

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: October 1, 2013 Time: 2:30pm Length: 60 minutes

Presentation Title: County Special Districts

Department: County Counsel

Presenters: Stephen Madkour, Chris Storey

ACTIONS REQUESTED

None. General briefing provided at the request of County Administration.

EXEC SUMMARY

The County operates multiple county service districts that each has their own unique history, purpose and issues. This summary will address each and the Board's role regarding the same.

FINANCIAL IMPLICATIONS

No direct financial cost or benefit.

LEGAL/POLICY REQUIREMENTS

See materials below.

PUBLIC/GOVERNMENT PARTICIPATION

Most but not all service districts have an advisory committee that participates in making recommendations on the business of such district.

Briefing Materials

These materials summarize the possible county service districts authorized by statute that Clackamas County could operate, describes the existing county service districts, defines the Board's role in the districts, and distinguishes between county service districts and other entities.

1. **Authorized County Service Districts.** Clackamas County may only operate a county service district if the purpose of the district is specifically authorized by statute. Oregon Revised Statutes ("ORS") 451 generally governs the operation of county service districts. ORS 451.010 outlines 21 distinct types of possible county service districts within Clackamas County (bolded indicates authorization for existing districts):

(a) Sewage works, including all facilities necessary for collecting, pumping, treating and disposing of sanitary or storm sewage.

(b) **Drainage works, including all facilities necessary for collecting, pumping and disposing of storm and surface water.**

(c) **Street lighting works, including all facilities necessary for the lighting of streets and highways.**

(d) **Public parks and recreation facilities, including land, structures, equipment, supplies and personnel necessary to acquire, develop and maintain such public park and recreation facilities and to administer a program of supervised recreation services.**

(e) **Diking and flood control works, including all facilities necessary for diking and control of watercourses.**

(f) **Water supply works and service, including all facilities necessary for tapping natural sources of domestic and industrial water, treating and protecting the quality of the water and transmitting it to the point of sale to any person, city, domestic water supply corporation or other public or private agency for domestic, municipal and industrial water supply service.**

(g) **** Solid waste disposal. This paragraph does not apply in Clackamas, Multnomah and Washington Counties. *[not applicable to Clackamas County because of Metro jurisdiction]*

(h) **Public transportation, including public depots, public parking and the motor vehicles and other equipment necessary for the transportation of persons together with their personal property.**

(i) **Agricultural educational extension services.**

(j) **Emergency medical services, including ambulance services.**

(k) **Library services.**

(l) **Roads.**

(m) **Emergency communications services, including a 9-1-1 emergency reporting system established under ORS 401.720.**

(n) **Law enforcement services.**

(o) **Human services.**

(p) **Cemetery maintenance.**

(q) **Animal control.**

For purposes of this discussion, I have only listed the distinct types of services that can be provided through a county service district. A county service district under ORS 451 is a separate municipal corporation distinct from the County itself, per ORS 198.605. Each district has its own budget, expenditure authority, borrowing authority, and contracting ability. Each district may separately condemn property, and if authorized at time of formation, levy taxes. Barring an unusual situation such as with the Estacada Library District, each district is required to engage a separate, independent audit of its accounts annually. The service districts have the ability to pass their own ordinances, have those ordinances be the subject of both initiative and referendum, and hold elections within their boundaries. For all legal purposes, the service districts are entirely distinct from the general County.

2. Current County Service Districts. Clackamas County currently operates 9 county service districts. They are:

BCS

- a. *North Clackamas Parks and Recreation District, providing parks and recreational activities for portions of unincorporated Clackamas County, Milwaukie, and Happy Valley, serving approximately 116,000 residents. Managed by BCS/NCPRD.*
- b. *Library District of Clackamas County, providing funding for county and city-operated libraries. Covers all of the County excepting Johnson City. Managed by BCS/Libraries.*
- c. *Estacada Area County Service District for Library Services, previously provided a funding mechanism to issue bonds for capital improvements to the Estacada City Library but no longer collecting revenue and bonds have been defeased. Its boundaries match those of the Estacada School District. Managed by BCS/Libraries.*

DTD

- d. *Clackamas County Service District No. 5*, providing street lighting services, primarily in Happy Valley and suburban unincorporated areas. Managed by DTD.

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- e. *Clackamas County Enhanced Law Enforcement District*, providing additional law enforcement funding for specific areas that agreed to pay an additional property tax, serving approximately 85,000 residents in the unincorporated areas of Clackamas County with the Urban Growth Boundary, as well as the cities of Johnson City and Damascus. Managed by the Sherriff.

WES

- f. *Clackamas County Service District No. 1*, providing wastewater treatment, stormwater and certain other services to portions of unincorporated Clackamas County (including in Hoodland and Boring), Milwaukie, Happy Valley, and the Carver area of Damascus, serving approximately 160,000 customers. CCSD#1 does not collect property taxes; it is supported primarily by utility fees. Managed by WES.
- g. *Tri-Cities Service District*, providing wholesale wastewater treatment services to Gladstone, Oregon City, and West Linn, serving approximately 70,000 customers. TCSD does not collect property taxes; it is supported primarily by utility fees. Managed by WES.
- h. *Surface Water Management Agency of Clackamas County*, providing stormwater management for portions of unincorporated Clackamas County (formed as a result of a lawsuit against the County), serving approximately 7,000 citizens. SWMACC does not collect property taxes; it is supported primarily by utility fees. Managed by WES.

General Administration

- i. *Clackamas County Extension Service and 4-H District*, providing funding for the OSU agricultural extension office in Clackamas County. This district provides pass-through funding through county administration to the extension service. Covers all of the County excepting Johnson City.

Staff will provide additional information on each district and descriptors in a visual presentation to the BCC during the study session.

3. Board Role in Managing Districts. ORS 451.485 identified the "County Court" as the governing body of these districts, which in Clackamas County is the BCC per ORS 203.240. County Commissioners do not run separately for the office but hold it distinctly from their role as county commissioners by directive of statute. The BCC has a fiduciary duty to the citizens of the service district, unique and distinct from their duty to the citizen of the entire county, when considering matters for the service district. Care must be taken to remember in which role, or "hat," the BCC is sitting in making a decision. Any transaction between a service district and the County should be an arm's length transaction that establishes value for each party based on their perception of the self interests of the district or County, as applicable. Any transaction should be appropriately documented to describe the nature and desired outcome of the arrangement.

Given that Clackamas operates nine service districts, the Board on occasion can find itself considering proposed agreements between the County and one or more service districts, or proposed agreements between two or more service districts. To enter into such agreements, the Board would sit distinctly as the governing body of each and weigh the merits of the transaction from the point of view of that

particular district. This can represent a natural challenge when the same people, the commissioners, are in essence negotiating between themselves. Therefore to support the BCC in meeting their fiduciary obligations, each active service district has assigned staff and an advisory committee that will provide recommendations and insight regarding the unique or specific issues to be considered in the potential transaction.

4. Other Districts and Entities. Despite what may seem like the large number of service districts, those are not the only separate municipal entities that can give rise to the necessity of distinction. Providing a full briefing on those districts is beyond the scope of the request made by county administration, but it is important to note their existence. For example, within the County structure you also have the Housing Authority, which is a statutory entity based in part on federal law, the Urban Renewal Agency, authorized by ORS 457, and C800, which funds emergency communication in the county. C800 is a municipal partnership formed pursuant to ORS 190 with other affected municipalities and is independently managed, budgeted and audited.

Outside the county structure, there is often confusion regarding some of our close municipal neighbors. For example, the BCC has little control or authority over Clackamas River Water, and ORS 450 independent water district other than the BCC's general power to appoint members into vacancies during the time when CRW's board membership drops below the quorum necessary to appoint replacements itself. The County has limited interaction with the Clackamas County Vector Control District other than to appoint its Board of Trustees and receive a report on the planned activities supported by the district's independently levied property tax revenue. There are multiple other independent districts in Clackamas County, such as Oak Lodge Sanitary or Sunrise Water Authority, Clackamas County Fire District No. 1, and others that operate within Clackamas County but outside the County's control.

In summary, county service districts have been employed here to create special purpose municipal corporations to provide assurance to voters that funding intended for a particular purpose will remain dedicated to that purpose. It can give rise to a certain complexity in administration and budgeting and requires careful attention to fiduciary responsibilities and documentation to execute, but can be a valuable tool in meeting the needs and direction of the voters of Clackamas County.

Division Director/Head Approval _____
Department Director/Head Approval CRS
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Chris Storey @ 503-742-4623.