

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 In the Matter of:)
4) **ORDER # 9-98-309**
5 **VACATION OF A PORTION OF WALDPOR-**)
6 **YAHUTES COUNTY ROAD 804 (SOUTH)**) **V-109**
7

8 WHEREAS, a petition was filed by various property owners for vacation of a portion of County
9 Road 804, lying wholly within the city limits of the City of Yachats. For convenience, the area has been
10 referred to as "South 804" for purposes of the vacation proceeding. The area proposed to be vacated is
11 generally situated between the north line of the Ocean Crest subdivision and the right-of-way of First
12 Street in Yachats, and is more particularly described in Attachment 1 to Exhibit "A"; and

13 WHEREAS, pursuant to ORS Chapter 368, the Public Works Director (County Road Official)
14 prepared and filed a report regarding the proposed vacation on December 5, 1997, finding that vacation
15 is in the public interest and recommending that the request be approved; and

16 WHEREAS, in accordance with ORS 368.346, a public hearing was held on February 11, 1998,
17 after legal notice. Interested parties were allowed an opportunity to be heard. Notice of the hearing was
18 mailed to some 450 interested parties and petitioners. The hearing was held in the Yachats City
19 Commons Room and lasted approximately 7½ hours. Forty-five individuals testified, and 379 exhibits
20 were entered into the record before and during the hearing. The hearing was continued to March 4,
21 1998, and continued again to March 13, 1998, for submission of additional evidentiary materials and
22 responses. An additional 39 exhibits were added to the record, for a total of 418 exhibits. The hearing
23 was continued to May 4, 1998; a briefing schedule was established, and six post-hearing briefs were
24 received (two in support, two in opposition, and two replies in support). On May 4, 1998, the Board

1 closed the evidentiary record and continued deliberations to May 20, 1998. At the May 20, 1998,
2 continued hearing, the Board issued its preliminary decision by unanimously voting to vacate some, but
3 not all, of the requested areas of South 804 as described in the petition, after articulating their reasons for
4 support of the request. The areas not to be vacated generally coincide with existing public rights-of-way
5 that are oceanward or bayward of the existing rights-of-way. The Board directed petitioners and staff to
6 prepare findings in support of its decision. The Board also directed staff to work with the City of
7 Yachats and interested parties to improve public beach and trail access in this area, in conjunction with
8 the City's Village Circulation Plan; and

9 WHEREAS, the hearing was continued to July 1, 1998, and thereafter continued to July 15,
10 1998; July 29, 1998; August 5, 1998; August 19, 1998; and August 26, 1998. At the August 26, 1998,
11 continued hearing, the Board unanimously supported the findings as presented by staff and announced
12 the findings would be considered by the Yachats City Council on September 10, 1998, in accordance
13 with ORS 368.361(3). A true copy of the findings are attached to and made a part of this order as
14 Exhibit "A." The Board then continued its hearing to September 16, 1998; and

15 WHEREAS, the Yachats City Council, after mailed notice to over 450 persons, held a hearing
16 on September 10, 1998, to consider arguments, on the record established by the county, whether the
17 Council should concur with the findings of the county in support of the vacation request. At that
18 hearing, oral and written arguments were received. The Council, after consideration of the record and
19 arguments, unanimously voted to concur with the county's findings. A true copy of the resolution
20 evidencing that concurrence is attached to this order as Exhibit "B"; and

1 WHEREAS, on September 16, 1998, the Board, with the concurrence of the Yachats City
2 Council in the findings supporting the vacation, unanimously desired to proceed with conclusion of this
3 matter.

4

5 **NOW, THEREFORE, THE BOARD HEREBY FINDS AND ORDERS AS FOLLOWS:**

6 1. That the vacation of a portion of County Road 804 (South), File No. V-109, is in the
7 interest of the public.

8 2. That, in support of its decision, the Board adopts the findings contained in Exhibit “A”
9 attached hereto and incorporated herein.

10 3. That the right-of-way described in Attachment 4 to Exhibit “A” is hereby vacated.

11 4. That in accordance with ORS 368.361(3), the Yachats City Council concurred with the
12 findings of the county in support of the vacation and unanimously adopted Resolution 325, a copy of
13 which is attached hereto as Exhibit “B” and incorporated herein.

14 5. That the ownership of the vacated area shall vest in accordance with ORS 368.366. Lincoln
15 County does not warrant or guarantee title to the property so vacated. Abutting property owners and
16 other interested parties shall be responsible for all costs associated with seeking appropriate legal
17 confirmation of status of title and purchase of any title insurance coverage in the vacated portions of the
18 roads.

19 6. That vacation of this property does not authorize any use or development contrary to
20 applicable planning, zoning, or building laws or regulations of the city, county, state or other regulatory
21 agencies.

22 7. That no additional costs shall be assessed for the vacation.

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