



MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(Revised: 8/18/11)

Board Clerk Use Only

Meeting Date: 4/26/12
Agenda Item #: R.1
Est. Start Time: 9:30 am
Date Submitted: 4/10/12

Agenda Title: **Resolution Setting a Public Hearing and Directing Notice Regarding the Proposed Vacation of a Portion of a Public Road Pursuant to ORS 368.346(2)**

Note: If Ordinance, Resolution, Order or Proclamation, provide exact title. For all other submissions, provide a clearly written title sufficient to describe the action requested.

Requested Meeting Date: April 26, 2012 **Time Needed:** 10 minutes
Department: Community Services **Division:** Land Use & Transportation (LUT)
Contact(s): Patrick Hinds, LUT Right of Way Manager
Phone: (503) 988-3712 **Ext.** 83712 **I/O Address:** #425/2nd
Presenter Name(s) & Title(s): Patrick Hinds, LUT ROW Manager, and Matthew Ryan, Assistant County Attorney

General Information

1. What action are you requesting from the Board?

Adopt the resolution setting a public hearing to consider whether the proposed vacation is in the public interest.

2. Please provide sufficient background information for the Board and the public to understand this issue. Please note which Program Offer this action affects and how it impacts the results.

The portion of public road proposed to be vacated was established by dedication on the recorded plat for Hillhurst Subdivision in 1892. The road was never improved and mainly consists of a 30-foot wide right-of-way encompassing most of the perimeter of the subdivision, hereinafter referred to as the "Hillhurst Road." In 2009, certain abutting landowners filed a declaratory judgment action challenging the existence of Hillhurst Road, and the matter was tried in August 2010. In August 2011, the trial court issued its decision finding that the public road was created by the recording of the Hillhurst Plat, but events subsequent to the road's establishment resulted in a vacation of the entire Hillhurst Road.

The County believes the trial court erred in this decision and filed a timely notice of appeal to the State Court of Appeals in October 2011. The parties to the appeal are the County and the abutting property owners (the "respondents") who filed the original case. The Court of Appeals has implemented a Settlement Program which

requires that parties to an appeal make a good faith effort to settle the case. The County and the respondents have proposed a mutually acceptable settlement concept under which the County will initiate the road vacation of a portion of Hillhurst Road that abuts respondents' property under ORS Chapter 368. If that portion of the road is successfully vacated pursuant to ORS Chapter 368, the County will dismiss its appeal, and the respondents will stipulate to and assist with vacating the trial court judgment.

On March 8, 2012, by Resolution No. 2012-028, the Board declared its intent to vacate Hillhurst Road and directed the County Road Official to prepare the report required by ORS 368.346(1). For present purposes, the "County Road Official" is the County Engineer. This Agenda Placement Request represents the report required under ORS 368.346(1).

The County Engineer has reviewed the proposed vacation of a portion of Hillhurst Road, as more particularly described in Exhibit A attached to the Resolution, and has determined it is in the best interest of the public to proceed with the vacation because that action is consistent with the County's land use and transportation goals, plans, and needs in the vicinity; and further, it accomplishes an equitable resolution of the court appeal. Moreover, the area surrounding this portion of Hillhurst Road to be vacated has recently been designated as Rural Reserve under the County's pending Comprehensive Plan revision. When the revised Comprehensive Plan is fully implemented, it is designed to protect the rural and forest practices in this area and to restrict development; hence, there should be little need for new road construction. Finally, the existing terrain of the Hillhurst Road area would make road construction costly and difficult.

3. Explain the fiscal impact (current year and ongoing).

Costs associated with administering and processing this road vacation will be borne by the Multnomah County Land Use and Transportation Program (LUTP) and are not expected to exceed \$5,000.00.

4. Explain any legal and/or policy issues involved.

The adoption of Resolution No. 2012-028 initiated the road vacation proceedings under ORS 368.341(1)(a) and directed the County Road Official to prepare this report. This resolution sets a public hearing as required by ORS 368.346(2) and directs the LUTP to give notice of the hearing as required under ORS 368.346(3).

5. Explain any citizen and/or other government participation that has or will take place.

At this time, no other citizen or government participation is anticipated, but there may be citizen or interested party comments at the hearing.

Required Signature

Elected
Official or
Department
Director:

Cecilia M. Collier /s/

Date:

4/10/2012
