

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending the Fees and )  
Procedures for Vacations of Public )  
Property and Repealing Order No. 96-93 )  
\_\_\_\_\_ )

**ORDER NO. 55-2001**

WHEREAS, ORS 368.326 through 368.426 governs the process for vacating county property, and such process generally demands extensive use of county staff time and resources; and

WHEREAS, ORS 368.341(4) provides that the county governing body may require a fee for the filing of a petition under ORS 368.341, and ORS 368.356(2)(c) allows the county to further collect for any costs resulting from an approved vacation; and

WHEREAS, on April 21, 1993, the Board of County Commissioners for Columbia County, Oregon, adopted Order No. 96-93 which, among other things, established vacation procedures and a fee/cost schedule; and

WHEREAS, in 1999 the County retained a consultant to conduct a user fee study, the results of which indicated that the cost to the Road Department, alone, to conduct the review and on-site inspection needed on each vacation request was an average of \$543; and

WHEREAS, the statutory procedure involved in processing vacations additionally requires considerable time by County staff from other Departments, including the Office of County Counsel, Land Development Services, the County Assessor's Office and the County Clerk's Office; and

WHEREAS, it has been the experience of County staff in processing numerous vacation requests over a several-year period that, on occasion, complexities or controversies may arise which require County staff to expend nearly twice the amount of time normally spent on a vacation procedure; and

WHEREAS, in addition to the above, costs are incurred by the County Clerk's office for the required filing of a petition for vacation, said filing fee currently being \$28.50, and an additional charge by the County Surveyor of \$30.00 per parcel to review and approve the legal description of the property proposed for vacation, when necessary; and

WHEREAS, when a vacation is approved, the County Clerk's office is also required, by statute, to charge the following relevant fees:

Recording final documents	\$26.00 for the first page \$5.00 each additional page
Certification of Final Order [One for Assessor, One for Surveyor]	\$3.75 per copy plus \$00.25 per page

said fees subject to statutory or other authorized change; and

WHEREAS, when a vacation is approved, the County Surveyor is also required to post the approved vacation, at the cost of \$45.00 per parcel; and

WHEREAS, the reimbursable costs set forth herein for the County Clerk and the County Surveyor are fees which are currently required by statute or other authority, which are subject to change; and

WHEREAS, it is the intent of the Board that any statutory or other authorized change in these fees shall automatically be effective without further order by the Board; and

WHEREAS, it is in the public interest to collect for all fees and costs incurred by the County in processing requests to vacate county property; and

WHEREAS, circumstances may arise whereby a refund of a portion of the fee accompanying a Petition for Vacation is warranted, and it is most efficient to allow County Counsel to approve or deny such request without obtaining approval from the Board of Commissioners;

NOW, THEREFORE, IT IS HEREBY ORDERED, as follows:

1. The "Instructions for Vacation of County Property (Rev Jun 2001)" and "Petition for Vacation (Rev Jun 2001)", attached hereto, labeled Exhibits "A" and "B" respectively, and incorporated herein by this reference, are adopted as Columbia County's procedures for processing vacation petitions.

2. Consistent with those Instructions and Petition, the fee required for the filing and subsequent administration of a petition for vacation of county property shall be a \$1,000 non-refundable fee, to be paid at the time of filing a Petition for Vacation.

3. The County Treasurer is directed to immediately deposit \$500 of the \$1,000 fee paid into the County Road Fund.

4. The remaining \$500 is to be deposited into the General Fund account established for this purpose – Fees for Services, Road Vacations, Line Item No. 100-00-00-3255.

5. From the \$500 deposited into the General Fund, the County Clerk shall be reimbursed the filing fee of \$28.50.

6. Should a vacation be approved, the final order approving the vacation shall include a schedule setting forth the additional costs incurred by the County Clerk and the County Surveyor and directing the Treasurer to reimburse the County Clerk and County Surveyor for these costs out of the \$500 deposited into the General Fund Line Item No. 100-00-00-3255.

7. Any statutory or other authorized change in the fees required to be charged by the County Clerk and/or the County Surveyor shall concurrently effect the amounts to be distributed to the Clerk and/or the Surveyor without further order.

8. Should the petitioners fail to have submitted the consent of 100 percent of interested

property owners as required by ORS 368.351, and/or the Public Works Director determines vacation is not in the public interest, and the petitioner elects to proceed to a public hearing, or if the vacation process has been unusually complex or controversial, the Board may enter an order requiring the payment of additional fees.

9. Should the petitioner(s) believe a refund of a portion of the vacation fee is justified, the following steps shall be followed:

(a) A written request from the petitioner[s] on the form approved by and obtained from County Counsel which sets forth the name, address and phone number of the petitioner[s] to receive any refund, the amount of refund being requested, and the reason(s) for which a refund is felt to be justified shall be delivered to County Counsel.

(b) County Counsel shall advise the petitioner(s), in writing, of the approval or denial of any refund request and, if denied, the reasons therefore.

(c) If approved, County Counsel shall note approval, to include the date and amount of refund, on the approved form and forward the form to the Columbia County Treasurer, who is authorized to refund the amount of vacation fees approved on the form without further approval of the Board of Commissioners.

(d) The County Counsel may choose to refer refund requests to the Board of Commissioners.

(e) If County Counsel denies a refund request, the person requesting a refund may appeal to the Board of Commissioners for redress; the decision of the Board is final.

(f) The Treasurer shall keep records of all refunds issued in accordance with all legal requirements.

10. The provisions of this Order shall be in effect for all Petitions for Vacation filed on or after August 1, 2001.

11. Order No. 96-93 is repealed.

Dated this 18th day of July, 2001.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: John M. Gerhardt  
Chair

By: \_\_\_\_\_  
Commissioner

By: Joe Corvino  
Commissioner

Approved as to form

By: Sarah Tyson  
Office of County Counsel

## EXHIBIT A

### **INSTRUCTIONS FOR VACATION OF COUNTY PROPERTY**

#### A. CONSIDERING WHETHER TO SEEK VACATION

1. A subdivision, a public road, a trail, a public easement, public square or any other public property or public interest in property under the jurisdiction of the county governing body may be vacated.
2. Vacating public rights-of way or other public interest in property eliminates the public's interest and returns ownership of the vacated area, such as a public right-of-way, to private parties. Often ownership is returned to the abutting property owners; i.e., a public right-of-way, when vacated, most often returns the property to the abutting land owners on either side, using the center line as the dividing point.
3. The vacation process may solve development-related problems caused by the existence of unneeded public rights-of-way. For instance, an undeveloped road may be vacated to allow for better development of the property.
4. The vacation process does not solve problems such as neighborhood disputes or vandalism; other means of resolution should be followed.
5. Vacation of a public right-of-way will not be granted if it violates ORS 368.331; i.e., if it deprives a property owner access to their property without their consent.

#### B. VACATION PROCEEDINGS

1. The law.
  - a. Oregon statutes, ORS 368.326 through 368.426 (copy attached), set forth the rules and procedures to be followed in the vacation of county property. These laws are strictly adhered to – all requirements *must* be met.
  - b. These statutes establish the procedures by which the Columbia County Board of Commissioners may vacate any public property or public interest in property under the jurisdiction of the county governing body.
2. The Procedure, Generally.
  - a. Preliminary Investigation. The entire process is likely to go smoother if you conduct some preliminary investigation before submitting your petition for vacation.
    - i. You can visit the County Assessor's office to a) determine who will own the right-of-way or other property once it is vacated, b) pick up copies of any needed maps, c) determine the names of all abutting property owners from whom consent will be needed, and d) obtain the Tax Account (or Tax Lot) number of your property and that of your neighbors.
    - ii. A visit to the County Clerk's Office to obtain the needed deeds or other recorded documents is also helpful.
    - iii. Contact the Road Department [(503) 397-5090] to determine if, preliminarily, the Public Works Director or Transportation Planner has immediate concerns about your request.
    - iv. Also call Land Development Services, Planning Department [(503) 397-1501] to see if there are any land use concerns.

- v. Contact your neighbors to see if they are agreeable to the vacation and will sign the needed consent, and contact other public agencies, such as utility and/or water companies, to see if there is any reason why a vacation may be difficult or impossible. [Please note: you can file a petition with only 60 percent of the abutting landowners consenting; however, without 100 percent of abutting landowners consenting, or if the County believes there are other interests in the area proposed for vacation, a hearing will needed].
- b. Time. The process for vacating property is, generally, a lengthy one, and depends upon many variables, to include the workload of County staff and the complexity or controversy surrounding the proposed vacation. Generally, if the petitioner has provided **all** of the required information, to include the signed consent of all abutting property owners, the procedure will take approximately two-to-three months. If all of the required information is not received, a hearing has to be held, or if the matter is controversial or complex, it will take considerably longer.
- c. Fee. The County must charge for the time it takes County staff to process the vacation, and any expenses involved. See ¶C., 12 below for details.

### 3. The Procedure, Specifically.

The petition for vacation, with the required fee, is to be filed through the Office of County Counsel, Room 318 Courthouse, St. Helens, OR 97051. (Section C below covers filling out the petition).

Once the petition has been approved by County Counsel's office for accuracy and completeness, a Resolution initiating the vacation process is signed by the Board. The petition and resolution are then filed with the County Clerk and forwarded to the Road Department, Land Development Services and the County Cartographer or County Surveyor. These departments review the petition to determine, generally, whether there are any reasons – real or foreseeable – why the property should not be vacated, the accuracy of the legal description, the potential for land-locking, zoning and/or land use issues that might arise, etc. A County road official will visit the area before a determination is made.

**If** each of these departments determine there appears to be no problem with the proposed vacation, the petition was accompanied by the consent of every abutting property owner **and** the Public Works Director determines it is in the public interest to vacate the property, an order finalizing the vacation is presented for Board signature. Once approved by the Board, the vacation is final upon recording the order with the County Clerk.

If the consent of every abutting property owner has not been obtained, or the Public Works Director makes a determination that it is **not** in the public interest to vacate the property, the petitioner(s) are given the choice to either withdraw the petition or proceed to a public hearing before the Board of Commissioners. If a public hearing is to be held, notices will be sent to all affected property owners. You will be notified of the hearing and should be there to explain your reasons for the request and to answer any questions. Anyone can attend and comment on the proposed vacation. The Board will consider all testimony given at the hearing and the recommendation of the Public Works Director in making their final decision. ***Depending upon the circumstances, proceeding to a public hearing may result in additional fees being charged, to be determined by the Board.***

### C. FILLING OUT THE PETITION

You must answer every question on this petition form before County staff begins the process. Your answers must be complete and accurate in order to avoid delay, and you *must submit all necessary attachments with the petition.*

After you have completely filled out the petition and attached all other required documentation you should file

it through the Office of County Counsel, Room 318, Columbia County Courthouse, St. Helens, OR 97051.

First, complete the caption of the petition by filling in the name of the road, subdivision, trail or other information which identifies the property to be vacated. For instance: "In the Matter of the Vacation of A Portion of Pettigrow Road Near Deer Island, Columbia County, Oregon".

1. Description of Property Proposed for Vacation:

- a. General Description: Describe, in layman's language, what you want vacated. If it is a public road, trail or public easement you wish to have vacated, also include the name of the public road, trail or public easement and its beginning and ending points. I.e., "the southern-most end of Pettigrow Road lying between Tax Lots 4303-024-00900 and 4303-024-01000"; or "all of the platted, unused public right-of-way known as Pettigrow Road in the Green Meadow subdivision".
- b. Legal Description: Provide the legal description of the land **for which vacation is requested**. This may require the assistance of a surveyor. If the legal description will be attached on a separate document, please respond "See Exhibit A attached hereto", mark the document containing the legal description "Exhibit A", and firmly attach it to the petition.

2. Description of Your Property Interest:

- a. Type of Interest: Describe the type of property interest **you** have. I.e., "Owners of Tax Lot 4303-024-00900 which abuts the property proposed for vacation". (Generally, you must hold title to the property proposed for vacation or be an owner of property abutting that property).
- b. Legal Description: Give a legal description of the property you own or in which you have a property interest. Also state the lot, block and subdivision or township, range, section and **tax lot number**.

3. Creation of Public Interest.

Attach copies of deeds, plats, orders or other documentation generally recorded with the County Clerk which shows the creation of the public interest in the property or right-of-way proposed for vacation, and documentation, if different, showing present ownership of the parcel.

4. Statement of Reasons for Vacation:

State why you want to have the subdivision, part of a subdivision, public road, trail, public easement, public square, undesignated right-of-way or other public property or public interest in property vacated.

5. Names/Addresses of All Persons Holding Any Recorded Interest in the Property Proposed to Be Vacated.

6. Names/Addresses of All Persons Owning Any Improvements Constructed on Property Proposed to Be Vacated.

7. Names/Addresses of All Persons Owning Any Real Property Abutting Property Proposed to Be Vacated.

The names and addresses called for in Paragraphs 5 through 7 may be listed on separate attachments if necessary. The lists required by these paragraphs must be verified by attaching a copy of the "tax statement" from the Assessor's records, title report, deeds, or the equivalent as exhibits to the petition.

8. Signatures:

You must obtain the written consent of any abutting property owners. You have, hopefully, received a

"consent form" with this packet of information which may be photocopied and used to obtain the required signatures. The signatures must be acknowledged in front of a notary or other person authorized to take acknowledgments of deeds. If you are an abutting property owner, you may sign a signature sheet and count your interest toward the required sixty (60) percent. **When property is held by more than one person, such as by husband and wife, the signatures of all owners must be obtained to be applied toward the sixty (60) percent requirement.**

9. Plan:

In most cases involving a partitioning, and in all cases involving a subdivision, the approval of the Planning Commission must be received before the land is partitioned or subdivided. The vacation does not grant approval of the proposed partitioning or subdivision. However, a map or plan for the proposed partitioning or subdivision is required with the petition.

10. Map:

You must attach a map on which the subdivision or part of a subdivision, public road, trail, public easement, public square, or other public property or public interest in property is clearly marked. The map must also show adjoining property ownerships. Title companies can generally supply a map that will satisfy this requirement. Maps can also be purchased from the County Assessor's Office.

11. Flagging Corners:

You must place stakes with recognizable flags outlining the boundaries of the area to be vacated. The purpose of these flags is to assist County Road Department officials in locating and viewing the area to assist in review of the petition. You must place these flags with reliable accuracy.

12. Non-refundable Fee:

A non-refundable fee of \$1,000 is required when you file your petition for vacation. This fee only partially covers County Staff time spent in investigating and completing the vacation procedure and, in addition, covers the various fees charged by the County Clerk and County Surveyor for their work required in this procedure.

In extremely complicated or complex vacation proceedings, or in cases where a hearing is required, the Board of County Commissioners may require that additional fees be paid. The petitioner(s) will be notified of any such determination and given the option of proceeding and paying the additional fee, or withdrawing the request. County Staff will not proceed to finalize vacation proceedings until the additional fee has been paid.

[If you feel unique circumstances may warrant a partial refund of this fee, a request on the approved form must be submitted. See Board of County Commissioners' Order No. 55-2001].

13. Signature and Verification:

Sign and date the petition. The statements made in the petition must be verified in front of a notary. (If you wish to have your property counted toward the sixty [60] percent requirement, you must also sign a consent form and have your signature acknowledged before a notary or other person authorized to take acknowledgments of deeds.) Upon having completely filled out the petition, file it with Columbia County by mailing or dropping off the original petition, with all attachments, at the Office of County Counsel, Room 318 Courthouse, St. Helens, OR 97051.

The County Counsel's Office cannot give you legal advice on this petition.





3. Creation of Public Interest.

See Exhibit \_\_\_\_, attached. [Attach copies of deeds, plats, orders or other documentation showing creation of public interest in the property or right-of-way proposed for vacation and present ownership of the parcel].

4. Statement of reasons for vacation [attach additional sheets if necessary].

5. Names and addresses of all persons holding any recorded interest in the property proposed to be vacated [attach additional sheets if necessary].

6. Names and address of all persons owning any improvements constructed on property proposed to be vacated [attach additional sheets if necessary].

7. Names and addresses of all persons owning any real property abutting the property proposed to be vacated [attach additional sheets if necessary].

8. The signature(s), acknowledged before a notary or other person authorized to take acknowledgments of deeds, of at least a) the owners of sixty (60) percent of the land abutting the property proposed to be vacated, or b) sixty (60) percent of the owners of land abutting the property proposed to be vacated, are attached (attach consent forms).

[Note: without the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, a hearing will be required].

9. If the petition is for the vacation of property that will be redivided in any manner, a subdivision plan or partitioning plan showing the proposed redivision is attached.

10. A true and accurate map of the proposed vacation is attached as Exhibit \_\_\_\_.

11. I verify that I have flagged all corners of the area proposed to be vacated and that the flags are reliably and accurately located and are easily visible.

12. The non-refundable vacation fee of \$1,000 is tendered with this petition.

13. Signature and Verification(s):

STATE OF OREGON       )  
  ) ss.  
County of Columbia    )

I/We \_\_\_\_\_, am/are the petitioner(s) herein and hereby swear, under penalties of perjury, that the statements made in this petition, and the attachments hereto, are true to the best of my/our knowledge.

\_\_\_\_\_  
(Petitioner's Name) (Date)

\_\_\_\_\_  
(Co-Petitioner's Name [if any])

\_\_\_\_\_  
(Co-Petitioner's Name [if any])

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires:

**CONSENT OF ABUTTING PROPERTY OWNER(S)**  
 (Each co-owner of abutting property must sign)

1. Name(s) of abutting property owner(s): \_\_\_\_\_  
 \_\_\_\_\_
2. Mailing address of abutting property owner(s): \_\_\_\_\_  
 \_\_\_\_\_
3. Legal description of abutting [YOUR] property (attach additional sheets if necessary; your deed or title report can be attached in lieu of writing legal description): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Tax Account No.** \_\_\_\_\_

4. Legal description of property proposed for vacation (attach additional sheets if necessary): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

5. I/We am/are the owner(s) of the above-described property abutting the property proposed to be vacated and consent to the proposed vacation.

\_\_\_\_\_  
 (Property Owner's Signature)                      Date

\_\_\_\_\_  
 (Co-Property Owner's Signature [if any])                      Date

STATE OF OREGON            )  
                                       ) ss.  
 County of Columbia        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public for Oregon  
 My Commission Expires: