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Memorandum Date: July 25, 2006
Order Date: August 15, 2006

TO: Board of County Commissioners
DEPARTMENT: Public Works
PRESENTED BY: Sonny Chickering, County Engineer
AGENDA ITEM TITLE: ORDER/IN THE MATTER OF RESCINDING THE DIRECTOR'S REPORT FOR THE ESTIMATED ASSESSMENTS FOR GREEN CREEK ROAD BRIDGE AT MP 0.23 (A LOCAL ACCESS ROAD) AND FINDING THAT REPLACEMENT OF THE BRIDGE IS OF BENEFIT TO THE COUNTY GENERALLY

I. MOTION

THAT THE DIRECTOR'S REPORT OF ESTIMATED ASSESSMENTS FOR THE REPLACEMENT OF GREEN CREEK ROAD BRIDGE (A LOCAL ACCESS ROAD) AT MILEPOST 0.23 BE RESCINDED.

II. AGENDA ITEM SUMMARY

The Board has determined that there was a misunderstanding with the affected property owners on Green Creek Road at the time of the original meeting with the Board. The property owners were under the impression that the County would pay for the bridge and felt that there was no discussion at that time of them being assessed for cost of the replacement of the bridge. The assessments were not specifically discussed until a following meeting when the property owners were not present.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Board, by Order Number 06-3-15-2, did order and authorize an emergency and temporary replacement of the Green Creek Road Bridge at MP 0.23, designating the work as a single project only, and waiving certain road design standards, and resolved that the cost of the improvements be assessed to the benefiting property owners in accordance with the Lane County Special Assessment Policy as outlined in Lane Code 15.636 (3), which states that when the Board determines that the public interest requires improvement to a bridge on a Local Access Road, the direct cost of bridge improvement or

replacement shall be assessed to the specially benefiting property owners on a uniform basis as determined by the Board; and in accordance with ORS 371.640, which states that the total costs to be assessed may include the costs of engineering and administration.

The Order directed the Director of Public Works to investigate the proposed improvements and present a report containing the estimated cost of said improvements to the Board as specified in ORS 371.625.

At a subsequent meeting of the Board on June 7, 2006, and by Order Number 06-6-7-11, the Board accepted the Director's Report dated May 16, 2006, prepared in accordance with ORS 371.625, on replacement of the Green Creek Road Bridge including the assessment procedures contained therein and direction to the Director of Public Works to mail to the owners of each parcel of land to be assessed for the improvements a written notice of the favorable report, the estimated cost of the improvements and the estimated amount of the assessment against each parcel.

B. Policy Issues

Lane Code 15.636 requires that when the Board determines that the public interest requires improvement to a bridge on a Local Access Road the direct cost of the bridge improvement or replacement shall be assessed to the specially benefiting property owners on a uniform basis as determined by the Board. Payment of the cost of the replacement bridge is contrary to this Code provision and to County policy generally with respect to expenditures for work on Local Access roads.

On the other hand, Section 9, Subsection (2) (Public Improvements) of the Lane County Home Rule Charter provides that to the extent to which the Board finds that a public improvement is of benefit to the County generally, the cost of the improvement may be defrayed by revenue from other sources, and does not distinguish between an improvement on a County-maintained road and a Local Access Road.

Subsection (3) of the same section adds that an order for action regarding a public improvement shall indicate:

- (a) the extent to which the cost of the action is to be defrayed by special assessments on property of be specially benefited by the action, and
- (b) the extent to which the cost of the action is to be defrayed by revenues of the county derived from other sources.

The Board may want to direct staff as to any changes to Lane Code to address this situation and similar situations in the future.

C. Board Goals

This project addresses the County Goal of Contributing to "appropriate community development in the area of transportation infrastructure" and furthers the goal of promoting public safety within Lane County.

D. Financial and/or Resource Considerations

If there are to be no assessments to the benefiting property owners, money will need to be expended from the Operations and Maintenance portion of the County Road Fund.

E. Analysis

As directed by the Board, staff mailed to the owners of each parcel of land to be assessed for the replacement of the bridge the estimated amount of their assessment. Owners are required to file a written notice of their objection to assessments, if any, to the proposed bridge replacement within (20) days following the mailing of the notice. No remonstrances were received by the Director of Public Works, within the required time period or thereafter.

Upon a finding that the Because the replacement of the Green Creek Road benefits the County generally the project may be funded from revenues derived from other than assessments to benefiting properties. Because the bridge was an emergency project and the public use of the road justifies the expenditure therefore benefiting the public generally, the Board, as outlined in ORS 368.031 (2) and 368.031 (2)(b), has the option to expend County moneys for this Local Access road and not assess benefiting properties as outlined in Lane Code Chapter 15.636 (3).

F. Alternatives/Options

1. Rescind the Director's Report, forego the revenue from the assessments of approximately \$65,000.00, and fund the project from the Road Fund Operations and Maintenance Budget.
2. Continue with the assessment process and set pending liens on the benefiting properties in the amount of the estimated assessments.

V. TIMING/IMPLEMENTATION

Pursuant to Board Direction, staff will either mail notices to affected property owners notifying them of the Boards decision to rescind its prior actions initiating

the Assessment process and to pay the cost of the bridge replacement from the Operation and Maintenance budget of the Road Fund within 2 days after Board Action; or will prepare an item for the Consent calendar setting the pending liens on the benefiting properties within 3 weeks from the date of Board Action.

VI. RECOMMENDATION

Option 1, consistent with the emergency nature of the replacement and the general public benefit due to the enhancement of public safety to residents of Green Creek Road and to emergency service providers.

If the Board votes to approve Option 1, staff requests direction as to whether to return with an Order authorizing changes to Lane Code Section 15.636(3), and as to the content of any proposed changes.

VII. FOLLOW-UP

Staff will notify property owners of the decision by the Board as to whether they will be assessed for the bridge replacement or that all costs will be borne by the County.

VII. ATTACHMENTS

Board Order

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

RESOLUTION AND ORDER NO.

(IN THE MATTER OF RESCINDING
(THE DIRECTOR'S REPORT FOR
(ESTIMATED ASSESSMENTS FOR
(GREEN CREEK ROAD BRIDGE (A
(LOCAL ACCESS ROAD) AND FINDING THAT
(REPLACEMENT OF THE BRIDGE IS OF BENEFIT
(TO THE COUNTY GENERALLY

WHEREAS, the Board, by Order Number 06-3-15-2, did order and authorize an emergency and temporary replacement of the Green Creek Road Bridge at MP 0.23, designating the work as a single project only, and waiving certain road design standards; and

WHEREAS, the Board, by Order Number 06-3-15-2, did resolve that the cost of the improvements be assessed to the benefiting property owners in accordance with the Lane County Special Assessment Policy as outlined in Lane Code 15.636 (3), which states that when the Board determines that the public interest requires improvement to a bridge on a Local Access Road, the direct cost of bridge improvement or replacement shall be assessed to the specially benefiting property owners on a uniform basis as determined by the Board; and in accordance with ORS 371.640, which states that the total cost may include the costs of engineering and administration; and

WHEREAS, the Board, by Order Number 06-3-15-2, did order that the Director of the Public Works Department investigate the proposed improvements and present a report containing the estimated cost of said improvements to the Board as specified in ORS 371.625; and

WHEREAS, the Board has accepted the Director's Report for the replacement of the Green Creek Road Bridge at MP 0.23 by Order No. 06-6-7-11; and in accordance with ORS 371.630, Lane County has notified adjacent property owners of the estimated assessments against their properties and has not received the specified number of objections to declare the project be abandoned; and

WHEREAS, the Lane County Home Rule Charter states that to the extent the Board finds that a public improvement is of benefit to the County generally, the cost of the improvement may be defrayed by revenue derived from other than special assessments on specially benefiting property; and

IT IS RESOLVED that this replacement of the Green Creek Bridge in its entirety is of benefit to the County generally, NOW THEREFORE,

IT IS ORDERED that the County will use County Road Fund Operations and Maintenance monies for the entire cost of replacement of the Green Creek Road Bridge at MP 0.23, a local access road, on a one-time only basis, NOW THEREFORE,

IT IS ORDERED that the Director's Report approved by Order Number 06-6-7-11, prepared in accordance with said ORS 371.625, on replacement of the Green Creek Road Bridge, be rescinded, including the assessment procedures contained therein; ALSO,

IT IS FURTHER ORDERED that the portion of Order 06-3-15-2 directing the cost of improvements be assessed to the benefiting properties for the Green Creek Road Bridge also be rescinded.

DATED this _____ day of _____, 2006.

APPROVED AS TO FORM

Date 8/1/06 _____

Jessica White
OFFICE OF LSC

Bill Dwyer, Chair
Lane County Board of Commissioners