</b>
<b>NUMBER 36 NEAR TRIANGLE LAKE IN SECTION 17,</b>	)	
<b>TOWNSHIP 16 SOUTH, RANGE 7 WEST OF THE</b>	)	
<b>WILLAMETTE MERIDIAN (16-07-17)</b>	)	

**WHEREAS**, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of the Rust Road Stub (a portion of County Road Number 996); and

**WHEREAS**, the petition complies with the provisions of ORS 368.351 in that the petitioner, who is the sole owner of 100% of the property abutting the proposed vacation, agrees that the vacation should be approved as proposed; and

**WHEREAS**, the County Surveyor has reviewed the road records and it is concluded that Rust Road Stub is a parcel of land, measuring 20 feet by 40 feet, that was dedicated to Lane County in 1981 for the purpose of providing right of way for reconstructing and maintaining a bridge across Pontius Creek; and

**WHEREAS**, Rust Road Stub is located on the south side of Rust Road (County Road Number 996) at Milepost 0.368; and

**WHEREAS**, Rust Road Stub appears to be used solely for the purpose of providing a driveway access to one single-family residence and is not needed as part of Lane County's public road system; and

**WHEREAS**, ORS Chapter 368.351 provides for the vacation of property without a public hearing; and

**WHEREAS**, Qwest Communications, Blachly-Lane Electric Cooperative, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining property owner were notified regarding the proposed vacation and either had no objections or did not respond to the referral; and

**WHEREAS**, vacating Rust Road Stub will not deny legal access to any property; and

**WHEREAS**, the Director of Public Works has provided a written report in support of this action as required by ORS 368.351, attached hereto, marked Exhibit "A" and made a part hereof by this Order; now therefore it is hereby

**ORDERED**, that in accordance with ORS Chapter 368, Rust Road Stub, lying adjacent to the existing southerly right of way of Rust Road (County Road Number 996), and being that portion of land which was conveyed to Lane County in 1981, by that certain Dedication of a Public Road Easement, recorded on Reel 1156R, Instrument Number 8138410, Lane County Oregon Deed Records, which is more particularly described as follows:

Beginning at a point on said existing southerly right of way of Rust Road, said point also being 1,330.82 feet South and 1,903.17 feet West of the axle marking the North one-quarter (N ¼) corner of Section 17, Township 16 South, Range 7 West, Willamette Meridian Lane County, Oregon; run thence South 0°15'00" West, 20.0 feet; thence, parallel to and 20 feet South of said existing Southerly right of way, North 89°45'00" West, 40 feet; thence North 0°15'00" East, 20 feet, to said existing Southerly right of way; thence, along said existing right of way, South 89°45'00" East, 40 feet to the point of beginning and there ending, all in Lane County, Oregon.

is hereby VACATED, and it is further

**ORDERED**, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

**ORDERED**, that this Order be entered into the Lane County Board of Commissioners Journal of Administration and be further recorded in the Lane County Oregon Deed Records and in the records for County Road Number 996 administered by the Lane County Surveyor.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2003

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Chair, Lane County Board of Commissioners

Attachment: Map

## IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

RECEIVED BY  
LAND MANAGEMENT

FILE NO.

IN THE MATTER OF THE VACATION OF )  
 RUST ROAD STUB (A PORTION OF COUNTY )  
 ROAD NUMBER 996) LOCATED IN SECTION )  
 17, TOWNSHIP 16 SOUTH, RANGE 7 WEST OF )  
 THE WILLAMETTE MERIDIAN IN LANE )  
 COUNTY, OREGON )

PETITION TO VACATE

JAN 16 2002

AM 7,8,9,10,11,12,1,2,3,4,5,6 PM

**PURSUANT** to the procedures set forth in ORS Chapter 368, the undersigned Valerie J. Disla, the sole owner of the adjacent real property hereby petitions for the vacation of Rust Road Stub (a portion of County Road Number 996). The area to be vacated is described as follows:

"Beginning at a point on the existing southerly right-of-way of Rust Road, said point also being 1,330.82 feet South and 1,903.17 feet West of the axle marking the North one-quarter (N ¼) corner of Section 17, Township 16 South, Range 7 West, Willamette Meridian Lane County, Oregon; run thence South 0°15'00" West, 20.0 feet; thence, parallel to and 20 feet South of said existing Southerly right-of-way, North 89°45'00" West, 40 feet; thence North 0°15'00" East, 20 feet, to said existing Southerly right-of-way; thence, along said existing right-of-way, South 89°45'00" East, 40 feet to the point of beginning and there ending, all in Lane County, Oregon"

**WHEREAS**, the undersigned petitioner is the owner of 100% of all the real property located adjacent to the above described area to be vacated, and

**WHEREAS**, the petitioner alleges as follows:

1. The purpose of this vacation request is to vacate the public status of the stub road and bridge which is used solely as a driveway access to the petitioners property.
2. There are no known utilities located in the area to be vacated.

**WHEREAS**, no portion of the area to be vacated is located within the boundaries of an incorporated City or Town, and

**WHEREAS**, the public interest will be served and not prejudiced by vacation of the above described area...and

**WHEREAS**, petitioner has no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing, and

**THEREFORE**, the petitioner requests an Order from the Board of Commissioners for Lane County as follows:

1. Setting a date for the vacation of the above-described portion of road, with or without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.
2. Upon review of this matter, to direct the vacation of the above-described portion of road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

ORIGINAL

DATED this 10<sup>th</sup> day of may, 2002.

PETITIONER:

Valerie J. Disla

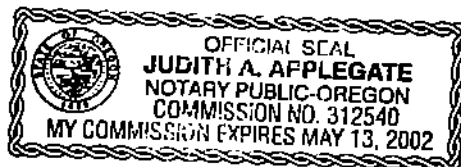
Valerie J. Disla

Map # 16-07-17 Tax Lot 300

ADDR: 19492 Rust Road  
Blachley, Oregon 97412

STATE OF OREGON )  
COUNTY OF LANE ) ss.

On May 10, 2002, personally appeared the above-named Valerie J. Disla, and  
acknowledged the forgoing instrument to be a voluntary act before me.



Judith A. Applegate  
Notary Public for Oregon  
My Commission expires: 5-13-2002

## EXHIBIT "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON

FILE NO. 4056

IN THE MATTER OF VACATING RUST ROAD STUB )  
 (A PORTION OF COUNTY ROAD NUMBER 996) )  
 LOCATED NORTH AND WEST OF STATE HIGHWAY )  
 NUMBER 36 NEAR TRIANGLE LAKE IN SECTION 17, )  
 TOWNSHIP 16 SOUTH, RANGE 7 WEST OF THE )  
 WILLAMETTE MERIDIAN (16-07-17) )

DIRECTOR'S  
REPORT

The Surveyor's Office of the Department of Public Works has received a request from the County Engineer to vacate Rust Road Stub (a portion of County Road Number 996). The reason for the request is to remove from Lane County's Transportation System, the stub road and bridge which appears to be used solely for the purpose of providing a driveway access to one single-family residence. A valid petition has been submitted and signed by the sole owner of 100% of the property abutting the proposed vacation, who is in agreement with the vacation of the stub road.

Rust Road (County Road Number 996) is located in the Northwest Quarter (NW ¼) of Section 17, Township 16 South, Range 7 West of the Willamette Meridian and runs from Highway Number 36, westerly, to the west line of said section. Rust Road Stub is located at Milepost 0.368 and runs southerly, crossing Pontius Creek. In 1981 Lane County acquired a dedication of a 20 foot by 40 foot parcel of land, as recorded on Reel 1156R, Instrument Number 8138410, for the purpose of providing right of way for reconstructing and maintaining the bridge. The county rebuilt the bridge in 1981, which is concrete and measures 16 feet long by 20 feet wide.

The Surveyor's Office notified Qwest Communications, Blachly-Lane Electric Cooperative, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining property owner regarding proposed vacation. The various agencies and landowner either had no objections or did not respond to the referral. The Lane County Bridge Maintenance Supervisor stated that he agrees with, and supports the vacating of Rust Road (Stub/Bridge).

There are no known utilities within the proposed vacation, and vacating Rust Road Stub will not deny legal access to any property. If the stub road is vacated, the parcel of land will revert back to private ownership and the bridge will be removed from County inventory. The public interest will be served, as vacating the stub road and bridge will eliminate the expenditure of public funds to maintain them.

It is therefore recommended that Rust Road Stub, as described in the Order, be vacated as petitioned for. It is further recommended that the vacation be allowed without a public hearing.

DATED this 6<sup>th</sup> day of January, 2003

  
 Oliver P. Snowden, Public Works Director



**EXHIBIT "B"****IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY  
STATE OF OREGON****FILE NO. 4056**

<b>IN THE MATTER OF VACATING RUST ROAD STUB</b>	)	
<b>(A PORTION OF COUNTY ROAD NUMBER 996)</b>	)	
<b>LOCATED NORTH AND WEST OF STATE HIGHWAY</b>	)	<b>FINDINGS OF FACT</b>
<b>NUMBER 36 NEAR TRIANGLE LAKE IN SECTION 17,</b>	)	
<b>TOWNSHIP 16 SOUTH, RANGE 7 WEST OF THE</b>	)	
<b>WILLAMETTE MERIDIAN (16-07-17)</b>	)	

The Department of Public Works has received a valid petition, signed by the sole owner of 100% of the property abutting the proposed vacation, requesting that Rust Road Stub, as described in the Order, be vacated. The County Engineer has requested this vacation in order to remove the stub road and bridge from Lane County's Transportation System, as it serves only one residence. The request to vacate the stub road and bridge is in the public's interest as it will eliminate the expenditure of county funds to maintain the them.

**Findings of Fact (Public Interest)**

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 , a county governing body may vacate roads or right of way based upon the determination that the vacation is "in the public's interest".
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of streets and roads.

**Conclusion of Law (Public Interest)**

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

**Findings of Fact (Impacts and Process of Vacation)**

The Board takes notice and finds as follows:

1. That, the property abutting the proposed vacation is identified as Tax Lot 300 of Assessor's Map 16-07-17.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right of way based upon the determination that the vacation is "in the public's interest".
3. That, the Surveyor's Office notified Qwest Communications, Blachly-Lane Electric Cooperative, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County planning sections of the Lane County Department of Public Works, and the adjoining landowner regarding the proposed vacation. The agencies and land owner either had no objections or did not respond to the referral.
4. That, there are no known utilities within the right of way.
5. That, vacating Rust Road Stub, as described in the Order, will not deny legal access to any property.
6. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
  - (1) The county road official files a written report stating that the vacation is in the public interest.
  - (2) The proceedings were initiated by petition indicating the approval of the sole owner of 100% of the adjoining property.

Items (1) and (2) have been complied with.

**Conclusions of Law (Impacts and Process of Vacation)**

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, with a public hearing, have been met.

**NO SCALE**

