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IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Initiating the Process)
Under ORS 373.270 and 373.260 to Transfer)
to the City of Dundee Jurisdiction Over Parks)
Drive and Portions of Fulquartz Landing Road,)
Niederberger Road, and Ninth Street, and)
Scheduling a Public Hearing for May 29, 2014)

BOARD ORDER 14- 224

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of County business in formal session on April 24, 2014, Commissioners Mary P. Stern, Allen Springer and Kathy George being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On June 12, 2013, the City of Dundee, through its City Engineer, indicated its interest in pursuing the transfer of jurisdiction over the following County roads or segments of roads located within the County and or partially within the City of Dundee:

- (1) Parks Drive, from Highway 99W to Fulquartz Landing Road;
- (2) Fulquartz Landing Road, from the south right-of-way line of Parks Drive south 900 feet;
- (3) Niederberger Road, from Highway 99W to the west right-of-way line of Charles Street; and
- (4) Ninth Street, from the west right-of-way line of Red Hills Drive to Alder Street. (Note: It is proposed that this described segment be revised to read: “Ninth Street, from Alder Street to the point where the west line of Red Hills Subdivision #1 intersects with the right-of-way of Ninth Street,” because that is the point where the city limit leaves the centerline of 9th Street and turns 90 degrees to the north.)

B. A hearing was scheduled and noticed for a hearing on this request, which was held on April 17, 2014. No one appeared at the hearing or otherwise submitted testimony in opposition to the transfer of jurisdiction. One property owner, along Ninth Street and not within the City of Dundee, noted that the County and City may have incorrectly identified the city limits as it related to 9th Street, just east of its intersection with Red Hills Drive. Subsequent review established that the city limits of the City of Dundee is the centerline of all of the roads and road segments for which the original transfer of jurisdiction was sought. For that reason, and because the original posted and published notices were in error in describing the road segments as all being within the City of Dundee, the County is providing new, corrected notice, and has rescheduled the hearing on this matter to May 29, 2014; and

C. The County and City have tentatively agreed that the County will compensate the City for

the transfer of jurisdiction of the above referenced roads and road segments by passing through to the City any funds the County receives from the Oregon Department of Transportation (ODOT) for use of these County roadway facilities as part of ODOT's Newberg Dundee Bypass project. The County will potentially receive funds for the use of County roadway facilities in the Newberg and Dundee areas. The funds potentially paid to the City for this transfer are only those associated with the County roadway facilities within the City of Dundee. The County has no obligation to pay if funds are not forthcoming from ODOT.

D. ORS 373.270 provides as follows:

“373.270 Transferring jurisdiction over county roads within cities. (1) Jurisdiction over a county road within a city may be transferred under this section whenever:

(a) The county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and

(b) The governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city.

(2) To initiate a proceeding for the transfer of jurisdiction under this section, the county governing body, upon its own motion or upon the request of the city by its governing body, shall give notice by:

(a) Posting in three public places in the county, one of which shall be within the limits of the city; or

(b) Publishing the notice once a week for four successive weeks in some newspaper of general circulation in the county.

(3) Notice under this section shall give the time and place of hearing and a succinct statement of the proposed action requested and describing the road or portion thereof proposed to be surrendered by the county to the city with convenient certainty.

(4) At the time and place mentioned in the notice under this section or at such adjournment as it may fix, the county governing body shall hear the matter, consider any objections or testimony offered by any person interested and determine whether it is necessary, expedient or for the best interests of the county to surrender jurisdiction over the county road or portion thereof to the city.

(5) If a county governing body determines to surrender jurisdiction under this section and initiates action under this section:

(a) The county governing body shall make an order to that effect and offer to the city to surrender jurisdiction over the county road or portion thereof, and may limit the time for the acceptance of the offer; and

(b) The city by appropriate municipal legislation may within the time specified accept the county order and offer to surrender jurisdiction under this section.

(6) If a city governing body determines to initiate action under this section for the surrender of jurisdiction by a county over a county road:

(a) The city governing body may initiate the action by passage of appropriate municipal legislation that requests surrender and that may set any time or other limitations upon acceptance by the city of the surrender; and

(b) The county governing body may surrender jurisdiction of the county road without further action by the city if the county governing body adopts an order surrendering the county road that meets the limitations established by the city in its legislation.

(7) When a city adopts appropriate municipal legislation accepting a county governing body's order under subsection (5) of this section or when a county governing body adopts an order meeting city legislation under subsection (6) of this section:

(a) The jurisdiction of the county over the county road or portion thereof as a county road, or for its improvement, construction or repair shall cease;

(b) The full and absolute jurisdiction over the road for all purposes of repair, construction, improvement and the levying and collection of assessments therefor shall vest in the city; and

(c) The city shall have the same jurisdiction over the road or portion thereof as by its charter and the laws of the state are given or granted it over any of the public streets and alleys of such city.

(8) This section is applicable to all county roads, whether acquired by the county or the public by condemnation, defective condemnation and user, user or prescription or in any manner provided by law or in which the easement for road purposes is in the public."

E. ORS 373.260 states:

"373.260 Agreements between counties and cities as to the acquisition of rights of way and road improvement. (1) The county court or the board of county commissioners of any county and the authorities of any city within the county may enter into an agreement for the construction, improvement or repair of,

and the acquisition of right of way for:

- (a) Any county road or city street within the corporate limits of the city.
 - (b) Any road without such city, if it has a population of less than 100,000, but leading directly to it.
- (2) In the agreements the parties shall agree upon the proportion which each shall contribute toward such acquisition, construction, improvement or repair and upon the method and kind of acquisition, construction, improvement or repair to be made.”

F. The City of Dundee has a population of less than 100,000. All of the roads in question lead directly to the City of Dundee and are located partially within the City of Dundee. Once the transfer of jurisdiction over these roads is complete, the City of Dundee will assume full authority over these roads, and full responsibility for their improvement and repair. As stated above, the County will pass through to the City any funds the County receives related to impacts from bypass construction, for use by the City, in its discretion, for improvement and/or repair of the roads and road segments over which jurisdiction is proposed to be transferred.

G. In accordance with the City’s request, it is appropriate to schedule a public hearing for 10:00 a.m. on Thursday, May 29, 2014, in Room 32 of the Yamhill County Courthouse, to consider the transfer of jurisdiction over the portions of County roads identified in Finding A, above. If, following the public hearing, the Board determines to proceed with the transfer, it will make a formal offer to transfer jurisdiction under ORS 373.270(5). A transfer will then be effective upon the City’s adoption of appropriate municipal legislation accepting the Board’s offer, and the County and City will enter into an intergovernmental agreement as required by ORS 373.260 for those segments of road over which jurisdiction is being transferred that are not within the City Limits of the City of Dundee, but which are roads transected by the Dundee city limits.
NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The Board hereby authorizes the initiation of a formal process under ORS 373.270 and ORS 373.260 to transfer to the City of Dundee, jurisdiction over the portions of County roads located within the City of Dundee identified in Finding A, above.

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2. A public hearing on the transfer described in numbered paragraph (1) is set for 10:00 a.m. on Thursday, May 29, 2014, in Room 32 of the Yamhill County Courthouse. County counsel is directed to give notice of the hearing in the manner described in ORS 373.270(2) and (3).

DONE at McMinnville, Oregon on April 24, 2014.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

Chair

MARY P. STERN

By: Anne Britt
Deputy ANNE BRITT



Commissioner

ALLEN SPRINGER

FORM APPROVED BY:

TIMOTHY S. SADLO
Senior Assistant County Counsel

Commissioner

KATHY GEORGE

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