



COUNTY OF HUMBOLDT


AGENDA ITEM NO.

51

For the meeting of: April 17, 2018

Date: April 9, 2018

To: Board of Supervisors

From:  Thomas K. Mattson, Public Works Director


SUBJECT: Proposed Vacation of a Portion of Mad River Road (County Road No. 4L680) Within Mad River County Park, and Nighttime Closure of Mad River County Park to Vehicles.

RECOMMENDATIONS:

That the Board of Supervisors:

1. Receive the staff report.
2. Open the public hearing regarding the proposed vacation of a portion of Mad River Road within Mad River County Park.
3. Receive testimony from the public.
4. Close the public hearing.
5. Adopt and authorize the Chairperson of the Board of Supervisors to execute the attached resolution to vacate a portion of Mad River Road within Mad River County Park, while reserving an easement for vehicular and non-vehicular trails for use by the public. (Attachment 1)

Prepared by Hank Seemann, Deputy Director
Deb Vining, Sr. Real Property Agent

CAO Approval 

REVIEW:

Auditor _____ County Counsel  Human Resources _____ Other _____

TYPE OF ITEM:

☐ Consent
☐ Departmental
☒ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-21, C-14

Meeting of: 03/01/2016, 3/27/2018

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor _____ Seconded by Supervisor _____

Ayes _____
Nays _____
Abstain _____
Absent _____

SEE ACTION SUMMARY

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: _____

By: _____

Kathy Hayes, Clerk of the Board

6. Adopt and authorize the Chairperson of the Board of Supervisors to execute the attached resolution rescinding Resolution No. 16-28 and adopting regulations of the Public Works Department specifying the hours that vehicles are allowed in Mad River County Park. (Attachment 2)
7. Approve and authorize the Chairperson of the Board of Supervisors to execute, in the presence of a Notary Public, easement deeds granting ingress, egress, and public utilities across County-owned property to Paul Giuntoli, owner of APN 506-341-013, and to Fred and Sandra Hanks, owners of APN 506-341-014. (Attachment 3)
8. Direct the Clerk of the Board to record, via the Land Use Division, in the Office of the County Recorder the two original easement deeds and a certified copy of each of the resolutions in that order.

SOURCE OF FUNDING:

Measure Z; General Fund – Parks & Recreation (713)

DISCUSSION:

This agenda item addresses the proposed vacation of a portion of Mad River Road to enable the creation of a formal entrance for Mad River County Park, and the proposed closure of the park to vehicles from one hour after sunset until sunrise, while accommodating exceptions for commercial fishermen, persons with disabilities, and senior citizens. The purpose of these actions is to curtail inappropriate conduct which has impacted neighbors, County Parks staff, coastal resources, and the recreating public.

Mad River County Park is owned in fee by the County of Humboldt by a deed recorded on December 18, 1968, in Volume 985, page 431, of Official Records, in the Office of the Humboldt County Recorder. A portion of Mad River Road (County Road No. 4L680), which is included in the Humboldt County Maintained Road System, runs through and eventually dead-ends in Mad River County Park, Assessor Parcel Number (APN) 506-341-015. Maps of the area are attached. (Attachment 5) It is not necessary for the portion of Mad River Road that is within Mad River County Park to be part of the Humboldt County Maintained Road System in order to provide public access to the park and beach. Maintenance of that portion of Mad River Road within Mad River County Park, and maintenance of any vehicular or non-vehicular trails to be used by the public in, upon, over, and across that portion of Mad River Road, can be funded by the Humboldt County Parks budget instead of the Humboldt County Maintained Road System budget.

The California Streets and Highways Code sets forth procedures for the general and summary vacation of streets and highways as defined in Streets and Highways Code section 8308. Streets and Highways Code section 8340(d) provides that a public entity may reserve and except from the vacation, or may grant to another state or local public agency, an easement and right, at any time or from time to time, to construct, maintain, operate, replace, remove, and renew vehicular or non-vehicular trails for use by the public in, upon, over, and across a street or highway proposed to be vacated. The Department of Public Works is proposing the vacation of a portion of Mad River Road within Mad River County Park, with the reservation of an easement for such public use, as part of a plan to address ongoing serious problems in Mad River County Park.

Adjacent landowners and residents along Mad River Road brought forward their concerns regarding inappropriate conduct during nighttime hours in 2011. Recurring incidents have included discharging of fireworks, shooting of firearms, excessive drinking, unauthorized camping, uncontrolled dogs, discarding of bottles and other garbage, burning of pallets and garbage, burglary, vandalism, and speeding vehicles. A review of records from the Sheriff's Office conducted in February 2017 identified 418 calls for service in this area from January 2011 through October 2016, with approximately 40% of these incidents occurring during nighttime hours. Based on information from staff and adjacent landowners, the frequency and severity of incidents has continued through the present.

Incidents of discharging fireworks and shooting firearms have caused livestock on adjacent private property to stampede through fences onto the public road at night, creating a safety hazard. Some of the fireworks are equivalent to mortars, causing heavy shaking of the nearby residences. Public Works regularly receives reports of speeding vehicles on the road near the park after 10:00 pm, and sometimes as late as 2:00 or 3:00 am. Adjacent pasture fences and gates have been damaged by reckless driving on multiple occasions, resulting in economic losses to the landowners and requiring significant time to retrieve livestock and make repairs. Adjacent residents have expressed strong concern for their own safety and the safety of motorists and park visitors, as well as disgruntlement and frustration at the regular disturbances which often occur late at night. In addition, the large quantities of trash and dangerous debris in the sand create a safety risk and are time-consuming, expensive, and hazardous to clean up.

Currently the park has no formal entrance and no facilities for access control. This condition inhibits the ability of the Sheriff's Office and County Parks staff to enforce park hours and regulations. Under current regulations, the park is open to the public from 5:00 am to midnight and is situated at the end of a low-traffic rural road, with areas that are secluded and beyond direct observation.

The Public Works Department, Environmental Services Division, has developed a plan to decrease problems of public safety and nuisance at Mad River County Park which includes closing the park to vehicles from one hour after sunset until sunrise and placing gates and associated signage at two locations to enforce this restriction, while accommodating exceptions for commercial fishermen, persons with disabilities, and senior citizens. Restrictions on nighttime vehicle use will provide a deterrent from bringing pallets, guns, fireworks, coolers, garbage, and camping supplies into secluded areas of the park. There would be no change in the hours of non-motorized access to the park.

The proposed restrictions may have a negative impact on visitors who desire to drive into the park at night for appropriate, non-damaging, non-disruptive recreational use. However, Public Works has not been able to identify a feasible alternative that would effectively curtail the ongoing nighttime problems.

On March 1, 2016, the Board approved Resolution 16-28 (Attachment 4) which specified that Mad River County Park would be open to the public for day use only, from sunrise to sunset. This proposal did not go into effect because California Coastal Commission staff indicated they would recommend denial of a coastal development permit. Public Works modified its proposal so that the nighttime restriction applies only to vehicles, and the vehicle closure would take effect one hour after sunset. No change in pedestrian or bicycle access to the park is proposed. The attached resolution rescinds Resolution 16-28 and adopts the new proposed regulations. The attached resolution also directs Public Works to provide special accommodations to allow commercial fishermen, persons with disabilities, and senior citizens to retain vehicular access to beach and dunes areas at the park in accordance with Section 917 of the County Code during nighttime gate closure periods. (Attachment 2)

In order to restrict access to vehicles at night, a locked gate on Mad River Road would need to be constructed. A second locked gate would be constructed outside of the Mad River Road right of way on County park property to restrict nighttime access to the boat ramp area. A turn-around area would be constructed in front of the two gates. A map of the locations for the proposed gates is attached. (Attachment 6) While researching the county property, staff discovered that the public right of way for Mad River Road extends through the county park to serve one undeveloped privately held property (APN 506-341-013) owned by Paul Giuntoli. Installing a lockable gate across a public right of way is not permissible. Therefore, in order to install a lockable gate, a portion of Mad River Road within the County park would need to be vacated. This could be accomplished through a summary vacation if the road did not serve as access for APN 506-341-013, but in this case a general vacation is the correct process. A general vacation requires a public hearing. Pursuant to Streets and Highways Code section 8320, the Board of Supervisors may initiate a general vacation proceeding.

Staff discussed the proposed vacation with Paul Giuntoli and he is agreeable to the vacation if the County provides a non-exclusive access easement that connects APN 506-341-013 to Mad River Road. Staff also discussed the proposed vacation with the owners of an adjoining property (APN 506-341-014), Fred and Sandra Hanks. The proposed vacation will not affect any developed driveways from APN 506-341-014 connecting to Mad River Road. However, the owners have requested that they also be provided with a non-exclusive access easement across that portion of Mad River Road that is proposed to be vacated and is adjacent to APN 506-341-014. (Attachment 3) Both property owners have been notified in writing and have responded with their approval of the proposed vacation in writing. (Attachment 7).

There are no public utilities located within the area proposed for vacation. Notices of the proposed vacation were provided to Pacific Gas and Electric (PG&E), Suddenlink Communications, AT&T, Verizon, City of Arcata Public Works, and Arcata Fire Department. Written responses were received from Suddenlink Communications, AT&T, and Verizon. (Attachment 7)

On March 27, 2018, the Board adopted Resolution No. 18-23 entitled "Resolution of Intention to Vacate a Portion of Mad River Road (County Road No. 41680) Within Mad River County Park, Arcata Area" and set a public hearing date for April 17, 2018, at 9:00 am in the Board Chambers to receive public testimony regarding the proposed vacation. Legal notice of the proposed vacation was given as directed by the previous Board Action. The Resolution of Intention and Notice of Public Hearing were posted along Mad River Road on March 27, 2018. On April 1, 2018, and April 8, 2018, the Times-Standard newspaper published the Resolution of Intention and Notice of Public Hearing. The Resolution of Intention and Notice of Public Hearing were posted conspicuously in the County Courthouse, the Humboldt County Public Works headquarters, and Arcata City Hall. (Attachment 8)

Streets and Highways Code section 8324 requires the Board to hear the evidence offered by persons interested. If the Board finds, from all the evidence submitted, that the described portion of Mad River Road is unnecessary for present or prospective public use, the Board may adopt a resolution of vacation. The evidence supports such a finding in this case. Access to APN 506-341-013 would be provided through a non-exclusive access easement. Mad River Road terminates in Mad River County Park, which is adjacent to the Pacific Ocean. Other than providing access to APN 506-341-013, the only purpose and function of the portion of Mad River Road within Mad River County Park is to provide public access to the park. The proposed vacation reserves an easement for vehicular and non-vehicular trails for use by the public, so the public will continue to have access to the park. Moreover, the proposed vacation is in the public interest in that it will allow the Public Works Department to implement its plan for nighttime closure of the park to vehicular traffic. The purpose of the plan is to facilitate more effective enforcement of regulations, reduce environmental damage to coastal resources, and improve public safety and health in and around Mad River County Park. The Department's plan has been approved by the Humboldt County Planning Commission and the California Coastal Commission. There is no need for public use of Mad River Road beyond that which is provided for in the plan. Overall, the revised plan is less restrictive than what the Board of Supervisors approved two years ago in adopting Resolution 16-28.

The proposed vacation has been reviewed by the Environmental Services Division for compliance with the California Environmental Quality Act, and has been determined to be exempt from further review of environmental impacts. (Attachment 9)

The California Coastal Commission issued a Coastal Development Permit covering the Mad River Park Project on June 8, 2017. (Attachment 10)

The Planning Commission conducted a General Plan Conformance Review on July 13, 2017, pursuant to Government Code section 65402(a). A Notice of Planning Commission Decision, dated July 14, 2017, approved the vacation of a portion of Mad River Road and the installation of gates within the

driveway entrance of the boat ramp parking lot and on Mad River Road west of the entrance to the boat ramp parking lot. (Attachment 11)

The Department requests the Board take the recommended actions.

FINANCIAL IMPACT: The Board approved \$9,200 of Measure Z funds in the FY 2017-18 budget for installation of gates, posts, boulders, and speed humps. The administrative costs to obtain permits and approvals, fabricate signs, and process the road vacation are being absorbed by the FY 2017-18 Parks and Roads division budgets. The Parks budget is based on fee revenue and an allocation from the General Fund. The proposed action will affect the Parks budget by creating a new commitment for Parks staff. Managing the gates on a daily basis and responding to situations when vehicles remain in the park at nighttime will be time-consuming, and this responsibility will divert staff from performing duties at other parks. These new staff time demands may be partially offset by a reduction in the time needed for garbage clean-up and responding to incidents. The proposed action is also expected to reduce the number of call-outs to the Sheriff's Office and California Highway Patrol.

This item conforms to the Board of Supervisors' Core Roles to enforce laws and regulations to protect residents, to provide for and maintain infrastructure, and to create opportunities for improved safety and health.

ALTERNATIVES TO STAFF RECOMMENDATIONS: The Board could choose to take no action and leave the current conditions in effect. Other alternatives such as increased staffing would require additional funds. Changes to the proposed timing for vehicular closure would require approval from the Coastal Commission.

ATTACHMENTS:

1. Resolution to Vacate a portion of Mad River Road
2. Resolution Rescinding Resolution No. 16-28 and Adopting Regulations of the Public Works Department Specifying the Hours that Vehicles are Allowed in Mad River County Park
3. Easement Deeds for ingress, egress and public utilities to adjoining property owners
4. Resolution 16-28 Specifying Open Hours for Mad River County Park
5. Map of the area
6. Map showing gate locations
7. Response Letters from Suddenlink Communications, AT&T, Verizon and the adjoining property owners
8. Notice of Public Hearing and Affidavit of Publishing
9. Notice of Exemption
10. Coastal Development Permit
11. Notice of Planning Commission Decision