

W-10-a.


ORIGINAL

Memorandum Date: February 14, 2011

Order Date: March 30, 2011

**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works, Land Management Division

**PRESENTED BY:** Mike Jackson, Lane County Surveyor 

**AGENDA ITEM TITLE:** IN THE MATTER OF SETTING A PUBLIC HEARING FOR THE PROPOSED SURRENDER OF A PORTION OF HARVEY ROAD (COUNTY ROAD NUMBER 1088) TO THE CITY OF CRESWELL

**I. MOTION**

TO APPROVE THE ORDER TO SET A PUBLIC HEARING DATE OF APRIL 27, 2011 AT 1:30 P.M. TO CONSIDER THE SURRENDER OF A PORTION OF HARVEY ROAD (CO. RD. NO. 1088) TO THE CITY OF CRESWELL

**II. AGENDA ITEM SUMMARY**

Pursuant to an Intergovernmental Agreement (IGA) between Lane County and the City of Creswell, the City has requested surrender of a portion of Harvey Road located within the City Limits of Creswell. As provided by ORS 373.270, it is required that a date for a public hearing be set to allow testimony to be entered into the public record regarding the proposed Surrender of jurisdiction.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

Harvey Road was originally dedicated as a 60 foot wide continuous public road in the plat of A.C. Bohmstedt Company Fruit Lands (year 1909, Bk 4/P 26), the plat of A.C. Bohmstedt Company Addition to Creswell (year 1910, Bk 4/P 55) and the plat of Harmon Farm (year 1911, Bk 4/P 89). Harvey Road was subsequently established as County Road Number 1088 in 1931.

The City of Creswell and the Creswell School District requested that portions of Harvey Road and Nieblock Lane be altered and improved. The City of Creswell requested this project be included in Lane County's Capital Improvement Program to alter and improve the roads, and agreed to contribute a portion of project costs. On November 5, 2007 Lane County executed an Intergovernmental Agreement (IGA) with the City of Creswell per ORS 373.260 whereby the City authorized Lane County to make improvements, acquire right of way, and assess properties within the corporate limits of the city. The IGA also stipulated the City of Creswell would accept surrender as a city street the remaining portions of Harvey Road under Lane County jurisdiction lying within the Urban Growth Boundary of Creswell upon completion of the project and annexation of said portion. The

portion of Nieblock Lane included in the alteration was not included as part of the IGA's surrender agreement.

Through adoption of the Capital Improvement Program for FY 07/08 through FY 11/12 by Order No. 07-5-16-7, and additionally by Order No. 07-11-7-8, the Lane County Board of Commissioners authorized the Department of Public Works to proceed with the improvements of the portions of Harvey Road and Nieblock Lane. Shortly after completion of the project and pursuant to Order 10-4-14-3, the Board approved an alteration of the legal right of way within the project area to formally establish and accept the additional right of way acquired for the project as county road.

The portion of Harvey Road herein considered for surrender was approved for annexation by City of Creswell Ordinance 469 dated December 13, 2010, and the annexation was finalized in early 2011 as File C CR 2010-Annex 2010-01. Said portion extends from approximately 0.09 mile north of the Harvey Road-Nieblock Lane intersection, southerly approximately 0.33 mile to approximately 65 feet south of the Harvey Road-Hillegas Avenue intersection.

The City of Creswell has adopted Resolution Number 2011-02 formally requesting jurisdiction over the portion of the above mentioned county road, all within the city limits and described in Exhibit "A" of the attached Order, be transferred from Lane County to the City of Creswell.

#### **B. Policy Issues**

The portion of Harvey Road proposed for surrender is located entirely within the City Limits of Creswell, and the request for its surrender as a city street is in accordance with the IGA between the County and the City.

ORS 373.270 provides for the transfer from county jurisdiction to city jurisdiction of county roads within the corporate limits of a city whenever the county governing body deems it necessary, expedient or for the best interest of the county to do so, and the governing body of the city deems it necessary or expedient and for the best interest of the city to acquire jurisdiction over the county roads or parts thereof to the same extent as it has over other public streets and alleys of the city.

#### **C. Board Goals**

This action is consistent with the *Strategic Plan* goal of protecting the public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure, and with the County goal of contributing to "appropriate community development in the area of transportation and telecommunications infrastructure, housing, growth management and land development".

#### **D. Financial and/or Resource Considerations**

Any outstanding assessments levied in connection with the project will remain payable to Lane County and be credited to the Road Fund. Any deferred assessments will remain a lien on the affected properties until paid or removed in accordance with Lane Code 15.636(1)(b). Surrender of this portion of Harvey Road will relieve the County of the

obligation of future maintenance costs estimated at approximately \$40,000 over the next ten years.

#### **IV. ANALYSIS**

ORS 373.270 provides for the transfer of jurisdiction over county roads within a city and that legal notice of hearing be posted or published. The portion of right-of-way described in Exhibit "A" was approved for annexation by Creswell City Council Ordinance 469 dated December 13, 2010, and the annexation was finalized in early 2011 as File C CR 2010-Annex 2010-01. The City of Creswell has adopted Resolution Number 2011-02 formally requesting that jurisdiction over the portion of the above mentioned county road, all within the city limits and described in Exhibit "A" of the attached Order, be transferred from Lane County to the City of Creswell. The attached Order will set a public hearing to consider the merits of the request for transfer of jurisdiction of the described portion of road from Lane County to the City of Creswell as requested by the City.

#### **V. ALTERNATIVES/OPTIONS**

1. Approve the Order setting a date for the public hearing.
2. Deny the Order and direct staff otherwise.

#### **VI. TIMING/IMPLEMENTATION**

Timing in this matter is important in order to facilitate timely jurisdictional developmental planning by the City of Creswell associated with the subject road and properties in the area, and to avoid potential County liability for construction warranty items. The proposed hearing date as specified in the Order will allow time for public posting or notice and is recommended as being appropriate.

#### **VII. RECOMMENDATION**

The Public Works Director's Preliminary Report, a copy of which is attached and marked as "Exhibit B" recommends that the Board of Commissioners approve the Order to set a public hearing date for the proposed surrender of the portion of Harvey Road (County Road No. 1088), as described in the Order.

#### **VIII. FOLLOW-UP**

Upon approval of the Order to set a public hearing, the County Surveyor will carry out the necessary steps under ORS 373.270 to provide public notice of the hearing. Subsequently, a final report will be prepared and submitted at that hearing by the Director of the Public Works Department. If the Board is in support of surrendering the described road to the City of Creswell, a Final Order will be prepared for their approval.

#### **IX. ATTACHMENTS**

Order to Set Public Hearing w/attachments:  
 Legal Description - Exhibit "A"  
 Director's Preliminary Report - Exhibit "B"  
 Vicinity Map - Attachment "A"

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

IN THE MATTER OF SETTING A PUBLIC HEARING FOR ) ORDER NO.  
THE PROPOSED SURRENDER OF A PORTION OF )  
HARVEY ROAD (COUNTY ROAD NUMBER 1088) TO THE )  
CITY OF CRESWELL )

**WHEREAS**, Harvey Road was originally dedicated as a 60 foot wide continuous public road in the plat of A.C. Bohmstedt Company Fruit Lands (year 1909, Bk 4/P 26), the plat of A.C. Bohmstedt Company Addition to Creswell (year 1910, Bk 4/P 55) and the plat of Harmon Farm (year 1911, Bk 4/P 89), and was subsequently established as County Road Number 1088 in 1931; and

**WHEREAS**, the portion of the road herein proposed for surrender extends from approximately 0.09 mile north of the Harvey Road-Nieblock Lane intersection, southerly approximately 0.33 mile to approximately 65 feet south of the Harvey Road-Hillegas Avenue intersection, and lies entirely within the City of Creswell as annexed in Annexation File C CR 2010-Annex 2010-01 which was finalized in early 2011; and

**WHEREAS**, in 2010 Lane County completed construction of the Harvey Road-Nieblock Lane Road Improvement Project, and by Order No. 10-4-14-3 the Board approved an alteration of said roads. In connection with said project, Lane County and the City of Creswell entered into an Intergovernmental Agreement (IGA) per ORS 373.260 whereby the City authorized Lane County to make improvements, acquire right of way, and assess properties within the corporate limits of the city for the Harvey Road-Nieblock Lane Road Improvement Project, and agreed to accept surrender as a city street the remaining portions of Harvey Road under Lane County jurisdiction lying within the Urban Growth Boundary of Creswell upon completion of the project and annexation of said portion; and

**WHEREAS**, the City of Creswell, by its Resolution Number 2011-02, has requested that jurisdiction over the portion of Harvey Road (County Road No. 1088) as described in Exhibit "A", attached to and made a part hereof by this Order, be transferred to the City of Creswell; and

**WHEREAS**, ORS 373.270 provides for the transfer from county jurisdiction to city jurisdiction of county roads within the corporate limits of a city whenever the county governing body deems it necessary, expedient or for the best interest of the county to do so, and the governing body of the city deems it necessary or expedient and for the best interest of the city to acquire jurisdiction over the county roads or parts thereof to the same extent as it has over other public streets and alleys of the city; and

**WHEREAS**, the Public Works Director of Lane County has recommended a public hearing date be established to consider the offer of surrender to the City of Creswell that portion of said Harvey Road as described herein, and has provided a written report attached hereto and made a part hereof by this Order, and marked as Exhibit "B"; and

**WHEREAS**, Lane County and the City of Creswell deem it necessary and expedient and in the best interest of each governing body to proceed with the transfer of jurisdiction over the portion of the county road described in the attached Exhibit "A"; now, therefore, it is hereby

**ORDERED**, that a public hearing be set for April 27, 2011 at 1:30 p.m. at the Lane County Courthouse, 125 East 8th Avenue, Eugene, Oregon, to formally consider the surrender to the City of Creswell that portion of Harvey Road (County Road No. 1088) as described in the attached Exhibit "A", and that legal notice of hearing be posted or published in accordance with ORS 373.270; and further, it is hereby

**ORDERED**, that the Director of the Lane County Department of Public Works prepare and provide a final report on the proposed surrender.

Inquiries regarding these proceedings may be directed to Mike Jackson, Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon 97401, telephone (541) 682-4195.

**EFFECTIVE DATE:** \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Chair  
LANE COUNTY BOARD OF COMMISSIONERS

APPROVED AS TO FORM:

Date 3-17-11 Lane County.

  
OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

LEGAL DESCRIPTION

MILEAGE

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HARVEY ROAD (COUNTY ROAD NUMBER 1088)

0.33

All that portion of Harvey Road (County Road Number 1088) lying between the southerly end of that portion of Harvey Road surrendered to the City of Creswell by Lane County Commissioners' Final Order of Surrender No. 07-2-7-13 and the northerly end of that portion of Harvey Road surrendered to the City of Creswell by Lane County Commissioners' Final Order of Surrender No. 92-3-11-16, more particularly described as follows:

Beginning at a westerly extension of the south line of Lot 38, Craig Estates First Addition as recorded at Reception No. 2007-075370, Lane County, Oregon Plat Records and Lane County Surveyor's Office County Survey File No. 40783, thence southerly 1765 feet, more or less, to a westerly extension of a line 65 feet, more or less, south from and parallel with the south line of Block 15 of the A.C. Bohrnstedt Company Addition to Creswell, as recorded in Book 4, Page 55, Lane County, Oregon Plat Records, all in Sections 11 and 14, Township 19 South, Range 3 West of the Willamette Meridian.

The above description for Harvey Road is shown on Attachment "A" attached hereto and made a part hereof.

EXHIBIT "B"

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

IN THE MATTER OF SETTING A PUBLIC HEARING FOR	)	
THE PROPOSED SURRENDER OF A PORTION OF	)	DIRECTOR'S PRELIMINARY
HARVEY ROAD (COUNTY ROAD NUMBER 1088) TO THE	)	REPORT
CITY OF CRESWELL	)	

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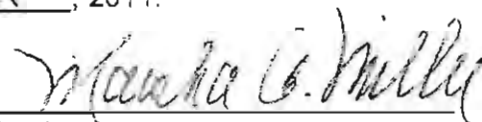
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## EXHIBIT "B"

Legal notice for the public hearing to consider the matter of the surrender of this portion of Harvey Road (County Road No. 1088) is required by ORS 373.270. Setting this date for the hearing will allow time for public posting or notice and is recommended as being appropriate.

The surrender of this portion of road will allow the City to have full jurisdiction of the road and to maintain, develop and improve it and the surrounding area to their own specifications, standards and timetables. The value to the County of this jurisdictional transfer of responsibilities will be an estimated reduction in maintenance costs of \$40,000 over 10 years. It is therefore recommended that a public hearing date be established and that legal notice of the hearing be posted or published for the proposal to surrender to the City of Creswell the portion of Harvey Road (County Road No. 1088), as described in Exhibit "A."

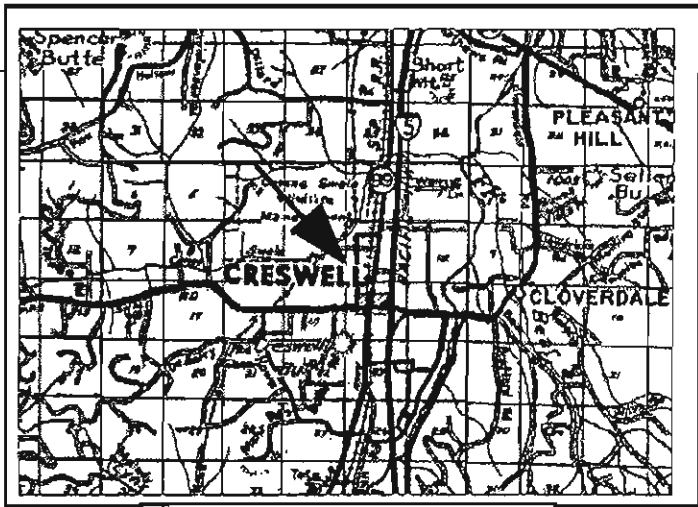
DATED this 16 day of March, 2011.

  
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Director  
Department of Public Works



# ATTACHMENT "A"

SURRENDER OF A PORTION OF HARVEY RD (CO. RD. 1088)  
SECTIONS 11 & 14, T19S, R3W, W.M.



VICINITY MAP

