

W. 8-G.

ORIGINAL

AGENDA COVER MEMO

DATE: June 1, 2005
TO: Lane County Board of Commissioners
FROM: Bill Robinson, Lane County Surveyor *BR*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF VACATING A PORTION OF NEWMAN STREET, A PUBLIC ROAD WITHIN THE PLAT OF WILDISH INDUSTRIAL TRACTS, AS PLATTED AND RECORDED IN BOOK 56, PAGE 11, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-03-03-14)

I. MOTION:

TO VACATE A PORTION OF NEWMAN STREET, A PUBLIC ROAD WITHIN THE PLAT OF WILDISH INDUSTRIAL TRACTS, AS PLATTED AND RECORDED IN BOOK 56, PAGE 11, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-03-03-14)

II. ISSUE:

To decide whether a portion of Newman Street, a public road having a legal right-of-way width of 50 feet, should be vacated as petitioned for. The portion proposed to be vacated is approximately 570 feet in length with a width of 10 feet at its westerly end tapering to a width of 4.60 feet at its easterly end.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by James A. Wildish, President of Wildish Industrial Development Corporation, owner of 100% of the property abutting the proposed vacation of a portion of Newman Street. The petitioner is requesting the vacation, by the authority of ORS 368.351, without a public hearing.

The purpose of this vacation request is to provide safe clearance for the construction and operation of a railroad spur line off the main Central Oregon and Pacific Railway line that will service petitioner's property along the northerly edge of Newman Street. Vacation of this portion of Newman Street will allow for more full utilization of petitioner's property. Petitioner asserts there are no utilities in the area to be vacated.

This portion of Newman Street was established as a public road in 1969 with a width of 50 feet in the Plat of Wildish Industrial Tracts as recorded in Book 56, Page 11, Lane County, Oregon Plat Records. The portion proposed to be vacated is a strip approximately 570 feet long with a width of 4.60 feet at the easterly end, and from there extending and tapering westerly to a width of 10 feet at the westerly end of Newman Street.

The portion of Newman Street proposed for vacation is within the Urban Growth Boundary of Springfield, but not within the city limits. The portion of the Wildish Industrial Tracts adjacent to this portion of Newman Street was initially annexed to the City of Eugene, and in 1999 was transferred to the City of Springfield (Lane County Local Boundary Commission file No. C SP 99-07). Newman Street was not included in the annexation or the transferal. The remaining unvacated portion of Newman Street contiguous with the vacation will be a minimum width of 40 feet, and will be subject to City of Springfield requirements governing acceptable legal road standards. The City of Springfield has been notified of the vacation proposal, and is supportive of the vacation.

The Surveyor's Office notified Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, the City of Springfield, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and other nearby property owners regarding the vacation. Lane County Transportation Planning responded without objection, stating that Newman Street is a Local Access Road as defined in Lane Code 15.010, and by virtue of being a Local Access Road within the Urban Growth Boundary of the City of Springfield (though outside the city limits) is not a County maintained road. Their response further stated that the City of Springfield has land use jurisdiction for this area, and that per ORS 368 the County has no authority or responsibility to maintain the street, nor to regulate development to ensure the street is adequate to serve surrounding development. The other agencies and landowners either had no objections to the vacation or did not respond to the referral.

B. Analysis:

The vacation of this portion of Newman Street will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed by the Lane County Transportation system. The remaining unvacated portion of Newman Street contiguous with the vacation will be a minimum width of 40 feet, and will be subject to City of Springfield requirements governing acceptable legal road standards. No property will be denied legal access by this vacation.

The public interest will be served, as vacating this portion of Newman Street will provide for more full utilization of petitioner's property, while leaving the adjacent portion of Newman Street intact as a public road.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of Newman Street, as petitioned for.
2. Deny the vacation of a portion of Newman Street, as petitioned for.

3. Continue the matter for further consideration.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of the portion of Newman Street, as petitioned for. The vacation is in the public's interest, as vacating this portion of Newman Street will provide for more full utilization of petitioner's property, while leaving the adjacent portion of Newman Street intact as a public road.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right-of-way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

E. Timing:

Timing is critical in this matter in order to facilitate the relocation and establishment of a local bakery in time to meet the demands of their peak season.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Order of Vacation, the documents are to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor and County Assessor for appropriate action.

If the Order is denied, an Order to Deny the vacation will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Order w/attachments:

Petition
Director's Report - Exhibit "A"
Findings of Fact - Exhibit "B"
Attachment - Vicinity Map

Contact Person: Bill Robinson x4198

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

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

IN THE MATTER OF VACATING A PORTION OF NEWMAN)
STREET, A PUBLIC ROAD WITHIN THE PLAT OF WILDISH)
INDUSTRIAL TRACTS, AS PLATTED AND RECORDED IN) ORDER NO.
BOOK 56, PAGE 11, LANE COUNTY, OREGON PLAT)
RECORDS, WITHOUT A PUBLIC HEARING, AND)
ADOPTING FINDINGS OF FACT (18-03-03-14))

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of a portion of Newman Street, a public road, more particularly described as follows:

BEGINNING at the most westerly corner of Lot 11, Block 2 of Wildish Industrial Tracts as platted and recorded in Book 56, Page 11 of the Lane County, Oregon Plat Records, said point being on the northerly margin of Newman Street, 25.00 feet from, when measured at right angles to, the centerline of Newman Street; thence along the northerly margin of Newman Street South 53°53'35" East 302.42 feet and along the arc of a 906.47 foot radius curve right (the chord of which bears South 45°22'25" East 268.58 feet) a distance of 269.57 feet; thence leaving said northerly margin and running South 53°08'45" West 4.60 feet; thence along the arc of a 645.00 foot radius curve left (the chord of which bears North 44°31'26" West 210.00 feet) a distance of 210.94 feet; thence North 53°53'35" West 359.49 feet to a point which bears South 36°06'25" West from the Point of Beginning; thence North 36°06'25" East 10.00 feet to the Point of Beginning, all within the Southeast One Quarter (SE1/4) of the Northeast One Quarter (NE1/4) of Section 3, Township 18 South, Range 3 West of the Willamette Meridian, Lane County, Oregon; and

WHEREAS, the petition complies with the provisions of ORS Chapter 368.351 in that the petitioner, who is the landowner of 100% of the property abutting the proposed vacation, requests that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and rights-of-way without a public hearing; and

WHEREAS, the petitioner is requesting the vacation of this portion of road in order to provide safe clearance for the construction and operation of a railroad spur line off the main Central Oregon and Pacific Railway line that will service petitioner's property; and

WHEREAS, this portion of Newman Street is not within any incorporated city limits, but is within the City of Springfield Urban Growth Boundary; and

WHEREAS, the City of Springfield is supportive of the vacation; and

WHEREAS, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, the City of Springfield, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjacent and other nearby landowners were notified by mail regarding the proposed vacation; and

WHEREAS, Lane County Transportation Planning responded without objection, stating that Newman Street is a Local Access Road within the jurisdiction of the City of Springfield, and that the County has no authority or responsibility to maintain the street, nor to regulate development to ensure the street is adequate to serve surrounding development; and

WHEREAS, the other agencies and landowners either had no objections or did not reply to the referral; and

WHEREAS, the petitioner has paid a vacation fee of \$650 and will pay recording fees upon final approval of the vacation; and

WHEREAS, no property will be denied access to a public road by this vacation; and

WHEREAS, petitioner asserts there are no utilities in the area to be vacated; and

WHEREAS, the Director of the Department of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.351, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

WHEREAS, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described portion of Newman Street, a public road, is hereby vacated; and it is further

ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

DATED this _____ day of _____, 2005.

Anna Morrison, Chair
Lane County Board of Commissioners

Attachment: Vicinity Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

ORIGINAL

IN THE MATTER OF THE VACATION OF A PORTION)
OF NEWMAN STREET, SECTION 03-14, TOWNSHIP)
18 SOUTH, RANGE 3 WEST OF THE WILLAMETTE) PETITION TO VACATE
MERIDIAN, IN LANE COUNTY, OREGON)

PURSUANT to the procedures set forth in ORS Chapter 368, Wildish Industrial Development Corporation, as owner of the adjacent real property, hereby petitions for the vacation of a portion of Newman Street, which area to be vacated is described as follows:

Beginning at the most westerly corner of Lot 11, Block 2 of Wildish Industrial Tracts as platted and recorded in Book 56, Page 11 of the Lane County Oregon Plat Records, said point being on the northerly margin of Newman Street, 25.00 feet from, when measured at right angles to, the centerline of Newman Street; thence along the northerly margin of Newman Street South 53°53'35" East 302.42 feet and along the arc of a 906.47 foot radius curve right (the chord of which bears South 45°22'25" East 268.58 feet) a distance of 269.57 feet; thence leaving said northerly margin and running South 53°08'45" West 4.60 feet; thence along the arc of a 645.00 foot radius curve left (the chord of which bears North 44°31'26" West 210.00 feet) a distance of 210.94 feet; thence North 53°53'35" West 359.49 feet to a point which bears South 36°06'25" West from the point of beginning; thence North 36°06'25" East 10.00 feet to the point of beginning, all in Lane County Oregon.

WHEREAS, the undersigned petitioner is the owner of 100% of all the real property adjacent to the above-described area to be vacated; and

WHEREAS, petitioner alleges as follows:

1. The purpose of this vacation request is to provide safe clearance for the construction and operation of a railroad spur line.
2. There are no utilities and no powerlines located in the area to be vacated; and

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, petitioner has no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing; and

THEREFORE, the petitioner requests 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 this matter, to direct the vacation of the above-described road, and direct that title to vacated area revert and vest in accordance with ORS 368.366.

DATED this 6th day of May, 2005.

PETITIONERS:

James A. Wildish
James A. Wildish, President
Wildish Industrial Development Corporation
Map #18-03-03-14 TL 1500 & 1600
Addr: P. O. Box 7428
Eugene, OR 97401

State of Oregon)
County of Lane) ss.

On 5/6, 2005, personally appeared the above-named James A. Wildish, President, Wildish Industrial Development Corporation and acknowledged the foregoing instrument to be a voluntary act before me:



Linda L. Hense
Notary Public for Oregon
My Commission Expires: 10/29/05

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

IN THE MATTER OF VACATING A PORTION OF)	
NEWMAN STREET, A PUBLIC ROAD WITHIN THE PLAT)	
OF WILDISH INDUSTRIAL TRACTS, AS PLATTED AND)	DIRECTOR'S
RECORDED IN BOOK 56, PAGE 11, LANE COUNTY,)	REPORT
OREGON PLAT RECORDS, WITHOUT A PUBLIC)	
HEARING, AND ADOPTING FINDINGS OF FACT)	
(18-03-03-14))	

The Surveyor's Office of the Department of Public Works has received a valid petition signed by James A. Wildish, President of Wildish Industrial Development Corporation, owner of 100% of the property abutting the proposed vacation of a portion of Newman Street requesting, by the authority of ORS 368.351, a vacation without a public hearing.

The petitioner is requesting this vacation in order to provide safe clearance for the construction and operation of a railroad spur line off the main Central Oregon and Pacific Railway line that will service petitioner's property along the northerly edge of Newman Street. Vacation of this portion of Newman Street will allow for more full utilization of petitioner's property. Petitioner asserts there are no utilities in the area to be vacated.

This portion of Newman Street was established as a public road in 1969 with a width of 50 feet in the Plat of Wildish Industrial Tracts as recorded in Book 56, Page 11, Lane County, Oregon Plat Records. The portion proposed to be vacated is a strip approximately 570 feet long with a width of 4.60 feet at the easterly end, and from there extending and tapering westerly to a width of 10 feet at the westerly end of Newman Street.

The portion of Newman Street proposed for vacation is within the Urban Growth Boundary of Springfield, but not within the city limits. The portion of the Wildish Industrial Tracts adjacent to this portion of Newman Street was initially annexed to the City of Eugene, and in 1999 was transferred to the City of Springfield (Lane County Local Boundary Commission file No. C SP 99-07). Newman Street was not included in the annexation or the transferal. The remaining unvacated portion of Newman Street contiguous with the vacation will be a minimum width of 40 feet, and will be subject to City of Springfield requirements governing acceptable legal road standards. The City of Springfield has been notified of the vacation proposal, and is supportive of the vacation.

The Surveyor's Office notified Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, the City of Springfield, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and other nearby property owners regarding the vacation. Lane County Transportation Planning responded without objection, stating that Newman Street is a Local

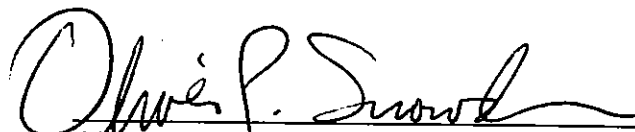
Access Road as defined in Lane Code 15.010, and by virtue of being a Local Access Road within the Urban Growth Boundary of the City of Springfield (though outside the city limits) is not a County maintained road. Their response further stated that the City of Springfield has land use jurisdiction for this area, and that per ORS 368 the County has no authority or responsibility to maintain the street, nor to regulate development to ensure the street is adequate to serve surrounding development. The other agencies and landowners either had no objections to the vacation or did not respond to the referral.

The portion of Newman Street proposed to be vacated, having a length of approximately 570 feet, is no longer needed by the Lane County transportation system.

It is concluded that this vacation is in the public's interest, as vacating this portion of Newman Street will provide for more full utilization of petitioner's property, while leaving the adjacent portion of Newman Street intact as a public road.

It is therefore recommended that the portion of Newman Street, as described in the Order, be vacated as petitioned for. It is further recommended that the vacation be allowed without a public hearing.

DATED this 2nd day of June, 2005.


Oliver P. Snowden, Public Works Director

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

IN THE MATTER OF VACATING A PORTION OF)
NEWMAN STREET, A PUBLIC ROAD WITHIN THE)
PLAT OF WILDISH INDUSTRIAL TRACTS, AS) FINDINGS OF FACT
PLATTED AND RECORDED IN BOOK 56, PAGE 11,)
LANE COUNTY, OREGON PLAT RECORDS,)
WITHOUT A PUBLIC HEARING, AND ADOPTING)
FINDINGS OF FACT (18-03-03-14))

The Department of Public Works has received a valid petition, signed by the owner of 100% of the property abutting the proposed vacation, requesting that a portion of Newman Street, a public road, as described in the Order, be vacated as petitioned for. The petitioner is requesting this vacation in order to provide safe clearance for the construction and operation of a railroad spur line off the main Central Oregon and Pacific Railway line that will service petitioner's property along the northerly edge of Newman Street. Vacation of this portion of Newman Street will allow for more full utilization of petitioner's property.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of public easements.

Conclusion of Law (Public Interest)

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

Findings of Fact (Impacts and Process of Vacation)

The Board takes notice and finds as follows:

1. That, the Surveyor's Office of the Department of Public Works has received a valid petition signed by the owner of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. Said property is further identified as Tax Lot 3600 of Assessor's Map 18-03-03-11, and Tax Lots 1500 and 1600 of Assessor's Map 18-03-03-14.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or rights-of-way based upon the determination that the vacation is "in the public interest".
3. That, the subject portion of road proposed to be vacated is a public road established in 1969 in the plat of Wildish Industrial Tracts as platted and recorded in book 56, Page 11 of the Lane County, Oregon Plat Records. This portion of Newman Street is within the Urban Growth Boundary of Springfield, but not within the City Limits. The portion of Wildish Industrial Tracts adjacent to this portion of Newman Street was initially annexed to the City of Eugene, and in 1999 was transferred to the City of Springfield (Lane County Local Boundary Commission file No. C SP 99-07). Newman Street was not included in the annexation or the transferal. The remaining unvacated portion of Newman Street contiguous with the vacation will be a minimum width of 40 feet, and will be subject to City of Springfield requirements governing acceptable legal road standards. The City of Springfield has been notified of the vacation proposal, and is supportive of the vacation.
4. That, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, the City of Springfield, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and other nearby property owners were notified regarding the vacation. Lane County Transportation Planning responded without objection, stating that Newman Street is a Local Access Road as defined in Lane Code 15.010, and by virtue of being a Local Access Road within the Urban Growth Boundary of the City of Springfield (though outside the city limits) is not a County maintained road. Their response further stated that the City of Springfield has land use jurisdiction for this area, and that per ORS 368 the County has no authority or responsibility to maintain the street, nor to regulate development to ensure the street is adequate to serve surrounding development. The other agencies and landowners either had no objections to the vacation or did not respond to the referral.
5. That, this vacation will not deny any property legal access to a public road.
6. That, the petitioner asserts there are no utilities in the area to be vacated.
7. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
 - (1) The county road official files a written report stating that the vacation is in the public interest.
 - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

Section 3, T. 18 S. R. 3 W., W.M.
LANE COUNTY
NO SCALE



004-14

004-78

004-78

004-78

004-78

004-41

TO BE VACATED
10' WIDE, TAPERING
TO 4.60' WIDE

WILDISH

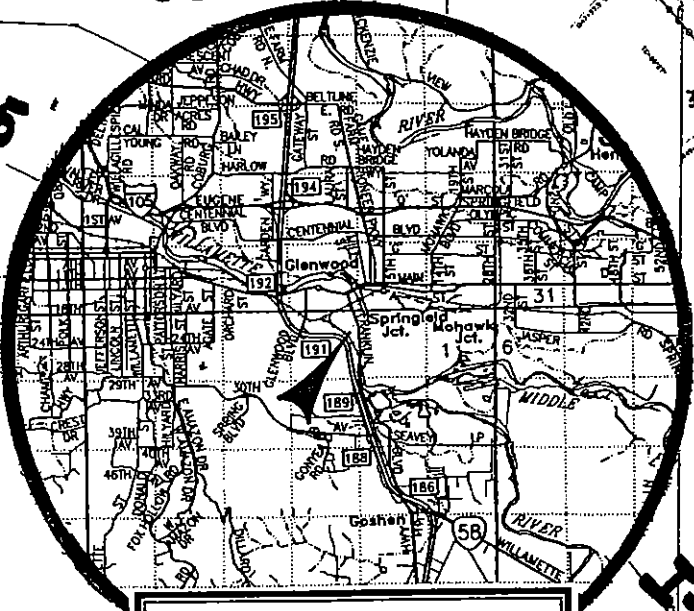
INDUSTRIAL

TRACTS

NEWMAN STREET

I-5

I-5



VICINITY MAP

SEE MAP 18 03 03 4

COSHEN - SPRINGFIELD LINE
BONNEVILLE POWER DIV.