

W-16-a-

ORIGINAL

AGENDA COVER MEMO

DATE: January 21, 2005
TO: Lane County Board of Commissioners
FROM: Bill Robinson, Lane County Surveyor *BR*
DEPARTMENT: Public Works - Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF WITHDRAWAL OF COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) OF A PORTION OF RICKETTS ROAD (COUNTY ROAD NUMBER 936) LOCATED IN SECTION 34, TOWNSHIP 18 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN (18-03-34)

I. MOTION

To Approve the Final Order to Withdraw County Road Status (but not the Public Road Status) of a Portion of Ricketts Road (County Road Number 936) located in Section 34, Township 18 South, Range 3 West of the Willamette Meridian

II. ISSUE

To decide whether the withdrawal of County Road status (but not the Public Road status) from the described portion of Ricketts 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 a portion of Ricketts Road from County Road to Public Road. The road, which has a right of way width of 40 feet, was originally dedicated to the public in 1910 on the plat of Fairview Model Orchards. It was later accepted as a County Road in 1922. The road extends from Highway 99, westerly along the southerly boundary of the plat, approximately 1.05 miles. Lane County has been maintaining the road from Mile Post 0.0 to 0.8. The proposal is to reduce the road status from the portion of road past the end of county maintenance, being approximately 1300 feet in length.

The request for the withdrawal of County Road status stems from a landowner that received approval from the planning section of Lane County Land Management Division to place a non-farm dwelling on his property that is adjacent to the subject portion of Ricketts Road. In obtaining a facility permit for the driveway approach, the applicant was originally asked to upgrade the right of way to County Road standards from the end of county maintenance to the beginning of the proposed new driveway. It was reported that there are regular flooding problems in a low spot of the road, and that a portion of the un-maintained traveled road is outside the legal right of way. The county is not currently maintaining this section of road, and

because this portion of Ricketts Road serves only two existing residences and one proposed residence, the standards for a Local Access Road (Public Road) are more applicable to the use and function of the road. After discussions with staff from Lane County Surveyors, Transportation Planning, Road Maintenance, Engineering, Planning, and Right of Way Management, as well as the applicant, a consensus was reached that conversion of the described portion of Ricketts Road from County Road to Public Road is a reasonable solution.

Qwest Communications, Emerald People's Utility District, Lane Electric Cooperative, Northwest Natural Gas, and various other agencies including Transportation Planning and Planning sections of Lane County Department of Public Works, as well as neighboring landowners, were notified by mail regarding the proposed withdrawal of County Road status, and either had no objections or did not reply to the referral.

B. Analysis

Resolution and Order No. 05-1-12-6 set a public hearing date of February 16, 2005, before the Board of Commissioners, to consider the proposed withdrawal of county road status. If the order to withdraw County Road status is approved, this portion of Ricketts Road will be reclassified as a Public Road and the maintenance shall become the responsibility of the owners of the adjacent properties and/or the users of the road. The public interest will be served, as this portion of road is not an integral part of the County Road system and withdrawing County Road status on this portion of road will eliminate any future expenditure of public funds to maintain it. Residents will continue to be able to access their property and the public will still have the right to use the road.

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 Director's Report addresses these issues.

Conversion of County Roads to Local Access Road or Public Road (non-county maintained) by withdrawal of County Road status, pursuant to ORS 368, may be considered where little need exists for the road to be part of the County Road System. The described portion of Ricketts Road is also within the guidelines of withdrawing County Road status per Lane Manual 15.300; (1) Dead-end roads which serve four or fewer permanent residences, and (3) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces. The platted road dead-ends at a riparian area, and the subject portion of the road serves less than four residences and is not maintained by the County; therefore, there is little justification for retaining this segment of Ricketts Road as a county road.

The proceedings which 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. Lane Manual 15.300 has four categories of County Roads and ten items to consider whenever a County Road is considered for conversion to a Local Access or Public Road. Reducing the status from a County Road to a Public Road of the described portion of Ricketts Road meets the applicable criteria of LM 15.300.

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.

C. Alternatives/Options

1. Adopt the Final Order to withdraw County Road status (but retain Public Road status) for a portion of Ricketts 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 the described portion of Ricketts 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 Ricketts Road as described in the Final Order. This action will relieve Lane County of responsibility for future road maintenance on this portion of Ricketts Road. The adjoining landowners, and any other users, will continue to be served by the road, and no one will be denied access if this section of Ricketts Road is reduced from County Road to Public Road.

E. Timing

Timing is important in this matter, as the development of adjacent property is dependent on the outcome of the proposed withdrawal of county road status.

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, and the County Engineer, who will update maintenance program 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 15.300 – Exhibit "C"

Map – Attachment "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 4118

IN THE MATTER OF WITHDRAWAL OF COUNTY)
 ROAD STATUS (BUT NOT THE PUBLIC ROAD)
 STATUS) OF A PORTION OF RICKETTS ROAD) **FINAL ORDER**
 (COUNTY ROAD NUMBER 936), LOCATED IN)
 SECTION 34, TOWNSHIP 18 SOUTH, RANGE 3 WEST)
 OF THE WILLAMETTE MERIDIAN. (18-03-34))

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and it appearing that the westerly portion of Ricketts Road, being about 1300 feet in length, is no longer needed as part of the county's road system; and

WHEREAS, by Resolution and Order Number 05-1-12-6 the Board of County Commissioners set February 16, 2005 at 1:30 P.M. to conduct a public hearing to consider the proposed withdrawal of county road status of a portion of Ricketts Road (County Road Number 936); and

WHEREAS, the road was originally dedicated to the public in 1910 on the plat of Fairview Model Orchards, as platted and recorded in Book 4, Page 53, of the Lane County, Oregon Plat Records, and later established as a County Road in 1922; and

WHEREAS, the platted road dead-ends at a riparian area and the subject portion of the road, which is not maintained by the county, serves less than four residences; therefore, this road meets the criteria for withdrawing County Road status per Lane Manual 15.300 (1) Dead-end roads which serve four or fewer residences; and (3) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces; and

WHEREAS, the adjoining landowners, as well as any 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 no objections were received; 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 the described portion of Ricketts 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 public notice as evidenced by the Affidavit of Posting, Publication and Mailing marked as Exhibit "B", attached hereto and made a part hereof by this Order; and

WHEREAS, the Board has considered the ten listed items, as specified in Lane Manual 15.300, a copy of which is 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) of a portion of Ricketts Road, said road being 40 feet wide, and being more particularly described as follows:

Beginning at the Southeast corner of Fairview Model Orchards as platted and recorded in Book 4, Page 53 of the Lane County, Oregon Plat Records, and being a point on the South boundary line of Section 35, Township 18 South, Range 3 West of the Willamette Meridian, running thence South 89°43' West to the Southwest corner of Section 35, Township 18 South, Range 3 West of the Willamette Meridian, being a distance of 2934 feet; running thence South 89°43' West 264 feet; thence North 40 feet to the TRUE POINT OF BEGINNING; thence North 207.5 feet; thence South 89°43' West 1056 feet; thence North 40 feet; thence North 89°43' East 1096 feet; thence South 247.5 feet; thence South 89°43' West 40 feet to the TRUE POINT OF BEGINNING, and there ending, all in Lane County, Oregon;

is hereby

WITHDRAWN; and it is further

ORDERED, that this Order be filed with the County Clerk's Office, entered into 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 _____, 2005.

Chair, Lane County Board of Commissioners

Attachment: Map

2-6-05

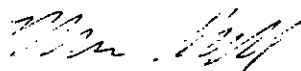


EXHIBIT "A"

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

FILE NO. 4118

IN THE MATTER OF WITHDRAWAL OF COUNTY)	
ROAD STATUS (BUT NOT THE PUBLIC ROAD)	
STATUS) OF A PORTION OF RICKETTS ROAD)	DIRECTOR'S
(COUNTY ROAD NUMBER 936), LOCATED IN)	FINAL REPORT
SECTION 34, TOWNSHIP 18 SOUTH, RANGE 3 WEST)	
OF THE WILLAMETTE MERIDIAN (18-03-34))	

The Surveyor's Office of the Department of Public Works has received a request from the County Engineer to reduce the road status of a portion of Ricketts Road from County Road to Public Road, as this portion of road is no longer needed as part of the County's road system.

Ricketts Road, which has a right of way width of 40 feet, was originally dedicated to the public in 1910 on the plat of Fairview Model Orchards. It was later accepted as a County Road in 1922. The road extends from Highway 99, westerly along the southerly boundary of the plat, approximately 1.05 miles. Lane County has been maintaining the road from Mile Post 0.0 to 0.8. The proposal is to reduce the road status from the portion of road past the end of county maintenance, being approximately 1300 feet in length.

The request for the withdrawal of County Road status stems from a landowner that received approval from the planning section of Lane County Land Management Division to place a non-farm dwelling on his property that is adjacent to the subject portion of Ricketts Road. In obtaining a facility permit for the driveway approach, the applicant was originally asked to upgrade the right of way to County Road standards from the end of county maintenance to the beginning of the proposed new driveway. It was reported that there are regular flooding problems in a low spot of the road, and that a portion of the unmaintained traveled road is outside the legal right of way. The county is not currently maintaining this section of road, and because this portion of Ricketts Road serves only two existing residences and one proposed residence, the standards for a Local Access Road (Public Road) are more applicable to the use and function of the road. After discussions with staff from Lane County Surveyors, Transportation Planning, Road Maintenance, Engineering, Planning, and Right of Way Management, as well as the applicant, a consensus was reached that conversion of the described portion of Ricketts Road from County Road to Public Road is a reasonable solution.

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. This has been provided herein.

Conversion of County Roads to Local Access Road or Public Road (non-county maintained) by withdrawal of County Road status, pursuant to ORS 368, may be considered where little need exists for the road to be part of the County Road System. The described portion of Ricketts Road is also within the

EXHIBIT "A"

guidelines of withdrawing County Road status per Lane Manual 15.300; (1) Dead-end roads which serve four or fewer permanent residences, and (3) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces. The platted road dead-ends at a riparian area, and the subject portion of the road serves less than four residences and is not maintained by the County; therefore, there is little justification for retaining this segment of Ricketts Road as a county road.

Qwest Communications, Emerald People's Utility District, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Planning and Transportation Planning sections of Lane County Department of Public Works, and neighboring landowners were notified regarding the proposed withdrawal of County Road status, and either had no objections or did not respond to the referral.

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. 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.

The statutes do not require the Board to meet any specific criteria in their decision to withdraw County Road status, but Lane Manual 15.300(5) provides a list of 10 items to consider on a case-by-case basis.

If the Final Order to withdraw County Road status is approved, the subject portion of Ricketts Road will be reclassified as Public Road and the maintenance of that portion of road shall become the responsibility of the owners of the adjacent properties and/or the users of the road. The public interest will be served, as this portion of road is not an integral part of the County's road system. It is recommended that the Board withdraw County Road status (but not Public Road status) from the portion of Ricketts Road described in the Final Order. This action will relieve Lane County of responsibility for future road maintenance on this portion of Ricketts Road.

DATED this 2nd day of February, 2005.


Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

FILE NO. 4118

IN THE MATTER OF WITHDRAWAL OF COUNTY)	
ROAD STATUS (BUT NOT THE PUBLIC ROAD)	
STATUS) OF A PORTION OF RICKETTS ROAD)	AFFIDAVIT OF
(COUNTY ROAD NUMBER 936) LOCATED IN)	POSTING,
SECTION 34, TOWNSHIP 18 SOUTH, RANGE 3)	PUBLICATION
WEST OF THE WILLAMETTE MERIDIAN (18-03-34))	& MAILING

I, Bill Robinson, Lane County Surveyor, certify as follows:

That on the 21st day of January, 2005, 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 "Dead End" sign on northerly side of Ricketts Road at the intersection of Highway 99.
2. Posted on a fence corner post on northerly side of Ricketts Road at end of county maintenance (first 90° corner), 0.8 miles from beginning of road.
3. Posted on a fence corner post on northerly side of Ricketts Road, 1.0 mile from beginning of road.

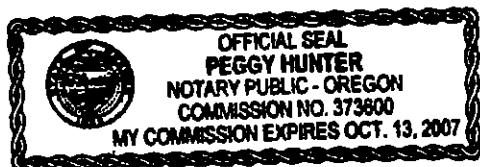
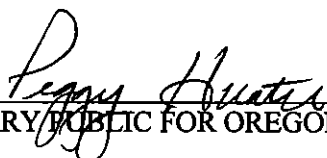
I further certify, that on January 26, 2005, and February 9, 2005, notice of the public hearing is scheduled to run in the Register Guard. Also, on January 13, 2005, notice was sent by Certified Mail to the property owners affected by the proposed road action, in accordance with Oregon Revised Statutes Chapter 368.



Bill Robinson
Lane County Surveyor

State of Oregon)
County of Lane)

Subscribed before me this 31st day of January, 2005, by Bill Robinson, Lane County Surveyor.



 NOTARY PUBLIC FOR OREGON

Lane Manual 15.300

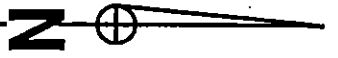
Vacation of County roads pursuant to the process provided in LM 15.305 or conversion of County Roads to Local Access Road or Public Road (non-County maintained) status by withdrawal of County Road status pursuant to ORS Chapter 368 may be considered where little need exists for the road to be part of 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:

- (1) Dead-end roads which serve four, or fewer, permanent residences.
- (2) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership.
- (3) Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces.
- (4) Roads that have received County maintenance, but are unusually difficult to maintain because of substandard road width, right-of-way width, steep topography, or materials or construction practices, which may result in excessive cost and liability exposure.
- (5) The following items shall be considered by the Board in reviewing these actions on a case-by-case basis:
 - (a) The need for a public right-of-way to provide for the orderly development of adjacent property.
 - (b) The need for public maintenance of the right-of-way.
 - (c) School bus traffic.
 - (d) Bridges and the potential for public safety problems associated with bridges.
 - (e) Railroad crossings and PUC requirements for County participation in applications for railroad crossing improvement or establishment.
 - (f) The potential for landslide and stability problems.
 - (g) Resource hauling (timber, agriculture, sand and gravel) that would unfairly burden other property owners.
 - (h) Use by law enforcement or fire protection personnel.
 - (i) Potential use as detour routes in the case of construction or disaster.
 - (j) Potential for elimination of right of access that is a matter of public record.

ORIGINAL

ATTACHMENT "A"

Section 34 T. 18S. R. 3W. W.M.
LANE COUNTY



NOT TO
SCALE

PROPOSED TO HAVE
COUNTY ROAD
STATUS WITHDRAWN

THE
FARMMEN
ORCHARDS

RICKETTS ROAD

COUNTY RD. # 936

RAILROAD

TAX LOTTED ON MAP 1802 35 2.90 ACS.

NO. 1-5

VICINITY MAP

CRESWELL

CRESWELL
AIRPORT

CLOVERDALE

CLOVERDALE

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