



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

August 6, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Sunrise Water Authority

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Perpetual
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel 503 742 4623 Ken Martin, Boundary Change Consultant - 503 222-0955
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a water authority. Sunrise Water Authority is such a district.

Proposal No. CL 15-002 is a proposed annexation to Sunrise Water Authority.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. The petition meets the requirement for initiation set forth in ORS 198.857, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a)

(lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally on the eastern edge of the District within the City of Happy Valley. The territory contains 20.31 acres, one single family dwelling, a population of 2 and is valued at \$4,957,898.

REASON FOR ANNEXATION:

The property owners desire annexation to provide water service to facilitate development (in conjunction with an adjacent lot to the north already within the Water Authority) of approximately 200,000 square feet of commercial space and 168 multi-family units.

CRITERIA:

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Sunrise Water Authority is the provider of water service to the City of Happy Valley.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the section below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the City of Happy Valley's Comprehensive Plan. No concept plans cover this area.

Attached to the staff report is a draft board order with proposed findings in response to the above criteria, that if adopted would allow for the annexation of the area into the Sunrise Water Authority.

RECOMMENDATION:

Staff recommends approval of Proposal No. CL-15-002, annexation to Sunrise Water Authority consistent with the findings as set forth in the draft board order.

Respectfully submitted,

Chris Storey
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change Proposal
No. CL 15-002

} ORDER NO. _____

WHEREAS, this matter coming before the Board at this time, and it appearing that all of the owners of the land in the territory to be annexed have petitioned to annex the territory to Sunrise Water Authority;

WHEREAS, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

WHEREAS, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

WHEREAS, it further appearing that this matter came before the Board for public hearing on August 6, 2015 and that a decision of approval was made on August 6, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 15-002 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Sunrise Water Authority as of August 6, 2015.

DATED this 6th day of August, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board hereby finds:

1. The territory to be annexed contains 20.31 acres, one single family dwelling, a population of 2 and is valued at \$4,957,898.
2. The property owners desire annexation to provide water service to facilitate development (in conjunction with an adjacent lot to the north already within the Water Authority) of approximately 200,000 square feet of commercial space and 168 multi-family units.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Sunrise Water Authority is the provider of water service to the City of Happy Valley.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
- (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plan as stated in Finding No. 6. No concept plans cover this area.

4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

5. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains

the following Goal:

POLICIES

Water

* * *

- 15.0 Require water purveyors in urban areas to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers, and storm drainage facilities, necessary to serve additional lands.
6. The City of Happy Valley's Comprehensive Plan identifies this area as Mixed Commercial Center and Mixed Use Residential. Zoning is MCC – Mixed Commercial Center and MUR-M – Mixed Use Residential Multi-family. The proposed development is generally compatible with the existing planning and zoning designations and the extension of water service is necessary for the development to proceed.
 7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to water service in this area of Clackamas County.
 8. The area to be annexed is within Clackamas County Service District No. 1. The District has 8 inch sewer lines available to serve the area in SE 172nd Avenue and Sunnyside Road.
 9. The territory to be annexed is adjacent to the Sunrise Water Authority and the Authority has 18-inch water lines in SE 172nd Avenue and in Sunnyside Road.
 10. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department.
 11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation.
 12. The area to be annexed is within the North Clackamas County Parks & Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes that the balance of the City of Happy Valley is served by the Sunrise Water Authority and no other entity has the capability of serving this site.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County's Comprehensive Plan and Happy Valley's Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District has service available to the area to be annexed as noted in Finding No. 9. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050(B)(2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

EXHIBIT "B"
LEGAL DESCRIPTION
SUNRISE WATER AUTHORITY ANNEXATION
City of Happy Valley, Oregon
March 16, 2015

(SUNRISE WATER AUTHORITY ANNEXATION)

A tract of land located in the Northwest one-quarter of Section 6, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, said tract being a portion of those tracts of land as described by Statutory Warranty Deed to JS-4 Investments, LLC recorded July 13, 2004 as Document No. 2004-064326, Clackamas County Deed Records, and Statutory Warranty Deed to Sunnyside 172nd LLC, an Oregon Limited Liability Company recorded January 05, 2009 as Document No. 2009-000216, Clackamas County Deed Records, and also, Special Warranty Deed –Statutory Form to Sunnyside 172nd LLC, an Oregon Limited Liability Company recorded October 25, 2004 as Document No. 2004-098189, Clackamas County Deed Records, said tract being more particularly described as follows:

Beginning at a point at the Southwest corner of said Document No. 2004-064326, being a found 5/8 inch iron rod with yellow plastic cap inscribed "Centerline Concepts Inc.";

Thence North 00°25' 12" East along the west line of said Document No. 2004-064326, 24.54 feet to the southwest corner that tract of land as described by Warranty Deed to Roy A. Park and Francine Park, Recorded October 27, 1960 as Book 578, Page 797 Clackamas County Deed Records;

Thence North 89°58'54" East, along the south line of said Book 578, page 797, passing through a 1 inch iron rod at 178.83 feet and passing through a stone with "V" notch at 1370.98 feet, and the easterly extension thereof 1400.98 feet, to the east right-of-way line of SE 172nd Avenue (County Road 494);

Thence South 00°27'35" West along said east right-of-way line, 168.64 feet to the intersection with the east right-of-way SE 172nd Avenue per Permanent right-of-way Easement for Road Purposes, Recorded July 20, 2007 as Document No. 2007-063590, Clackamas County Deed Records;

Thence South $06^{\circ}46'55''$ East, along said east right-of-way line, 64.27 feet to the intersection with the south line of that tract of land described by Quitclaim Deed to Scott B. Schlimpert and Michelle Schlimpert, Recorded on January 6th, 1994 as Document No. 94-01395, Clackamas County Deed Records;

Thence South $89^{\circ}50'02''$ East, along the said south line, 11.82 feet to the intersection with the east right-of-way line of SE 172nd Avenue per Permanent right-of-way Easement for Road Purposes, Recorded October 29, 2007 as Document No. 2007-092683, Clackamas County Deed Records;

Thence leaving said south line South $00^{\circ}40'16''$ West, along said east right-of-way line and the southerly extension thereof, 499.58 feet to the intersection with the easterly extension of the southerly right-of-way line of SE Sunnyside Road (Milwaukie-Foster Road) (County Road 96 and 102);

Thence North $76^{\circ}45'28''$ West, along the said southerly right-of-way line and the easterly extension thereof, 856.05 feet to an angle point at station 8+00.00 on said southerly right-of-way line per Oregon State Highway Department Map, Rock Creek Section Sunnyside Road, DRG. NO. 10C-25-17, Clackamas County, Oregon;

Thence continuing along said southerly right-of-way line per said DRG. NO. 10C-25-17 North $81^{\circ}16'51''$ West, 507.23 feet to a point of spiral at station 13+04.62;

Thence continuing along said southerly right-of-way line and a 70.00 foot offset spiral curve (the long chord of which bears $N78^{\circ}00'03''W$, 268.63 feet) to the intersection with the southerly extension of the west line of said Document No. 2004-098189;

Thence North $00^{\circ}22'37''$ West, along the said west line, 376.99 feet to the Northwest corner of said Document No. 2004-098189;

Thence North $89^{\circ}37'23''$ East, along the north line of said Document No. 2004-098189, 186.54 feet to the Point of Beginning;



The tract of land to which this description applies contains 20.31 acres, more or less.

The legal description and the Basis of Bearings thereof is based upon Record of Survey Recorded as SN 27599, Clackamas County Survey Records.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John T. Campbell
OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60070 LS

EXPIRES: 12-31-15



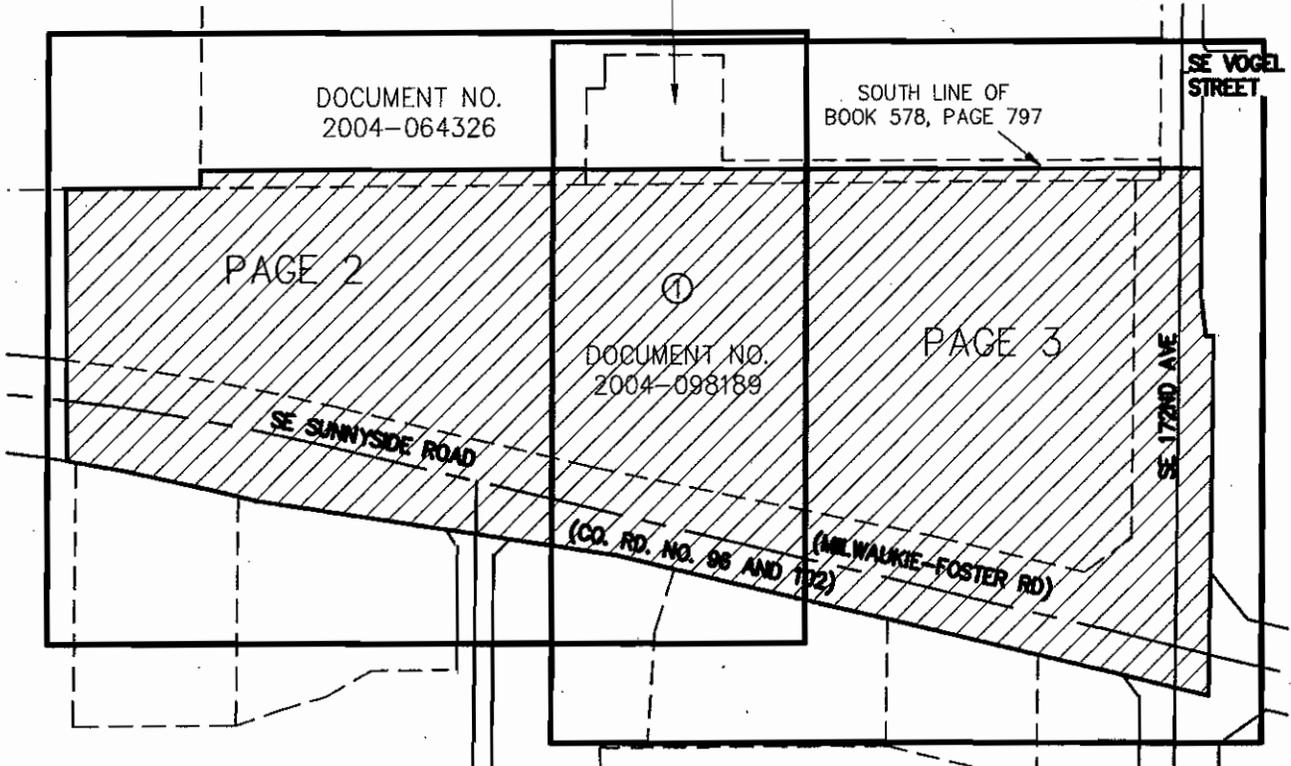
EXHIBIT "C"
SUNRISE WATER AUTHORITY ANNEXATION
COVER SHEET

TOWNSHIP 2 SOUTH, RANGE 3 EAST, NORTHWEST
 ONE-QUARTER OF SECTION 6, WILLAMETTE MERIDIAN
 CLACKAMAS COUNTY, OREGON



DOCUMENT NO.
2009-000216

SCALE
1" = 250'



LEGEND



① SUNRISE WATER AUTHORITY ANNEXATION
± 20.31 ACRES.



Harper
Houf Peterson
Righellis Inc.

ENGINEERS • PLANNERS
 LANDSCAPE ARCHITECTS • SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202
 phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

TAS-02 KMB 03/16/2015 PAGE 1 OF 3

SEE ATTACHED LEGAL
 DESCRIPTION

EXHIBIT "C"
SUNRISE WATER AUTHORITY
ANNEXATION

TOWNSHIP 2 SOUTH, RANGE 3 EAST, NORTHWEST
 ONE-QUARTER OF SECTION 6, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



SCALE
 1" = 150'

DOCUMENT NO.
 2009-000216

NW CORNER
 DOCUMENT NO.
 2004-098189

SW CORNER OF
 BOOK 578, PAGE 797
 DOCUMENT NO.
 2004-064326

FOUND 1" IRON ROD
 PER SN 1913-004

SOUTH LINE OF
 BOOK 578, PAGE 797

13071
 SE 172ND AVE
 23E06BA-1200

N00°25'12"E
 24.54'

N89°58'54"E 1400.98'

178.83'

23E06BA-1290

1192.15'

N89°37'23"E
 186.54'

POINT OF BEGINNING

SOUTHWEST CORNER OF DOCUMENT NO.
 2004-064326 FOUND 5/8" IRON ROD
 WITH YELLOW PLASTIC CAP INSCRIBED
 "CENTERLINE CONCEPTS INC"

DOCUMENT NO.
 2004-098189

16957 SE SUNNYSIDE ROAD
 23E06B-100

N00°22'37"W
 376.99'

WEST LINE
 DOCUMENT NO.
 2004-098189

SE SUNNYSIDE ROAD

(MILWAUKEE-FOSTER RD)
(CO. RD. NO. 96 AND 102)

70.00 FOOT
 OFFSET SPIRAL
 LC=N78°00'03"W
 268.63'

N81°16'51"W 507.23'

POINT OF SPIRAL
 STA: 13+04.62 PER ODOT MAP
 DRG. NO. 10C-25-17

STA: 8+00.00 PER
 ODOT MAP DRG NO.
 10C-25-17

N76°45'28"W
 856.05'

SEE PAGE 3

LEGEND

- ① SUNRISE WATER AUTHORITY ANNEXATION
 ± 20.31 ACRES



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Houf Peterson
Righellis Inc.

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SEE ATTACHED LEGAL
 DESCRIPTION

EXHIBIT "C"
SUNRISE WATER AUTHORITY
ANNEXATION

TOWNSHIP 2 SOUTH, RANGE 3 EAST, NORTHWEST
 ONE-QUARTER OF SECTION 6, WILLAMETTE MERIDIAN
 CLACKAMAS COUNTY, OREGON

DOCUMENT NO.
2009-000216

13071 SE 172ND AVE
23E06BA-1200

SOUTH LINE OF
BOOK 578, PAGE 797

FOUND "V" NOTCH IN STONE
PER SN 1913-004

**SE VOGEL
STREET**

1192.15' 23E06BA-1290

30'

30'

S00°27'35"W
168.64'

DOCUMENT NO.
90-01395

S06°46'55"E
64.27'

DOCUMENT NO.
2007-063590

S89°50'02"E
11.82'

DOCUMENT NO.
2004-098189

16957 SE SUNNYSIDE ROAD
23E06B-100

①



SCALE
1" = 150'

SEE PAGE 2

SE 172ND AVENUE

(CO. RD. NO. 484)

DOCUMENT NO.
2007-092683

S00°40'16"W 499.58'

64.76'

VARIES

SE SUNNYSIDE ROAD
(MILWAUKEE-FOSTER RD)
(CO. RD. NO. 98 AND 102)

N76°45'28"W 856.05'

STA: 8+00.00 PER
ODOT MAP DRG NO.
10C-25-17

LEGEND

① SUNRISE WATER AUTHORITY ANNEXATION
± 20.31 ACRES



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DESCRIPTION