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05-1-12-6

AGENDA COVER MEMO

DATE: December 22, 2004
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 INITIATING PROCEEDINGS 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 (18-03-34)

I. MOTION

To Approve the Resolution, Notice of Hearing and Order Setting an Agenda Date of February 16, 2005, at 1:30 P.M. to Consider the Matter of Initiating Proceedings to Withdraw County Road Status (but not 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 to initiate the proceedings which could lead to the withdrawal of County Road status (but not the Public Road status) of the described portion of Ricketts Road, if such withdrawal is found to be 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 withdraw the County Road status (but not the Public Road status) of a portion of Ricketts 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, various other agencies including Planning and Transportation Planning sections of Lane County Department of Public Works, and 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

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 Preliminary 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 to reduce the status of the road, which are proposed to withdraw County Road status (but not the Public Road status) require a Public Hearing. The setting of a Public Hearing date of February 16, 2005, will allow the Board of Commissioners to hear and evaluate reasons for the proposal for withdrawal of County Road status, and the effects the proposed withdrawal may have on landowners using the road. It will also provide an opportunity for any comments from the public, affected property owners, or outside agencies.

C. Alternatives/Options

1. Set the Agenda Hearing date as proposed by the Public Works Director to consider the withdrawal of County Road status (but not the Public Road status) from a portion of Ricketts Road, as described.

2. Set any later Agenda Hearing date as the Board may wish.
3. Refuse to set a date, either postponing the matter or refusing to initiate proceedings to withdraw the County Road status from a portion of Ricketts Road.

D. Recommendation

The Public Works Director reports that it is advisable to set a Public Hearing date at this time, thus commencing procedures to withdraw County Road status, yet retain the Public Road status, from the described portion of Ricketts Road. Public interest will be served by reducing the status of this road from County Road to Public Road status, as the use of this road is primarily for the adjoining property owners and does not justify county maintenance or improvement of this section of roadway.

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 Resolution and Order setting a date for a public hearing for the proposed withdrawal of 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 provide public notice of the proposed action. If the Board wishes to postpone the matter or terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS

Resolution, Notice of Hearing and Order w/ attachments:
Director's Preliminary Report – Exhibit "A"
Map – Attachment "A"

Contact Person: Bill Robinson, X-4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 4118

IN THE MATTER OF INITIATING PROCEEDINGS)	
TO WITHDRAW COUNTY ROAD STATUS (BUT NOT)	
THE PUBLIC ROAD STATUS) OF A PORTION OF)	
RICKETTS ROAD (COUNTY ROAD NUMBER 936),)	RESOLUTION,
LOCATED IN SECTION 34, TOWNSHIP 18 SOUTH,)	NOTICE OF HEARING
RANGE 4 WEST OF THE WILLAMETTE MERIDIAN)	AND ORDER NO.
(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 approximately 1300 feet in length, is no longer needed as part of the County's road system; 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, ORS 368.026 states that a governing body may initiate proceedings 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, and a Preliminary Director's Report has been prepared to address these issues; and

WHEREAS, Oregon Revised Statutes, Chapter 368, requires a Public Hearing to withdraw County Road status from a County Road and the Board deems it appropriate to conduct a Public Hearing to decide whether to withdraw the County Road status (but not the Public Road status), from a portion of Ricketts Road. The Public Works Director has prepared a Preliminary Report recommending that proceedings be initiated to consider withdrawal of County Road status on the described segment of Ricketts Road, marked Exhibit "A" attached hereto and made a part hereof these proceedings; and NOW, THEREFORE, IT IS HEREBY

RESOLVED, that in accordance with Oregon Revised Statutes, Chapter 368, proceedings be undertaken to withdraw 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;

now, therefore, it is hereby

ORDERED, that February 16, 2005 be established as the date for conducting a Public Hearing regarding the proposed withdrawal of County Road status (but not the Public Road status) from said portion of Ricketts Road, and that the said hearing be held at 1:30 p.m. in Lane County Courthouse, 125 E. 8th Avenue, in Eugene, Lane County Oregon; and it is further

ORDERED, that the Director of the Lane County Department of Public Works cause the Lane County Surveyor to examine the road proposed to be withdrawn from County Road status and that the Director provide a written Final Report of his findings, as required by ORS 368.026, which are to be incorporated into the Final Order; and it is further

ORDERED, that notice of the Public Hearing be provided by service, posting and publication in accordance with ORS Chapter 368.401 to 368.426.

Inquiries regarding these proceedings may be directed to Bill Robinson, Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon 97401, telephone (541) 682-4195.

Dated this ____ day of _____, 2005.

Chair, Lane County Board of Commissioners

Attachment: Map

APPROVED AS TO FORM

12-30-04 Lane County

Mr. Kull

EXHIBIT "A"

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

FILE NO. 4118

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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)
(18-03-34))**

**DIRECTOR'S
PRELIMINARY
REPORT**

It is recommended that the proceedings be initiated for consideration of withdrawal of County Road status (but not the Public Road status) from a portion of Ricketts Road (County Road Number 936), 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.

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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.

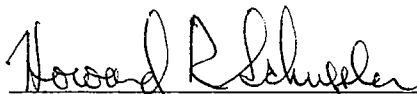
EXHIBIT "A"

Qwest Communications, Emerald People's Utility District, 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 regarding the proposed withdrawal of County Road status and either had no objections or did not respond to the referral.

If the Final Order to withdraw County Road status is approved, the subject portion of Ricketts Road will be reclassified as a 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 and withdrawing County Road status will eliminate the expenditure of County Road funds to maintain it.

A final report will be provided prior to the public hearing as required by ORS 368.026.

DATED this 22ND day of DECEMBER, 2004



for Oliver P. Snowden, Public Works Director

ATTACHMENT "A"

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

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FAIRVIEW
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Lot 41.41

Lot 41.42

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PL. Road = 84.15'

PL. Road = 100.00'

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5.90 ACS.

2900

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