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AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action - OFF DOCKET

Agenda Title: Policy On Signs In County Right of Way

To be Presented by: John Rosenberger, Director of Land Use and Transportation

SUMMARY: (Attach Supporting Documents if Necessary)

Last Tuesday, your Board adopted a motion authorizing the Department to summarily pick-up and destroy signs placed illegally in the right-of-way as provided by ORS 368.942. The attached Resolution and Order memorializes that direction. It includes general findings based on the experience of the Department and the your discussion. It also amends Resolution and Order No. 77-76 to reflect this policy. Summary removal and disposal is authorized only on County roads in the unincorporated area. An amendment to the County Road Standards ordinance would be required to extend this policy to county roads inside cities.

DEPARTMENT'S REQUESTED ACTION:

1. Adopt the attached resolution and order.
2. Direct County Counsel to draft an ordinance if you wish to extend the policy to county roads inside cities.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

RO 98-197

Agenda Item No.
Date: 10/13/98

1 IN THE BOARD OF COMMISSIONERS
2 FOR WASHINGTON COUNTY, OREGON

3
4 In the Matter of Amending Resolution and)
5 Order No. 77-76 to Authorize Summary) RESOLUTION AND ORDER
6 Collection and Disposal of Signs Unlawfully)
7 Placed In County County Right-of-Way.) No. 98-197

8 This matter having come before the Board at its meeting of October 13, 1998; and

9 It appearing to the Board that ORS 368.942 to ORS 368.950 prohibit the placement of
10 signs in County right-of-way, with certain exceptions, and permit the County to summarily
11 remove and destroy said signs; and

12 It appearing to the Board that Community Development Code Section 414-5.2 and
13 Resolution and Order No. 77-76 prohibit placement of signs on dedicated County right-of-way,
14 and

15 It appearing to the Board that:

- 16 1. Said regulations were adopted to, among other things: address the problem of
17 aesthetic clutter generally in the community; promote safety by minimizing the distractions faced
18 by drivers; avoid confusion with traffic control signals and safety signs; and protect abutting
19 landowners from clutter and obstructions;
- 20 2. The number of unlawful signs and complaints relating to signs continues to
21 increase;
- 22 3. Prior efforts to collect signs, hold them and return them to claimants is time-
consuming, expensive and ineffective. The short-term nature of signs makes it difficult to

1 effectively provide notice prior to removal. The portable nature of signs often results in returned
2 signs promptly being again illegally placed. Persons placing signs use public right-of-way to
3 avoid having to obtain the permission of the abutting property owner. This is unfair to those who
4 object to the clutter or to the fact that he or she becomes associated with the message of the sign;
5 and

6 4. The County has neither the budgetary or employee resources (including space) to
7 catalog, store, maintain and retrieve said signs for claimants; now, therefore, it is

8 RESOLVED AND ORDERED that signs placed in the right-of-way without a permit or
9 not otherwise authorized by law hereby are declared a public nuisance; and, it is further

10 RESOLVED AND ORDERED that Resolution and Order No. 77-76 hereby is amended
11 as set forth in Exhibit 'A' hereto.

12 DATED this 13th day of October, 1998.

13 BOARD OF COUNTY COMMISSIONERS
14 FOR WASHINGTON COUNTY, OREGON

	AYE	NAY	ABSENT
15 PETERS			<input checked="" type="checkbox"/>
16 CHRISTY	<input checked="" type="checkbox"/>		
17 KATSION	<input checked="" type="checkbox"/>		
DUYCK	<input checked="" type="checkbox"/>		
18 ROGERS	<input checked="" type="checkbox"/>		

15 *Kathy Christy*
16 CHAIR

17 *Barbara Heitmanek*
18 RECORDING SECRETARY

EXHIBIT 'A'
TO RESOLUTION AND ORDER No. 98-197

1. Paragraph 7 of Resolution and Order No. 77-76 is amended as follows:
 - A. Signs, without regard to content, except those expressly permitted by law or authorized by the road authority. Examples of prohibited signs include real estate, garage sale, campaign and vendor signs.
2. Paragraph 10 is added to Resolution and Order No. 77-76 as follows:

10. Removal of Unauthorized Signs

The Director is authorized to summarily remove and destroy signs unlawfully placed in the right-of-way of County roads outside of incorporated cities.

All persons are on constructive notice of this policy and subject to its terms. The Director, however, shall provide written notice of the sign prohibition and removal policy at least annually in such manner as he deems appropriate. Examples of potential notification methods include use of the media, contacting large sign users, providing information to the Elections Division to distribute to campaigns.

Removal of signs shall occur without regard to content. Signs shall not be removed if the abutting property owner has notified the Department that he objects to removal and wishes to move the sign onto his or her private property.

The Director may elect not to destroy signs until the owner is notified or a time for retrieval has passed if he deems appropriate due to the expense of the sign or other factors. The content of the sign shall not be a consideration. In such event, the Director may charge a fee for retrieval based on a reasonable estimate of the cost of pick-up, storage and removal, but not to exceed \$50.00 per sign.

WASHINGTON COUNTY

Inter-Department Correspondence

Date 03/12/85

To : Richard A. Daniels, Director, LUT
Michael A. Borreson, Operations Manager, LUT

From : Alan S. Bachman
Chief Assistant County Counsel

Subject : TRAFFIC CONTROL ON DEDICATED PUBLIC ROADS

CO. CO. OP. NO. 85-8

You have requested legal advice from our office regarding the following:

FIRST QUESTION PRESENTED:

Whether Washington County may remove unwarranted or non-standard signs on dedicated public roads (local access roads) that are not "County Roads"?

BRIEF ANSWER:

Yes.

DISCUSSION:

ORS 374.305 through 374.330 allows the County for "County Roads" to require permits to build or construct any "facility, thing or appurtenance".

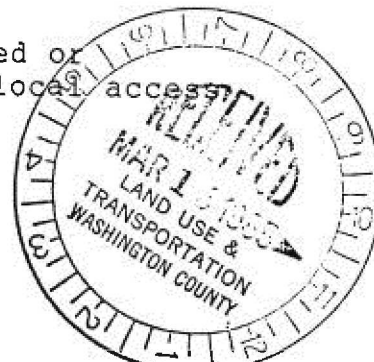
This would include the placement of signs.

Washington County Resolution and Order No. 77-76 implements said statutes by creating a County permit process.

Section 6.C. of Resolution and Order No. 77-76 allows signs in the right-of-way without the requirement of a permit under the following circumstances:

Signs and supports for traffic control devices will be allowed when installed by (sic) public agency in accordance with the 'Manual on Uniform Traffic Control Devices' and other conditions deemed necessary by the Department of Public Works."

Violations of Resolution and Order No. 77-76 can be enforced by the abatement procedures set forth in Section 8 and 9 therein.



Resolution and Order No. 78-29, using the reasoning that ORS Chapter 368 give the County jurisdiction over public roads similarly to County roads, makes such public roads subject to Resolution and Order No. 77-76. (Note: R&O 77-76 and 78-29 need to be updated, especially because certain referenced state statutes are repealed, amended or replaced.)

Therefore, R&O No. 77-76 as amended by R&O No. 78-29 provides a process for abating non-complaint signs on dedicated public roads.

SECOND QUESTION PRESENTED:

Whether Washington County may investigate traffic problems and install traffic signs on dedicated public roads.

BRIEF ANSWER:

Yes, under certain circumstances.

DISCUSSION:

ORS 487.855 authorizes the County to place and maintain traffic control devices on roads within its jurisdiction. There are some minor exceptions to this (See ORS 487.855 attached).

ORS 368.031(2) states that local access roads are within the County's jurisdiction except that the County can spend "county moneys" on local access roads only if the Board determines it is an emergency or if:

- (a) The county road official recommends the expenditure;
- (b) The public use of the road justifies the expenditure proposed; and
- (c) The county governing body enacts an order or resolution authorizing the work and designating the work to be either a single project or a continuing program.

It is not entirely clear whether spending money on signs is actually spending money on roads for purposes of ORS 368.031. However, the least risky approach for the County is to assume that ORS 368.031 applies to signs.

With the application of ORS 368.031 to signs on local access roads, the following funding limitations apply:

1. County funds can be used if there is an emergency or special Board order. See ORS 368.031(2).
2. Local Improvement District funding is permissible.
3. A fee can be charged to the applicant for the sign.

If you have any further questions regarding the above or need clarification, please so advise.

Sincerely,



Alan S. Bachman
Chief Assistant County Counsel

ASB:k
Attachments