

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. _____

Declaring Intent to Vacate a Portion of a Public Road under ORS 368.341(1) (a), and Directing the County Road Official to Prepare a Report as Required by ORS 368.346(1)

The Multnomah County Board of Commissioners Finds:

- a. ORS 368.326 to 368.366 establishes the process and procedure the County must follow to vacate a public road under the jurisdiction of Multnomah County.
- b. The portion of a public road under the jurisdiction of the County, proposed for vacation, was established by the dedication of the road on the duly recorded plat for the Hillhurst Subdivision in 1892; the public road shall be referred to as the "Hillhurst Road."
- c. Hillhurst Road was never improved and consisted of a mostly 30 foot wide right of way that encompassed the perimeter of the Hillhurst Subdivision. In 2009, a Declaratory Judgment Action under ORS Chapter 28 was brought by certain abutting landowners (Landowners) challenging the existence of the Hillhurst Road. In August of 2011, a ruling by letter opinion of the trial court found that although the Hillhurst Road was duly established under then Oregon law, subsequent events resulted in a vacation of the entire road, and a judgment so holding was entered by the trial court in October 2011.
- d. The County's Land Use and Transportation Program (LUTP) reasonably and firmly believes the trial court erred in its decision, and the County filed a timely notice of appeal of the trial court judgment with the State Court of Appeals. The State Court of Appeals Settlement Program imposes upon the parties to any appeal the obligation to explore settlement options prior to proceeding with the appeal.
- e. The County as the "appellant" and the Landowners as the "respondents" have proposed a mutually acceptable settlement option under which the County will initiate and conduct a vacation of the portion of the Hillhurst Road that immediately abuts Landowners' property. If the vacation is successfully completed, the County will dismiss its appeal, and the Landowners will stipulate and assist in the vacation of the trial court judgment.
- f. The vacation of the portion of the Hillhurst Road as more particularly described in Exhibit A is in the public's interest, is consistent with the County's land use and transportation goals, plans and needs in the vicinity, and accomplishes an equitable resolution of this matter.

The Multnomah County Board of Commissioners Resolves:

1. Pursuant to ORS 368.341(1), and for the reasons stated above, the Board declares its intent to vacate the portion of the Hillhurst Road more particularly described in the attached "Exhibit A."
2. The Manager of the LUTP is directed to prepare and file a report with the Board in accordance with ORS 368.346(1).

ADOPTED this 8th day of March, 2012.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:

JENNY M. MORF, ACTING COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By /s/ Matthew O. Ryan
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Collier, Director
Department of Community Services