


Memorandum Date: April 5, 2011
Order Date: April 27, 2011

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: Mike Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF THE SURRENDER OF A PORTION OF HARVEY ROAD (COUNTY ROAD NUMBER 1088) TO THE CITY OF CRESWELL

I. MOTION

TO APPROVE THE ORDER SURRENDERING A PORTION OF HARVEY ROAD (CO. RD. NO. 1088) TO THE CITY OF CRESWELL

II. AGENDA ITEM SUMMARY

To decide whether or not to approve the Order surrendering a portion of Harvey Road (Co. Rd. No. 1088) to the City of Creswell.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Harvey Road was originally dedicated as a 60 foot wide continuous public road in the plat of A.C. Bohmstedt Company Fruit Lands (year 1909, Bk 4/P 26), the plat of A.C. Bohmstedt Company Addition to Creswell (year 1910, Bk 4/P 55) and the plat of Harmon Farm (year 1911, Bk 4/P 89). Harvey Road was subsequently established as County Road Number 1088 in 1931.

The City of Creswell and the Creswell School District requested that portions of Harvey Road and Nieblock Lane be altered and improved. The City of Creswell requested this project be included in Lane County's Capital Improvement Program to alter and improve the roads, and agreed to contribute a portion of project costs. On November 5, 2007 Lane County executed an Intergovernmental Agreement (IGA) with the City of Creswell per ORS 373.260 whereby the City authorized Lane County to make improvements, acquire right of way, and assess properties within the corporate limits of the city. The IGA also stipulated the City of Creswell would accept surrender as a city street the remaining portions of Harvey Road under Lane County jurisdiction lying within the Urban Growth Boundary of Creswell upon completion of the project and annexation of said portion. The portion of Nieblock Lane included in the alteration was not included as part of the IGA's surrender agreement.

Through adoption of the Capital Improvement Program for FY 07/08 through FY 11/12 by Order No. 07-5-16-7, and additionally by Order No. 07-11-7-8, the Lane County Board of Commissioners authorized the Department of Public Works to proceed with the improvements of the portions of Harvey Road and Nieblock Lane. Shortly after completion of the project and pursuant to Order 10-4-14-3, the Board approved an alteration of the legal right of way within the project area to formally establish and accept the additional right of way acquired for the project as county road.

The portion of Harvey Road herein considered for surrender was approved for annexation by City of Creswell Ordinance 469 dated December 13, 2010, and the annexation was finalized in early 2011 as File C CR 2010-Annex 2010-01. Said portion extends from approximately 0.09 mile north of the Harvey Road-Nieblock Lane intersection, southerly approximately 0.33 mile to approximately 65 feet south of the Harvey Road-Hillegas Avenue intersection.

The City of Creswell has adopted Resolution Number 2011-02 formally requesting jurisdiction over the portion of the above mentioned county road, all within the city limits and described in Exhibit "A" of the attached Order, be transferred from Lane County to the City of Creswell.

By previous action, the Board of County Commissioners approved Order No. 11-3-30-7, setting a Public Hearing for April 27, 2011.

B. Policy Issues

The portion of Harvey Road proposed for surrender is located entirely within the City Limits of Creswell, and the request for its surrender as a city street is in accordance with the IGA between the County and the City.

ORS 373.270 provides for the transfer from county jurisdiction to city jurisdiction of county roads within the corporate limits of a city whenever the county governing body deems it necessary, expedient or for the best interest of the county to do so, and the governing body of the city deems it necessary or expedient and for the best interest of the city to acquire jurisdiction over the county roads or parts thereof to the same extent as it has over other public streets and alleys of the city.

C. Board Goals

This action is consistent with the *Strategic Plan* goal of protecting the public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure, and with the County goal of contributing to "appropriate community development in the area of transportation and telecommunications infrastructure, housing, growth management and land development".

D. Financial and/or Resource Considerations

Any outstanding assessments levied in connection with the project will remain payable to Lane County and be credited to the Road Fund. Any deferred assessments will remain a lien on the affected properties until paid or removed in accordance with Lane Code 15.636(1)(b). Surrender of this portion of Harvey Road will relieve the County of the

obligation of future maintenance costs estimated at approximately \$40,000 over the next ten years.

Acceptance of the proposed order will have nominal administrative and recording costs associated with the transfer.

IV. ANALYSIS

The portion of the county road herein proposed for surrender is presently under the jurisdiction of Lane County. The City of Creswell has adopted Resolution Number 2011-02 formally requesting jurisdiction over the portion of this county road, all within the city limits and described in Exhibit "A" of the attached Order, be transferred from Lane County to the City of Creswell. The proposed surrender will allow the City of Creswell to maintain, develop and improve this portion of road, as needed, to the City's specifications, standards and timetable.

Order No. 11-3-30-7 set a public hearing date of April 27, 2011 to consider the merits of transferring jurisdiction of the county road, as described in Exhibit "A" of the attached Order, to the City of Creswell. If the Board approves the surrender of jurisdiction of said road, it will complete the road surrender process.

All legal notice has been provided regarding this matter as required by ORS 373.270.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

- 1. Approve the Order to surrender the jurisdiction of the portion of the county road as described in Exhibit "A" to the City of Creswell.
- 2. Deny all or any portion of the Order to surrender jurisdiction of said road.
- 3. Postpone further action until a future date.

VI. TIMING/IMPLEMENTATION

Timing in this matter is important in order to facilitate timely jurisdictional developmental planning by the City of Creswell associated with the subject road and properties in the area, and to avoid potential County liability for construction warranty items.

VII. RECOMMENDATION

The Director of the Lane County Department of Public Works has prepared a written report recommending that the Board support Option 1. This will approve the Order to surrender the portion of county road as described in Exhibit "A" of the Final Order.

VIII. FOLLOW-UP

Upon approval of the Final Order transferring jurisdiction of the listed road, the County's involvement in the process will be concluded. The County Clerk shall file the Order in the Commissioners' Journal of Administration and forward copies to the Lane County Surveyor and the Department of Public Works for updating appropriate indexes and County Road records.

IX. ATTACHMENTS

Final Order w/attachments:

- Legal Description - Exhibit "A"
- Director's Final Report - Exhibit "B"
- Affidavit of Posting - Exhibit "C"
- Resolution from City of Creswell - Exhibit "D"
- Vicinity Map - Attachment "A"

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

**IN THE MATTER OF THE SURRENDER OF A) FINAL ORDER NO.
PORTION OF HARVEY ROAD (COUNTY ROAD)
NUMBER 1088) TO THE CITY OF CRESWELL)**

WHEREAS, by Order Number 11-3-30-7 the Board of Commissioners set April 27, 2011 at 1:30 P.M. to conduct a public hearing on the matter of the surrender and transfer of jurisdiction of a portion of Harvey Road (County Road No. 1088), which lies within the city limits, to the City of Creswell; and

WHEREAS, Harvey Road was originally dedicated as a 60 foot wide continuous public road in the plat of A.C. Bohmstedt Company Fruit Lands (year 1909, Bk 4/P 26), the plat of A.C. Bohmstedt Company Addition to Creswell (year 1910, Bk 4/P 55) and the plat of Harmon Farm (year 1911, Bk 4/P 89), and was subsequently established as County Road Number 1088 in 1931; and

WHEREAS, the portion of the road herein proposed for surrender extends from approximately 0.09 mile north of the Harvey Road-Nieblock Lane intersection, southerly approximately 0.33 mile to approximately 65 feet south of the Harvey Road-Hillegas Avenue intersection, and lies entirely within the City of Creswell as annexed in Annexation File C CR 2010-Annex 2010-01 which was finalized in early 2011; and

WHEREAS, in 2010 Lane County completed construction of the Harvey Road-Nieblock Lane Road Improvement Project, and by Order No. 10-4-14-3 the Board approved an alteration of said roads. In connection with said project, Lane County and the City of Creswell entered into an Intergovernmental Agreement (IGA) per ORS 373.260 whereby the City authorized Lane County to make improvements, acquire right of way, and assess properties within the corporate limits of the city for the Harvey Road-Nieblock Lane Road Improvement Project, and agreed to accept surrender as a city street the remaining portions of Harvey Road under Lane County jurisdiction lying within the Urban Growth Boundary of Creswell upon completion of the project and annexation of said portion; and

WHEREAS, the City of Creswell has adopted Resolution Number 2011-02, dated February 7, 2011, marked as Exhibit "D", attached hereto and made a part hereof by this Order, formally requesting that the jurisdiction of the subject portion of Harvey Road (County Road No. 1088) as described in the attached Exhibit "A", which lies within the city limits, be transferred to the City of Creswell; and

WHEREAS, ORS 373.270 provides for the transfer from county jurisdiction to city jurisdiction of county roads within the corporate limits of a city whenever the county governing body deems it necessary, expedient or for the best interest of the county to do so, and the governing body of the city deems it necessary or expedient and for the best interest of the city to acquire jurisdiction over the county roads or parts thereof to the same extent as it has over other public streets and alleys of the city; and

WHEREAS, Lane County and the City of Creswell deem it necessary and expedient and in the best interest of each governing body to proceed with the transfer of jurisdiction over the portion of the county road described in the attached Exhibit "A"; and

WHEREAS, the value to the County of this jurisdictional transfer of responsibilities will be an estimated reduction in maintenance costs of \$40,000 over 10 years; and

WHEREAS, the road, or portion thereof, proposed to be surrendered is described in Exhibit "A", attached hereto and made a part hereof by this Order; and

WHEREAS, the road proposed to be surrendered as described in Exhibit "A" is depicted on map Attachment "A", also attached hereto and made a part hereof by this Order; and

WHEREAS, the Public Works Director of Lane County recommends that this portion of road be surrendered, as stated in the Final Director's Report, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and

WHEREAS, all legal notice has been provided regarding this matter as required by law as witnessed by the Affidavit of Posting by the Lane County Surveyor marked as Exhibit "C", attached hereto and made a part hereof by this Order; and

WHEREAS, it appears that the surrender of the portion of Harvey Road (County Road No. 1088) as described in the attached Exhibit "A" would be in the best interest of the county; now, therefore, it is hereby

ORDERED, that Lane County, in accordance with ORS 373.270, hereby surrenders jurisdiction of the portion of Harvey Road (County Road No. 1088) as described in the Exhibit "A" attached hereto and made a part hereof by this Order, to the City of Creswell; and it is further

ORDERED, that this Order be filed with the Lane County Clerk in the Commissioners' Journal of Administration and copies be forwarded to the Lane County Surveyor and the Department of Public Works for updating appropriate indexes and County Road records.

EFFECTIVE DATE: _____ day of _____, 2011

Chair
LANE COUNTY BOARD OF COMMISSIONERS

APPROVED AS TO FORM:

Date 4-14-11 Lane County.



OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

LEGAL DESCRIPTION

MILEAGE

HARVEY ROAD (COUNTY ROAD NUMBER 1088)

0.33

All that portion of Harvey Road (County Road Number 1088) lying between the southerly end of that portion of Harvey Road surrendered to the City of Creswell by Lane County Commissioners' Final Order of Surrender No. 07-2-7-13 and the northerly end of that portion of Harvey Road surrendered to the City of Creswell by Lane County Commissioners' Final Order of Surrender No. 92-3-11-16, more particularly described as follows:

Beginning at a westerly extension of the south line of Lot 38, Craig Estates First Addition as recorded at Reception No. 2007-075370, Lane County, Oregon Plat Records and Lane County Surveyor's Office County Survey File No. 40783, thence southerly 1765 feet, more or less, to a westerly extension of a line 65 feet, more or less, south from and parallel with the south line of Block 15 of the A.C. Bohrnstedt Company Addition to Creswell, as recorded in Book 4, Page 55, Lane County, Oregon Plat Records, all in Sections 11 and 14, Township 19 South, Range 3 West of the Willamette Meridian.

The above description for Harvey Road is shown on Attachment "A" attached hereto and made a part hereof.

EXHIBIT "B"

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

**IN THE MATTER OF THE SURRENDER OF A PORTION) DIRECTOR'S FINAL
OF HARVEY ROAD (COUNTY ROAD NUMBER 1088) TO) REPORT
THE CITY OF CRESWELL)**

Harvey Road was originally dedicated as a 60 foot wide continuous public road in the plat of A.C. Bohmstedt Company Fruit Lands (year 1909, Bk 4/P 26), the plat of A.C. Bohmstedt Company Addition to Creswell (year 1910, Bk 4/P 55) and the plat of Harmon Farm (year 1911, Bk 4/P 89). Harvey Road was subsequently established as County Road Number 1088 in 1931.

The City of Creswell and the Creswell School District requested that portions of Harvey Road and Nieblock Lane be altered and improved. The City of Creswell requested this project be included in Lane County's Capital Improvement Program to alter and improve the roads, and agreed to contribute a portion of project costs. On November 5, 2007 Lane County executed an Intergovernmental Agreement (IGA) with the City of Creswell per ORS 373.260 whereby the City authorized Lane County to make improvements, acquire right of way, and assess properties within the corporate limits of the city. The IGA also stipulated the City of Creswell would accept surrender as a city street the remaining portions of Harvey Road under Lane County jurisdiction lying within the Urban Growth Boundary of Creswell upon completion of the project and annexation of said portion. The portion of Nieblock Lane included in the alteration was not included as part of the IGA's surrender agreement.

Through adoption of the Capital Improvement Program for FY 07/08 through FY 11/12 by Order No. 07-5-16-7, and additionally by Order No. 07-11-7-8, the Lane County Board of Commissioners authorized the Department of Public Works to proceed with the improvements of the portions of Harvey Road and Nieblock Lane. Shortly after completion of the project and pursuant to Order 10-4-14-3, the Board approved an alteration of the legal right of way within the project area to formally establish and accept the additional right of way acquired for the project as county road.

The portion of Harvey Road herein considered for surrender was approved for annexation by City of Creswell Ordinance 469 dated December 13, 2010, and the annexation was finalized in early 2011 as File C CR 2010-Annex 2010-01. Said portion extends from approximately 0.09 mile north of the Harvey Road-Nieblock Lane intersection, southerly approximately 0.33 mile to approximately 65 feet south of the Harvey Road-Hillegas Avenue intersection.

The City of Creswell has adopted Resolution Number 2011-02 formally requesting that jurisdiction over the portion of the above mentioned county road, all within the city limits and described in Exhibit "A" of the attached Order, be transferred from Lane County to the City of Creswell.

By previous action, the Board of County Commissioners approved Order No. 11-3-30-7, setting a Public Hearing for April 27, 2011.

ORS 373.270 provides for the transfer from county jurisdiction to city jurisdiction of county roads within the corporate limits of a city whenever the county governing body deems it necessary, expedient or for the best interest of the county to do so, and the governing body of

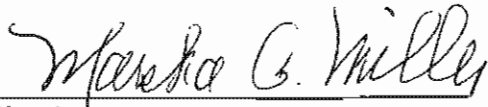
EXHIBIT "B"

the city deems it necessary or expedient and for the best interest of the city to acquire jurisdiction over the county roads or parts thereof to the same extent as it has over other public streets and alleys of the city.

All legal notice for the public hearing to consider the matter of the surrender of this portion of county road has been provided as required by ORS 373.270.

The surrender of this portion of road will allow the City to have full jurisdiction of the road and to maintain, develop and improve it and the surrounding area to their own specifications, standards and timetables. The value to the County of this jurisdictional transfer of responsibilities will be an estimated reduction in maintenance costs of \$40,000 over 10 years. It is therefore recommended that the portion of Harvey Road (County Road No. 1088), as described in Exhibit "A", be surrendered to the City of Creswell.

DATED this 12 day of April, 2011.



Director
Department of Public Works

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

IN THE MATTER OF THE SURRENDER OF A)
PORTION OF HARVEY ROAD (COUNTY ROAD) AFFIDAVIT OF POSTING
NUMBER 1088) TO THE CITY OF CRESWELL)

I, Mike Jackson, Lane County Surveyor, certify as follows:

That on the 1st day of April, 2011, and in accordance with ORS 373.270, I caused to be posted four (4) copies of the Notice of Hearing in the above entitled matter in four (4) places, positioned to be visible to the traveling public, as follows:

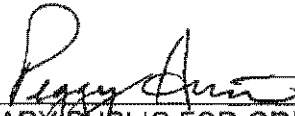
1. Posted on EPUD power pole #141800 on the west side of Harvey Road approximately 150 feet south of Hillegas Avenue.
2. Posted on EPUD power pole #110140 at the southwest corner of the intersection of Harvey Road and Nieblock Lane.
3. Posted on EPUD power pole #111001 at the northeast corner of the intersection of Harvey Road and Nieblock Lane.
4. Posted on EPUD power pole #111100 on the east side of Harvey Road opposite 83416 Harvey Road, approximately 125 feet north of the northerly end of the surrender.



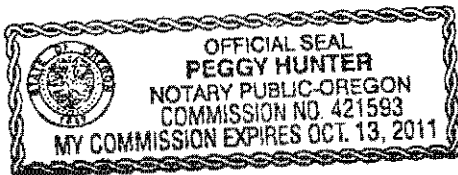
Mike Jackson
Lane County Surveyor

State of Oregon)
County of Lane)

Subscribed and sworn to before me this 11th day of April, 2011 by
Mike Jackson, Lane County Surveyor.

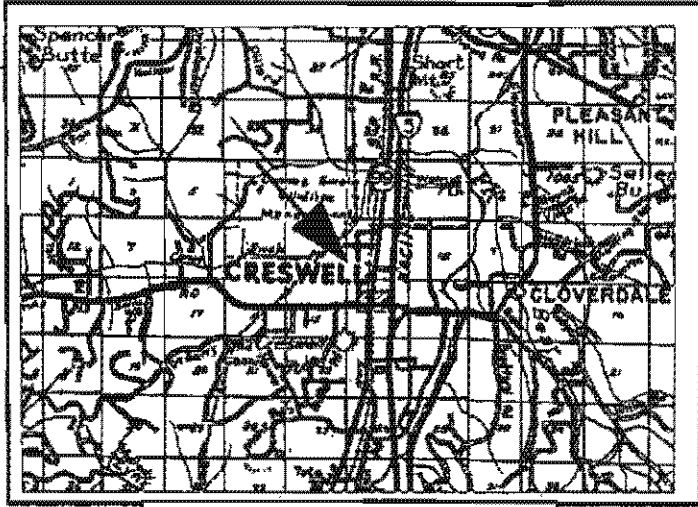


NOTARY PUBLIC FOR OREGON
My Commission Expires: Oct. 13, 2011

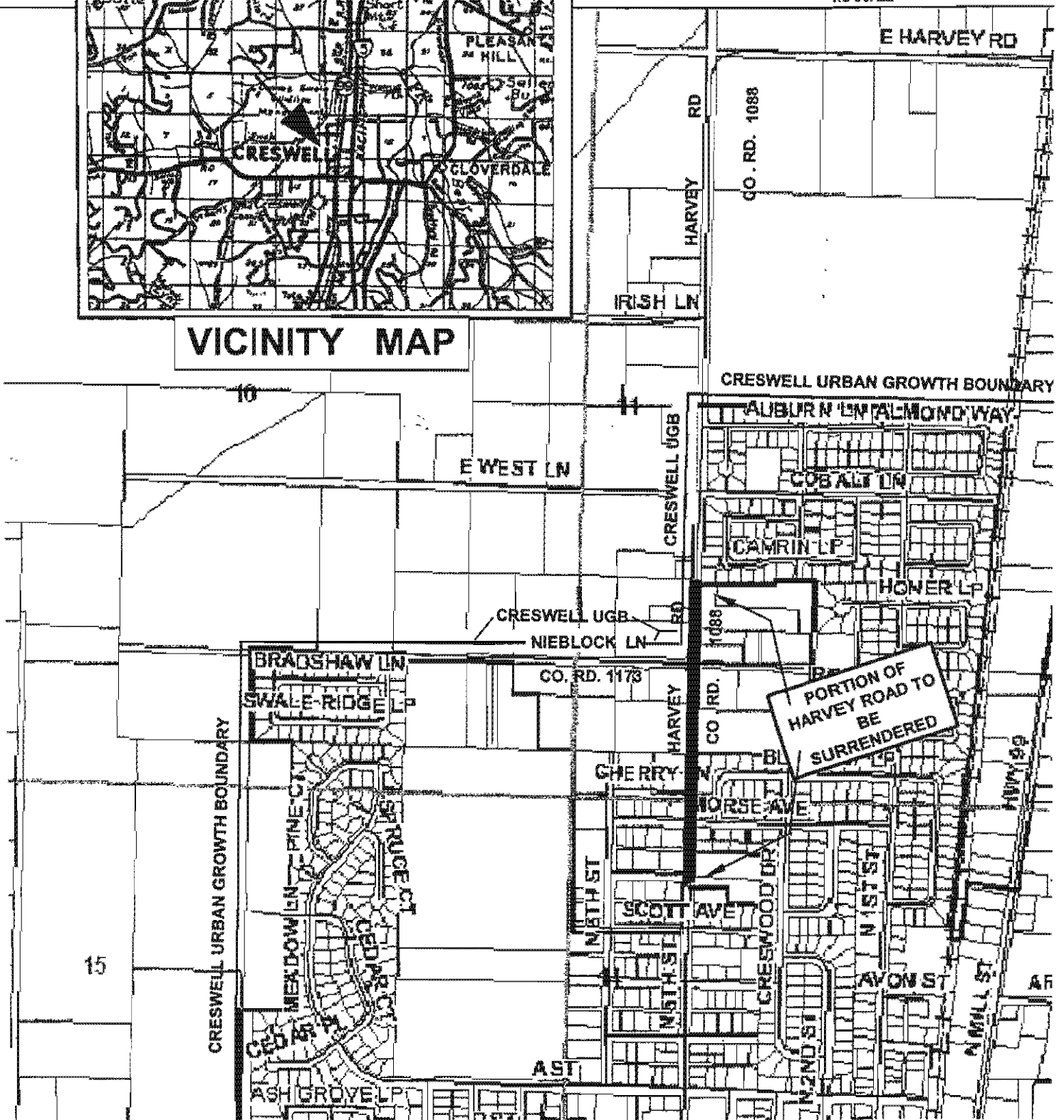


ATTACHMENT "A"

SURRENDER OF A PORTION OF HARVEY RD (CO. RD. 1088)
SECTIONS 11 & 14, T19S, R3W, W.M.



VICINITY MAP



PORTION OF HARVEY ROAD TO BE SURRENDERED

EXHIBIT "D"
Surrender, Portion of Harvey Rd
(Page 1 of 3)

RESOLUTION 2011-02

A RESOLUTION REQUESTING THE BOARD OF COMMISSIONERS OF LANE COUNTY TO SURRENDER A PORTION OF HARVEY ROAD IN CRESWELL, OREGON

Whereas, the Common Council of the City of Creswell has determined that it is in the public interest to seek surrender from the Board of Commissioners of Lane County of a portion of Harvey Road located in Creswell as described and set forth in Exhibit A and, for informational purposes, graphically represented in Exhibit B; and

Whereas, in the even such a surrender occurs, the City of Creswell assumes all right and title to said street in existing condition and assumes all maintenance responsibilities; and

Whereas, the City of Creswell is requesting surrender of a portion of Harvey Road in consideration of the terms set forth in the agreement entered into by the City and Lane County titled, *City of Creswell and Lane County Harvey Road Improvement Project (Project No. 2114-1)*; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF CRESWELL, a municipal corporation of the State of Oregon, at a regular meeting held on the 7th day of February, 2011, that:

Section 1. The Board of Commissioners of Lane County are hereby requested to surrender to the City of Creswell the portion of Harvey Road described and set forth in Exhibit A; and

Section 2. City of Creswell staff personnel are hereby directed to provide Lane County with all information and documentation requested in order to support this Resolution to the Board of Lane County.

The foregoing Resolution adopted this 7th day of February, 2011.


Robert A. Hooker, Mayor


Attest
Roberta J. Tharp, City Recorder

I certify that I have compared the foregoing document consisting of one page with the original in this office, and that I am the custodian and the foregoing is a true and correct copy.


Roberta J. Tharp, City Recorder

EXHIBIT "D"
Surrender, Portion of Harvey Rd
(Page 2 of 3)

EXHIBIT A

LEGAL DESCRIPTION

MILEAGE

HARVEY ROAD (COUNTY ROAD NUMBER 1088) 0.33

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Exhibit B
Approximate Boundary of the
Portion of Harvey Road Included in Surrender Request
(graphic representation for information only)

