

RESOLUTION NO. 1116

A RESOLUTION ANNEXING CERTAIN PROPERTIES INTO THE CITY OF PRINEVILLE

Prineville City Council makes the following findings:

BACKGROUND:

The City of Prineville has received a petition to annex the two parcels of property described on Exhibit A to this Resolution, which property is also shown on Exhibit B to this Resolution.

LEGAL CRITERIA AND FINDINGS:

I. OREGON REVISED STATUTES

A. ORS 222.111, Authority and Procedure for Annexation.

(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

FINDING: The subject property is contiguous to the Prineville City limits, is located within the City's Urban Growth Boundary, which has been acknowledged to be suitable for urban development and is developed with sufficient transportation infrastructure to serve urban uses. City services can be easily extended to serve the subject property. The subject property is designated for future industrial and park uses and is being annexed for those purposes.

In addition to the statutory criteria of ORS Chapter 222, the City finds that the proposed annexation meets the judicially imposed "reasonableness" test set forth in *Portland General Elec. Co. v. City of Estacada*, 194 Or. 145, 291 P.2d 1129 (1952) and the cases following it (citations omitted). Although the question of reasonableness is based on a case by case analysis, the reasonableness factors identified by the Oregon courts include:

- whether the contiguous territory represents the actual growth of the city beyond its city limits;
- whether it is valuable by reason of its adaptability for prospective town uses;
- whether it is needed for the extension of streets or to supply residences or businesses for city residents; and
- whether the territory and city will mutually benefit from the annexation.

DLCD v. City of St. Helens, 138 Or App. 222, 227-28, 907 P.2d 259 (1995).

The present annexation satisfies the reasonableness factors because the subject property is contiguous to the City, was brought into the City's UGB as necessary for future urban, industrial development, is needed to provide a large industrial parcel to locate a large scale industrial use and annexation will benefit the City in the form of economic growth and increased tax base. Contemporaneously with this annexation request, the property owner of the industrial land has submitted a zoning request and site plan application to locate a large scale data processing and storage facility.

The City is not annexing any portion of Tom McCall Road at this time because it primarily serves County land, including providing the main access to the County landfill. Because the County maintains this road for access to the landfill and it is not needed to serve City property, the City is not annexing it at this time. The City is also not annexing the property on which the ODOT facility is located because it is not needed at this time for any City purpose and the property owner has not requested annexation.

(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.

FINDING: The present proposal was initiated by the property owners of the territory to be annexed.

(3) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

FINDING: The present annexation is being conducted pursuant to and meets the requirements for annexation under ORS 222.125 because all landowners within the territory proposed for annexation have consented to the annexation in writing and there are no electors residing in the territory to be annexed.

B. ORS 222.125, Annexation by consent of all owners of land and majority of electors; proclamation of annexation.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

FINDING: All property owners within the territory to be annexed have consented to the annexation and there are no electors residing within the territory. The above statute does not require a hearing on the annexation; however, the City has chosen to conduct a hearing to take public testimony and input on the annexation request.

C. ORS 222.177, Filing of annexation records with Secretary of State.

When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

FINDING: The City will submit the necessary documents to the Secretary of State following Council approval of the resolution or ordinance.

D. ORS 222.180, Effective date of annexation.

- (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.
- (2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

FINDING: The present annexation request was initiated by the property owners and will be complete as of the date of filing with the Secretary of State.

II. OREGON ADMINISTRATIVE RULES

A. OAR 660-014-0060, Annexation of Lands Subject to an Acknowledged Comprehensive Plan.

A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [Stat. Auth.: ORS Ch 196 & 197

FINDING: The City of Prineville's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 and 197.625. Therefore, the present annexation request is considered to be made in accordance with the statewide planning goals and the goals need not be directly applied to this decision.

III. CITY OF PRINEVILLE CODE

A. Chapter 153, Land Development; Section 153.034, Zoning of Annexed Areas.

An area annexed to the City shall, upon annexation, assume the zoning classification determined by the City to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.

FINDING: The Planning Commission considered the present annexation request at its November 17, 2009 meeting and recommended approval to the City Council. The Comprehensive Plan designations for the subject property are Industrial (M-1, Limited Industrial and M-2, General Industrial) and Open Space/Park Reserve, as shown on the annexation map in the record. The zoning classifications for the subject property shall be in M-1, M-2 and Park Reserve as shown on the annexation maps and in accordance with the Comprehensive Plan designations.

BASED UPON the above findings it is hereby resolved as follows:

1. The two parcels of property are hereby annexed into the City of Prineville.
2. That part of SW Houston Lake Road between Highway 126 and the northern boundary of that portion of Parcel 1 of the property located east of SW Houston Lake Road is hereby annexed into the City of Prineville.
3. The property is hereby rezoned as set forth on the map attached hereto as Exhibit C, which zoning is in compliance with the City's comprehensive plan and City policy concerning the rezoning of annexed properties for compatibility with the existing uses and/or previous Crook County zoning designations.

4. The City Manager or his designee shall submit the necessary documents showing the property described on Exhibit A has been annexed into the City of Prineville to the Oregon Secretary of State.

Approved by the City Council on the ____ day of November, 2009.

Signed by the Mayor this _____ day of November, 2009.

Mike Wendel, Mayor

ATTEST:

Steve Forrester, City Manager/Recorder

EXHIBIT A

PARCEL 1

Parcel One (1) of Partition Plat No. 2006-06, recorded March 8, 2002, in Partitions MF No. 169150, Records of Crook County, Oregon, located in portions of Sections 1 and 2, Township 15 South, Range 15 East of the Willamette Meridian, Crook County, Oregon

PARCEL 2

Beginning at the East quarter corner of Section 2 in Township 15 South, Range 15 East of the Willamette Meridian; thence South 208.7 feet; thence West 208.7 feet; thence North 208.7 feet; thence East 208.7 feet to the point of beginning.
EXCEPT right-of-way for Houston Lake Road along the North boundary thereof

