

W. 9. F. 2  
ORIGINAL

**AGENDA COVER MEMO**

**DATE:** June 19, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** William D. Robinson, Interim Lane County Surveyor  
**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF SETTING A PUBLIC HEARING FOR THE PROPOSED VACATION OF A PORTION OF MAPLE STREET, LOCATED BETWEEN BLOCK 8 AND BLOCK 9, IN THE PLAT OF GLENADA, AS PLATTED AND RECORDED IN VOLUME W, PAGE 261, LANE COUNTY, OREGON DEED RECORDS (18-12-35-32)

**I. MOTION:**

**TO APPROVE THE RESOLUTION, NOTICE OF HEARING AND ORDER SETTING AN AGENDA DATE OF SEPTEMBER 10, 2003 AT 1:30 P.M. TO CONSIDER THE PROPOSED VACATION OF A PORTION OF MAPLE STREET, POSITIONED ALONG THE EAST BOUNDARY OF PRICHARD STATE WAYSIDE BETWEEN VIOLA AVENUE (COMMONLY KNOWN AS GLENADA ROAD) AND THE SIUSLAW RIVER AND BETWEEN BLOCK 8 AND BLOCK 9 IN THE PLAT OF GLENADA, AS PLATTED AND RECORDED IN VOLUME W, PAGE 261, LANE COUNTY, OREGON DEED RECORDS (18-12-35-32)**

**II. ISSUE:**

To decide whether to initiate the proceedings to set a public hearing before the Board of Commissioners which could lead to the vacation of a portion of Maple Street, being 60 feet wide and approximately 150 feet in length, and located between Block 8 and Block 9 in the plat of Glenada, as platted and recorded in Volume W, Page 261, Lane County, Oregon Deed Records, if such vacation is found to be in the public interest.

**III. DISCUSSION:**

**A. Background**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Michael Carrier, Director of the State of Oregon Parks and Recreation Department, and Arleta W. Ross, Trustee of the Ross Living Trust, requesting a vacation of a portion of Maple Street.

The petitioners are requesting this vacation in order to extend the width of the two adjoining properties, the property on the west being known as Prichard State Wayside, and private property on the east.

Glenada was platted in 1889 and recorded in Volume W, Page 261, Lane County, Oregon Deed Records. The right of way proposed to be vacated is the most northerly 150 feet, more or less, of Maple Street located between the Siuslaw River and Viola Avenue (commonly known as Glenada Road).

The petitioners allege that the described right of way has never been used or developed; however, upon a field examination on May 14, 2003 by Bob Ezell, County Surveyor at that time, said that he saw evidence of public use. He stated that there were tire tracks of vehicles within the right of way of Maple Street and similarly worn footpaths from Maple Street out to the shoreline of the Siuslaw River. He also noted that a small stream about 5 feet wide lies in the right of way, or near the east line of the right of way, that drains into the river.

The petition also states that Tax Lot 2300 (Lots 3, 4, 5 and 6 of Block 8, Glenada) was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park. Bob Ezell noted that the park is currently undeveloped, and it appears that access to the river is gained by way of Maple Street rather than through the park. If the vacation were approved, the park would gain an additional 30-foot strip of land. But at the same time, the public would lose the easterly irreplaceable 30-foot width of public access to the public shoreline of the Siuslaw River, and possibly lose access to the stream that runs down to the river.

Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. The agencies and landowners either had no objections or did not respond to the referral.

#### **B. Analysis**

Because the subject right of way provides legal access to the Siuslaw River, a public hearing is being held so that the general public will be notified and given an opportunity to comment on the proposed vacation. The described portion of right of way is not currently constructed as a roadway, but it appears to be used by the public to access the river. The park property is not currently developed and does not lend itself to easy access to the river.

If the petition to vacate the subject portion of Maple Street is approved, the west half of the right of way will revert to the state property and increase the area of Prichard State Wayside. The east half of Maple Street will revert back to private ownership and extend their property boundary.

There are no known utilities within the right of way and no property will be denied legal access as a result of the vacation.

#### **C. Alternatives/Options**

The Board of County Commissioners has the options to:

1. Set a Public Hearing date as requested by the Board of Commissioners to consider the vacation of a portion of Maple Street, as petitioned for.
2. Set any later Public Hearing date, as the Board may wish, to consider the vacation of a portion of Maple Street, as petitioned for.
3. Refuse to set a date to initiate proceedings to consider the vacation of a portion of Maple Street, as petitioned for.

**D. Recommendations**

The Public Works Director's Preliminary Report, Exhibit "A" attached to the Resolution and Order, recommends that the Board support Option Number 1, setting a date for a public hearing.

Setting a public hearing date to consider the issues, taking testimony and possibly acting on the request for vacation is the recommended course to take. The date proposed will allow appropriate time for the provision of public notice for the hearing.

**E. Timing**

Timing is not critical in this matter.

**IV. IMPLEMENTATION/FOLLOW-UP:**

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing on the proposed vacation of Maple Street, it is to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor who will provide public notice of the proposed action. If the Board wishes to postpone the matter or to terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

**V. ATTACHMENTS:**

Resolution and Order w/attachments:  
 Petition  
 Preliminary Director's Report - Exhibit "A"  
 Attachment "A" - Vicinity Map Order w/attachments:

Contact Person: Bill Robinson x-4198

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

FILE NO. 4094

IN THE MATTER OF SETTING A PUBLIC HEARING )  
FOR THE PROPOSED VACATION OF A PORTION OF )  
MAPLE STREET, LOCATED BETWEEN BLOCK 8 )  
AND BLOCK 9, IN THE PLAT OF GLENADA, AS )  
PLATTED AND RECORDED IN VOLUME W, PAGE )  
261, LANE COUNTY, OREGON DEED RECORDS, )  
(18-12-35-32) )

RESOLUTION,  
NOTICE OF HEARING  
AND ORDER

THIS MATTER now coming before the Board of County Commissioners of Lane County, Oregon, and it appears to said Board that a valid petition has been received, and is attached hereto and made a part hereof, by this Resolution, Notice of Hearing and Order, requesting the vacation of a portion of Maple Street, being located in the Southwest Quarter (SW ¼) of Section 35; Township 18 South, Range 12 West of the Willamette Meridian; and

WHEREAS, Maple Street was platted as a 60-foot wide public road in 1898 on the plat of Glenada; and

WHEREAS, the portion of Maple Street proposed to be vacated is more particularly described as follows:

All that portion of the road right of way of Maple Street that extends from Viola Avenue (commonly known as Glenada Road) to the Siuslaw River, located between Block 8 and Block 9 of the plat of Glenada as platted and recorded in Volume W, Page 261, Lane County, Oregon Deed Records, all in Lane County, Oregon.

WHEREAS, in accordance with ORS Chapter 368.341 proceedings may be undertaken to consider whether it is in the public interest and benefit to vacate the described portion of Maple Street; and

WHEREAS, the petitioners are requesting this vacation to extend the width of the State of Oregon's property, known as Prichard State Wayside, and the private property adjoining the subject right of way; and

WHEREAS, Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation and either had no objection or did not respond to the referral; and

WHEREAS, there are no known utilities within the right of way proposed to be vacated and no landowner would be deprived of legal access to their land if the road vacation were approved; and

**WHEREAS**, the petitioners have paid a vacation fee of \$1500; and

**WHEREAS**, in accordance with ORS Chapter 368.341(3) proceedings may be undertaken to consider whether it is in the public interest and benefit to vacate the described portion of Maple Street; and

**WHEREAS**, the Director of the Department of Public Works has provided a preliminary written report regarding the vacation, as required by ORS 368.346, marked as Exhibit "A", attached hereto and made a part hereof, by this Resolution, Notice of Hearing and Order; and it is hereby

**ORDERED**, that September 10, 2003, be established for hearing said report for conducting a public hearing of the said proposed vacation and that said hearing be held at 1:30 P.M. at the Lane County Courthouse, 125 East 8<sup>th</sup> Avenue, Eugene, Oregon 97401; and it is further ordered

**ORDERED**, that notice of the public hearing be provided by service, posting, and publication in accordance with ORS Chapter 368.401 to 368.426.

Inquiries regarding this vacation may be directed to Bill Robinson, Interim County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon, 97401, telephone (541)682-4195.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Peter Sorenson, Chair  
LANE COUNTY BOARD OF COMMISSIONERS

Attachments: Petition to Vacate  
Vicinity Map

APPROVED AS TO FORM

Date 6-30-03 lane county

  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

IN THE MATTER OF THE VACATION OF A PORTION )  
OF MAPLE STREET IN SECTION 35, TOWNSHIP 18 )  
SOUTH, RANGE 12 WEST OF THE WILLAMETTE ) PETITION TO VACATE  
MERIDIAN, IN LANE COUNTY, OREGON )

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned State of Oregon, acting by and through its Parks and Recreation Department, and Arleta W. Ross as owners of the adjacent real property hereby petition for the vacation of a portion of Maple Street, which area to be vacated is described as follows:

"All that portion of the road right of way of Maple Street that extends from Glenada Road to the Siuslaw River located adjacent to Tax Lot 2300 and Tax Lots 1901 and 2200."

**WHEREAS**, the undersigned petitioners are owners of 100% of all the real property located adjacent to the above-described area to be vacated; and

**WHEREAS**, petitioners allege the purpose of this vacation request is to extend the width of the State of Oregon's property, known as Prichard State Wayside, by 30 feet and the private property by 30 feet. This right of way has never been used or developed. It protected public access to the Siuslaw River from Glenada Road when Tax Lot 2300 was private property. Tax Lot 2300 was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park.

**WHEREAS**, no portion of the area to be vacated is located within the boundaries of an incorporated city or town; and

**WHEREAS**, the public interest will be served and not prejudiced by vacation of the above-described area; and

**WHEREAS**, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing; and

**THEREFORE**, petitioners request an Order of the Board of Commissioners for Lane County as follows:

- 1. Setting a date for vacation of the above-described portion of road, with or without a hearing before the Board of Commissioners of Lane County, pursuant to ORS Chapter 368.
- 2. Upon review of the matter, to direct the vacation of the above-described road, and direct that title to be vacated area revert and vest in accordance with ORS 368.366.

DATED this 25 day of NOVEMBER, 2002.

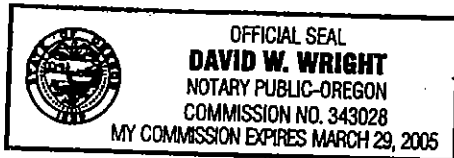
PETITIONERS:

Michael Conz, Director  
Map# 18-12-35-32 TL 2300  
State of Oregon, Parks and Recreation Dept.  
Addr: 85701 Glenada Road  
Florence, OR 97439

Arleta W. Ross, Trustee  
Map# 18-12-35-32 TL 1901 and 2200  
Arleta W. Ross Ross Living Trust  
Addr: 85675 Glenada Road  
Florence, OR 97439

State of Oregon )  
County of Marion)

On December 12, 2002, personally appeared the above named MICHAEL CARRIER,  
DIRECTOR and acknowledged the foregoing instrument to be a voluntary act  
before me.

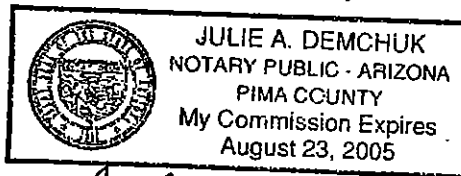


David W Wright  
Notary Public for Oregon  
My Commission Expires: 3-29-05

State of ARIZONA )  
County of PIMA )

On NOVEMBER 25, 2002, personally appeared the above named ARLETA W  
ROSS and acknowledged the foregoing instrument to be a voluntary act  
before me.

Julie A Demchuk  
Notary Public for Arizona  
My Commission Expires: 08/23/05



Julie A Demchuk

EXHIBIT "A"

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

FILE NO. 4094

IN THE MATTER OF SETTING A PUBLIC HEARING )  
FOR THE PROPOSED VACATION OF A PORTION OF )  
MAPLE STREET, LOCATED BETWEEN BLOCK 8 )  
AND BLOCK 9, IN THE PLAT OF GLENADA, AS )  
PLATTED AND RECORDED IN VOLUME W, PAGE )  
261, LANE COUNTY, OREGON DEED RECORDS, )  
(18-12-35-32) )

PRELIMINARY  
DIRECTOR'S REPORT

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting a vacation of a portion of Maple Street. The petitioners are requesting this vacation in order to extend the width of the State Park (Prichard State Wayside) and the private property adjacent to the right of way.

The plat of Glenada was platted in 1889 and recorded in Volume W, Page 261 of the Lane County, Oregon Deed Records. The portion of Maple Street proposed to be vacated lies between Viola Avenue (commonly known as Glenada Road) and the Siuslaw River.

Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. The agencies and landowners either had no objections or did not respond to the referral.

The petitioners allege that the described right of way has never been used or developed, however upon a field examination on May 14, 2003 by Bob Ezell, County Surveyor at that time, observed evidence of public use. He stated that there were tire tracks of vehicles within the right of way of Maple Street and similarly worn footpaths from Maple Street out to the shoreline of the Siuslaw River. He also noted that a small stream about 5 feet wide lies in the right of way or near the east line of the right of way that drains into the river.

The petition also states that Tax Lot 2300 (Lots 3, 4, 5 and 6 of Block 8, Glenada) was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park. Bob Ezell noted that the park is currently undeveloped, and it appears that access to the river is gained by way of Maple Street rather than through the park. If the vacation were approved, the park would gain an additional 30-foot strip of land. But at the same time, the public would lose the easterly irreplaceable 30-foot width of public access to the public shoreline of the Siuslaw River, and possibly lose access to the stream that runs down to the river.

It is concluded that the proposed vacation may not be in the public's interest, as vacating the described portion of Maple Street would reduce the amount of access that the public has to the shoreline of the Siuslaw River. It is recommended that the Resolution, Notice of Hearing and Order to consider the vacation of a portion of Maple Street be approved and a date be set for conducting a public hearing by the Board of Commissioners.

A final report will be submitted prior to the time of the public hearing.

DATED this 23<sup>rd</sup> day of June, 2003



Oliver P. Snowden, Director - Department of Public Works



# ATTACHMENT "A"

ORIGINAL

NW ¼ SW ¼ Section 35 T. 18 S. R. 12 W. W.M.  
LANE COUNTY

NO SCALE



TAX LOTS 1901 & 2200  
ROSS LIVING TRUST  
1927 W PLACITA DE AGOSTO  
GREEN VALLEY, AZ 85614

TAX LOT 2300  
STATE OF OREGON  
1115 COMMERCIAL ST NE  
SALEM, OR 97310

SIUSLAW RIVER

