



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

November 25, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Board Order for Boundary Change Proposal No. CL 15-006,
Annexation to Clackamas County Service District No. 1

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Purpose/Outcomes	Proposal No. CL 15-006 is a proposed annexation to Clackamas County Service District No. 1.
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Perpetual
Previous Board Action	None
Strategic Plan Alignment	1. N/A 2. Build public trust through good government.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Chris Storey, Assistant County Counsel 503 742 4623
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 county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 15-006 is a proposed annexation to Clackamas County Service District No. 1.

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 property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855(3) (double majority annexation law), 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 in the eastern part of the District within the City of Happy Valley. The territory contains 1.80 acres, one single family dwelling and is valued at \$ 867,063.

REASON FOR ANNEXATION

The property owners desire annexation to provide sewer service to the existing single family house.

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.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City.

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 attached to the proposed order. 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:

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

- (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (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 original public facility plan for this area does call for service by the District. There are no specific applicable comprehensive plan provisions which apply to this property. No concept plans cover this area.

The attached proposed Order and findings set forth a review of the above criteria and its application to the current petition.

RECOMMENDATION:

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-15-006, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of Approving
Boundary Change Proposal
No. CL 15-006

ORDER NO.

This matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half the land in the territory to be annexed have petitioned to annex the territory to Clackamas County Service District No. 1;

WHEREAS, It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to Oregon Revised Statutes Chapter 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 November 25, 2015 and that a decision of approval was made on November 25, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 15-006 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 Clackamas County Service District No. 1 as of November 25, 2015.

DATED this 25th day of November, 2015.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 1.80 acres, one single family dwelling and is valued at \$867,063.
2. The property owners desire annexation to provide sewer service to the existing single family house.
3. Oregon Revised Statute ("ORS") 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."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of wastewater treatment service inside the City.

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

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

ORS 195.205;

- (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 original public facility plan for this area does call for service by the District. There are no specific applicable comprehensive plan provisions which apply to this property. 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 County Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.
6. The City of Happy Valley has not rezoned the lot from the County's RA-2 zone. No additional development is being sought.
 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 sewer service in this area of Clackamas County.
 8. The District has an 8 inch sewer line available to serve the area in SE Aldridge Road.
 9. The territory to be annexed is within the Sunrise Water Authority and currently receives water from the Authority.
 10. The area receives police service from 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 to CCSD#1 for sanitary sewers.
 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 the original public facility plan for this area does call for sewer service by the District.
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. 8. 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.
 - a. 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

A TRACT OF LAND SITUATED IN SECTION 36, TOWNSHIP 1 SOUTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON

BEGINNING AT THE MOST SOUTHWESTERLY CORNER OF PARCEL 2 OF PARTITION PLAT NO 1994-168, CLACKAMAS COUNTY AND THE TRUE POINT OF BEGINNING;

1. Thence southerly, along the west right-of-way line of SE Aldridge Road, a distance of 50 feet more or less to a point of intersection with the south right-of-way line of SE Aldridge Road;
2. Thence easterly, along said south right-of-way line a distance of 20 feet more or less to a point of intersection by extension with the most westerly east line of Parcel 2 of Partition Plat No. 1994-168, Clackamas County;
3. Thence northerly, along said most westerly east line by extension of Parcel 2 of Partition Plat No. 1994-168, Clackamas County, a distance of 50 feet more or less, to a point of intersection with the north right-of-way line of SE Aldridge Road;
4. Thence westerly, along the north right-of-way line of SE Aldridge Rd, a distance of 20 feet more or less to a point of intersection with the most southwesterly corner of Parcel 2, Partition Plat 1994-168, Clackamas County, and true point of beginning;
5. All of Parcel 2, Partition Plat No. 1994-168, Clackamas County (commonly known as tax lot 12E35D 01400).

