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City of Florence

Mayor and Council

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March 3, 2011

Chairman Stewart
Lane County Board of Commissioners
125 E. 8th Avenue
Eugene, OR 97410

Dear Chairman Stewart,

The City Council has reviewed Ordinance PA 1249 adopted by the Board of County Commissioners on December 1, 2010. The City Council accepts all of the amendments made to the Florence Realization 2020 Comprehensive Plan with one exception. The City does not accept the Board's new annexation policy as presented as Policy #1 in Exhibit B.

It is our understanding that the new Board of County Commissioners could reconsider the Commissioners' December 1, 2010 decision to co-adopt the Florence Realization 2020 Comprehensive Plan without any impacts to the long range projects the Land Management Division will be working on this year. Thus, the City of Florence is requesting that the Board reconsider the policy specifying the type of annexation methods that the city can use. Thus, the Council proposes that the policy be shortened as follows:

~~"The procedures of ORS 222.840 et. seq. (Health Hazard Abatement) shall be utilized when there are findings of a, approved by Lane County and the City of Florence, supported by sufficient evidence, demonstrating a need to address contamination of domestic water supplies through annexation in order to remove dangers to public health. In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize annexation utilizing the "island annexation" procedures set forth by ORS 222.750. Any annexation proposed by the City of Florence using the "triple majority" consent procedures of DRS 199.490 (2)(a)(A) shall, in addition, also require the consent of a majority of the electors registered within the territory proposed to be annexed."~~

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LANE COUNTY
BOARD OF COMMISSIONERS



First of all, ORS 222.840 *et seq.* does not limit the determination of a health hazard to contamination of domestic water supplies, although that is one example of a hazardous situation. And the statute describes the process by which the city and local board of health (Lane County) make such a determination. Secondly, ORS 199.490 pertains to annexations within Boundary Commission areas. As you know, the legislature abolished the Lane County Local Government Boundary Commission several years ago, and so this statute is no longer applicable in Lane County. Finally, the City does not believe that the County should preclude the City from using the triple majority annexation method as allowed by ORS 222.170(1). Chapter 2 Section 4 of the City's Charter includes the following language about the powers of the City.

(2) The following shall be deemed to be a description of some of the powers conferred upon the City by this Charter and may not be interpreted to limit any or all of the powers conferred:

h) **Annexations.** To annex areas to the City in accordance with State law.

There are some annexations where the property to be annexed has no electors, but we have consents from the property owners. In previous arguments before the Boundary Commission against the city's annexation of Fawn Ridge, Dan Stotter claimed that the city can not claim that it has a majority of consents of electors if there are zero electors. Thus, in order to ensure that property owners who wish to annex their property to the city can do so without threat of legal argument on this issue, we need to retain the option of the triple majority method.

This annexation policy is the only area where the City Council takes issue with the Board's previous action. The Council accepts the rest of the County's actions in adopting the Realization 2020 Comprehensive Plan. Thus, the County could reopen the record on just that one issue to streamline the public hearing process. If the Board does not voluntarily reconsider its decision, then the City of Florence would likely file an objection with the Oregon Department of Land Conservation and Development (DLCD) in response to the Lane County's notice of decision. It would be advantageous to our collective public if we could resolve this matter at the local level rather than taking up additional resources and time at the state level.

Thank you for your consideration.

Respectfully submitted,



Phil Brubaker
Mayor