

03-6-18-8

W.7.E.2

ORIGINAL

AGENDA COVER MEMO

DATE: May 29, 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 A PORTION OF PRAIRIE ROAD (COUNTY ROAD NUMBER 203) LOCATED BETWEEN IRVING ROAD AND IRVINGTON DRIVE IN THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 10, TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN IN LANE COUNTY OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-04-10-22)

I. MOTION:

TO VACATE A PORTION OF PRAIRIE ROAD (COUNTY ROAD NUMBER 203) THAT IS IN EXCESS OF THE PLANNED RIGHT OF WAY WIDTH, LOCATED BETWEEN IRVING ROAD AND IRVINGTON DRIVE IN THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 10, TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN IN LANE COUNTY OREGON, MORE PARTICULARLY DESCRIBED IN THE FINAL ORDER, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-04-10-22)

II. ISSUE:

To decide whether a strip of right of way, being approximately 14.76 feet wide and 482.28 feet in length, which is in excess of the planned right of way width for Prairie Road, should be vacated, as petitioned for.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Sam Dickey, on behalf of Weyerhaeuser Company, the sole owner of 100% of the property abutting the proposed vacation. The petitioner is requesting the vacation, by the authority of ORS 368.351, without a public hearing. The purpose of this request is to vacate a portion of right of way that is in excess of the needs of the Lane County transportation system for Prairie Road.

Prairie Road originated as a Territorial Road and was later designated as a Market Road in 1925 with a statutory right of way width of 60 feet. In 1967, Lane County acquired a road easement over a strip of land, 50 feet wide and 482.4 feet in length, on the easterly side of centerline as recorded on Reel 406, Instrument Number 37400, Lane County Deeds and Records. The Engineering Division of the Lane County Department of Public Works has determined that a portion of this property is excess right of way of what is needed for the county's road system.

The Surveyors Office notified the City of Eugene, Qwest Communications, Eugene Water & Electric Board, 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 neighboring landowners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not reply to the referral.

B. Analysis:

According to the Right of Way Management section of Lane County Public Works, the described portion of Prairie Road is considered to be surplus right of way that is not needed at this time, or in the foreseeable future. Vacating the described right of way will leave a minimum width right of way of 34.45 feet on the east side of centerline in this area. A current improvement project takes up an approximate width of 60 feet, 30 feet on each side of centerline in this area.

There are no known utilities within the proposed vacation, and no property will be denied legal access. It is believed that it is in the public interest to vacate the described portion of Prairie Road as it will be returned to private ownership and also Lane County will be relieved of any responsibility to maintain this road right of way area.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of Prairie Road, County Road Number 203, as petitioned for.
2. Deny the vacation of a portion of Prairie Road, County Road Number 203, as petitioned for.
3. Continue the matter for further consideration.
4. Direct that a public hearing be held for the proposed vacation and have staff contact the petitioner to see if they wish to proceed with this stipulation.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of the portion of Prairie Road, as petitioned for. No property will be denied legal access by this vacation. The vacation is in the public's interest, as vacating this portion of the described right-of-way will allow it to return to private use, as well as relieve Lane County of any responsibility of maintaining the vacated area.

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 known to be a factor in this matter.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Order of Vacation, the documents are to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor and County Assessor for appropriate action. If the order is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

If the petitioner is given an option to proceed with a public hearing, they will have 180 days to decide whether or not to continue with the proposed vacation. If they decide to proceed with the proposed vacation the staff will prepare a Resolution and Order to set a date for a public hearing, but if the petitioners decide to terminate the proceedings, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Order w/attachments:

Petition

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Attachment "A" - Vicinity Map

Contact Person: K. Robert Ezell x3626

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

FILE NO. 4097

IN THE MATTER OF VACATING A PORTION OF PRAIRIE ROAD (COUNTY ROAD NUMBER 203) LOCATED BETWEEN IRVING ROAD AND IRVINGTON DRIVE IN THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 10, TOWNSHIP 17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE MERIDIAN IN LANE COUNTY OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-04-10-22))))))))))))	ORDER NO.
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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 a portion of Prairie Road. The portion proposed to be vacated is the easterly 15 feet, more or less, of the strip of land conveyed to Lane County by a certain Bargain and Sale Deed recorded September 4, 1968, on Reel 406R, Reception Number 37400, more particularly described as follows:

Commencing at Engineer's Centerline Station 2+520, said point being South 595.820 meters, and East 782.802 meters from the Northwest Corner of James Peck DLC Number 50; thence along centerline North 10°50'27" East, 15.029 meters to Engineer's Centerline Station 2+535.029; thence North 79°09'33" East, 10.668 meters to the POINT OF BEGINNING, thence North 71°15'07" East, 4.616 meters, to a point 15.240 meters right of Engineer's Centerline Station 2+535.664; thence North 10°50'27" West 147.036 meters to a point 15.240 meters right of Engineer's Centerline Station 2+682.700; thence South 71°17'16" West, 4.785 meters to a point 10.500 meters right of Engineer's Centerline Station 2+682.042; thence South 10°54'16" East, 147.017 meters to the POINT OF BEGINNING all in Lane County, Oregon.

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioner who is the landowner of 100% of the property abutting the proposed vacation, is requesting that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and right-of-ways without a public hearing; and

WHEREAS, the petitioner is requesting that the described right-of-way be vacated, as it is in excess of what is needed by the Lane County transportation system for the planned 21 meter (68.9 feet) width right of way in this area; and

WHEREAS, various public and private agencies and neighboring landowners were notified by mail regarding the proposed vacation and either had no objection or did not reply to the referral; and

WHEREAS, there are no known utilities within the proposed vacation and no property will be denied legal access by this vacation; and

WHEREAS, the Director of the Department of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.351, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

WHEREAS, the Board is of the opinion that approving the vacation, as petitioned for, is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described portion of Prairie Road (County Road Number 203) 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.

DATED this _____ day of _____, 2003.

Peter Sorenson, Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map (Attachment "A")

APPROVED AS TO FORM

Date 6-9-03 lane county

OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION OF A)
 PORTION OF PRAIRIE ROAD, (COUNTY ROAD)
 NUMBER 203) LOCATED IN THE NORTHWEST)
 QUARTER OF THE NORTHWEST QUARTER OF)
 SECTION 10, TOWNSHIP 17 SOUTH, RANGE 4)
 WEST OF THE WILLAMETTE MERIDIAN)
 IN LANE COUNTY, OREGON.)

PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned, Weyerhaeuser Company, the sole owner of the adjacent real property, hereby petition for the vacation of a portion of Prairie Road (County Road Number 203). The area to be vacated is the easterly 15 feet, more or less, of the strip of land conveyed to Lane County by a certain Bargain and Sale Deed recorded September 4, 1968, on Reel 406R, Reception Number 37400, more particularly described as follows:

Commencing at Engineer's Centerline Station 2+520, said point being South 595.820 meters, and East 782.802 meters from the Northwest Corner of James Peck DLC Number 50; thence along centerline North 10°50'27" East, 15.029 meters to Engineer's Centerline Station 2+535.029; thence North 79°09'33" East, 10.668 meters to the POINT OF BEGINNING, thence North 71°15'07" East, 4.616 meters, to a point 15.240 meters right of Engineer's Centerline Station 2+535.664; thence North 10°50'27" West 147.036 meters to a point 15.240 meters right of Engineer's Centerline Station 2+682.700; thence South 71°17'16" West, 4.785 meters to a point 10.500 meters right of Engineer's Centerline Station 2+682.042; thence South 10°54'16" East, 147.017 meters to the POINT OF BEGINNING all in Lane County, Oregon.

WHEREAS, the undersigned petitioner is the sole owner of 100% 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 petition is to vacate the portion of the County Road right-of-way, described above, that is in excess of what is needed by the Lane County transportation system for the right of way of Prairie Road.
2. 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 without a hearing, and

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

1. Setting dates to consider 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.

DATED this 30 day of JANUARY, ²⁰⁰³~~2002~~.

PETITIONER:

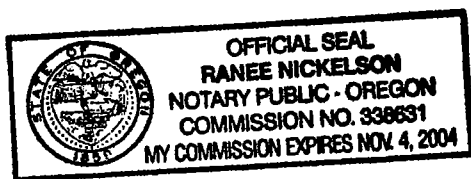
Sam T. Dickey
Weyerhaeuser Company

MAP #: 17-04-10-22 Tax Lot 1301 & 4700
MAP #: 17-04-03-33 Tax Lot 3400

ADDR: P.O. Box 40130
Eugene, OR 97404

STATE OF OREGON)
COUNTY OF LANE) ss.

The foregoing instrument was acknowledged before me this day of January 30, ²⁰⁰³~~2002~~,
by Sam Dickey, Mill Manager of Weyerhaeuser Company, a Washington
(name) (title)
Corporation, on behalf of the corporation.



Ranee Nickelson
Notary Public for Oregon
My Commission expires: 11-04-04

EXHIBIT "A"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4097

IN THE MATTER OF VACATING A PORTION OF)	
PRAIRIE ROAD (COUNTY ROAD NUMBER 203))	
LOCATED BETWEEN IRVING ROAD AND)	
IRVINGTON DRIVE IN THE NORTHWEST)	
QUARTER (NW ¼) OF THE NORTHWEST)	DIRECTOR'S REPORT
QUARTER (NW ¼) OF SECTION 10, TOWNSHIP)	
17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE)	
MERIDIAN IN LANE COUNTY OREGON, WITHOUT)	
A PUBLIC HEARING, AND ADOPTING FINDINGS)	
OF FACT (17-04-10-22))	

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owner of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. The purpose of this request is to vacate a certain portion of Prairie Road (County Road Number 203) that is considered to be excess right of way of what is needed by the Lane County transportation system.

Prairie Road originated as a Territorial Road and was later designated as a Market Road in 1925 with a statutory right of way width of 60 feet. In 1967, Lane County acquired a road easement over a strip of land, 50 feet wide and 482.4 feet in length, on the easterly side of centerline, as recorded on Reel 406, Instrument Number 37400, Lane County Deeds and Records. The Engineering Division of the Lane County Department of Public Works has determined that a portion of this property is excess right of way of what is needed for the county's road system.

The Surveyors Office notified the City of Eugene, Qwest Communications, Eugene Water & Electric Board, 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 neighboring landowners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not reply to the referral.

According to the Right of Way Management section of Lane County Public Works, the described portion of Prairie Road is considered to be surplus right of way that is not needed at this time, or in the foreseeable future. Vacating the described right of way will leave a minimum width right of way of 34.45 feet on the east side of centerline in this area. A current improvement project takes up an approximate width of 60 feet, 30 feet on each side of centerline in this area.

It is concluded that it is in the public interest to vacate the described portion of Prairie Road as it will be returned to private ownership and Lane County will be relieved of the responsibility to maintain this road right of way area. It is therefore recommended that the portion of Prairie Road (County Road Number 203), as described in the Order, be vacated as petitioned for, and that the vacation be allowed without a public hearing.

DATED this _____ day of _____, 2003

 Oliver P. Snowden, Public Works Director

EXHIBIT "B"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4097

IN THE MATTER OF VACATING A PORTION OF)
PRAIRIE ROAD (COUNTY ROAD NUMBER 203))
LOCATED BETWEEN IRVING ROAD AND)
IRVINGTON DRIVE IN THE NORTHWEST)
QUARTER (NW ¼) OF THE NORTHWEST)
QUARTER (NW ¼) OF SECTION 10, TOWNSHIP)
17 SOUTH, RANGE 4 WEST OF THE WILLAMETTE)
MERIDIAN IN LANE COUNTY OREGON, WITHOUT)
A PUBLIC HEARING, AND ADOPTING FINDINGS)
OF FACT (17-04-10-22))

FINDINGS OF FACT

The Department of Public Works has received a valid petition, signed by Sam Dickey, on behalf of Weyerhaeuser Company, the sole owner of 100% of the property abutting the proposed vacation of a portion of Prairie Road (County Road Number 203). The petitioner is requesting to vacate a portion of the right of way that is in excess of the needed width for Prairie Road transportation in this area.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public 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 public easements.

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. The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owner of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. Said property is further identified as Tax Lots 1301 & 4700 of Assessor's Map 17-04-10-22 and Tax Lot 3400 of Assessor's Map 17-04-03-33.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest".
3. That, the City of Eugene, Qwest Communications, Eugene Water & Electric Board, 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 neighboring landowners were notified by mail regarding the proposed vacation and either had no objection or did not respond to the referral.
4. That, no property will be denied legal vehicle access as a result of this vacation.
5. 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 100% of the adjoining property owners.

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, without a public hearing, have been met.

ORIGINAL

NO SCALE

