



SUMMARY REPORT

Agenda Date: 9/27/2022

To: Board of Supervisors

Department or Agency Name(s): Transportation and Public Works

Staff Name and Phone Number: Johannes J. Hoevertsz, 707-565-2231

Vote Requirement: Majority

Supervisorial District(s): Fourth

Title:

Private Gate Across West Soda Rock Lane

Recommended Action:

Adopt a resolution revoking authorization of a private gate across West Soda Rock Lane and ordering its removal within 60 days. (Fourth District)

Executive Summary:

West Soda Rock Lane is a County Road (Road ID 99039) running parallel to the Russian River and located just east of the town of Healdsburg and south of the community of Geyserville. On August 25, 1987, the Board of Supervisors ("Board") adopted Resolution No. 87-1634 vacating the southern portion of West Soda Rock Lane.

On August 8, 1989, the Board adopted Resolution No. 89-1468 rescinding Resolution No. 87-1634 due to noticing defects in the 1987 vacation process. Resolution 89-1468 restored the vacated portion of the road as a County Road but left in place a security gate that had been installed after passage of the 1987 Resolution. Since 1989, the security gate has restricted access to the previously vacated portion of the road to all but a small group of property owners residing beyond the gate. However, due to disputes among current property owners as well as a review of current State Vehicle Code and existing case law, the Department of Transportation and Public Works (TPW) and County Counsel recommend the Board adopt a resolution revoking authorization of the gate and ordering its removal within 60 days to restore public access to the restricted portion of this County Road.

Discussion:

West Soda Rock Lane (County Road ID 99039) is a public road in the County Road System running parallel to the Russian River and located just east of the town of Healdsburg and south of the community of Geyserville. On August 25, 1987, at the petition of an abutting property owner, the Board of Supervisors adopted Resolution No. 87-1634, vacating a portion of West Soda Rock Lane. Following the vacation, the abutting property owner installed a gate across the road at a location that was understood to be the end of the public road based on the vacation proceedings. On August 8, 1989, upon petition of another abutting property owner and tribal members, the Board, by Resolution No. 89-1468, rescinded Resolution No. 87-1634, citing notice defects in the vacation process, thereby restoring the vacated portion of West Soda Rock Lane as a County Road.

Resolution No. 89-1468 authorizes the private gate that had been previously installed to remain in place subject to certain conditions. The gate, which still exists today, is locked with a key-code entry system, and allows access only for the property owners residing beyond the gate and other authorized parties. TPW has not maintained the gated portion of the road since the gate was erected in 1987. The gate, and its impact on road maintenance, has led to disagreements amongst the property owners residing beyond the gate. In an effort to assist with resolution of these disputes, County Counsel and TPW staff have facilitated (and participated in) mediation efforts with the property owners over the past fifteen years; however, no permanent resolution has been reached.

In addition, the existence of the gate - and specifically its effect of partially closing a county road - conflicts with Vehicle Code Section 21101.6 (and case law), which provides: *"Notwithstanding Section 21101, local authorities may not place gates or other selective devices on any street which deny or restrict the access of certain members of the public to the street, while permitting others unrestricted access to the street. This section is not intended to make a change in the existing law, but is intended to codify the decision of the Court of Appeal in City of Lafayette v. County of Contra Costa (91 Cal. App. 3d 749). This section shall become operative on January 1, 1990."* See also *Citizens Against Gated Enclaves v. Whitley Heights Civic Assn.*, 23 Cal. App. 4th 812 (1994).

The Board authorized the gate pursuant to its permissive powers under California Streets and Highways Code Section 966. Under Section 966, the Board also has the power to revoke its authorization.

County Counsel and TPW recommend that the Board revoke authorization of the gate and order removal of the gate by its owner within 60 days of the effective date of the resolution. The resolution also authorizes enforcement action, including through the unauthorized encroachment process, should timely removal not occur. Adopting the resolution will restore public access to the restricted portion of West Soda Rock Lane and allow TPW to schedule the road for maintenance, as staffing, budgetary constraints, and other road maintenance obligations may allow.

Strategic Plan:

N/A

Prior Board Actions:

08/08/1989 - Resolution 89-1468

08/25/1987 - Resolution 87-1634

FISCAL SUMMARY**Narrative Explanation of Fiscal Impacts:**

There are no direct fiscal impacts as a result of this Board Item.

Narrative Explanation of Staffing Impacts (If Required):

None

Attachments:

Resolution

Agenda Date: 9/27/2022

Related Items “On File” with the Clerk of the Board:

Resolution No. 87-1634

Resolution No. 89-1468