

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation of )  
An Unnamed, Platted Right of Way off of ) **RESOLUTION NO. 49-2016**  
Hovland Way, near St. Helens, Oregon )

WHEREAS, pursuant to ORS 368.341(1), the Board of Commissioners for Columbia County, Oregon, may initiate proceedings to vacate property under ORS 368.326 to 368.366 by adopting a resolution that includes: (1) a declaration of intent to vacate the property; (2) a description of the property; and (3) the reason for the vacation; and

WHEREAS, on April 11, 2016, Public Works Director David Hill submitted a report to the Board of County Commissioners recommending the vacation of an unnamed platted right of way off of Hovland Way, near St. Helens, Oregon. The report is attached hereto as Attachment 1 and incorporated herein by this reference; and

WHEREAS, the area proposed for vacation is described on Exhibit A of Attachment 1, and is generally depicted on Exhibit D of Attachment 1; and

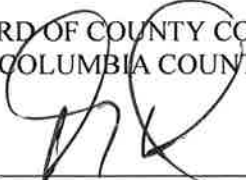
WHEREAS, as explained in the Director's report, the right of way is currently an undeveloped grass field, and the reason for vacation is to allow increased and improved use of the property by private land owners while preserving the access to all adjacent parcels; and

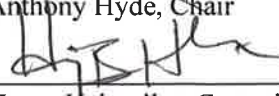
NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS HEREBY RESOLVES:

1. For the reasons set forth above, the County intends to vacate the unnamed platted right of way off of Hovland Way, as described in the report of the Public Works Director;
2. The report of the Public Works Director meets the requirements of ORS 368.346(1); and a public hearing shall therefore be scheduled in accordance with ORS 368.346(3).

DATED this 31<sup>st</sup> day of August 2016.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Anthony Hyde, Chair

By:   
Henry Heimuller, Commissioner

By:   
Earl Fisher, Commissioner

APPROVED AS TO FORM:

By:   
Office of County Counsel

RESOLUTION NO. 49-2016 Vacating a Platted Right-Of-Way off of Hovland Way

**ATTACHMENT 1**



**Columbia County Road Department**

1054 Oregon Street, St. Helens, OR 97051

David Hill, Public Works Director

Ph: (503) 366-3964 Fax: 397-7215

e-mail: [David.Hill@co.columbia.or.us](mailto:David.Hill@co.columbia.or.us)

**to:** Board of Commissioners  
**from:** David Hill, Public Works Director

**date:** April 11, 2016

**Subject:** Road Vacation of an Un-Named Platted Right-of-way off of Hovland Way

**Request:** Authorization to Proceed with Hovland Way right-of-way vacation

The Road Department has reviewed the merits of the vacation of an unnamed right-of-way off of Hovland Way. The right-of-way reviewed for vacation is 420 feet north of Bachelor Flat Road and is 60 feet in width and 127.5 feet long as shown on the attached map and aerial photo.

The right-of-way was dedicated as part of Hovland Way by Parnell and Elsie Hovland in 1972 and was recorded in Deed Book 192 Page 313 (attached Exhibit A).

The right-of-way proposed to be vacated is undeveloped and is currently a grass field. The reason for vacating this property would be to allow increased and improved use of the property by private landowners while preserving the access to all adjacent parcels.

ORS 368.331 states: "*A county governing body shall not vacate public lands under ORS 368.326 (Purpose of vacation proceedings) to 368.366 (Ownership of vacated property) if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.*" Therefore, since this right-of-way is the only access to tax lot 1000, the County cannot vacate the property without the consent of the property owner or unless the county determines that the vacated property shall vest with tax lot 1000. Property owner consent has been obtained (Exhibite B).

ORS 368.366 states: "*(1) When a county governing body vacates public property under ORS 368.326 (Purpose of vacation proceedings) to 368.366 (Ownership of vacated property), the vacated property shall vest as follows:*

- (a) If the county holds title to the property in fee, the property shall vest in the county.*
- (b) If the property vacated is a public square the property shall vest in the county.*
- (c) Unless otherwise described in paragraph (a) or (b) of this subsection, the vacated property shall vest in the rightful owner holding title according to law.*
- (d) Except as otherwise provided in this subsection, the vacated property shall vest in the owner of the land abutting the vacated property by extension of the persons abutting property boundaries to the center of the vacated property.*

*(2) Notwithstanding subsection (1) of this section, a county governing body may determine the vesting of property vacated under ORS 368.326 (Purpose of vacation proceedings) to 368.366 (Ownership of vacated property) in the order or resolution that vacates the property."*

In order to secure access to tax lot 1000 for the future, the County determines that the vacated property shall vest with Tax Lot 4N 1W 7BB 1000.

All of the adjacent property is shown to be owned by Elsie and Parnell Hovland Revocable Trust PO Box 39, Columbia City, Oregon, 97018. Elsie and Parnell Hovland have signed a consent to the proposed road vacation (Exhibit B).

The legal description of the right-of-way proposed to be vacated is as follows: That portion of the right-of-way described in the deed of road dedication recorded in Deed Book 192 Page 313 (commonly known as Hovland Way and attached as Exhibit A) that is 127.5 feet in length and 60 feet in width, the centerline of said right-of-way begins at a point that is located 450 feet north of the north right-of-way of Bachelor Flat Road and running easterly and at right angles to the main stem of Hovland Way.

ORS 368.341 states: *(1) A county governing body may initiate proceedings to vacate property under ORS 368.326 (Purpose of vacation proceedings) to 368.366 (Ownership of vacated property) if:*

*(a) The county governing body adopts a resolution meeting the requirements of this section;*

*(2) A county governing body adopting a resolution under this section shall include the following in the resolution:*

*(a) A declaration of intent to vacate property;*

*(b) A description of the property proposed to be vacated; and*

*(c) A statement of the reasons for the proposed vacation.*

A proposed resolution initiating the proceedings to vacate the proposed right-of-way is attached (Exhibit C).

ORS 368.346 states: *"Except as provided in ORS 368.351 (Vacation without hearing):*

*(1) When a vacation proceeding has been initiated under ORS 368.341 (Initiation of vacation proceedings), the county governing body shall direct the county road official to prepare and file with the county governing body a written report containing the following:*

*(a) A description of the ownership and uses of the property proposed to be vacated;*

*(b) An assessment by the county road official of whether the vacation would be in the public interest; and*

*(c) Any other information required by the county governing body.*

*(2) Upon receipt of the report under subsection (1) of this section, a county governing body shall establish a time and place for a hearing to consider whether the proposed vacation is in the public interest.*

*(3) Notice of the hearing under this section shall be provided under ORS 368.401 (General notice provisions) to 368.426 (Contents of notice) by posting and publication and by service on each person with a recorded interest in any of the following:*

*(a) The property proposed to be vacated;*

*(b) An improvement constructed on public property proposed to be vacated; or*

*(c) Real property abutting public property proposed to be vacated.*

*(4) During or before a hearing under this section, any person may file information with the county governing body that controverts any matter presented to the county governing body in the proceeding or that alleges any new matter relevant to the proceeding."*

If the Board of Commissioners chooses to initiate proceeding to vacate this right-of-way, the Board of County Commissioners must schedule a hearing on this matter at a time that provides for adequate notice to be provided as required. Notice by service must be made at least 30 days prior to the hearing, and notice by publication and posting must be made at least 20 days prior to the hearing.

Therefore, in the best interests of the Public, I recommend that this right-of-way be vacated with vesting of the vacated right-of-way all with tax lot 1000. The Board of Commissioners should initiate the proceedings with the proposed attached resolution and should schedule a hearing on this matter at a time that allows for adequate notice to be provided.

DEED OF ROAD DEDICATION

Parnell Hovland and Elsie B. Hovland, husband and wife, hereinafter called grantor, convey to Columbia County, a political subdivision of the State of Oregon, a deed for road purposes on all that real property situated in Columbia County, State of Oregon, described as:

Beginning at the Southwest corner of that certain tract conveyed to Parnell Hovland et ux, by deed recorded December 16, 1964 in Book 156, page 885, Deed Records of Columbia County, Oregon, which Southwest corner is on the South line of the Northwest quarter of Northwest quarter of Section 7, Township 4 North, Range 1 West, Willamette Meridian, Columbia County, Oregon, and is South 600 feet, West 180 feet, South 720 feet and West 315 feet from the Northeast corner of Northwest quarter of Northwest quarter of said Section 7; thence East 127.5 feet; thence North 20 feet, more or less, to the North line of Bachelor Flat Road and the true point of beginning of the easement herein described; thence North 870 feet to a point which is 40 feet distant, when measured at right angles, from the center line of that certain transmission line easement granted to the United States of America by easement recorded November 12, 1940 in Book 67, page 164, Deed Records of Columbia County, Oregon; thence North  $56^{\circ}08'$  East parallel to and 40 feet distant from said center line 445.49 feet to a point on the West line of that certain tract conveyed to Herman W. Freytag, Jr. et ux, by deed recorded February 8, 1963 in Book 151, page 13, Deed Records of Columbia County, Oregon; thence South  $0^{\circ}33'$  West along the West line of said Freytag tract to a point which is 100 feet, when measured at right angles from the center line of said easement granted to the United States of America; thence South  $56^{\circ}08'$  West parallel to and 100 feet distant from said easement center line 370 feet, more or less, to a point which is 187.5 feet East of the West line of said Hovland tract; thence South 360 feet to a point 480 feet North of the North line of Bachelor Flat Road; thence East at right angles 127.5 feet; thence South 60 feet; thence West 127.5 feet; thence South 420 feet to the North line of Bachelor Flat Road; thence West 60 feet on the North line of said road to the true point of beginning.

SUBJECT TO a street plug of 1 foot East and West and 60 feet North and South at each of the two East ends of this road as required by the Columbia County Planning Commission.

ALSO SUBJECT TO rights of Ralph E. Sackhoff and Judith M. Sackhoff as set out in deed recorded July 13, 1971 on page 703 in book 182, Deed Records of Columbia County, Oregon; and rights of Herman William Freytag Jr. as set out in deed recorded July 1, 1971 in Book 182, page 185, Deed Records of Columbia County, Oregon.

The true and actual consideration for this transfer is a dedication to the public. The foregoing recital of consideration is true as I verily believe.

Dated this 21 day of March, 1972

Parnell Hovland  
Elsie B. Hovland



**RESOLUTION, NOTICE OF HEARING, AND ORDER**

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

IN THE MATTER OF INITIATING ) PROCEEDINGS TO  
 ) VACATE A PORTION  
 ) RESOLUTION, NOTICE  
 ) OF HOVLAND WAY  
 ) HEARING, AND ORDER  
 ) WHEREAS, it appears that vacation of a portion  
 of Hovland Way, a public Road, would be beneficial to the public for the following reasons:

The right-of-way to be vacated is undeveloped and is currently a grass field. Vacating this portion of the Hovland Way right-of-way will allow increased and improved use of the property by private landowners while preserving the access to all adjacent parcels.

IT IS HEREBY RESOLVED, in accordance with ORS 368.326 to 368.366, that proceedings be undertaken to vacate the portion of said road described as follows:

*Beginning at the Northeast corner of the Northwest quarter of Northwest quarter of Section 7, Township 4 North, Range One West, Willamette Meridian, Columbia County, Oregon; thence South 600 feet; thence West 180 feet; thence South 227.83 feet to the True Point Of Beginning of the right-of-way to be vacated; thence West 127.50 feet to the east line of Hovland Way; thence South 60 feet along the east right-of-way line of the constructed portion of Hovland Way; thence East at right angles to Hovland Way 127.5 feet; thence North 60 feet to the True Point Of Beginning.*

The legal description of adjacent land and the landowners are:

Tax Lot 4N 1W 7BB 900 (the parcel south of the proposed right-of-way to be vacated), described in Deed 2013-009962 as: *Beginning at the Northeast corner of the Northwest quarter of the Northwest quarter of Section 7 Township 4 North, Range One West of the Willamette Meridian, Columbia County, Oregon; thence South 1,320 feet. Said point is on the north boundary line of Gable Road (aka Bachelor Flat Road). Thence West 180 feet to the True Point of Beginning; thence North 421.44 feet; thence West 127.50 feet; thence South 420 feet; thence East 127.50 feet to The True Point Of Beginning.*

Tax Lot 4N 1W 7 BB 902 (the parcel north of the proposed right-of-way to be vacated), described in Deed 2014-008430 as: *Beginning at the Northeast corner of the Northwest quarter of the Northwest quarter of Section 7 Township 4 North, Range One West of the Willamette Meridian, Columbia County, Oregon; thence South 600 feet; thence West 139.62 feet to the True Point Of Beginning; thence 40.38 feet West; thence South 227.83 feet; thence West 127.50 feet. This point is also on the east boundary line of Hovland Way. Thence North 373.60 feet; thence Northeast 204.62 feet following the Hovland Way Boundary Line; thence South 262.97 feet to the True Point Of Beginning.*

Tax Lot 4N 1W 7BB 1000 (the parcel east of the proposed right-of-way to be vacated), described in Deed 2013-009960 as: *Beginning at the Northeast corner of the Northwest quarter of the Northwest quarter of Section 7 Township 4 North, Range One West of the Willamette Meridian, Columbia County,*

