



## STAFF REPORT

January 14, 2021

Board of County Commissioners  
Clackamas County

Members of the Board:

Stephen L. Madkour  
County Counsel

Kathleen Rastetter  
Scott C. Ciecko  
Amanda Keller  
Nathan K. Boderman  
Shawn Lillegren  
Jeffrey D. Munns  
Andrew R. Naylor  
Andrew Narus  
Sarah Foreman  
Assistants

Public Hearing regarding the Dissolution of the Shady Dell Water Control District

<b>Purpose/Outcomes</b>	Hold a Public Hearing on the dissolution of the Shady Dell Water Control District pursuant to the procedures under ORS 198.335 to ORS 198.365. Establishment of a Board of Trustees for the purposes of paying debts and disposing of the property of the district.
<b>Dollar Amount and Fiscal Impact</b>	Negligible. County Counsel staff time to prepare documents for dissolution and Finance staff time to deposit funds and pay debts of District upon dissolution.
<b>Funding Source</b>	General Fund.
<b>Duration</b>	The Public Hearing must be held no less than 21 days and no more than 30 days from the date of the Board Order.
<b>Strategic Plan Alignment</b>	Building public trust through good government.
<b>Previous Board Action</b>	September 29, 2020 the Board discussed the matter at Issues and directed staff to prepare a Financial Statement as required by ORS 198.350. December 17, 2020 Order 2020-84 set this date for the public hearing.
<b>County Counsel Review</b>	January 6, 2021
<b>Procurement Review</b>	This matter is not a procurement requiring review.
<b>Contact Person</b>	Jeffrey D. Munns, Assistant County Counsel (503)742-5984

### BACKGROUND:

The Clackamas County Treasurer's office received notice from the State of Oregon, Secretary of State's Office, on September 8, 2020, that the Shady Dell Water Control District had not filed budget documents since the year 2016, as required by ORS 297.435, ORS 297.464 and ORS 297.465.

County Counsel's office then began to investigate the status of the Shady Dell Water Control District. We were able to make contact with the District's attorney and last elected officer. The District has ceased operations. Further, the neighboring non-profit water district, Molalla River District Improvement Company, was contacted. They did not appear to be active nor interested in assuming the duties of the Shady Dell Water Control District as allowed under ORS 198.360. The matter was presented to the Board at Issues on September 29, 2020 to initiate the dissolution procedures under ORS 198.335 to ORS 198.365, and we were directed to prepare a Financial Statement as required by ORS 198.350.

After receiving and reviewing records of the District we were able to prepare the Financial Statement, attached as "Exhibit A" to Board Order 2020-84. Under the procedures of ORS 198.355 the Board set a public hearing for the purpose of considering dissolution of the Shady Dell Water Control District.

**PUBLIC HEARING:**

The Public Hearing is to consider any information submitted and determine if the district should continue under the criteria in ORS 198.360, or if it should be dissolved under ORS 198.365. The criteria to continue the district under ORS 198.360:

1. It is operating as an active district; or
2. There is need for the district; or
3. There is need for the district and the functions of the district could be performed by a County Service District.

If any of these conditions are present the Board should shall continue the hearing until either the operating district files the required financial reports under ORS 294.458, and 297.405 to 297.555, or a County Service District that can perform the functions of the district should initiate proceedings to incorporate or annex the area within the district under ORS 451.410- 451.610.

If the Board finds that the district is not active and that there is no need for the district, then under ORS 198.365 the Board shall appoint a board of trustees for the purpose of paying the debts and disposing of the property of the district. Staff recommends that the board of trustees be comprised of a member of the Office of County Counsel, a representative of the Clackamas County Finance Department, and a representative of the Clackamas County Treasurer's Office. The Board should sign the attached.

**RECOMMENDATION:**

Staff respectfully recommends approval of a Board Order Dissolving the Shady Dell Water Control District, Appointing the Board of Trustees and Directing the Trustees to deliver the books and records of the district to the County Clerk upon the completion of their duties under ORS 198.365.

Sincerely,



Jeffrey D. Munns  
Assistant County Counsel

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

In the Matter of the Dissolution of the Shady Dell Water Control District, and the Appointment of a Board of Trustees to complete the duties under ORS 198.365.



Board Order No. \_\_\_\_\_

**Whereas**, the Clackamas County Board of Commissioners having received notice from the State of Oregon, Secretary of State's Office, on September 8, 2020, that the above named district has not filed budget documents since the year 2016, as required by ORS 297.435, ORS 297.464 and ORS 297.465.

**Whereas**, the Board initiated the dissolution procedures under ORS 198.335 to ORS 198.365, on September 29, 2020 and directed staff to prepare a Financial Statement as required by ORS 198.350.

**Whereas**, the Board approved and adopted the Financial Statement and set a public hearing on the question of dissolving the District on Thursday, January 14, 2021, at 10:00 A.M.

**Whereas**, the Board having held the public hearing and determined that the Shady Dell Water Control District is not operating and no evidence was provided to show that it is needed.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. The Board dissolves the Shady Dell Water Control District.
2. The Board establishes a board of trustees for the purpose of paying the debts and disposing of the property of the district consistent with ORS 198.365.
3. The Board Appoints as trustees a member of the Office of County Counsel, a representative of the Clackamas County Finance Department, and a representative of the Clackamas County Treasurer's Office.
4. The Board directs the Trustees to deliver the books and records of the district to the County Clerk upon the completion of their duties.

**DATED** this 14<sup>th</sup> day of January, 2021.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary