

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

RESOLUTION NO. _____

Vacating a Portion of NW Arcade Road, Pursuant to ORS 368.326 to 368.366

The Multnomah County Board of Commissioners Finds:

- a. The public road, commonly known as NW Arcade, affected by this proposed vacation, was originally created as a public road by the SKYLINE ACRES subdivision plat, which was recorded on Oct. 13, 1908, in the Multnomah County Plat Records in Book 440, at Page 37.
- b. The westerly portion of NW Arcade is in unincorporated Multnomah County, and the easterly portion of this road is in the City of Portland. The portion of this public road being considered for vacation is entirely within unincorporated Multnomah County.
- c. The portion of the public road to be vacated is more particularly described in Exhibit 1. Multnomah County does not maintain nor have plans to develop the portion of NW Arcade proposed for vacation.
- d. Sarah and Brad Coleman, petitioners, have submitted a petition to vacate this portion of public road in compliance with ORS 368.341(3). A copy of the petition is attached to this Resolution as Exhibit 2.
- e. ORS 368.341(3) (d) requires that the petition contain the names and addresses of all persons "...owning any improvements constructed on the public property proposed to be vacated." The petitioners state in their petition that "Our existing home has been presented as encroaching into the ROW." The County has interpreted petitioners' statement to be in compliance with ORS 368.341(3) (d).
- f. As allowed under ORS 368.351, the above-referenced petition indicates the owners' approval of the proposed vacation, and it contains the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated.
- g. In addition, the appropriate County Road Official has filed a written report pursuant to ORS 368.351(1) that contains an assessment that the proposed vacation of public property is in the public interest. (Please see the Agenda Placement Request filed in this matter.)
- h. Pursuant to ORS 368.351, the County may make a determination about this vacation without additional notice and publication required under ORS 368.346.
- i. As required under MCC 27.054, the County has received a total of \$1464.00 from the petitioners, of which \$400.00 applies to feasibility studies performed by the County. The remaining \$1064.00 will be applied to the vacation proceeding. The total costs for this vacation, including administrative costs, are \$4242.36. Administrative costs include staff time for research, review, analyses, and document preparation. The balance owed by the petitioners at the date of this hearing is \$2778.36.

- j. Upon vacation, the portion of NW Arcade described in said Exhibit 1 will remain subject to the rights of any existing public utility that has improvements located within that former public road.
- k. Vacation of the County's right-of-way interest in the portion of NW Arcade described in said Exhibit 1 serves the public interest.

The Multnomah County Board of Commissioners Resolves:

- 1. Subject to the petitioners' payment of all funds due as provided above under MCC 27.054, and completion of certain improvements in the retained public right of way area as set forth in Resolve Clause No. 2, the portion of NW Arcade as more particularly described in the Exhibit 1 as attached to the Petition, is vacated as a public road, excepting the easement rights any existing utilities may have in the vacated property under ORS Chapter 368.
- 2. Petitioners shall construct or cause to be constructed, in compliance with all County public road improvement requirements including but not limited to a permit, a minor improvement of the existing public right-of-way as more particularly shown on the attached Exhibit 3. This work is to be completed no later than March 31, 2013.
- 3. Pursuant to MCC 27.054, the total cost for this vacation proceeding incurred by the County is \$4242.36; and Sarah and Brad Coleman, the petitioners, are directed to pay the remaining amount of \$2778.36 to the County.
- 4. The Land Use and Transportation Program of the Department of Community Services will record and file this Resolution in accordance with ORS 368.356(3), only upon receipt of the total amount due under MCC 27.054, and upon construction of the public improvements as set forth in Resolve Clause No. 2.
- 5. Upon the recording and filing of this Resolution, the County Surveyor will mark the plat, if applicable, as provided under ORS 271.230, and title in the underlying property shall vest as provided under ORS 368.366.

ADOPTED this 26th day of January, 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