



# MULTNOMAH COUNTY AGENDA PLACEMENT REQUEST

(revised 08/02/10)

## Board Clerk Use Only

Meeting Date: 10/5/2010

Agenda Item #: B-2

Est. Start Time: 10:30 am

**Agenda Title:** **Informational Board Briefing on transportation Right-of-Way Acquisition Process**

*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:** October 5, 2010      **Amount of Time Needed:** 20 min  
**Department:** Community Services      **Division:** Road Services  
**Contact(s):** Kim Peoples  
**Phone:** 503-988-5050      **Ext.** 26797      **I/O Address:** 425/2/206  
**Presenter Name(s) & Title(s):** Kim Peoples & Brian Vincent

## General Information

**1. What action are you requesting from the Board?**

Informational Board briefing.

**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.**

Transportation Capital projects often need to acquire additional right-of-way from adjacent property owners. The right-of-way acquisition process is highly prescribed by federal and state law. Currently, County Transportation utilizes a compressed process to inform the Board of project specific right-of-way needs and simultaneously request authorization to initiate right-of-way acquisition by gathering appraisals of impacted properties, enter into good faith negotiations and in the event negotiations are not successful, initiate eminent domain proceedings. Accordingly, there has been interest expressed by Board members that there be additional public notice opportunities of potential impacts to property interests and additional Board involvement prior to the decision to initiate eminent domain proceedings.

Staff is seeking to revisit the current process and advance a process that allows for two separate steps of Board authorization rather than the current practice of one. The steps would bifurcate the process to allow for authorization to proceed with appraisals to be conducted and good faith negotiations to commence. Step two would be triggered if good faith negotiations are not succeeding and because of time constraints condemnation would be the only viable option in order for the acquisition to move forward.

The proposed process revision will also incorporate identification of projects in the Transportation Capital Improvement Plan and Program (CIPP) that may have right-of-way acquisition components. This will provide early notice opportunity to the public of potential impacts to real property associated with proposed Capital projects. Additionally, prior to project start-up, staff will brief the Board with the intent to inform the Board that preliminary project initiation (planning and design) is imminent.

Staff is contemplating a Board Resolution directing staff to memorialize the revised process through the adoption of a new Administrative Procedure. The Administrative Procedure will direct Staff to provide additional notice of contemplated right-of-way needs to the public and the Board and seek separate Board authorization to proceed with eminent domain proceedings if good faith negotiations fail and there is no alternative available to keep the project moving.

The fundamental understanding and principle of the proposed Resolution, Administrative Procedure and CIPP is that Capital Improvement Projects will be designed to create the least private harm, and the greatest public benefit, and that only property which is necessary for the construction, maintenance, operation and repair of Transportation Capital Improvement infrastructure will be acquired.

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

None

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

It is important to consider that in the event that good faith negotiations are unsuccessful and the use of eminent domain authority is not exercised the project will be unable to continue. The failure of the project to advance may create legal liability to the County with respect to property owners whose properties are potentially impacted by a given project. For example, on a capital improvement project with a need for acquisition of multiple parcels, it is important to recognize that the project requires “all or none” of the property interests identified. A single property acquisition where negotiations are not advancing could affect the other pending negotiations/acquisitions for the project. The exercise of the eminent domain authority in this situation is a justified tool to obtain the property needed for the project.

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

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acquisition components. This will provide early notice opportunity to the public of potential impacts to real property associated with proposed Capital projects. Additionally, prior to project start-up staff will brief the Board with the intent to inform the Board that preliminary project feasibility is imminent.

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**Required Signature**

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**Elected Official or  
Department/  
Agency Director:**



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**Date: 9/22/2010**

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