

W. Y. A.
SUPPLEMENTAL MATERIAL

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In the Matter of Certification of Final Assessments on River Road (County Road 200) Between Mile Post 7.747 and Mile Post 7.366 and Setting Lien Values Against Adjacent Properties.

Background:

The Director's Report for this project, including the estimated assessments for improvements, was accepted by Board Order 03-3-19-3, and certain adjacent properties were ordered subject to a lien by Board Order 03-4-16-5.

In accordance with ORS 371.645, a Public Hearing for objections to the assessments was set by Board Order 04-1-7-9 for February 4, 2004 at 1:30 PM in Harris Hall. After hearing testimony, the Board asked that the record stay open and requested staff to report back on how the new proposed Lane Code policy would affect the assessments.

When the Board approved the Design Concept for the River Road project in July, 2002, the Board deferred the approval of assessing the adjacent properties and directed staff to report with a comparison of assessment methods Lane County's Lane Code Chapter 15 and the City of Eugene's Chapter 7 of the Eugene Code.

As directed by the Board, staff compared the two policies and reported back on October 2, 2002. Per Board Order 02-10-2-3, the Board ordered that the costs of constructing the improvements be assessed to the benefiting properties in accordance with the Lane County Special Assessment Policy per Lane Code Chapter 15 and ORS 371.625 and 371.640.

The Present Lane County Policy vs. Proposed Amendments:

The present Assessment Policy per Lane Code 15.636(1)(b), specifies the manner for assessing the costs of improvements and states that for Major Collectors, Minor Arterials and Principal Arterials, if the abutting property does not take access from the road when the improvement project is completed, whether by choice of the owner or denial by Lane County, the assessment for curb, gutters and sidewalk shall be deferred. Any deferred assessment is a lien against the abutting property which may be removed and access granted in the future provided that Lane County (or the government with jurisdiction over the road) finds that the new access does not pose a traffic congestion or safety problem and that the owner of the property pays to Lane County the full amount of the original deferred assessment, plus accrued interest. Interest is calculated from the date the original assessment on the project became due at the rate established by the Board of County Commissioners for the assessment. At the present time the rate of interest is prime plus 3%, or a total of 7% per year. Assessments deferred under this section shall be waived and the lien extinguished twenty years from the date of certification. Access may be granted after 20 years has elapsed from the date the lien was originally certified.

The proposed amendment to the Lane Code is modeled generally on the current City of Eugene assessment policies and would allow deferrals for residentially-zoned or residentially-used parcels with large frontages, with limitation on the minimum and maximum amount of frontage and with a provision for termination once the land is divided.

If the proposed policy were in effect at the present time, only two properties on the River Road project would qualify for deferral that do not currently qualify for deferral under the present policies. Properties that would qualify would be the Malcom property, which has 218 feet of frontage, and the Duyck property, which has 207 feet of frontage on River Road.

Although the current policies do not provide for waiver of assessments if property takes access from the improved road, the proposed code amendments could be modified to allow for the waiver of any assessment using some alternate criteria rather than what is currently proposed. The current proposal requires that the assessment for the 100 feet of frontage nearest the dwelling be paid, and that the assessment on the balance of the frontage can be deferred, provided that the property has at least 200 feet of frontage.

The proposed amendments to the Lane Code have been endorsed by both the Roads Advisory Committee and the Lane County Planning Commission. They are part of the TSP amendments that are anticipated to come before the Board within the next two months.

Engineering and Administration Costs:

ORS 371.640 provides that “the Engineer may add the actual and estimated future costs for engineering and administration”. We had estimated these costs to be 25% of the total cost of the assessable improvements. Because the total cost of the improvements was significantly lower than anticipated, the Engineering and Administration costs were a higher percentage of the final assessable costs.

In the process of reviewing the materials for this report, it was noted that the above-referenced Resolution and Order 02-10-2-3, contained an error, in that it specified “plus 25% for Engineering and Administrative cost,” when the actual intent was to say “*plus approximately 25%.*” The cost of meetings associated with the assessments is not included in the total that is billed along with the assessments.

If the Board directs, staff can refigure the final assessments using the 25% figure. This will result in an additional cost to be borne by the Road Fund of \$1926.78, plus the costs of refiguring the amounts and fulfilling the legal notice requirements.

Impact if Proposed Policy Were to be Applied to This Project:

If the proposed assessment policies were in effect at the present time, two additional properties would be eligible for deferral of a portion of the assessment than are eligible

for deferral under the current policy. These are the Duyck and Malcom properties. Each of them would be eligible to defer the assessment on slightly more than 100 feet of frontage that is in excess of 100 feet appurtenant to a dwelling. Twenty-four parcels representing 49% of the total frontage assessed for the River Road Project are already encumbered with Irrevocable Petitions which obligate the owners to participate in the improvements costs and also preclude them from protesting the formation of a Local Improvement District. Because they do not take direct access to the road, however, they are eligible for deferral of the assessment under the current policies.

Some property owners may not consider deferral of the assessments to be much of an advantage, since at an interest rate of 7%, the amount owed would increase by 70% over a period of 10 years. For a \$4,000 assessment, the amount owing would be \$9,320 after 19 years, assuming no payments were made. Most properties would likely change ownership or would be refinanced during a 20 year period, at which time nearly all lenders would require that the deferred assessment be paid off.

Impact of Proposed Policy on Future Projects and the Road Fund:

Any change, including the adoption of the proposed policies, would require extensive changes to the computer program that is used to compute the amount of the assessments and to prepare the notices that are mailed out to the property owners. It is not known how much the programming would cost to implement the changes.

Deferral of additional assessments would likely have a minimal effect on the Road Fund over time since it is estimated that very few eligible property properties would either not sell, refinance, or subdivide during the 20-year deferral period.

The certification of final assessments on Irvington drive will be coming before the Board in the near future. This is a much larger project, but a preliminary analysis shows that it would also have a very small number of parcels that would be eligible for deferral under the proposed amended policies.

The recommendation of staff is to approve the final assessments for this project and direct staff as to how to handle the increased amount of engineering and administrative costs over and above the 25% that was stated in the Board Order. In addition, it is recommended that when and if the amended assessment policy is adopted, it include a retroactivity provision as to any liberalization of the deferral criteria that would extend from the date of adoption of the new policy back to the date of approval of the final assessment amounts for the River Road MP 7.747 to 7.366 project by Order 04-2-4-8.