

03-2-26-10

ORIGINAL
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AGENDA COVER MEMO

DATE: February 7, 2003

TO: Lane County Board of Commissioners

FROM: K. Robert Ezell, Lane County Surveyor

DEPARTMENT: Lane County Department of Public Works

AGENDA ITEM TITLE: IN THE MATTER OF SETTING A PUBLIC HEARING DATE FOR THE PROPOSED VACATION OF A PORTION OF DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499) LOCATED SOUTH OF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-22 & 23)

I. MOTION

TO APPROVE THE RESOLUTION, NOTICE OF HEARING AND ORDER SETTING A HEARING DATE OF APRIL 9, 2003, TO CONSIDER THE PROPOSED VACATION OF A PORTION OF DUNCAN SLOUGH ROAD (COUNTY ROAD NUMBER 499) LOCATED SOUTH OF BERNHARDT CREEK ROAD NEAR KARNOWSKY CREEK, IN SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH, RANGE 11 WEST OF THE WILLAMETTE MERIDIAN (18-11-22 & 23)

II. ISSUE

To decide when to set a public to set a public hearing before the Board of Commissioners which could lead to the vacation of the southerly section of Duncan Slough Road (County Road Number 499) being 40 feet wide and approximately 1.4 miles in length, if such a vacation 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 valid petition signed by Gloria Brown, Forest Supervisor for the Siuslaw National Forest, requesting that a portion of Duncan Slough Road be vacated so that they can make improvements to the wetlands in and around the old roadbed.

Duncan Slough Road (County Road Number 499) was established in 1892 to provide an outlet for the Karnowsky homestead. Duncan Slough Road extends southeasterly from Bernhardt Creek Road. Bernhardt Creek Road is a private road at this location. Duncan Slough Road runs along the bottomlands of Karnowsky Creek through Sections 15, 22, and into Section 23 in Township 18 South, Range 11 West of the Willamette Meridian. The portion proposed to be vacated is that portion lying south and east of the section line between Sections 15 and 22. The subject right of way is bounded on

both sides with National Forest land and is not currently being maintained as a part of Lane County's road system.

Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas and various other public agencies including various County offices were notified of the proposed vacation. The Transportation Planning section of Lane County responded to the referral stating that they do not oppose the vacation, but recommended that the entire length of Duncan Slough Road be vacated. The other agencies either had no comment or did not respond to the referral.

The proposed vacation was included as a "Consent Calendar" item on the agenda for Board of Commissioners on January 15, 2003, but the Board requested that a public hearing be held regarding this matter so that the public could be notified and given an opportunity to comment.

B. Analysis

The public interest in present or future use of this road is the primary issue to be addressed. A public hearing was requested by the Board, as the public may have an interest as the road involves access to public lands.

Duncan Slough Road (County Road Number 499) is not currently maintained as part of Lane County's road system. There appears to be little potential for it to be added to the maintained road system in the future because the public would have to travel over an existing private road to get to the described section of Duncan Slough Road.

The Forest Service currently has funds for making improvements to the wetlands along the subject roadway, which will be easier to accomplish if the road is under their own jurisdiction. Timing is an issue for this project, and for this reason the Forest Service did not request to vacate the entire length of roadway as the northerly portion of this road runs through private property and it would take additional time to obtain easements and agreements from the landowners.

The Siuslaw National Forest of the United States Department of Agriculture is the sole owner of the adjoining property of the portion of road proposed to be vacated and therefore meets the requirement of ORS 368.341(3)(f) of having at least 60% of the adjoining landowners sign the petition to vacate the road.

There are no known utilities within the right of way and no property will be denied access as a result of this vacation. The public interest will be served, as vacating this section of Duncan Slough Road will relieve the County of any potential future maintenance to the road and will, in this particular instance, because of the wetlands, allow the Forest Service to better care for the National Forest lands in this area.

C. Alternatives/Options

The Board of County Commissioners has the options to:

1. Set a Public Hearing date as requested by the Board of Commissioners to consider the vacation of a portion of Duncan Slough Road, County Road Number 499, as petitioned for.
2. Set any later Public Hearing date, as the Board may wish, to consider the vacation of Duncan Slough Road, as petitioned for.

3. Refuse to set a date to initiate proceedings to consider the vacation of a portion of Duncan Slough Road, County Road Number 499.

D. Recommendations

All statutory procedures necessary for a vacation with a public hearing have been complied with. Setting a public hearing date to consider the issues, taking testimony and possibly acting on the request for vacation is the recommended course to take. The date proposed will allow appropriate time for the provision of public notice of hearing.

E. Timing

Timing is important in this matter. The Forest Service currently has funds for making improvements to the wetlands on National Forest land in and around the old roadbed of Duncan Slough Road and the vacation is a prerequisite for this project.

IV. IMPLEMENTATION/FOLLOW-UP

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing on the proposed vacation of a portion of Duncan Slough Road, 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 to 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:
Petition to Vacate
Director's Preliminary Report - Exhibit "A"
Attachment "A" - Map

Contact person: K. Robert Ezell, x3626

WHEREAS, the Director of the Department of Public Works has provided a preliminary written report regarding the proposed vacation, as required by ORS 368.346, marked as Exhibit "A", attached hereto and made a part hereof, by this Resolution, Notice of Hearing and Order, which recommends a date be set for the public hearing; now therefore, it is hereby

ORDERED, that April 9, 2003 be established for hearing said report and for conducting a public hearing of the said proposed vacation of the section of Duncan Slough Road, and the said hearing be held at 1:30 P.M. at the Lane County Courthouse, 125 East 8th Avenue, Eugene, Oregon 97401; 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 this proposed road vacation may be directed to K. Robert Ezell, Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon, 97401, telephone (541) 682-4195.

DATED this _____ day of _____, 2003.

Peter Sorenson, Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachments: Petition to Vacate
Vicinity Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION OF)	
A PORTION OF DUNCAN SLOUGH ROAD)	
(COUNTY ROAD NUMBER 499) LOCATED)	
IN SECTION 22 AND 23, TOWNSHIP 18)	PETITION TO VACATE
SOUTH, RANGE 11 WEST OF THE)	
WILLAMETTE MERIDIAN IN LANE)	
COUNTY, OREGON.)	

PURSUANT to the procedures set forth in ORS Chapter 368, the undersigned Gloria Brown, Forest Supervisor of the Siuslaw National Forest, United States Department of Agriculture, owner of adjacent real property hereby petition for the vacation of a portion of Duncan Slough Road (County Road Number 499). The area to be vacated is described as follows:

“All that portion of Duncan Slough Road (County Road Number 499), being 40 feet wide, from the beginning point of said road as surveyed in 1892, said point being in Section 23, Township 18 South, Range 11 West of the Willamette Meridian, thence northwesterly a distance of 1.4 miles, more or less, to the section line between Section 22 and Section 15, Township 18 South, Range 11 West of the Willamette Meridian, all in Lane County, Oregon.”

WHEREAS, the undersigned petitioner is the owner of over 60% of all the real property located adjacent to the above described area to be vacated, and

WHEREAS, petitioner alleges as follows:

1. The purpose of this vacation request is to vacate a certain portion of Duncan Slough Road. The Forest Service has funds for improvement of the wetlands which will be easier to accomplish if the road was under their own jurisdiction.
2. The road is not currently being maintained by the county.
3. There are no known utilities within 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 the vacation of the above described area, and

WHEREAS, the petitioner has no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation with a hearing, and

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

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1. Setting dates for the vacation of the above-described portion of road, with 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.

DATED this 6th day of June, 2002.

PETITIONER:

Gloria D. Brown

Gloria Brown, Forest Supervisor
Siuslaw National Forest
United States Department of Agriculture

MAP #: 18-11-22 Tax Lot 500 & 501
MAP #: 18-11-23 Tax Lot 100, 200, 201 & 400
ADDR: 4077 Research Way
Corvallis, Oregon 97339

STATE OF OREGON)
COUNTY OF LANE) ss.

The foregoing instrument was acknowledged before me this day of June 6th, 2002,
by Gloria Brown, Forest Supervisor of the Siuslaw National Forest, on behalf of the
United States Department of Agriculture.



Jenifer J. Eveler
Notary Public for Oregon County of Benton
My Commission expires: 2-10-06

EXHIBIT "A"

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

FILE NO. 4084

**IN THE MATTER OF SETTING A PUBLIC)
HEARING DATE FOR THE PROPOSED)
VACATION OF A PORTION OF DUNCAN)
SLOUGH ROAD (COUNTY ROAD NUMBER 499))
LOCATED SOUTH OF BERNHARDT CREEK)
ROAD NEAR KARNOWSKY CREEK, IN)
SECTIONS 22 AND 23, TOWNSHIP 18 SOUTH,)
RANGE 11 WEST OF THE WILLAMETTE)
MERIDIAN (18-11-22 & 23))**

**PRELIMINARY
DIRECTOR'S REPORT**

The Surveyor's Office of the Department of Public Works received a valid petition to vacate a portion of Duncan Slough Road, County Road Number 499. The Siuslaw National Forest of the United States Department of Agriculture is the sole landowner of 100% of the property abutting the portion of Duncan Slough Road proposed to be vacated.

County Road Number 499 was established in 1892 as an outlet for the Karnowsky homestead. The roadway runs southeasterly from Bernhardt Creek Road along the bottomlands of Karnowsky Creek through Sections 15, 22, and into Section 23 in Township 18 South, Range 11 West of the Willamette Meridian. The portion proposed to be vacated is that portion lying south and east of the section line between Sections 15 and 22. The subject right of way is bounded on both sides with National Forest land. The Forest Service is requesting that this portion of Duncan Slough Road be vacated so that they can make improvements to the wetlands in and around the old roadbed.

Various public and private agencies were notified of the proposed vacation and either had no objection or did not respond to the referral, except for the Transportation Planning section of Lane County who made comments stating that they do not oppose the vacation, but recommended that the entire length of Duncan Slough Road be vacated.

The Forest Service currently has funds for making improvements to the wetlands along the subject roadway, which will be easier to accomplish if the road is under their own jurisdiction. Timing is an issue for this project, and for this reason the Forest Service did not request to vacate the entire length of roadway, as the northerly portion of this road runs through private property and it would take additional time to obtain easements and agreements from the landowners.

The public would have to travel over a section of private road to get to the southerly section of Duncan Slough Road that is proposed to be vacated. The section of road petitioned to be vacated is not maintained by the County, and it is not connected to a public or county road. County maintenance of Bernhardt Creek Road ends approximately one mile east of its intersection with Duncan Slough Road and is a private road west of that point. Vacating the described portion of Duncan Slough Road will not deny legal access to any property. The road is gated just south of its intersection with Bernhardt Creek Road, therefore the public access to the National Forest land will remain unchanged.

It is recommended that the Resolution to consider the petition for the vacation of the southerly section of Duncan Slough Road (County Road Number 499) be approved and a date be set for conducting a public hearing by the Board of County Commissioners.

A final report will be submitted prior to the time of the public hearing.

DATED this 10th day of FEBRUARY, 2003.


for Oliver P. Snowden, Director
Department of Public Works

ORIGINAL

ATTACHMENT "A"

SECTIONS 22 & 23
TOWNSHIP 18 SOUTH, RANGE 11 WEST, W.M.
LANE COUNTY
NO SCALE



