

W12a

AGENDA COVER MEMO

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

AGENDA ITEM TITLE: IN THE MATTER OF WITHDRAWAL OF COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) FROM CONLEY ROAD (COUNTY ROAD NUMBER 56) LOCATED OFF THE MCKENZIE HIGHWAY (STATE HIGHWAY NUMBER 126) IN SECTION 32, TOWNSHIP 16 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN (16-35-32-3)

I. MOTION:

TO APPROVE THE WITHDRAWAL OF COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) FROM CONLEY ROAD (COUNTY ROAD NUMBER 56), SAID ROAD BEING APPROXIMATELY .25 MILES IN LENGTH, AND LOCATED OFF THE MCKENZIE HIGHWAY (STATE HIGHWAY NUMBER 126) IN SECTION 32, TOWNSHIP 16 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN (16-35-32-3)

II. ISSUE OR PROBLEM:

To decide whether the withdrawal of County road status (but not the public road status) from Conley Road is in the public interest.

III. DISCUSSION:**A. Background**

The Surveyor's Office of the Department of Public Works has received a request from the County Engineer to reduce the road status of Conley Road from County road to public road. The reason for the request is that this road is not maintained as a County road and is not an integral part of the County's road system. Conley Road is a narrow gravel dead-end road, and primarily serves eight local residents.

The change of status proposal from a County road to a public road is driven by recent conditions of approval for a building permit for a new building that fronts on Conley Road located at Tax Lot 2300, by applicants Hollis and Priscilla Oxley.

The Transportation Planning staff required a road improvement of Conley Road as a condition of issuing the building permit. Initially the road improvement was to widen the existing narrow 10 foot wide roadbed to 24 feet wide. However, the physical location of the road, with one side of the road having a bank falling abruptly toward the McKenzie River and large trees on the other side made the cost of this proposal prohibitive.

Eventually, the road improvement requirement was revised by the County Engineer, Sonny Chickering, to adding gravel of approximately 6" depth for a roadbed 12 feet wide from the McKenzie Highway to the building site. The cost of this road improvement was \$5,000 according to Mr. Oxley.

Conley Road is located approximately 5 miles east of Vida. It has been determined that Conley Road is a segment of County Road Number 56, originally established in 1896 as John Brent Road. The jurisdiction of this road was later transferred to the State of Oregon and became part of State Highway Number 126 (McKenzie Highway). During the period of 1926-1933, the State realigned and improved several segments of the McKenzie Highway and the portion now known as Conley Road was bypassed, creating a loop road having skewed intersections with the new alignment of McKenzie Highway. However, the eastern end of Conley Road has been blocked off by the Oregon Department of Transportation (ODOT) so it does not connect to the McKenzie Highway. The Oxley's have made a second emergency access to the McKenzie Highway at their new home site. The western end of the road was vacated in 1963 and new right of way was conveyed to the County to connect the new alignment of McKenzie Highway to Conley Road.

Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of Lane County Department of Public Works and adjoining landowners were notified by mail regarding the proposed withdrawal of County road status.

The Surveyor's Office received three letters in opposition to the change of status of Conley Road from Helen Vandercook, Hollis & Priscilla Oxley, and Paul & Al Verta Williamson, owners of property adjoining Conley Road. These property owners all contend that Conley Road should remain a County road and that the County should begin maintenance on the road. Landowner Margery Frazier responded that she had no objection to converting the road to a public road. Likewise, the Leaburg Fire Chief expressed no opposition to converting the road to a public road. The other landowners and agencies either had no objections or did not respond to the referral.

B. Analysis

Conley Road is not currently maintained by the County as it was not readily evident that the road was a segment of the original County Road Number 56. There has been some question as to whether this road is a County road or a local access road. After the realignment of the McKenzie Highway by ODOT, the road was never formerly transferred back to the County, but based on past practices of jurisdiction of other segments of County Road Number 56, it has been concluded that this portion also reverted back to County road status.

Conley Road is a dead-end road and therefore, is not used by the traveling public in general. There are eight existing residences along Conley Road and the primary use of the road, which has a newly graveled road surface about 12 feet wide placed by the Oxley's, is by these landowners accessing their property. If the order to withdraw County road status is approved, Conley Road will be reclassified as a public road (local access road) and the maintenance shall become the responsibility of the owners of the adjacent properties, and/or other users of the road. The public interest will be served, as this road is not an integral part of the County road system and withdrawing County road status from this road would eliminate the anticipated future expenditure of public funds to maintain it.

ORS 368.026 states that a governing body may initiate proceedings to withdraw County road status by having the County road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the County road proposed to be withdrawn. The Final Director's Report addresses these issues.

Conversion of County roads to "local access road" (non-county maintained) status by withdrawal of County road status pursuant to ORS 368.026 may be considered where little need exists for the road to be part of the County road system. Conley Road meets the guidelines of withdrawing County road status per LM 15.410 (7)(c) "Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces." Other provisions of LM 15.410(7) that the Board shall consider before County road status is withdrawn are listed on Exhibit "C."

The proceedings that withdraw County road status (but not the public road status) have provided ample opportunity for comment from the public, affected property owners and outside agencies. The statutes do not require the Board to meet any specific criteria in their decision to withdraw County road status on a segment of road to public road status. Lane Manual 15.410(7) has four categories of County roads, and ten items to consider whenever a County road is considered for conversion to a local access road. All required legal notice has been provided in accordance with ORS 368.401 to 368.426 and the Board is free to make a decision at this time.

A review of the Lane Manual shows that Conley Road does not meet any standards for even a public road, as the traveled roadbed is too narrow. A review of criteria of LM 15.410(7) shows that Conley Road is not needed as a County road by these listed considerations and Lane Manual 15.410(7) provisions:

- (i) Public road status will still satisfy needs.
- (ii) There is no public need for this short dead-end road to be served by perpetual County maintenance.
- (iii) There is no school bus traffic.
- (iv) There are no bridges on the road.
- (v) There are no railroad crossings of the road.
- (vi) There are no known landslide or stability problems.
- (vii) There are no resource uses of the ROW that would unfairly burden the property owners.
- (viii) The use of this road by law enforcement or fire protection service can continue with the road as a public road.
- (ix) The road would not be an appropriate detour route for Hwy. 126 traffic under any circumstances.
- (x) Withdrawal of County status would not eliminate any existing rights-of-access.

Other Considerations:

A review of the ground on each side of the road shows a severe slope on the river side and large trees on the other side. Complicating this further is that there are homes on the river side that would be severely impacted by widening the road as earth would need to be added to widen that side of the road.

To even consider a road widening would necessitate a vast expenditure of funds to conduct an engineering survey to show existing structures and large trees. Secondly, a topographic survey would be needed to show the existing cross sections of the road at least every 25 feet for 705 feet.

The next phase, with this gathered information, would be that the new road would be designed. Lastly, the road would need a construction survey to be performed to direct where cuts and fills would need to be constructed.

It would be conceivable that a retaining wall would need to be constructed in some places on the river side of the road. A second option would be to provide most of the widened roadbed on the other side, causing loss of trees and damage the natural beauty of the area. Taking all of this into account, the best

course of action, it is determined by the County Engineer, is to propose that the road be converted to a public road.

C. Alternatives/Options

1. Adopt the Final Order to withdraw County road status (but retain public road status) for Conley Road, as described and defined by staff.
2. Direct staff to alter the limits of the withdrawal of County road status (but not public road status) as the Board may wish. An amended Final Order would be scheduled for a future Board meeting.
3. Refuse to withdraw the County road status of Conley Road. An order to discontinue the proceedings would be prepared for a future agenda date.
4. Postpone this matter for further fact-finding or consideration at a future date to be chosen by the Board.

D. Recommendation

The Lane County Public Works Director's Report recommends that the Board withdraw County road status (but not public road status) from Conley Road as described in the Final Order. This action will relieve Lane County of responsibility for future road maintenance on Conley Road. The adjoining landowners, and any other users, will continue to be served by the road, and no one will be denied access if Conley Road is reduced from County road to public road.

E. Timing

Timing is not critical in this matter.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Final Order withdrawing County road status (but not the public road status) 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 Discontinue will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Final Order w/ attachments:
 Director's Final Report – Exhibit "A"
 Affidavit of Posting, Publication and Mailing– Exhibit "B"
 Lane Manual 15.410(7) – Exhibit "C"
 Map – Attachment "A"

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

FILE NO. 4085

IN THE MATTER OF WITHDRAWAL OF COUNTY)	
ROAD STATUS (BUT NOT THE PUBLIC ROAD)	
STATUS) FROM CONLEY ROAD (COUNTY ROAD)	
NUMBER 56), LOCATED OFF THE MCKENZIE)	FINAL ORDER
HIGHWAY (STATE HIGHWAY NUMBER 126) IN)	
SECTION 32, TOWNSHIP 16 SOUTH, RANGE 3 EAST)	
OF THE WILLAMETTE MERIDIAN. (16-35-32-3))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and it appearing that Conley Road, located off of the McKenzie Highway approximately 5 miles east of Vida, is no longer needed as part of the County's road system; and

WHEREAS, the County Surveyor has reviewed the Commissioner's Journal and road records and it is concluded that County Road Number 56 was established as a County road in 1896, and that the State of Oregon was later given jurisdiction becoming State Highway Number 126, which was later realigned, bypassing the segment that is now known as Conley Road; and

WHEREAS, Conley Road is used primarily by the eight residents living along this road, for access to and from their property off the McKenzie Highway, and there is little justification for retaining the road as part of the County maintained road system; and

WHEREAS, the adjoining landowners, as well as other users, will continue to be served by this road as a public road, and no one will be denied access if the road is reduced in status from being a County road to a public road; and

WHEREAS, various public and private agencies and neighboring landowners were notified by mail regarding the proposed withdrawal of County road status; and

WHEREAS, the County Surveyor's Office has received three responses from adjoining landowners who oppose the change of status of Conley Road, and one owner as well as the Leaburg Fire Chief expressed no opposition to converting the road to a public road; and

WHEREAS, the Director of Public Works has prepared a Final Report in support of withdrawing the County road status (but not public road status) from Conley Road, said report being marked Exhibit "A", attached hereto, and made a part of these proceedings; and

WHEREAS, all statutory procedures under Oregon Revised Statutes Chapter 368 necessary for this withdrawal of County road status have been complied with, including notice by Certified Mail to affected property owners as evidenced by Affidavit of Mailing marked Exhibit "B", attached hereto, and made a part hereof by this Order; and

WHEREAS, Conley Road is an approximately 10 to 12 foot wide gravel road and there is no evidence the road has been maintained by the County, therefore this road falls into the category of LM 15.410(7)(c) "Roads that are undeveloped right-of-way, are dirt roads, or are not currently maintained by County forces." The Board has considered the Director's Report and ten listed items, as shown on a copy of LM 15.410 (7) marked as Exhibit "C", attached hereto, and made a part hereof; and

WHEREAS, Oregon Revised Statutes, Chapter 368, after a public hearing, permits the withdrawal of County road status (but not the public road status) from a County road when the Board deems it appropriate to do so, and NOW, **THEREFORE, IT IS HEREBY**

ORDERED, that in accordance with Oregon Revised Statutes, Chapter 368, the County road status (but not the public road status) from Conley Road (County Road Number 56), said road being more particularly described as follows:

Beginning at a point on the Southerly right of way line of the McKenzie Highway, opposite and 40.0 feet distant Southwesterly when measured at right angles from Engineers centerline station 1683+64.17 P.O.T., said point being 901.16 feet North and 1146.40 feet West of the meander corner on the right bank of the McKenzie River, which is on the South line of Section 32, Township 16 South, Range 3 East, Willamette Meridian, and running thence South 40°57' West 112.00 feet; thence South 46°32'39" East 596.93 feet; thence South 64°18'09" East 557.67 feet to Engineers centerline station 12+66.60=McKenzie Highway Station 1694+98.84 P.O.C. said point being on the southerly right of way of said McKenzie Highway opposite and 40.00 feet distant Southwesterly from said station 1694+98.84 P.O.C. and there ending, all within Section 32, Township 16, Range 3 East of the Willamette Meridian, Lane County, Oregon.

The width of the strip of land referred to above is as follows:

<u>STATION TO STATION</u>		<u>Width in feet on SE'ly and NE'ly side of C/L</u>	<u>Width in feet on NW'ly and SW'ly side of C/L</u>
0+00	0+85.89	25.00 feet	25.00 feet
0+85.89	10+15.75	25.00 feet	
0+85.89	1+12.00 A.P.		25.00 feet tapering on a straight line to 26.09 feet
1+12.00 A.P.	1+62.04 centerline extended		26.09 feet tapering on a straight line to 27.19 feet
1+12.00 A.P.	12+66.60		25.00 feet
10+15.75	10+22.57	25.00 feet tapering on a straight line to 57.10 feet	
10+22.57	10+83.93	57.10 feet tapering on a straight line to 40.37	
10+83.93	12+66.60	40.37 feet tapering on a 1989.86 feet radius curve	

<u>STATION TO STATION</u>	<u>left to 0.00 feet Width in feet on SE'ly and NE'ly side of C/L</u>	<u>Width in feet on NW'ly and SW'ly side of C/L</u>
12+66.60 13+17.66		25.00 feet excepting that portion lying within the right of way of McKenzie Highway


is hereby **WITHDRAWN**; and it is further

ORDERED, that these legal road proceedings be filed with the County Clerk's Office in the Commissioner's Journal and a copy be retained in the County Road Records administered by the Director of Public Works and the County Surveyor.

Dated this _____ day of _____, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

Attachment: Map

APPROVED AS TO FORM
Date 3-7-03 lane county


OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

IN THE MATTER OF WITHDRAWAL OF COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) FROM CONLEY ROAD (COUNTY ROAD NUMBER 56), LOCATED OFF THE MCKENZIE HIGHWAY (STATE HIGHWAY 126) IN SECTION 32, TOWNSHIP 16 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN (16-35-32-3)

Withdrawal of County Road Status, Director's Final Report - Page 1 of 3
Conley Road (16-35-32-3)
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Conversion of County roads to "local access road" (non-county maintained) status by withdrawal of County road status pursuant ORS 368 may be considered where little need exists for the road to be part of the County road system.

Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed withdrawal of County road status.

The County Engineer has recommended withdrawing County road status, but not the public road status, of Conley Road.

A review of the Lane Manual shows that Conley Road does not meet any standards for even a public road, as the traveled roadbed is too narrow. A review of criteria of LM 15.410(7) shows that Conley Road is not needed as a County road by these listed considerations and Lane Manual 15.410(7) provisions:

- (i) Public road status will still satisfy needs.
- (ii) There is no public need for this short dead-end road to be served by perpetual County maintenance.
- (iii) There is no school bus traffic.
- (iv) There are no bridges on the road.
- (v) There are no railroad crossings of the road.
- (vi) There are no known landslide or stability problems.
- (vii) There are no resource uses of the ROW that would unfairly burden the property owners.
- (viii) The use of this road by law enforcement or fire protection service can continue with the road as a public road.
- (ix) The road would not be an appropriate detour route for Hwy. 126 traffic under any circumstances.
- (x) Withdrawal of County status would not eliminate any existing rights-of-access.

Other Considerations:

A review of the ground on each side of the road shows a severe slope on the river side and large trees on the other side. Complicating this further is that there are homes on the river side that would be severely impacted by widening the road as earth would need to be added to widen that side of the road.

To even consider a road widening would necessitate a vast expenditure of funds to conduct an engineering survey to show existing structures and large trees. Secondly, a topographic survey would be needed to show the existing cross sections of the road at least every 25 feet for 705 feet.

The next phase, with this gathered information, would be that the new road would be designed. Lastly, the road would need a construction survey to be performed to direct where cuts and fills would need to be constructed.

The Surveyor's Office received three letters in opposition to the change of status of Conley Road from Helen Vandercook, Hollis & Priscilla Oxley, and Paul & Al Verta Williamson, owners of property adjoining Conley Road. These property owners all feel that Conley Road should remain a County road and that the County should begin maintenance on the road.

In contrast, landowner Margery Frazier as well as the Leaburg Fire Chief expressed no opposition to converting the road from a County road to a public road.

The proceedings that would withdraw County road status (but not the public road status) have provided ample opportunity for comment from the public, affected property owners and outside agencies. The statutes do not require the Board to meet any specific criteria in their decision to withdraw County road status on a segment of road to public road status. All required legal notice has been provided in accordance with ORS 368.401 to 368.426 and the Board is free to make a decision at this time.

It is recommended that the Board withdraw County road status (but not public road status) from Conley Road as described in the Final Order. This action will relieve Lane County of responsibility for future road maintenance on Conley Road and the road as a public road will serve the transportation needs of the landowners who have homes along the road.

DATED this 5th day of March, 2003


Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

FILE NO. 4085

IN THE MATTER OF WITHDRAWAL OF COUNTY)	
ROAD STATUS (BUT NOT THE PUBLIC ROAD)	
STATUS) FROM CONLEY ROAD (COUNTY ROAD)	AFFIDAVIT OF
NUMBER 56) LOCATED OFF THE MCKENZIE)	POSTING,
HIGHWAY (STATE HIGHWAY NUMBER 126) IN)	PUBLICATION
SECTION 32, TOWNSHIP 16 SOUTH, RANGE 3 EAST)	& MAILING
OF THE WILLAMETTE MERIDIAN (16-35-32-3))	

I, K. Robert Ezell, Lane County Surveyor, certify as follows:

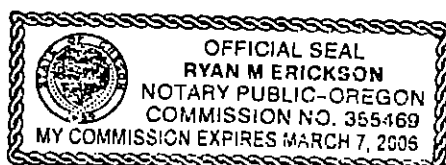
That on the 26th day of February, 2003, I caused to be posted three (3) copies of the Notice of Hearing in the above entitled matter in three places, positioned to be visible to the traveling public, as follows:

1. Posted on a 20" diameter Red Maple tree located at the driveway to 48144 Conley Road.
2. Posted on 4"X4" post of a red "Conley Road" sign located at the intersection of Conley Road and McKenzie Highway.
3. Posted on 16" diameter Maple tree located on Conley Road across from power pole numbered 1672.

The undersigned further certifies that on February 28, 2003 and March 12, 2003 notice is scheduled to run in the Register Guard. Also, that on February 12, 2003 notice was sent by Certified Mail to the property owners, affected by the road proposed road action, in accordance with Oregon Revised Statutes Chapter 368.

K. Robert Ezell
K. Robert Ezell
Lane County Surveyor

Subscribed and sworn to before me this 3rd day of March, 2003



Ryan M. Erickson
NOTARY PUBLIC FOR OREGON

Exhibit "C"

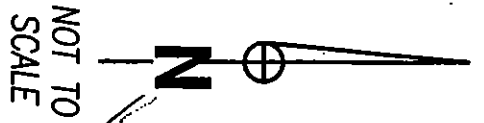
Lane Manual 15.410

- (7) Vacation of County roads pursuant to the process provided in LM 15.305 or conversion of County roads to "local access road" (non-County maintained) status by withdrawal of County road status pursuant to ORS Chapter 368 may be considered where little need exists for the road to be part of the County Road System. The following categories of County roads may be considered by the Board of County Commissioners for vacation or withdrawal of County road status:
- (a) Dead-end roads which serve four, or fewer, permanent residences.
 - (b) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership.
 - (c) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces.
 - (d) Roads that have received County maintenance, but are unusually difficult to maintain because of substandard road width, right-of-way width, or materials or construction practices, which may result in excessive cost and liability exposure.
 - (e) The following items shall be considered by the Board in reviewing these actions on a case-by-case basis:
 - (i) The need for a public right-of-way to provide for the orderly development of adjacent property.
 - (ii) The need for public maintenance of the right-of-way.
 - (iii) School bus traffic.
 - (iv) Bridges and the potential for public safety problems associated with bridges.
 - (v) Railroad crossings and PUC requirements for County participation in applications for railroad crossing improvement or establishment.
 - (vi) The potential for landslide and stability problems.
 - (vii) Resource hauling (timber, agriculture, sand and gravel) that would unfairly burden other property owners.
 - (viii) Use by law enforcement or fire protection personnel.
 - (ix) Potential use as detour routes in the case of construction or disaster.
 - (x) Potential for elimination of right of access that is a matter of public record.

ATTACHMENT "A"

SW 1/4 Section 32 T. 16S. R. 3 E. W.M.

LANE COUNTY



PROPOSED TO HAVE
COUNTY ROAD
STATUS WITHDRAWN

MCKENZIE RIVER

STATE HIGHWAY NUMBER 126
PREVIOUSLY VACATED 200

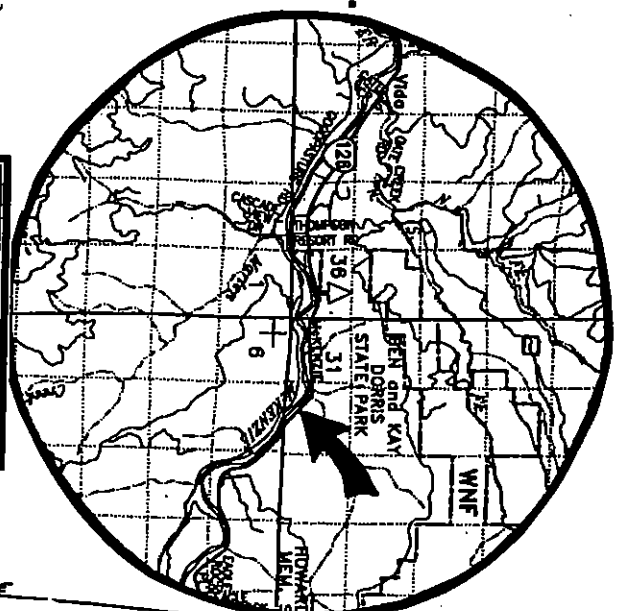
GOODPASTURE ROAD EXTENSION

Lot 13

CONLEY ROAD

MCKENZIE HIGHWAY

VICINITY MAP



23,301.48' 19° 57' E 18,651.48' (P.R.N. and County Rd.)

1/4 Cor.

5 WHEELS VIA 107° 07' 11"

N 04° 56' E 576.72'