



**Sub Group 4 Meeting, Medians  
Access Management Committee  
Transportation Building  
355 Capitol Street NE, Room 125  
Salem, OR 97301  
10:00 – 11:50 AM, September 1, 2010  
FINAL**

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**Working Facilitator:** Del Huntington.

**Participants:** Senator Verger, Mark Whitlow, Bob Russell, Victor Dodier, Chris Doty, Jim Cox, Doug Bish, and Bob Bryant.

***Meeting Purpose***

Review the “straw man” legislative concept as developed by Bob Russell (See Attachment I).

**Discussion**

Bob Russell provided the sub group participants with a brief overview of an earlier meeting that occurred at 9 AM that included himself, Mark Whitlow, Bob Bryant and Del Huntington. The purpose of the 9 AM meeting was to gain a sense from the business community on the overall perspective of potential legislative concepts that may be advanced and to determine if the access management meetings are addressing the issues that were intended. The discussion also included a brief review of a draft work plan that has been developed by ODOT staff and Del in order to identify specific work tasks, task assignments, and a recommended venue for the proposed revisions, i.e., Oregon Revised Statute (ORS), Oregon Administrative Rule (OAR), Oregon Highway Plan (OHP) or Guidelines.

Bob Russell believes that legislation is required in five general areas, including;

1. Statute to remove counties from the unintended consequences of SB 1024 surrounding “change of use”. (Both Bob and Victor agreed that this is well underway and there is consensus from the parties involved).
2. A revision in the statute to include text proposed by Mark Whitlow that would add “to the road or highway” to ORS 374.310(3)(a)&(b) related to the definition of reasonable access.
3. Medians.

4. Establish a minimum threshold of analysis and mitigation requirements to provide certainty for developers when applying for an approach to the highway.
5. Establish safety standards for private approaches and shift the burden of proof as to the safety of a proposed approach to ODOT. Currently, the developer is responsible to prove that an approach is or will be safe, and as the issues are often subjective, it can result in differing opinions between the development project team and the agency.

### **Median Sub Group Discussion**

Senator Verger updated the sub group on the bipartisan Coastal Caucus meeting which was attended by several State Senators and State Representatives. Participants included; Senator Verger, Senator Johnson, Senator Kruse, Representative Boone, Representative Cowan, Representative Krieger, Representative Roblan, and Representative Witt. Doug Tindall, former ODOT Deputy Director, attended the meeting to discuss transportation issues. All of the Senators and Representatives, regardless of party affiliation, unanimously agreed that ODOT must make changes within the state access management program.

Specifically related to Bob Russell's "straw man" proposal, discussion included;

#### Section 1.

- The section should include both urban and rural conditions.
- The need for 28 feet of horizontal clearance.

#### Section 1.1

- As some highways are classified as state freight routes and under the requirements of the existing ORS 366.215, the purpose of the text in this section is to establish a minimum requirement on highways that are not part of the freight route system.

#### Section 1.2

- The specific annual average daily traffic volume has not been identified, but rather serves as a place holder.

#### Section 1.3

- It was proposed that the installation of a non-traversable median through a corridor would be predicated on the identification of the location and use of the median treatment within the locally approved Transportation System Plan (TSP). The planning process should ensure that impacted property owners would be aware of the median at some later date.
- As ODOT authors and distributes the TSP guidelines that identifies what TSPs are intended to include, it was proposed that the agency could include specific text and requirements related to median treatments in the next update of the guidelines.

#### Section 1.4

- After considerable discussion, it was determined that Section 1 of the "straw man" and the inclusion of median treatments in the local TSP were the most appropriate sections to advance to a legislative concept. (Victor developed a draft legislative concept based on the information shared on the various issues and is included as Attachment II).

Senator Verger provided some additional comments before she was required to leave the meeting for another commitment. The Senator is not convinced that there is a need for additional legislation and believes that addressing and adopting the use of non-traversable medians within the local TSP can address the concern. She reminded the sub-group participants that the roadway serves a variety of needs, including cyclists and therefore the issues become more complex.

The Senator asked if the proposed median concept address the concern from private development. Del and Mark responded that this does not necessarily address median islands in the center of the roadway that ODOT may require as a mitigation measure with new development. The mitigation sub-group is evaluating the analysis methodology for private development driveways which may result in less need for median islands as a mitigation measure.

Senator Verger concluded that she is not opposed to a revision to the ORS if required, though she is concerned that statute does not tie ODOT's hands.

#### Section 2

- Victor Dodier distributed a legislative concept that is being advanced by ODOT that proposes to revise the U-turn law within the state (see Attachment III). If the concept becomes law, it would be similar to other states that neighbor Oregon. As a result of the ODOT initiative, there is no need for the median sub-group to develop a separate, similar legislative concept.

#### Section 3

- Doug Bish provided insight that double/double yellow striped medians are used extensively across Oregon on state highways, county roads and city streets. In one court case involving a motorist crossing a double/double yellow solid yellow line, the judge determined that it was legal to cross the median, however the motorist was not allowed to occupy the center median prior to the turn, unlike the ability to turn from a continuous two way left turn lane. ODOT staff is considering potential revisions to the text and possible unintended consequences to counties and cities if current ORS is revised. Doug will report back to the sub group.

#### Section 4

- Bob Russell acknowledged that there is existing ORS regarding the closure of an approach, though proposed that this section would provide the agency with additional support in situations where an approach should be closed. Doug stated that as written, the section would tie crash frequency at the approach to crash frequency at intersections. As crash frequency is almost always much higher at intersections due to higher traffic volumes and the increased number of conflicts, this would not provide an appropriate threshold for private approaches.

- It was also stated that ODOT typically addresses safety concerns through a variety of mitigation measures prior to a closure, which is typically only used as the last resort. The development of guidelines to assist staff in identifying appropriate mitigation measures to improve safety at the approach while not closing the driveway, may be the appropriate venue for this section.

#### Section 5

- Regarding mitigation measures for private approaches, it was acknowledged that this section is being evaluated by the mitigation sub group. However, there was a discussion of the appropriate hour of traffic volumes to apply for traffic analysis. (Currently, developers are required to conduct analysis based on the 30<sup>th</sup> highest hour of traffic volumes in the year). It was explained that the 30<sup>th</sup> highest hour of traffic volume as an analysis period was based on research and recommendations from the Institute of Transportation Engineers many years ago. Following a discussion, it was agreed that Doug and Del will work with ODOT staff to extract traffic count data and develop traffic volume graphs for each hour of traffic volumes of the year for two highways on recreational routes (in rural areas) and two highways within metropolitan areas. This work will be available for the next median sub group meeting.

The meeting adjourned at 11:50 AM.

## ATTACHMENT I

### Draft Legislative Concepts Sub-Group 4 – Medians

**Section I.** The Department shall not install a non-traversable median on a rural state highway that reduces the unobstructed horizontal clearance to less than 28 feet unless the following conditions are met.

1. The highway is not designated as a freight route in accordance with ORS 366.215;
2. The annual average daily traffic count is greater than XXX.
3. The Department has notified businesses located adjacent to the highway one year in advance of construction of the non-traversable median and
4. The Department has evaluated all reasonable alternatives to the non-traversable median and has documented that a non-traversable median is the only alternative that will effectively address a known safety issue on that portion of the highway where the proposed non-traversable median will be installed.

**Section II.** 811.365 Illegal U-turn; penalty. (1) A person commits the offense of making an illegal U-turn if the person is operating a vehicle and the person turns the vehicle so as to proceed in the opposite direction **where prohibited by posting.** *{in any of the following places:*

- (a) *Within an intersection where traffic is controlled by an electrical signal. This paragraph does not apply where posted otherwise.*
- (b) *Upon a highway within the limits of an incorporated city between intersections.*

*{(c)}* (a) At any place upon a highway where the vehicle cannot be seen by another driver approaching from either direction within a distance of;  
(A) 500 feet within the incorporated limits of a city; or  
(B) 1,000 feet outside a city.

(2) The offense described in this section, illegal U-turn is a class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class B traffic violation.

**Section III. 811.430 Driving on highway divider; exceptions, penalty.** (1) A person commits the offense of driving on a highway divider if the person drives a vehicle over, across or within a dividing space, barrier or section that is an intervening space, physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and that divides a highway into two or more roadways. **A dividing space may be designated by double yellow painted lines.**

(2) This section does not apply when the movement of a vehicle that is otherwise prohibited by this section is made:

(a) At an authorized crossover or intersection; or

(b) At the specific direction of a road authority.

(3) The offense described in this section, driving on a highway divider, is a Class B traffic infraction.

**Section IV. Authority to close a private approach.** (1) The Department may close a private approach when the approach has been determined to be a hazard to the travelling public and all potential remedies have proven to be ineffective.

(2) An approach is a hazard when either the frequency or severity of the crashes involving vehicles entering and exiting the approach are greater than the frequency or severity of crashes at all intersections on the same highway and located within one mile of the approach.

**Section V. Mitigation required for a private approach.** The Department shall not require an owner of an existing or proposed private approach to mitigate the impact of traffic generated by the development unless the projected volume to capacity ratio exceeds the 87<sup>th</sup> highest hour in the past year.

## **ATTACHMENT II**

1 This concept would allow ODOT to install a permanent, non-traversable median barrier on a  
2 segment of state highway that reduces the width of the paved surface to less than 28 feet (14 feet  
3 in each direction of travel) when the following conditions are met:

- 4 • The highway is a divided, access controlled highway; or,
- 5 • The highway is located within an urban growth boundary and the application and location  
6 of a non-traversable median is identified in the local adopted Transportation System Plan;  
7 or,
- 8 • The highway is located in an unincorporated area provided that:
  - 9 ○ The highway is not designated by the OTC as a freight route<sup>1</sup>; and,
  - 10 ○ The average annual daily traffic volume on the segment is greater than \_\_\_\_\_  
11 (say, 5,000); and,
  - 12 ○ The department has installed traversable medians at the location; and,
  - 13 ○ The department has determined that traversable medians have failed to reduce the  
14 number and frequency of traffic crashes; and,
  - 15 ○ The department has provided notice to residents and businesses along the affected  
16 highway segment. (The timeframe and form of notice may be more appropriate to  
17 set in administrative rule.)
  - 18 ○
  - 19 ○
  - 20 ○

21 A more general alternative:

22  
23 This concept would allow ODOT to install a permanent, non-traversable median barrier on a  
24 segment of state highway when the following conditions are met:

- 25 • The highway is a divided, access controlled highway; or,
- 26 • The highway is located within an urban growth boundary and the application and location  
27 of a non-traversable median is identified in the local adopted Transportation System Plan;  
28 or,
- 29 • The highway is located in an unincorporated area provided that:
  - 30 ○ The annual average daily traffic volume is greater than \_\_\_\_\_ (say, 5,000); and,
  - 31 ○ The width of the paved surface will exceed 28 feet (14 feet in each direction of  
32 travel) after installation of the barrier; and,
  - 33 ○ The department has installed traversable medians at the location; and,
  - 34 ○ The department has determined that traversable medians have to reduce the  
35 number and frequency of traffic crashes; and,
  - 36 ○ The department has provided notice to residents and businesses along the affected  
37 highway segment. (The timeframe and form of notice may be more appropriate to  
38 set in administrative rule.)
  - 39 ○

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<sup>1</sup> The freight route carve out that we discussed may be redundant and confusing. ORS 366.215 prohibits the OTC from permanently reducing the vehicle carrying capacity of a freight route when altering a state highway unless safety or access considerations require the reduction.

The criterion stated above would prohibit installation of a non-traversable barrier that reduces the width to less than 28 feet on a freight route. The criterion should be removed if the intent is to allow a non-traversable barrier that reduces the width to less than 28 feet to be used to address safety and access issues.



## **ATTACHMENT III**

# D R A F T

## SUMMARY

Modifies offense of making illegal U-turn.

### A BILL FOR AN ACT

Relating to U-turns; creating new provisions; and amending ORS 811.365.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 811.365 is amended to read:

811.365. (1) A person commits the offense of making an illegal U-turn if the person is operating a vehicle and the person turns the vehicle so as to proceed in the opposite direction in any of the following places:

(a) Within an intersection where [*traffic is controlled by an electrical signal. This paragraph does not apply where posted otherwise.*] **a sign prohibits U-turns.**

(b) Upon a highway within the limits of an incorporated city between intersections.

(c) At any place upon a highway where the vehicle cannot be seen by another driver approaching from either direction within a distance of:

(A) 500 feet within the incorporated limits of a city; or

(B) 1,000 feet outside a city.

**(d) In any location where a U-turn cannot be made safely or where a U-turn would interfere with other traffic or pedestrians.**

(2) The offense described in this section, illegal U-turn, is a Class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class B traffic violation.

1     **SECTION 2.** The amendments to ORS 811.365 by section 1 of this  
2     **2011 Act apply to offenses committed on or after the effective date of**  
3     **this 2011 Act.**

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