

Final Documents

For

Withdrawal from the
Clackamas County Service District
For
Enhanced Law Enforcement

CL1602

Ordinance: #2002-232

DOR 3-1562-2003

Final to DOR: _____

Signature:

Date of
Mailing: 1/15/03

Final to Secretary of State: _____

Signature:

Date of
Mailing: 2/5/03

CL1602

Sent

Received

DOR:

1/15/03

1/24/03

Sec. State:

2/5/03

Assessor:

2/5/03

Elections:

2/5/03

Mapped:

Yes

Posted to Web:

Notice to Taxing Districts

ORS 308.225



Cartographic Unit
PO Box 14380
Salem, OR 97309-5075
(503) 945-8297, fax 945-8737

City of Happy Valley
Budget Officer
12915 SE King Rd.
Portland, OR 97236

Description and Map Approved
January 24, 2003
As Per ORS 308.225

Description Map received from: METRO
On: 1/17/2003

This is to notify you that your boundary change in Clackamas County for

**WITHDRAWAL FROM THE CLACKAMAS COUNTY SERVICE DIST. FOR ENHANCED
LAW ENFEORCEMENT**

OREDER #2002-232

has been: Approved 1/24/2003
 Disapproved

Notes:

Department of Revenue File Number: 3-1562-2003

Prepared by: Jennifer Dudley, 503-945-8666

Boundary: Change Proposed Change
The change is for:

- Formation of a new district
- Annexation of a territory to a district
- Withdrawal of a territory from a district
- Dissolution of a district
- Transfer
- Merge

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

In the Matter of Entering an Order
Declaring Approval of
Boundary Change Proposal
No. CL-1602



ORDER No. 2002-232

This matter coming before the Board at this time, and it appearing that the Board received petitions of electors to withdraw the territory from the Clackamas County Service District for Enhanced Law Enforcement;

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

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

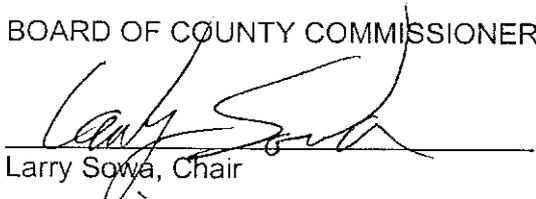
It further appearing that this matter came before the Board for public hearing on December 5, 2002 and that a decision of approval was made on December 5, 2002; and

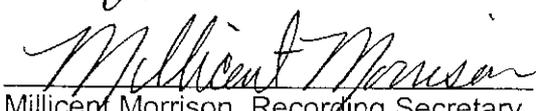
It further appearing that the Board is required to hold a second hearing as required by ORS 198.810 (1); and

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. 1602 consisting of the territory described in Exhibit B and depicted on Exhibit C is approved for the reasons stated in attached Exhibit A and that a final hearing on Boundary Change Proposal No. CL-1602 will be held on January 9, 2003. If at or before that hearing written requests for an election are not filed, the Board will enter its order approving the withdrawal.

ADOPTED this 5th day of December, 2002.

BOARD OF COUNTY COMMISSIONERS


Larry Sowa, Chair


Millicent Morrison, Recording Secretary

FINDINGS

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

1. The territory to be withdrawn contains 3.5 square miles, a population of 4932 and has an assessed value of \$503,630,853.
2. The petitioners state in their application:

Citizens of Happy Valley are petitioning to withdraw the City of Happy Valley from the Clackamas County Enhanced Law Enforcement District (ELED). At this time, the City and the Clackamas County Sheriff, the provider of the district law enforcement services at issue, agree that it is not feasible for the ELED to provide the level of services required by the City. In anticipation of funding law enforcement services to the level desired, a local option tax levy to pay for law enforcement services will be presented to the electors of the City at the November 5, 2002 general election.

The ELED includes the urbanized areas of Clackamas County outside city limits plus the two cities of Happy Valley and Johnson City. The ELED was designed to increase law enforcement personnel to 85 officers such that patrol officers would maintain a ratio of one officer per thousand in population. In 1994, at the time that the Board of County Commissioners initiated formation of the ELED and the voters approved the formation, Happy Valley was a small community of approximately 2365 people. The County Commissioners, the Sheriff's Office, and a majority of voters in the proposed district concluded that the county could provide the type of services at the level the city desired.

In the eight years since the ELED began providing services to the Happy Valley, the population of the city has increased from 2365 to 4392, a change of approximately 54%. The City has grown to the point where it is now appropriate to fund its own law enforcement services since it is no longer feasible for those services to be provided by the ELED.

To summarize, the residents of the City desire a higher level of service than the Law Enforcement District provides uniformly throughout the District. They desire to withdraw from the District and tax themselves to pay for this higher level of service.

3. ORS 198.850 provides that the Board is to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district when deciding an annexation proposal to a district.

A second set of criteria can be found in the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 urban service provider agreements or an ORS 195 annexation plan.

2. Consistency with directly applicable provisions of *urban planning area agreements* or other agreement between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plan.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

4. The territory is inside the regional Urban Growth Boundary (UGB) and within the jurisdictional boundary of Metro.

The Regional Urban Growth Goals and Objectives, the Regional Framework Plan, Urban Growth Management Functional Plan and the Regional Transportation Functional Plan were examined and found to not contain any criterion directly applicable to a decision to withdraw land from a county service district for enhanced law enforcement.

5. The Clackamas County Comprehensive Plan contains one general policy relative to police protection:

PUBLIC SERVICES

Public Safety

- 4.0 Encourage provision of the appropriate level of Sheriff services in urban and rural areas.

6. The City of Happy Valley Comprehensive Plan covers the area to be withdrawn from the Enhanced Law Enforcement District. A review of this plan reveals no policies relating to the provision of police services. The Plan contains no directly applicable standards for boundary changes of county service districts.

The City of Happy Valley has an Urban Planning Area Agreement with Clackamas County but no urban planning area agreement exists between the City and the Enhanced Law Enforcement District.

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. The statute was enacted in 1993 but there are no urban service agreements in place in this part of Clackamas County. More significantly, urban service agreements are not required relative to police services.
8. The City of Happy Valley is currently a part of the Clackamas County Service District for Enhanced Law Enforcement. That District covers the urban unincorporated areas of Clackamas County and the two small cities of Happy Valley and Johnson City. The District has a uniform tax rate of \$.7198/\$1,000 Assessed Value (A.V.). City of Happy Valley residents also pay \$.5665/\$1,000 A.V. for a base level of County Sheriff protection (paid as part of the "rural" County tax rate). Together the Happy Valley residents currently pay \$1.2863/\$1,000 A.V. for police protection. Additionally for the last 4 years the City has allocated \$107,000 to pay the County for a 40-per-week deputy to patrol within the City.

A study conducted by the City budget committee concluded that the City should not continue to fund the contracted deputy. The City Council accepted that conclusion and decided not to fund the deputy after June 30, 2003.

Volunteer members of Happy Valley's Traffic and Public Safety Advisory Committee investigated ways to fund Sheriff's patrols with greater coverage than is available under the current arrangement. The Committee determined that to get 24-hour/day, 7-day/week coverage the City should withdraw from the County Service District and contract back with the Sheriff for just \$.09/\$1,000 A.V. more than they currently are paying.

The City placed a 4-year levy for the appropriate amount (\$.138/\$1,000 A.V.) on the November 5, 2002 ballot. The levy passed.

The City and the Sheriff have concluded that the District cannot provide the level of service desired by the residents of the City as long as the City remains in the District. This is because legally the District can only provide to the City the same level of service provided throughout the balance of the District. The District's tax rate is permanent and it cannot rise nor can the District levy a higher rate in Happy Valley to provide the desired service level. Thus it is not feasible for the District to provide the higher level of service to Happy Valley as long as the City is in the District. The District can, however, provide service on a contract to the City at whatever level the City desires.

Under the above-proposed arrangement the District would lose revenue now paid by property owners in Happy Valley for the County "rural" Sheriff's service (\$.5665/\$1,000 A.V.). The District would also lose the revenue from the District's own levy of \$.7198/\$1,000 A.V. And it would lose the \$107,000 the City pays for the extra 40-hour per week service. However the District would gain the revenues which result from the new contract with the City for expanded police service. These revenues would equate to application of the City's newly approved \$1.38/\$1,000 A. V. rate to the City's assessed value. Using the 2002 FY values the District receives \$285,306 from the County "rural" levy (\$.5665/\$1,000 A.V. times the City A.V. of \$503,630,853). From the District's levy the District receives \$362,513 from the property owners of the Happy Valley area. These two tax revenues added to the \$107,000 produce a theoretical

revenue for the District of \$754,819. If the new Happy Valley police service levy rate is applied to the current City assessed value, the revenue produced which would go to the District under a contract for services would be slightly less - \$695,009. In actuality, since the City determined it could no longer afford the \$107,000, the District will be receiving more than it could have under the old arrangement.

9. The area to be withdrawn is mostly within Clackamas County Service District # 1 which provides sanitary sewer service territory.
10. The territory is within Clackamas County R.F.P.D. # 1.
11. The area to be withdrawn receives water service from the Sunrise Water Authority.
12. Planning, zoning and other services are provided in the area by the City of Happy Valley.
13. The effective date of this withdrawal will be the date of the County Board order which is entered after the second hearing, assuming no remonstrance is filed at that hearing. The effective date preferred by the applicants and the City of Happy Valley is June 30, 2003. That is when the new tax levy will be in effect and when City will cease to fund the special 40-hour per week patrol deputy. It was originally anticipated that a delayed effective date could be set on this proposal but no authorization for this has been found in statute.

On the effective date of the withdrawal, the District is no longer legally obligated to provide the enhanced level of service to the area within the City. The City would still receive the general "rural" level of County Sheriff's service and the 40-hours per week additional service which the City has funded through the end of the fiscal year. Despite the fact that the District would no longer be legally obliged to provide the enhanced service, the District would receive tax revenue from the property owners in Happy Valley for the entire 2002-03 fiscal year. The logical solution to this unusual situation is for the District to agree to continue to provide the enhanced service through the end of the fiscal year. This could be accomplished through an intergovernmental agreement between the two entities.

14. The County Assessor closes the books for the 2003-2004 fiscal year on March 31, 2003. Any property not excluded from the boundary of Clackamas County Service District for Enhanced Law Enforcement by that date would be taxable by the District for the 2003-2004 FY. Thus it is important that the effective date of this withdrawal proposal fall before March 31, 2003.

The assessor is to disregard any proposed boundary change if it is not filed in final approved form prior to March 31st. A "proposed boundary change" is one which has not become final prior to March 31st but which is certain to become final prior to July 1st.

REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with any urban service agreements under ORS 195. As noted in Finding No. 7 there are no ORS 195 agreements in place in this area and in any case such agreements are not required for police service. The Board concludes that its decision is not inconsistent with any such agreements.
2. The Metro Code calls for consideration of any directly applicable standards or criteria to be found in urban planning area agreements. The territory to be withdrawn lies within the City of Happy Valley. The City has an urban planning area agreement with the County but there is no urban planning area agreement between the City and the Enhanced Law Enforcement District. Therefore the withdrawal does not conflict with any City / County Urban Planning Area Agreements.
3. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans." ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan. No criteria relating to this action was found in the City Plan and the only reference in the County Plan does not appear to be directly applicable. No directly applicable service agreements were found to exist.
4. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in the regional framework or any functional plans."

There are no directly applicable criteria in Metro's two adopted functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. All elements of the Regional Framework Plan were examined and found not to contain any directly applicable standards and criteria for boundary changes.

5. ORS 198.870 (4) requires the Board to deny the withdrawal if the District can provide the service to the area. As explained in Finding 8, the District cannot provide the desired level of service as long as the territory remains in the District. Therefore the Board concludes that this proposal is in compliance with ORS 198.870 (4).
6. Metro Code 3.09.050 (d) (5) states that another criteria to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." The City and the County agree that the current police service arrangement does not meet the needs of either party. The City residents have expressed a willingness to pay a little more to assure adequate police protection and the County Sheriff is able to provide the service more efficiently under the new model.

EXHIBIT B

Proposal No. CL-1602

Legal Description for Withdrawal of Territory
from Clackamas County Service District For
Enhanced Law Enforcement District

A tract of land situated in Sections 25,26,27,28, 34, 35 & 36, T1S, R2E; Section 31, T1S, R3E; Sections 1 & 2, T2S, R2E; Section 6, T2S, R3E; all in W. M., Clackamas County, Oregon and more particularly described as follows:

All of the City of Happy Valley as existing on July 1, 2002 and as shown on the map attached as Exhibit C.

