

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 6/1/21 **Approx. Start Time:** 1:30pm **Approx. Length:** 30 min

Presentation Title: The Board's Role in Processing District Boundary Changes

Department: County Counsel

Presenters: Ken Martin, Boundary Change Consultant; Nathan Boderman, Assistant County Counsel

Other Invitees: None.

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

- None. Information only to provide the Board a summary of its role in the process of evaluating changes to the boundaries of service districts.

EXECUTIVE SUMMARY: Districts are legally distinct entities that provide a particular service to properties that are located within the legally defined boundaries of that district. Districts are authorized under state law to provide any number of services, such as water, fire protection, parks, mass transit, and libraries. Properties within a particular district are subject to district rules and pay taxes and/or user charges for the services provided by the district.

Although districts exist independent of county governance, state law imposes certain obligations on county governing bodies with respect to districts operating within county boundaries, and in particular, vesting those governing bodies with authority to review and approve changes to the boundaries delineating where those districts may operate inside of a county.

The attached materials summarize the various boundary change processes that require the Board's review. The Board has reviewed and approved 24 annexations over the last two years. All of these annexation requests were initiated by a consent petition signed by the affected property owners requesting annexation into the district. The vast majority of requests involved annexations into districts associated with Water Environment Services (either CCSD #1 or Tri-City Service District), with the few remaining annexation requests involving water districts (Sunrise Water Authority and Clackamas River Water). The Board's role in these types of annexations is to evaluate certain criteria, such as whether services are available, whether the provision of the service is consistent with existing agreements and plans applicable to the territory to be served, and whether the proposal will result in the efficient and economical provision of service. Also, in these types of annexations, the endorsement of the district itself and any city (if the territory to be annexed falls within a city boundary) is required prior to the Board's decision approving any proposed annexation into a district.

For years, the County has contracted with a boundary change consultant to assist the County in meeting its statutory obligations with regards to processing boundary changes. Our consultant, in cooperation with the Office of County Counsel, has traditionally prepared the materials, provided the statutory notice and ensured that the public meetings are scheduled in a manner that is consistent with the mandates of state law for these types of actions.

Note that, as explained above, all of the boundary change proposals that have come before the Board recently involved proposals that have been specifically requested by the affected property owners, and that have been endorsed by the district and any affected city. Staff anticipates that it will be these types of requests that continue to make up virtually all boundary change requests that come before the Board. In the event that there is a boundary change proposal that departs from the typical request described above - such as a contested boundary change, a boundary change that would result in an involuntary annexation of property, or a Board-initiated annexation request - staff and our boundary change consultant would request additional time with the Board in advance of any action to more fully discuss the issues and process that would apply to any such specific boundary change proposal.

FINANCIAL IMPLICATIONS (current year and ongoing):

The Board is required by state law to process boundary change requests in the manner summarized above. County Administration contracts with a boundary change consultant to process and facilitate these boundary change requests in accordance with state law. The County's current contract is with Ken Martin Consulting and is based on an hourly rate, with a contract value not to exceed \$50,000.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with the County's Performance Clackamas goals?
 - Build public trust through good government.

LEGAL/POLICY REQUIREMENTS: ORS 198.

PUBLIC/GOVERNMENTAL PARTICIPATION: None.

OPTIONS: N/A – information only.

RECOMMENDATION: N/A – information only.

ATTACHMENTS:

Memo from Ken Martin Consulting – District Boundary Change Summary

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Nathan Boderman @ 503-655-8364

DISTRICT ANNEXATION

Every district has a legal boundary. Properties within this boundary receive whatever service the district is authorized to provide (water from a water district, fire protection from a R.F.P.D., etc.). These properties are subject to district rules & regulations and pay taxes and/or user charges to the district for their services.

To obtain services from a district a property must be put within the district's legal boundary. This is called annexation.

There are several ways to start an annexation of territory to a district. These are often referred to as the *methods of initiation*. Most methods of initiating an annexation require a petition. One kind of petition, often called the *double-majority petition*, requires the signatures of owners of more than half the land area in the territory to be annexed **and** signatures of more than half the registered voters in the area to be annexed. A second kind of petition requires the signatures of all of the owners of all of the land in the territory to be annexed. This method is sometimes referred to as a *100% petition*.

Registered voters in the area to be annexed could start an annexation proceeding. Fifteen percent of the registered voters within the area to be annexed or 100 registered voters, whichever is less, must sign the petition.

An annexation can also be started by the district board itself. The board could pass a *resolution* stating their desire to annex some particular area.

Finally the *county board* may initiate an annexation by resolution.

The first two methods of initiation are the most often used methods. The last three methods are less commonly utilized. Each method is covered below.

DOUBLE-MAJORITY PETITION

A property owner or a group of property owners sign a petition for annexation to the district.

The petitioners take their petition to the district board for its "endorsement." This normally takes the form of a board resolution.

The petitioners then present their petition to the County Board, by filing it with the county clerk. A filing fee is paid at this time. The county clerk reviews the petition for completeness and verifies that it has the correct number of signatures.

The County Board holds a hearing, makes a decision and issues an order.

100% PETITION

All of the owners of all of the land sign a petition for annexation to the district.

The petitioners take their petition to the district board for its "endorsement." This normally takes the form of a board resolution.

The petitioners then present their petition to the County Board, by filing it with the county clerk. A filing fee is paid at this time. The county clerk reviews the petition for completeness and verifies that it has the correct number of signatures.

The County Board holds a hearing, makes a decision and issues an order.

REGISTERED VOTER PETITION

Registered voters in the area to be annexed sign a petition to annex to the district.

The petitioners then present their petition to the County Board, by filing it with the county clerk. A filing fee is paid at this time. The county clerk reviews the petition for completeness and verifies that it has the correct number of signatures.

The County Board holds an initial hearing and makes a decision. The decision must be by an order describing the area to be annexed and setting a final hearing on the petition. The order also must state that the petition will be finally approved on the date set for the final hearing unless written requests for an election are received before that date.

An election would be triggered by written requests from 15% of the electors or 100 electors, whichever is less, residing in the territory to be annexed. If sufficient requests for an election are received an election is scheduled in the area to be annexed. A separate election would also be scheduled in the district. In order for the annexation to be approved the matter must pass in both the area to be annexed and in the district.

DISTRICT BOARD RESOLUTION

The district board can pass a resolution initiating an annexation.

The County Board holds an initial hearing and makes a decision. The decision must be by an order describing the area to be annexed and setting a final hearing on the petition. The order also must state that the petition will be finally approved on the date set for the final hearing unless written requests for an election are received before that date.

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COUNTY BOARD RESOLUTION

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An election would be triggered by written requests from 15% of the electors or 100 electors, whichever is less, residing in the territory to be annexed. If sufficient requests for an election are received an election is scheduled in the area to be annexed. A separate election would also be scheduled in the district. In order for the annexation to be approved the matter must pass in both the area to be annexed and in the district.

PROCESSING AN ANNEXATION

The rules for processing a change in a district boundary are spelled out generally in state statute - ORS 198. For districts within the boundary of Metro, additional rules of processing apply. These rules are found in Metro Code 3.09.

The following outline describes the general annexation process dictated by state statute and the Metro Code.

1. Hearings - Hearings are always required.
2. Notice - The county must give extensive notice of the hearing. At a minimum this includes:
 - a. At least 3 notices posted 20 days before the hearing.
 - b. Notice to "necessary parties"¹ 20 days before the hearing date if inside Metro
 - c. Notice published twice in a newspaper, once 15 days prior to the hearing and once 5 days prior to the hearing
 - d. Notice sent any appropriate neighborhood group and to all property owners within 100 feet² of the area to be annexed at least 20 days prior to hearing or decision date
3. Staff Report (only applies in Metro boundary) - At least 15 days before a hearing the county must make available a staff report which addresses a number of criteria laid out in the Metro Code. These criteria include planning consistency and adequacy of services.
4. Final Decision - The county's decision on the annexation must be written and contain findings and reasons for the decision

¹A necessary party is a unit of government which provides or could provide an urban service to the territory to be annexed. An urban service includes sewer, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

²The 100 foot requirement relates to urban lands. If the territory to be annexed is rural land this distance is 250 feet and for natural resource lands it is 500 feet.

5. Appeal – Boundary change decisions can be appealed to the Land Use Board of Appeals (LUBA) and/or the courts.

This generally describes the process of district annexation.

SUMMARY

District boundaries are expanded through the process of annexation. Annexations are usually instigated by property owners. Property owners request annexation to acquire the service offered by the district (water, sewer, fire protection, etc.). There are several ways to initiate an annexation. The most popular is by a petition of owners of a majority of the land area and a majority of the registered voters in the area proposed for annexation.

Some annexations may be voted on and any election must occur both in the territory to be annexed and in the district. All district annexations require hearings. Extensive notice is given. A written order is always adopted on annexations and annexation decisions can be appealed.