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## AGENDA COVER MEMO

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**DATE:** November 23, 2005

**TO:** Lane County Board of Commissioners

**DEPARTMENT:** Public Works

**PRESENTED BY:** Frank Simas  
Right of Way Manager

**TITLE:** DIRECTION TO STAFF REGARDING INITIATION OF PROCEEDINGS TO EITHER VACATE OR WITHDRAW COUNTY ROAD STATUS FROM A PORTION OF TEMPLETON ROAD, COUNTY ROAD NO. 50, IN SECTION 2 AND 11, T. 16 SOUTH, RANGE 2 WEST, WILLAMETTE MERIDIAN.

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### I. MOTION

Discussion only.

### II. ISSUE

Shall vacation or withdrawal of County Maintained Status proceedings be initiated for any or all of that portion of Templeton Road, County Road No. 50, from approximate MP 2.432 to approximate MP 3.77.

#### A. Background

Templeton Road is located approximately 10 miles west of Junction City. It runs north and south from Hall Road on the south to High Pass Road on the north, and is classified as a Rural Collector Road. The total length of the road is shown in the Maintenance Road Book as 4.847 miles. From Hall Road, going north to about MP 2.432 where the road is currently gated, the road is an oil mat/chipseal surface. The traffic count data for this section of road is 130 vehicles per day. From this gate northerly to about MP 3.82, where there is an additional gate, the road is not currently receiving maintenance by County forces. From the northerly gate to the intersection with High Pass Road, the road is gravel-surfaced. No traffic count data is available for this northerly section of road, but there is a total of 11 tax lots which front along this portion from about MP 3.77 to the intersection with High Pass Road.

Sometime in the 1970s, a portion of the middle section of the road was relocated from its original location as established in 1896 to a location somewhat southeasterly of the original alignment. The original location (identified as "Superseded Section" on Attachment 1) is the legal right of way for this portion of Templeton Road, and the realignment is shown as the "As Traveled Section" on Attachment 1.

The legal right of way in this area is now planted in reproduction conifer trees. No record could be found of the County's acquisition of right of way for the relocation, nor of any alteration or vacation of the superseded portion. Consequently, for this section of the road, the County has a legal right of way over an area that is now impassable due to tree cover and does not have a legal right of way over the portion most-recently used as the County road.

This middle portion of Templeton Road from about MP 2.432 to MP 3.82 has not been physically maintained by the County since at least 1986, and at present is only minimally passable by other than 4-wheel drive or other off-road equipment, or on foot.

The current proposal for this portion of Templeton Road was initiated by Public Works Road Maintenance staff, and was first proposed about 15 years ago. The portion of road proposed for either withdrawal of County maintenance or vacation abuts the property of two landowners, the Templeton family and the Bureau of Land Management (BLM). The holdings of these two owners are shown on the map identified as Attachment 1.

BLM relies on a portion of the "As Traveled" section over the Templeton ownership to access its approximate 200 acre parcel to the south, and likewise, the Templetons must traverse a short section of the "As Traveled" road to traverse over BLM property to reach a section of their property near their northerly boundary and beyond to reach High Pass Road. Both BLM and the Templetons view the non-establishment "As Traveled" section of the present road as less than ideal, and in order to assure convenient and recorded access to High Pass Road, both parties are willing to enter into a mutual access agreement, should the vacation be approved.

This proposal was never previously brought forward to either the Roads Advisory Committee or to the Board of County Commissioners because the two property owners were not able to agree upon the mutual access agreement. The proposal was, however, brought before the Roads Advisory Committee for its recommendation on April 27, 2005. The Committee tabled any action on the proposal at that time pending a planned work session with the Board wherein the Board was to give staff direction on the processing of vacation requests and any changes in current practices that might be needed. That work session was held on July 29, 2005.

The issue was brought back to the Roads Advisory Committee on September 28, 2005. Three stakeholders appeared at the meeting, two of whom who offered public comment on the proposal. Mr. and Mrs. Verna, who live adjacent to the northerly terminus of the subject road segment, stated that they were not in favor of the proposed vacation or withdrawal of County road status because they sometimes walk on the road and feel that it should be retained for an alternate escape route in case of a forest fire.

If the vacation is ultimately approved, they would like to see the County maintain a private easement or similar right that would allow the County road grader to turnaround at a location on the road that is about 650 feet south of the

Templeton's north property line and about 1,000 feet south of the existing gate. They are concerned that the existing turnaround that is within existing right of way will ultimately need to be widened for greater ease of use, either within the existing right of way and/or with the purchase of additional right of way, and that this will impact the lower portion of their driveway and require the removal of a tree. If the vacation is not approved or whether or not the withdrawal of County Road status is approved, they are requesting that the turnaround be moved up the hill to the location on the Templeton property.

After hearing the public comment and the Staff Report, the Roads Advisory Committee voted to recommend the vacation of Templeton Road and also recommended that staff and property owners should agree as to the turnaround location and the northerly terminus of the vacation.

Road Maintenance staff has viewed the suggested turnaround site, and determined that it will be suitable for use as a turnaround for the grader, and should the vacation or withdrawal of County Road Status be approved, the gate would be moved to coincide with the end of County maintenance so there will be no County-maintained road beyond the gate. Both the Templeton's and the Vernas have given tentative approval to the proposed turnaround site.

Mr. Verna has since spoken with staff and reiterated that he is not in favor of the vacation, nor presumably the withdrawal of County road status, due to the closing off of the access to hikers and horseback riders, and because of the forest fire consideration. In addition, he does not think the existing gate should be moved back to the property line, as it would create a stub of road that would invite camping, overnight parking, shooting and illegal dumping, since it is an area that would not be visible from the two nearest houses.

## B. Analysis

The portion of road that is proposed for either vacation or withdrawal of County road status is officially under Lane County's jurisdiction for maintenance. The subject road segment runs through properties owned by the Templeton family and the Bureau of Land Management in Sections 2, 10 and 11, Township 16 South, Range 2 West, Willamette Meridian. The road is marginally passable with motor vehicles and is currently gated in three locations; MP 2.42, MP 2.572 and at MP 3.82, just north of the north line of the Templeton property. The most northerly gate was installed under a Facility Permit issued in 1986, but no permits were found for the other two gates.

This portion of Templeton Road has not been used by the public for vehicular travel over the past 19 years, but continues to be a burden to the affected properties and may expose the County to a risk of potential liability due to lack of maintenance. The land ownerships which take access from and/or abut this portion of Templeton Road are divided between the Templeton family (about 880 acres) and the Bureau of Land Management (about 520 acres).

BLM currently has a private, exclusive easement leading from the legal right of way in section 2 westerly to an approximate 320 acre BLM tract located in

section 3. The section for which there is no legal right of way passes through and furnishes access to a 200-acre BLM ownership in Section 11. An additional 160 acres of BLM land has access from the County-maintained portion of Templeton Road lying north of the northerly gate.

Included below are excerpts from Lane Manual 15.300, which address the criteria under which roads may be considered for vacation or withdrawal of County road status. In addition, the bold text below addresses whether and to what extent this proposed vacation and/or withdrawal of County road status meets the listed criteria.

**15.300 General Requirements.**

*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.*

**This portion of Templeton Road is not a dead-end road, and has only one dwelling which is situated on a parcel under Templeton ownership, and which would take access from the end of the remaining County maintained portion should the vacation or withdrawal of County maintained status be approved.**

*(2) Roads within National Forest boundaries, within Bureau of Land Management ownership areas, or adjacent to resource land areas under single ownership.*

**This road segment is partially within a Bureau of Land Management ownership area. The zoning of the abutting land is a combination of E-40 and F-1, but ownership is split between the two owners, the Templetons and BLM.**

*(3) Roads that are undeveloped rights-of-way, are dirt roads, or are not currently maintained by County forces.*

**The subject portion is partially dirt, and is not currently physically maintained by Lane County, and has not been maintained for at least 19 years.**

*(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.*

**This portion of road is not constructed to current County Standards for this class of road.**

*(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.*

**Development of the adjacent land is very unlikely due to the existing zoning as resource land.**

*(b) The need for public maintenance of the right-of-way.*

**This road segment has not been maintained for at least 19 years. The nearest through route from High Pass Road to Hall Road is Smyth Road located 3 miles to the East. Several property owners on the northerly portion of Templeton Road have expressed concern that the road segment be kept open for emergency fire egress, should the route to the north to Hall Road become impassable due a forest fire.**

*(c) School bus traffic.*

**School busses do not use this section of road. Children on the northerly section are picked up at the intersection of High pass Road and Templeton Road, and the bus currently goes along the southerly portion of Templeton as far about MP 1.00.**

*(d) Bridges and the potential for public safety problems associated with bridges.*

**There are no bridges on this section of road.**

*(e) Railroad crossings and PUC requirements for County participation in applications for railroad crossing improvement or establishment.*

**Not applicable.**

*(f) The potential for landslide and stability problems.*

**Unknown.**

*(g) Resource hauling (timber, agriculture, sand and gravel) that would unfairly burden other property owners.*

**Any timber harvested on the two ownerships abutting this road segment could be transported to the north to High Pass Road or to the South to Hall Road, either under a mutual access agreement or under the legalization of the "as traveled" and withdrawal of County road status options.**

*(h) Use by law enforcement or fire protection personnel.*

**Emergency service providers, including the Oregon Department of Forestry, have been notified and have expressed no objections to the proposed vacation.**

*(i) Potential use as detour routes in the case of construction or disaster.*

**This road segment is probably not suitable for use as a detour in the case of construction due to inadequate width and surface condition. As noted above some residents on the northerly section of Templeton Road have expressed concern that if the subject section of road is vacated, it will no longer be available as an emergency fire escape road should a forest fire block access to High Pass Road. Currently, at**

**least one resident on the northerly section of the road has a key to the gate that is located at MP 3.829. He is concerned that if the vacation is approved, the locks will be changed and access will be denied in an emergency.**

*(j) Potential for elimination of right of access that is a matter of public record. (Revised by Order No. 04-5-5-8, Effective 6.4.04)*

**Prior to the proposed vacation being set for Public Hearing, BLM and the Templeton family interests will enter into a mutual access agreement that will be deposited in escrow along with instructions that it is to be recorded when and if the vacation is approved.**

Prior to the initial meeting of the Roads Advisory Committee, on April 11, 2005, letters were sent to all residents with addresses on Templeton Road, as well as to all owners of unimproved property fronting along Templeton Road. To date, 6 telephone responses and 3 written responses have been received. Four of the telephone responses were from callers seeking more information, and two were from callers who were opposed to the vacation, based on considerations having to do with fire egress and the fact that they sometimes walked on the roadway.

Of the three written responses received, two were in support of the vacation and one was opposed to the vacation.

Other issues to be considered with regard to vacation or withdrawal of County road status for this section of road include:

1. Lane County retains some risk of liability exposure due to the County maintained status of the road but exercises no oversight over its operation or condition.
2. There are no known public utilities along this road segment, but utilities operating in the area will be notified if the proposal to vacate the road goes forward.
3. No funds have been allocated from the Capital Improvement Program or from the County Forces Matrix program that could be used to improve the road to minimum County standards (18 feet of paved travel surface with a 50 foot-wide right of way).
4. Proximity to Junction City and other urban centers increases the likelihood of vandalism, illegal dumping, out of season hunting, etc., and the attendant increased risk of wildfires on both the private and public land if this portion of road were to remain as a legal County road or revert to public road status.
5. Smyth Road, located about 3 miles easterly, provides a much shorter, direct route connecting Hall Road with High Pass Road.
6. A public safety concern exists if the general public is allowed or some encouraged to travel this road in its present condition, as it has steep

grades, minimal gravel surface and it is not monitored by County road crews.

### C. Alternatives

Based on an analysis by staff and from discussions with the affected property owners, it is concluded that the following are among the viable options available to resolve the status of this portion of Templeton Road.

1.) Direct the County Surveyor to initiate vacation proceedings on the "Superseded Section" and legalization proceedings on the "As Traveled " section.

2.) Direct the County Surveyor to initiate vacation proceedings on the "Superseded Section" and legalization as a public road proceedings for the "As Traveled" portion and withdrawal of County Road status for the portion of the original right of way on either end of the "As Traveled" section between MP 2.432 and MP 3.77.

3.) Vacation of all the public's interest in the section from MP 2.432 to 3.77.

A fourth Option, which would not resolve the status of either the "Superseded" and "As Traveled" sections, is to do nothing, leaving the road in the County Maintained System as at present.

**Option 1** will resolve status of that portion for which the County does not have a recorded legal right of way, and would resolve the mutual access issues of the two abutting land owners. The establishment of the "As Traveled" section as a County road through legalization would be subject to a public hearing, at which time the two affected landowners would be entitled to submit claims for the loss of any fencing or other improvements in the right of way. Because there are neither funds allocated nor any plans to improve the road for use by the general public, it is not recommended that it remain in the County Maintained road system and that maintenance be resumed. The cost of the needed improvements to bring the road up to minimum County standard is unknown.

It is recommended that the northerly gate be allowed to remain in the interest of public safety, but be re-established coinciding with the end of County maintenance should maintenance not be resumed on the subject road segment. The gates on the south end could remain as at present, but the Board could also direct the removal of all gates.

**Option 2** would revert this entire section of road to Public Road Status(LAR) and the Public would have the right to pass over it as is now the case. Legalization of the "As Traveled" portion as a Public Road would be subject to a Public Hearing process, and as with Option 1 above, the two affected property owners would be entitled to submit claims for the value of any fencing or other improvements that may be contained within the right of way. As with Option 1 above, the Board could direct the removal of the existing gates, or they could remain as at present.

**Option 3** would extinguish the right of the public over this section of Templeton Road, and upon completion, the road would become private and subject to the control of the abutting owners. This option would relieve the abutting property owners of the encumbrance of the public's right to use this section of road, which has not been used by the public other than incidentally, for nearly 20 years. An agreement has been reached with Mr. Verna and the Templetons that the grader turnaround be moved to the south to about MP 2.82. This is to be impelmented under any of the options, but if a vacation is approved for the section north of the "As Traveled" section, an easement will need to be reserved (but not as a public road) to allow County forces to use the turnaroud area in perpetuity.

#### Recommendation

Either Option 1, without resumption of County Maintenance, Option 2, or Option 3.

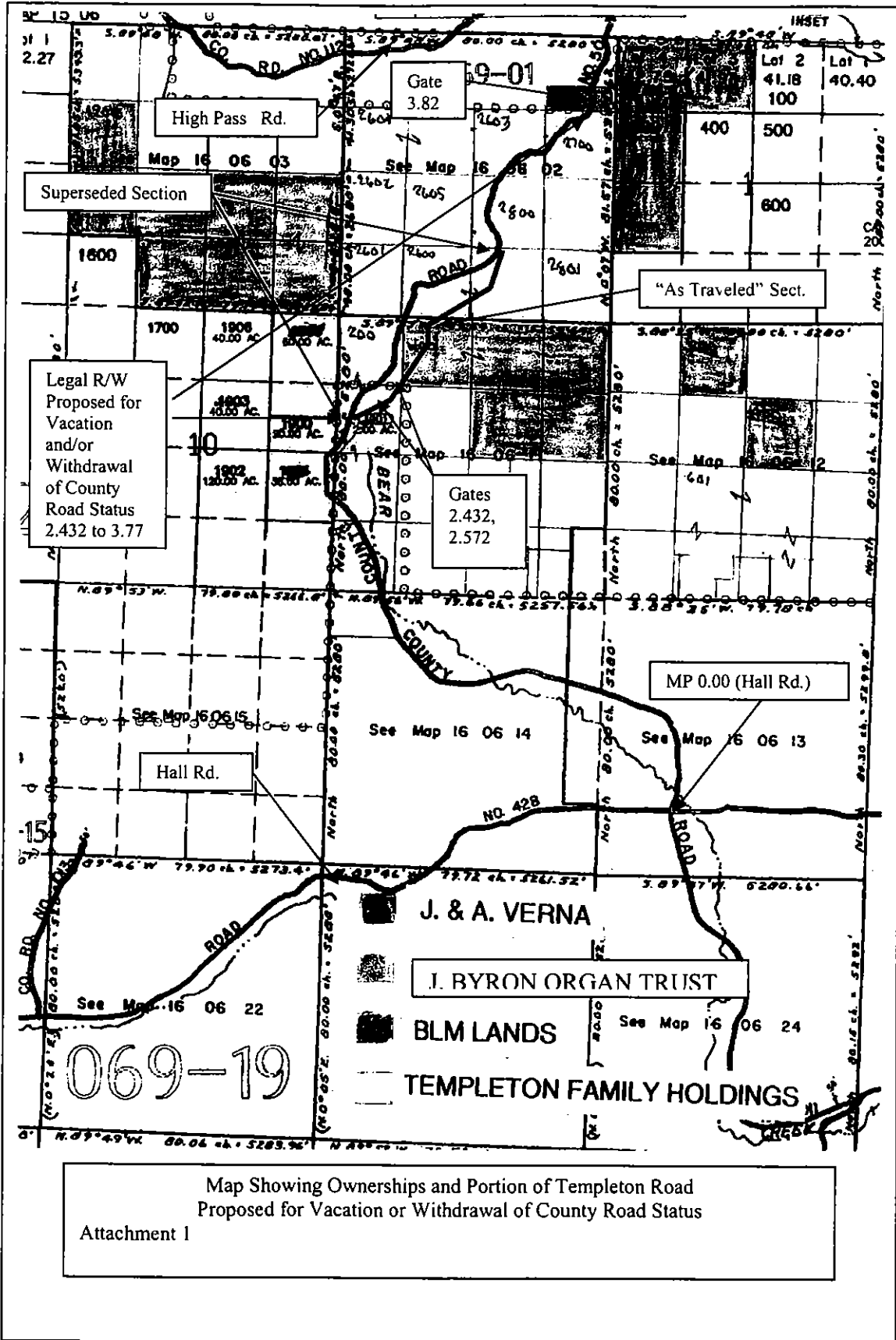
#### **IV. IMPLEMENTATION/FOLLOW-UP**

If directed, the County Surveyor will process appropriate agenda materials for Board consideration. Road Maintenance forces will move the grader turnaround as soon as schedules permit.

#### **ATTACHMENTS**

Attachment 1-Map Showing Land Ownerships along Subject Road Segment





Legal R/W  
Proposed for  
Vacation  
and/or  
Withdrawal  
of County  
Road Status  
2.432 to 3.77

Gates  
2.432,  
2.572

Hall Rd.

MP 0.00 (Hall Rd.)

J. & A. VERNA

J. BYRON ORGAN TRUST

BLM LANDS

TEMPLETON FAMILY HOLDINGS

069-19

Map Showing Ownerships and Portion of Templeton Road  
Proposed for Vacation or Withdrawal of County Road Status  
Attachment 1