

# MINUTES

## LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION

Eugene City Hall  
Council Chamber (777 Pearl Street)

June 1, 2006  
7:00 p.m.

**PRESENT:** Eleanor Mulder, vice chair; Van Heeter, secretary; Karen Seidel; Ernie Olson

**ABSENT:** Clay Myers, chair; Christine Larson; Jim Spickerman

### I. CALL TO ORDER – ROLL CALL

Chair Clay Myers convened the meeting at 7:00 p.m. Paula Taylor, Executive Officer, called the roll.

### II. APPROVAL OF EXPENSES – MARCH/APRIL 2006

- \* Moved and seconded (Seidel/Olson), to approve the expenses of March 2006 (\$11,683.34) and April 2006 (\$12,586.54). The motion passed unanimously, 4:0 (commissioners Seidel, Olson, Mulder, and Heeter voting in favor).

### III. APPROVAL OF MINUTES – APRIL 6, 2006

Ms. Seidel noted that there were numerous proofreading errors in the minutes of the previous meeting.

- \* Moved and seconded (Olson/Seidel) to postpone approval of the minutes until the next meeting. The motion passed unanimously, 4:0 (commissioners Olson, Seidel, Mulder, and Heeter voting in favor).

### IV. OLD BUSINESS

Continued from the April 6, 2006, Public Meeting – Annexation of Territory to the City of Eugene (Eugene School District 4J/Spring Creek Drive/Irvington Drive/Crocker Road/Blackfoot Avenue/W Hilliard Lane/Marion Lane)

- A. BC File C EU 06 – 27  
Initiated by property owner petition  
Action under ORS 199.490(1)(c) of the boundary commission law  
Received on March 7, 2006  
Action to be taken by June 5, 2006

### Description

This application included three separate annexation areas: Area 1 included one tax lot and a portion of Spring Creek Drive located in the Santa Clara region of north Eugene, north of Beltline Road, east of River Road, south of Spring Creek Drive, west of Scottdale Street—the portion of Spring Creek Drive included in Area 1 was between River Road and Scenic Drive; Area 2 included one tax lot and portions of Irvington Drive, Crocker Road, and Blackfoot Avenue located in the Santa Clara region of north Eugene, north of Beltline Road, west of River Road, south of Irvington Drive, north of Blackfoot Avenue, and east of Crocker Road—the portion of Irvington Drive included in Area 2 was between the Northwest Expressway and Byron Street, the portion of Crocker Road was between Irvington Drive and Blackfoot Avenue, and the portion of Blackfoot Avenue was between Crocker Road and River Road; Area 3 included three tax lots and portions of W Hilliard Lane and Marion Lane located in the River Road region of north Eugene, south of Beltline Road, east of River Road, south of W Hilliard Lane, north of Marion Lane, and east of Hoover Lane—the portion of W Hilliard Lane included in Area 3 was between River Road and the west property line of tax lot 2100 and the portion of Hoover Lane was located between River Road and Hoover Lane

Property owner: Eugene School District 4J (200 N Monroe Street, Eugene)

Tax lots: 500, T17S R04W S02 Map 13 (Area 1)

5502, T17S R04W S02 Map 30 (Area 2)

2100, T17S R04W S24 Map 23, and 8301 and 8500, T17S R04W S24 Map 24 (Area 3)

Acres: ± 16.90 (± 13.54 acres in TL 500; ± 3.36 acres in road r/w) (Area 1)

± 25.91 (± 11.84 acres in TL 5502; ± 14.07 acres in road r/w) (Area 2)

± 12.00 (± 8.54 acres in TLs 2100, 8301, and 8500; ± 3.46 acres in road r/w) (Area 3)

Estimate of existing population: 0

Existing land uses: Elementary schools, road rights-of-way

Existing zoning in Lane County: PL/UL, public land with urbanizable lands overlay; AG/UL, agriculture with urbanizable lands overlay

Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in 1982 and as subsequently amended)

Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Eugene School District 4J), roads (Lane County), water (Santa Clara Water District, River Road Water District), fire (Santa Clara Rural Fire Protection District, Lane Rural Fire/Rescue), parks (River Road Park and Recreation District), wastewater (City of Eugene)

### Reason for Annexation

The property owner—Eugene School District—is requesting annexation to the city in order to receive urban services only provided by the city, such as the safe schools program through the Eugene police department. These are the remaining three schools in the north Eugene area that are not within the city. Existing road rights-of-way are included to facilitate the provision of urban services to annexed or annexing properties. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Paula Taylor, Executive Officer, indicated that although no public hearing will be held, notice of the public meeting was provided in the same manner as required for notice for a public hearing.

The notice of the public meeting was advertised in *The Register Guard* on June 11, 2006; notice was sent to the affected property owner on May 19, 2006; and notices were posted in the annexation areas on May 17, 2006. In addition, a supplemental staff report was mailed to the same mailing list as was the April 6, 2006, staff report and to all public members who testified at the April 6, 2006, public hearing if they provided an address in their testimony.

Eleanor Mulder, vice chair, noted that there was not a quorum for deliberating or making a decision given that Mr. Heeter had not been present during the public hearing held at the previous meeting.

Ms. Taylor noted that there had been a public hearing on April 6, 2006, and the boundary commission had closed the hearing and continued this item to the June 1 meeting for deliberation and decision. She said there was specific information requested on the road rights-of-way that was included in the annexation. She said the supplemental staff report contained all of the information that had been obtained since the previous meeting. She said no analysis had been done by staff because the public hearing and analysis portion of the item had been completed. She said the information was for the boundary commission to review and make a decision as to its relevance in decision-making. She stressed that there would be no further public hearing on the annexation request and the evening's meeting would be for deliberation and decision-making.

Ms. Taylor noted that boundary commission law required four votes of the total membership to pass a final order. She noted that two of the commissioners present for the April public hearing were not present at the current meeting. She said the options before the commission were:

- a. Rearrange the agenda and deliberate later in the meeting if another commissioner who had been present at the public hearing arrived.
- b. Continue the deliberation to another night before the 90<sup>th</sup> day which is June 5, 2006.
- c. Continue the deliberation to a date, time, and place specific beyond the 90<sup>th</sup> day if there were no objections raised from anyone in attendance.

Ms. Taylor noted that the 90<sup>th</sup> day was important because if the commission did not pass a final order by June 5<sup>th</sup> then the annexation would be approved as submitted.

Ms. Mulder called for comments/questions from the commission. She noted that the only day the required number of commissioners could be present before June 5<sup>th</sup> would be the following evening and questioned how notice could be provided.

Ms. Taylor said, technically, no official notice was required for the current meeting other than notice in accordance with Oregon's open meetings law. She noted that she had provided additional notice put stressed that no public hearing had been mentioned. She said it was unlikely that the statutory requirements for notice could be met for a meeting held the following evening.

Ms. Seidel suggested moving on to the evening's public hearings since all of the people wishing to testify were already present.

John Dotson, 2447 Canterbury Street, Eugene, said notice had been reposted and the description of the area had been changed. He questioned how the new posting could have a different description.

Ms. Taylor said that the posting of notices was to meet the statutory requirements for a public hearing. She reiterated that there was no requirement for any kind of notice or advertising for a non-public hearing meeting other than that required by the open meetings law. She said she had chosen to post notices as was normally done but stressed that the notices were not advertising a new public hearing. She said the text of the description was the same as far as she was aware.

Mr. Dotson said the original notice included streets that were included in the annexation request. He said the new postings mentioned a "possible annexation of streets." He remarked that this was totally different.

Ms. Taylor said notices had been posted for each of the areas. She said the text he said was new could be in reference to a possible modification of one of the annexation areas to include additional right-of-way. She said the commission would need to decide how long to continue with this discussion since no posting of notices was required for this meeting.

Mr. Olson clarified that if a decision were not made within 90 days then the annexation was approved as submitted with no findings of fact or reasons attached.

- \* Moved and seconded (Seidel/Olson) to postpone deliberation on BC File C EU 06 – 27 until later in the meeting and move directly to the new business. The motion passed unanimously, 4:0 (commissioners Seidel, Olson, Heeter, and Mulder voting in favor).

## V. NEW BUSINESS: PUBLIC HEARING

### Annexation of Territory to the City of Eugene (St. Vincent de Paul Society of Lane County Inc./E Hillcrest Drive)

- A. BC File C EU 06 – 34  
Initiated by property owner petition  
Action under ORS 199.490(1)(c) of the boundary commission law  
Received May 1, 2006  
Action to be taken by July 31, 2006

#### Description

As submitted, the annexation area included one tax lot and a portion of E Hillcrest Drive located in the River Road region of north Eugene, south of Beltline Road, east of River Road, north of E Hillcrest Drive, and south of Loretta Way

Property owner: St. Vincent de Paul Society of Lane County, Inc.

Tax lot: 8100, T17S R04W S24 Map 21

Acres: ± 0.59 (± 0.49 acres in TL 8100; ± 0.10 acres in road right-of-way)

Existing zoning in Lane County: R-1/UL, low density residential with urbanizable lands overlays

Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in August 1982 and as been subsequently amended)

Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Eugene School District 4J), roads (Lane County), water (River Road Water District), fire (River Road Fire District contracting with the City of Eugene), wastewater (City of Eugene), parks (River Road Park and Recreation District)

### Reason for Annexation

The property owner requested annexation in order to prepare the property for additional low-density residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

### Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in The Register Guard on May 11, 2006.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owner (St. Vincent de Paul Society of Lane County, Inc., owner of the private property in the annexation and initiator of this annexation request), on May 19, 2006.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on May 17, 2006.*

Eleanor Mulder, vice chair, called for *ex parte* contacts or conflicts of interest from the commission.

Ms. Seidel declared that she was a member of the Historic Review Board with the representative from St. Vincent de Paul but had not discussed the annexation request. She affirmed that she could be impartial.

Ms. Mulder said she was on the Housing Advisory Board of St. Vincent de Paul, but that board made no binding decision about upcoming projects. She said she was generally supportive of low-income housing but stressed that she was not paid for her volunteer service. She called for a show of hands among the commissioners as to whether she should participate in the public hearing. Commissioners Seidel, Olson, and Mulder opted for her to participate and commissioner Heeter opted for her not to participate. Ms. Mulder decided to participate in the public hearing.

Paula Taylor, Executive Officer, outlined the notice provided for the hearing. She said the notices that were posted stated that it was likely that a modification would be requested for a road right-of-way inclusion. She said a map showing the annexation area was posted with the notice.

Jim Seaberry, 3294 Stark Street, Eugene, objected to the notice provided. He said the posted notice was erroneous in that the description on the notice stated that there "may" be a request submitted for adding road right-of-way prior to the public. He cited a Eugene memorandum dated May 4, 2006, which asked for a modification of the annexation to include the portion of

right-of-way on E Hillcrest Drive between River Road and the applicant's request. He said it had been known by the city on May 4<sup>th</sup> that there would be a request to modify the application and yet the notice posted still contained the word "may." He said the boundary commission had received the request on May 18<sup>th</sup> which was before the notice was posted. He said the notice was not factual.

Ms. Taylor noted that notices had been posted on May 17<sup>th</sup> and, at that time, she had received no written request to modify the application.

\* Moved and seconded (Heeter/Seidel) to establish that the notice provided for the meeting was adequate. The motion passed unanimously, 4:0 (commissioners Heeter, Seidel, Mulder, and Olson voting in favor).

Ms. Taylor provided the staff report. She said she had received additional written testimony which she had submitted into the record. She said the annexation, as it was submitted, contained the portion of E Hillcrest Drive immediately adjacent to the tax lot. She noted that the annexation area was contiguous with the main body of the city limits.

Ms. Taylor said if the commission approved the annexation and passed a final order it would not be effective until July 17<sup>th</sup>. She said the 90<sup>th</sup> day for the item was July 31, 2006. She said at the time of the submittal of the application there were no electors registered in the area of annexation.

Ms. Taylor said the City of Eugene had requested a modification of the annexation to include the remainder of E Hillcrest Drive from the area of annexation west to River Road. She said, if the commission chose to approve the modification, an island would be created of an area totally surrounded by city limits. She said a list of all of the properties and land owners within the potential island was included in the staff notes. She added that staff notes were mailed to each of those property owners.

Ms. Taylor said each of the commission standards for approval was addressed and staff had concluded that the annexation met all criteria. She said if the application were approved the land would be removed from the River Road water and park districts. She said the city and River Road park district had an intergovernmental agreement that allowed for an in-lieu-of tax payment to the district to offset the loss of revenues from annexed territory being withdrawn from the district. She said that city services could be extended to serve the annexation area.

Ms. Taylor said staff recommended modification of the application to include the specified portion of E Hillcrest Drive with the findings and reasons based on that modification. She noted that there had been a request from property owners at 108 E Hillcrest to be included in the annexation request. She said the formal written request, a map of the land, and a legal description of the land were included in the information submitted to the commission this evening. She said it was a little unusual for the commission to receive requests so late in the process but noted that state statute clearly allowed such requests when made in writing. She said the City of Eugene had reviewed the request to modify and the material distributed to the commission contained written material regarding how services would be provided to the tax lot if it were included in the application. She noted that she had received a letter from Kurt Yeiter, City of Eugene, in support of the additional tax lot being included in the annexation request.

Ms. Taylor said there would need to be a new finding if the commission agreed to modify the request to include the additional tax lot (1500) and a new finding addressing the creation of islanded territory. She added that the new finding would also have to alter the total acreage being

annexed and a new sentence would be required to state: *“The modified annexation area would be withdrawn from the River Road Water District and the River Road Park and Recreation District through separate proceedings.”*

In response to a question from Ms. Seidel regarding whether the proposed modification would be moot if the request were approved as submitted. Ms. Taylor confirmed that the additional tax lot could be included even if the remainder of E Hillcrest was not.

Ms. Seidel confirmed that the properties could be annexed without the requested road right-of-way.

Ms. Taylor distributed an e-mail regarding the annexation of road rights-of-way and a copy of a deed showing a public road easement from a property owner to Lane County on Hillcrest Drive.

Ms. Mulder opened the public hearing and called for testimony from the proponent.

#### Proponent’s Opening Statement

Richard Dannemiller, 37785 Owl Road, Eugene, representing St. Vincent de Paul, said they had purchased property from the county to further an ongoing goal of providing affordable housing. He said the original annexation request did not include the road right-of-way suggested by the City of Eugene and he said he had given verbal approval to include the portion of E Hillcrest adjacent to the tax lot. He noted that he had declined to be the author of the remainder of right-of-way for E Hillcrest Drive in the application and noted that he had never received any notice from the city regarding the request to modify from the other property. He said the goal was to annex the property into the city so it could be subdivided and be developed with two houses for families. He requested that the commission judge the application on its merits and not consider any other issues.

#### Public Officials in Support

Kurt Yeiter, Principal Planner, City of Eugene, spoke in support of the annexation. He noted that all new development in this region of the urbanizable area must annex to the city to be provided urban services. He said a portion of E Hillcrest Drive was already annexed into the city and St. Vincent de Paul was only requesting the portion of the right-of-way adjacent to its property. He added that there were several other properties on E Hillcrest already annexed and River Road in that area was also annexed into the city. He said the city was trying to create a more logical and appropriate connection of city areas and the city was requesting that all of E Hillcrest from the St. Vincent de Paul property to River Road be annexed. He said annexation of the street would not affect service delivery or maintenance responsibilities between the county and the city. He noted that the annexation would create an island of unincorporated properties. He said the city supported voluntary annexations and did not have any intention to force annexation of the islanded area. He said the boundary commission would still have to hear any request for annexation of the islanded area.

Mr. Yeiter said the commission had requested that the city contact properties when an island was created. He said the city had sent out letters explaining what was going on and letting people know of the boundary commission hearing. He said the owners of the additional property requesting to annex was only received the previous day and confirmed that St. Vincent de Paul had not received notice that the additional modification would be requested.

Jim Carlson, Assistant City Manager, said the right-of-way modification request was for a short segment of a county street providing access to city properties. He said under the intergovernmental agreement, the city was already providing maintenance to the street. He said E Hillcrest Drive was a bike access point to the West Bank bike path. He said property just to the east of the subject property was City of Eugene parkland and had an off-street bike path. He said the city was interested in protecting the bicycle access to the path. He noted that it had been suggested by some that only the portions of streets adjacent to properties requested for annexation be included and he commented that a piecemeal approach was not an efficient or effective means of annexing road rights-of-way.

Mr. Carlson said under the intergovernmental agreement with Lane County, the city would be requesting a jurisdictional transfer of E Hillcrest Drive to the City of Eugene. He noted that, after the previous boundary commission meeting, there had been a Lane County Board of Commissioner's meeting on the issue of transferring jurisdiction of road rights-of-way and that transfer had been approved by the county commissioners.

Ms. Mulder said she had been impressed with the rationale provided by the city for right-of-way requests and remarked that it was a most persuasive argument and expressed her desire for people in the River Road area to be aware of it.

Mr. Carlson said the information was included in the staff report and all properties included in the potential island had received copies of the staff report. He noted that most city services were located on or under the street rights-of-way and stressed that providing services would be more effective if the entire street was under one jurisdiction.

Others in Support – None

Public Officials in Opposition – None

Others in Opposition

Anthony Towne, 127 McClure Lane, Eugene, spoke in opposition to the addition of the street right-of-way that created an islanded territory. He said he was not opposed to the property annexation. He acknowledged the statement made by Mr. Yeiter that the city did not intend to forcibly annex islanded territory, but noted that state law would allow that to happen if the city changed its policy.

Thomas Sims, 395 Hawthorne Avenue, Eugene, said the city was using an "obviously un-American" method to annex lots and parcels of private residence. He said if a school or business wished to annex its property, he had no quarrel, but strongly opposed annexation of private properties without the citizens of River Road and the City of Eugene both agreeing to do so. He urged denial of all requests for annexation until citizens of Eugene and River Road agreed to do so.

Brian Wing, 148 W Hilliard, Eugene, supported the statements of Mr. Towne. He said he was against the annexation of streets of any type in the River Road area.

Rob Handy, 455½ River Road, Eugene, mentioned the testimony of Assistant City Manager Jim Carlson and called attention to his testimony regarding reasonable, logical, and appropriate means for annexation. He questioned how to look at the big picture and still be reasonable. He stressed the importance of separating the annexation of streets from property annexation requests. He said

the city was exacerbating a very difficult situation in the River Road area. He said trust, voice, equity, and collaboration were all important in the approach for annexation in the River Road and Santa Clara areas.

Mr. Handy urged the commission to look at the big picture beyond its charge which was the relationships between the city and the River Road and Santa Clara areas.

John Dotson, 2447 Canterbury Street, Eugene, questioned whether he could get a list of services provided in street rights-of-way. He said many of the services were not city-owned services. He said he had no objection to St. Vincent de Paul annexing its property. He cited state law regarding annexations and how electors in affected territory could file objections. He said most streets were easements over platted property. He said that ownership was everyone who owned property along the road. He said a body did not have to live in the street to be affected.

Jerry Lake, 132 E Hillcrest Drive, Eugene, submitted a copy of a dedication of a public road easement bearing his name and numbered 7807883 and referring to county road number 1291 and stated that the dedication was a contract between the Lakes and Lane County. He said the deed prevented the Lake's property from becoming islanded. He said the City of Eugene had not requested the section of E Hillcrest which he resided.

Clinton Rushing, 103 McClure Lane, Eugene, said the St. Vincent de Paul property annexation should be allowed to go forward. He said annexation of an islanded area could cause him to loose his house. He said there was very little upside to having city services provided against his will.

Robyn McGregor, 145 W Hilliard Lane, Eugene, said annexing the streets was a ploy to island properties and take them against the people's will. She said she did not agree with streets being annexed by adding them on to requested property annexations.

Klaus Pressler, 211 River Loop #1, Eugene, spoke in opposition to the road right-of-way inclusion in the St. Vincent de Paul annexation. He said he had no objection to the annexation request from St. Vincent de Paul.

Jim Seaberry, 3294 Stark Street, Eugene, said he was in favor of the property being annexed but noted that he had a discussion with the applicant's representative who was "livid" because he had indicated that he had not requested that the street right-of-way be annexed. He said Mr. Dannemiller had indicated that Kurt Yeiter had told him that if the right-of-way was not included with his annexation request then the expedited process could be delayed. He remarked that this was "pseudo blackmail."

Mr. Seaberry said the property had been sold by the county to St. Vincent de Paul. He said the property had been subdivided so two homes could be built for low-income people. He said those two homes completing an encircled area would put 8 people in need of homes. He urged the commission not to allow the city to encircle property owners.

Jerry Ritter, 1865 Yolanda Avenue, Springfield, the Legislative Affairs Representative for Oregon Communities for a Voice in Annexations, said he was not opposed to the property being annexed but was opposed to the annexation of the street. He said there was no statutory guidance for street right-of-way annexations, just case law. He said the Oregon Courts of Appeals and the Land Use Board of Appeals had upheld street annexations provided that it could be demonstrated that the annexation was reasonable and served a legitimate purpose. He said the definition of

legitimate purpose was that the street annexation was necessary to accommodate growth, jobs, provision of services, or benefit the annexing entity. He said the current request satisfied none of those criteria and should not be approved.

Mr. Ritter said Goal 1, the cornerstone of Oregon land use law, provided for citizen input in land use decisions, and assumed that citizens would be listened to. He said if the right-of-way annexation were approved then the city would gain the ability to annex properties without a vote. He remarked that this was not mutually beneficial by any measure. He said the only way the city could annex large areas was by creating islands and expressed his suspicion that the city was creating islands to force annexation at a later time in spite of its statements to the contrary.

#### Those Neither in Support nor Opposition – None

#### Rebuttal by Proponent

Richard Dannemiller cited the comment from Mr. Ritter that he did not understand the benefit to the community. He said St. Vincent de Paul understood the benefit to the community and reiterated that he wanted the commission to review the property annexation proposal on its own merits.

Mr. Dannemiller noted that he did have a conversation with Mr. Seaberry but said he would appreciate it if Mr. Seaberry based his arguments on his own material and not on their conversation. He said he had expressed clearly that Mr. Yeiter had asked him to include the street annexation and said he felt that the request would involve St. Vincent de Paul in a political football game in which it did not want to be involved. He added that he had said that he supported annexation since that was what would eventually happen and noted that there needed to be more transparency between the city and the residents of the area regarding annexations. He said he felt he was not quoted true to his intent. He reiterated his support of the annexation of the property, but stressed that the city needed to do a lot of work on transparency of process. He urged the commission to allow the annexation of the St. Vincent de Paul property.

Ms. Mulder closed the public hearing and called for commission deliberation.

#### Boundary Commission Discussion and Decision

- \* Moved and seconded (Seidel/Olson) to approve BC File C EU 06 – 34 annexing territory to the City of Eugene as submitted and, if it was agreeable to St. Vincent de Paul, to include the property at 108 E Hillcrest Drive, and to direct staff to amend the findings and reasons as needed.

Ms. Seidel said it was not appropriate for the city to ask for a modification of an annexation request if a property owner had already declined to add the street right-of-way annexation to their application.

Mr. Dannemiller said if the addition of the other property had no detrimental effect to his application then he had no objection to the addition.

Ms. Taylor said there were no registered voters on the additional tax lot and reiterated that there were no registered voters on the property in the original annexation request so it would not be detrimental to the original application.

Mr. Heeter clarified that the motion was to approve the original property annexation and include the private property at 108 E Hillcrest without the right-of-way modification requested by the City of Eugene.

\* The motion passed unanimously, 4:0 (commissioners Seidel, Olson, Mulder, and Heeter voting in favor).

Ms. Taylor noted that the findings and reasons in the final order would have to be modified to show the additional tax lot and the removal of references to the right-of-way modification request.

Annexation of Territory to the City of Eugene (BGM Land Development LLC)

B. BC File C EU 06 – 35  
Initiated by property owner petition  
Action under ORS 199.490(1)(c) of the boundary commission law  
Received on May 2, 2006  
Action to be taken by July 31, 2006

Description

The annexation area included one tax lot located in the River Road region of north Eugene, south of Beltline Road, west of River Road, east of the Northwest Expressway, north of Bushnell Lane, and west of Skipper Street  
Property owner: BGM Land Development LLC (395 Walnut Lane Eugene)  
Tax lot: 505, T17S R04W S15 Map 10  
Acres: ± 1.70  
Estimate of existing population: 0  
Existing land use: Vacant  
Existing zoning in Lane County: R-1/UL, low-density residential with urbanizable lands overlay  
Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in 1982 and as subsequently amended)  
Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Bethel School District 52), roads (Lane County), fire (Lane Rural Fire Protection District), parks (River Road Park and Recreation District)

Reason for Annexation

The property owner requested annexation in order to prepare the property for low-density residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in The Register Guard on May 11, 2006.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a

legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owner (BGM Land Development LLC, owner of the private property included in the annexation and initiator of this annexation request) on May 19, 2006.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on May 17, 2006.*

Eleanor Mulder, vice chair, called for *ex parte* contacts or conflicts of interest. None were declared.

Paula Taylor, Executive Officer, outlined the notice provided for the hearing. There was no objection to the adequacy of the notice provided.

Ms. Taylor incorporated the staff notes into the public hearing record as well as an additional letter from a property owner in the area of annexation. She noted that the letter was mailed to the commissioners with the meeting packet.

Ms. Taylor said if the annexation was approved it would not be effective until July 17<sup>th</sup>. She said there were no registered voters residing in the area of annexation. She said the commission had to take action on the proposal by July 21<sup>st</sup>. She noted that there had been a request from the City of Eugene to include road right-of-way—a portion of Bushnell Lane, the part of Smithoak Street south of Bushnell Lane to the city limits, and the remaining portion of David Avenue that was currently not within the city. She said the staff report included information about David Avenue and Smithoak Street. She said the other piece of the modification request was a small tax lot owned by Lane County that was used as right-of-way. She said it was known as a “reserve strip” and ran along the centerline of David Avenue. She said it was a small one foot strip. She said if the commission chose to approve the road right-of-way modification request then that small strip would be included.

Ms. Taylor reported that if the road rights-of-way modification request was approved then there would be four islanded areas created which consisted of 20 tax lots. She said there were maps in the staff report that showed the potential islanded areas. She said the property owners in the potential islanded areas were sent copies of the staff report.

Ms. Taylor said staff was recommending modification to include the additional roadways and approval of the application because all criteria for approval had been met. She said services could be provided and the streets were being requested because they facilitated the provision of urban services. She said the islands that would be created would remain un-annexed until the property owners requested annexation.

Ms. Taylor read the letter from Gerald Betz, 535 Bushnell Lane, Eugene, into the record requesting denial of the modification request to include the road rights-of-way and raising concern over whether the city could afford taking control of maintenance responsibilities for the requested rights-of-way.

Ms. Mulder opened the public hearing.

### Proponent's Opening Statement

Tom Poage, 990 Obie Street, Eugene, representing the property owner, said the initial application was to annex just the lot. He said he wanted to stay out of the road right-of-way issue.

### Public Officials in Support

Kurt Yeiter, City of Eugene, said he supported the application with the requested street segments modification. He said the request met all of the criteria for the annexation and added that the street rights-of-way also met all of the criteria for approval. He said the requested annexation of the rights-of-way were logical extensions of city street system.

Mr. Yeiter acknowledged that a number of small islands would be created by the annexation and noted that the city had sent notice to all of the properties within the potential islanded areas.

Jim Carlson, Assistant City Manager, said Lane County currently maintained Bushnell and Smithoak and that would not change upon annexation and the city would request jurisdictional transfer the following year. He said 56 percent of Bushnell currently fronted annexed properties or properties proposed to be annexed. He said the requested right-of-way modifications were an opportunity to clean up fragmented streets and connect them to the main body of the city.

### Those in Support – None

### Public Officials in Opposition – None

### Others in Opposition

Kate Pearle, 4740 Wendover Street, Eugene, spoke to the addition of street right-of-way to the initial application. She said there would be no improved level of service if the right-of-way was annexed. She said development of the requested property could be accommodated without the right-of-way being annexed. She said the losses incurred by islanded residents would not outweigh the services extended by the City of Eugene. She said the city would continue to encounter resistance to street annexations until it realized that reasonable and appropriate street annexations did not include taking residents hostage, but would be characterized by residents making a plan that benefited all concerned.

John Dotson, 2447 Canterbury, Eugene, reiterated that every time a street was annexed the people along that street were affected property owners. He said ORS 199 called out electors in affected territories.

Ms. Mulder read a letter into the record from Marie Gray, 353 Knoop Lane, Eugene, that had been submitted that evening. The letter spoke against the annexation of streets and requested denial of all annexations that made islanded territories.

### Those Neither in Support nor Opposition – None

### Rebuttal by Proponents

Mr. Carlson noted that when roads were repaired there was no bonding or local improvement district. He said the definition of affected property owners in an annexation were people who resided within the annexed area and not the people whose property abutted the street.

Ms. Mulder closed the public hearing.

#### Boundary Commission Discussion and Decision

Ms. Taylor said boundary commission law contained definitions of affected territory which was the territory described in the annexation area. The registered voters within the annexation area were the only residents that could object to the application as required in ORS 199.505. She said adjacent property owners could not be in an affected territory if they were not included in the annexation area.

- \* Moved and seconded (Olson/Seidel) to approve BC File C EU 06 – 35 annexing territory to the City of Eugene without the road rights-of-way requested for inclusion. The motion passed unanimously, 4:0 (commissioners Olson, Seidel, Mulder, and Heeter voting in favor).
- \* Moved and seconded (Heeter/Seidel) to direct the boundary commission staff to modify the findings and reasons for C EU 06 – 35 to reflect the approval of the application as originally submitted and not including the streets in the modification request. The motion passed unanimously, 4:0 (commissioners Heeter, Seidel, Mulder, and Olson voting in favor).

#### Continued from the April 6, 2006, Public Meeting – Annexation of Territory to the City of Eugene (Eugene School District 4J/Spring Creek Drive/Irvington Drive/Crocker Road/Blackfoot Avenue/W Hilliard Lane/Marion Lane)

##### A. BC File C EU 06 – 27

It was noted that a quorum was still not available. There was no objection by anyone present to continue the deliberation beyond the 90<sup>th</sup> day.

Bill Hirsch, Eugene School District 4J, said the district would not object provided that a date and time certain could be stated. He said August would be too late for the needs of the school district and expressed a preference for a June or July date. He said the district preferred to have an official decision rather than approval by default.

In response to a question from Mr. Heeter that if the application were approved by default then there would be no findings of fact and the decision could be challenged, Ms. Taylor said that was correct and all of the materials would be in the record but there would be no official decision by the commission.

- \* Moved and seconded (Olsen/Seidel) to have a special meeting at the end of June and before July 15, 2006 for deliberation and decision making on BC File C EU 06 – 27. The motion passed unanimously, 4:0 (commissioners Olson, Seidel, Mulder, and Heeter voting in favor).

Ms. Taylor stressed that the public hearing portion of the item was closed and the special meeting would be for deliberation and decision making only. She said there were no notice requirements but said she could provide notice consistent with Oregon law.

## VI. OTHER BUSINESS

### A. Election of Officers

Ms. Taylor said there had been consensus to have the same officers serve another term. The election of officers was postponed until the August meeting.

### B. FY 2006-07 Joint Budget Meeting with Advisory Committee

Ms. Taylor said she would continue to work for a date for a joint meeting on the budget with the advisory committee.

### C. FY 2006-07 Intergovernmental Agreement with the Lane Council of Governments

Ms. Taylor said she had distributed copies of updated agreement in legislative format. If the commission wanted to continue with its intergovernmental arrangement with the Lane Council of Government (LCOG), she asked for a motion from the commission to authorize staff to update the agreement and have it executed.

- \* Moved and seconded (Seidel/Mulder) to direct staff to update and execute the FY 2006-07 intergovernmental agreement. The motion passed unanimously, 4:0 (commissioners Seidel, Mulder, Heeter, and Olson voting in favor).

The meeting adjourned at 9:30 p.m.

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Eleanor Mulder, Vice Chair  
Lane County Local Government Boundary Commission

(Recorded by Joe Sams)

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