



Oregon Communities

For A Voice In Annexations

Promoting & Protecting Citizen Involvement in Land Use Issues

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From The Secretary:

Dear OCVA Members & Friends:

Although there have been bushels of email and website updates since our last formal newsletter, the officers felt it appropriate to publish a written update to summarize the events and activities of the past 9 months. There is a lot to talk about! Let me begin with the 2005 Legislature: **It was a remarkable session on the annexation front – one that saw a major victory for us.**

First and foremost was our **prime directive** (as it always is) to protect our voter annexation charter amendments and the right of Oregonians to initiate these laws. As was the case in the 2003 session, the opponents of voter annexation did not take us on directly with legislation. Having fought heated and successful battles in the '97, '99 and 2001 sessions where they DID challenge us directly, we welcomed the absence of another SB 1137 or HB 3389. That was especially true because annexation took center stage in the 2005 session. We were focused on making the most of the Legislature's heightened interest in annexation reform. More on this in a moment.

However, as many of you know from our updates, a provision of Senate Bill 887 (Section 3) sneaked in under our radar. It provides that, when a city uses ORS 195 to annex territory (a rare event so far in Oregon), the vote will be confined to those targeted for annexation. In other words, city voters would not be allowed to participate in such decisions. This, and most other provisions of the bill (which was a real stinker) sunset in January 2008.

This section made absolutely no sense, especially in light of the earlier passage of our HB 2484 to make the voting provision of ORS-195 a "double majority." We lobbied very hard to remove it. But the **League of Oregon Cities** wanted it. Their reason: City voters always approve ORS-195 annexations (true, so far). Therefore, let's save the expense of a general election and just do 195 votes in the targeted area. **The League rep has assured us, in writing, that their attorneys say cities with VA charter amendments will still have to honor them, and publicly stated that OCVA was doing nothing more than "raising a cloud of dust" with our fears to the contrary.**

There have been only two successful ORS-195 annexations in Oregon of which we're aware (Bend in 1999 & Redmond in 2004). City government officials who've been quoted in the media said they don't use 195 as an annexation tool. The vast majority of the annexations in our communities are done under ORS 222. So, we will be watching – **and you need to watch** - closely for any indication that any of our member cities will try to use this provision to circumvent its VA ordinance. **Please let us know immediately if you become aware of any such plan.** Having butted heads with the League for nearly a decade we have good reason to be skeptical of their assurances. But we have actually had some non-confrontational post-session dialog with them. I am hopeful that these assurances are not bogus. We will certainly see during the next two years.

ANNEXATION TAKES CENTER STAGE IN SALEM: The big news is that we **finally won our 9-year battle to require “double majority” as the means of approving ORS-195 annexations** when Governor Kulongoski signed HB 2484 into law on June 30. The road to this victory has been long and hard. It began when some who would later found OCVA learned of ORS-195 when **Springfield** unveiled a plan to annex its UGB in 1994 – right after the law was passed. Its voting provision was being interpreted as “combined vote” of the city and the area targeted for annexation. But the language could just as easily have been interpreted as meaning “double majority.” By now, you all know the background and why the “combined vote” interpretation is a travesty. Massive opposition convinced the Lane Co. Commission to oppose the “combined vote.” The City Council later shelved the plan.

In 1999 **Bend**, using a plan designed by the **Lane Council of Governments** (LCOG was largely responsible for the Springfield annexation plan), became the first city to forcibly annex its UGB via ORS-195. This caused outrage in the UGB. In 2001 we supported **Rep. Ben Westlund’s** (R., Bend) attempt to force the “double majority” interpretation. This effort went nowhere, due to the obscurity of 195 and because we had to focus on defeating yet more attempts to revoke the right of citizens to vote on annexations. The bill, HB 3381, never got out of committee.

We requested that Rep. Westlund renew the effort in 2003, and he did with HB 3211. The League of Oregon Cities was supporting a directly competing bill, HB 3530, to force the “combined vote” interpretation. We got 3530 killed in **Rep. Jerry Krummel’s** (R., Wilsonville) General Government Committee. We then got 3211 out of **Rep. Bill Garrard’s** (R., Klamath Falls) Environment & Land Use Committee on a 5:1 “do pass” vote. However, the bill was then killed by House Speaker Karen Minnis who refused to allow it to proceed. So, we ended up with status quo – but we had established that there were two interpretations possible for the voting provision, just as we had argued all along. These debates educated and informed Reps. Garrard and Krummel. They would both become key players in 2005.

In mid to late 2004, three events happened which made the stars align for ORS-195 reform. The city of Tigard and the Tualatin Hills Park and Recreation District both rolled out plans to annex big chunks of territory using ORS-195’s “combined vote” interpretation. The City of Redmond also began proceeding with an ORS-195 annexation against its UGB. Many citizens in these communities contacted us via our website, where we had a detailed write-up about ORS-195 and our efforts to amend it. Soon there were throngs of people in major population centers (thanks to the Internet) who now knew about the law and were **“mad as hell!”** Rep. Garrard had committed to us, after the failure of HB 3211, that he would sponsor a repeat attempt in 2005. We wrote and reminded him of that.

Meanwhile, Tigard was advised, courtesy of an alert attorney with whom we were communicating, that Metro area cities have to use ORS 222 to annex territory {per ORS 268.354(3)(a)}. Stunned city officials acknowledged this. They then proceeded with their attempt to annex the **Bull Mountain** area under **ORS-222, which provides for a double majority vote**. Tigard residents approved the plan, but the Bull Mt. folks shot it down by a huge majority. Metro would later mount an effort to revoke the ORS-268 requirement (**SB 648**), but that effort would fail. The Beaverton City Council balked at the “combined vote” for the Tualatin Hills Park District annexation plan, effectively stopping it. But the Redmond UGB annexation went through, solely because of the overpowering weight of the city votes.

By that point there had been extensive media coverage of this secretive law and its grossly unfair “combined vote” provision. And OCVA had made a lot of new friends who now provided added firepower. The timing was perfect for Rep. Garrard to honor his commitment. He not only did so, but had an impressive bipartisan list of cosponsors. **Thus was born House Bill 2484.** Rep. Krummel, whose constituents included the Bull Mountain folks, promptly stepped into the role of commanding general for the mission to pass 2484.

It has been wisely said that those with weak stomachs should not watch sausage – or legislation – being made. There were deals. There was “politickin’.” There were a number of on again-off again hearings and work sessions. There were underhanded attempts by opponents to kill the bill. There was a huge lobbying effort by OCVA and our new Washington Co. allies, and a ton of work. But in the end, HB 2484 got through both chambers, as originally written (very rare), and with overwhelming majority approval. With the Governor’s signature, **OREGON ANNEXATION LAW WAS CHANGED FOR THE BETTER!** This was truly a victory “by the people and for the people.”

So what about the obvious direct conflict with SB 887 (see p.1)? The way **Legislative Counsel** explained it to us, the provisions of SB 887 will apply until sunset, after which the provisions of HB 2484 will apply. Either way, the era where cities could run roughshod over their UGBs via ORS-195 is over – at least for now. We want to acknowledge that while OCVA laid the groundwork and we have led this battle, the victory would probably not have been possible without the **Washington Co. citizens**. They “took up arms” with us and lent some serious muscle to the fight. And special thanks to Rep. Garrard for honoring his 2003 commitment to us and to Rep. Krummel and his chief of staff, **Dawn Phillips** for their able leadership in the trenches. **WELL DONE BY ALL!!!**

OTHER ANNEXATION LEGISLATION: The other major piece of annexation legislation was **SB 887**, a portion of which has already been covered (p.1). The main thrust of this bill was to grant **Nike, Columbia Sportswear** and two other large businesses (but nobody else) long-term immunity against forced annexation. It was prompted by **Beaverton’s** overly-aggressive annexation efforts, which had led to the intentional “islanding” of a number of areas through the annexation of the streets and roads surrounding them. These areas were then subject to forced annexation at the city’s whim. The Nike campus outside of Beaverton was one of the islands created and the powerful company lashed back with a vengeance against Beaverton. That fight that is still going on.

Another section of the bill prohibits Beaverton (but no other city) from forcibly annexing territory without approval of those targeted for annexation until January 2008. Finally, SB 887 creates a **Legislative Committee, supported by a work group**, to come up with recommendations for annexation law reform and present them to the 2007 Legislature. It will be interesting to see how this plays out. Membership on the work group will include the League, the homebuilders, other development interests, and “representatives from citizens’ groups,” among others. OCVA has pointed out to those who will select the work group membership that we are a logical and justifiable candidate for membership, given our background, our experience and our mission. **How serious the Legislature is about this group and its task will be revealed by the membership selection.**

If there were any doubt that money and influence still make a big difference in Salem, SB 887 shattered it. The bill was aptly described by a columnist from *The Oregonian* as “**bloated as 5-day old road kill and smells just about as appealing.**” Its Section 3 makes absolutely no sense. It grants special privileges to only a select few wealthy enterprises. And it denies all UGB residents except those outside Beaverton protection from forced “island annexation.” The bill was a real stinker, but it’s now the law of the land. As explained earlier, our biggest concern is Section 3 and the possibility that it will be used to circumvent our “voter annexation” ordinances. **As noted, we’ve been assured that won’t happen...but we’ll be watching closely!**

HB 2722 was another victory, also prompted by Beaverton’s annexation frenzy. When the city revealed plans to annex the outlying **Cedar Hills** area, the targeted residents expressed interest in incorporating as a separate city, rather than be taken in by Beaverton. But existing Oregon Law (ORS 221.031) granted a city the right to veto any such incorporation within 3 miles of its UGB. The city reportedly issued this threat to Cedar Hills. In response, **Rep. Mitch Greenlick** (D., Beaverton) and several cosponsors drafted and introduced HB 2722 to revoke cities’ veto power in such cases. This bill took a similar path through the Legislature as did HB 2484, albeit with a lot less opposition. We lobbied for passage of the bill, and it too was signed into law by Governor Kulongoski. As you might have gathered by now, Beaverton and its city officials were not popular at 900 Court St. in Salem this year!

With House Bills 2484 and 2722, two dirty tricks were removed from cities' bag of weapons in the annexation wars. But a big one remains: **ORS 222.750 – the “island annexation” law**. We tried to do something about that with **HB 3084**, but the Speaker would have no part of it and the League is totally dug in against it. We expect to see more intentional islanding – through street and road annexation – now that 195 is off the table as a forced annexation tool. If that happens, there will be many MORE people who will be **“mad as hell.” We have seen, and we hope Oregon cities have seen, what can happen when such anger gets channeled, with the right leadership, to Salem.**

The potential problem with SB 887 aside, the 2005 session was quite successful in the area of annexation reform. You should all be very proud of the role you played in these victories! **“THE FORCE”** was clearly with you!

SDC REFORM (Not): There were about a half-dozen bills introduced to allow system development charges for schools, libraries and other services for which SDCs are currently prohibited. But it was the same story as in 2003 – no success. We couldn't even get a hearing. We lobbied for **Sen. Kurt Schrader's** (D., Canby) **SB 307** and others, but had to focus on the annexation bills, a full-time job. As we're all aware, the development interests are dead-set against any SDC reform. But the options are becoming few and far between. Something's going to have to give, and I believe the time will come – soon – where the Legislature will be forced to at least look seriously at SDC reform.

MEASURE 37: You've all heard by now that a Marion Circuit Court Judge has ruled M37 unconstitutional. But the issues behind 37 are not going to go away, and now thousands of people are furious at another judge who has thumbed her nose at the voters. The Legislature **MUST** come up with a reasonable compromise in 2007!

DEALING WITH CITIES' ANNEXATION ISSUES: OCVA continues to receive one or two questions each month from citizens dealing with annexation issues around Oregon (and even occasionally from other states). In some cases we've been able to help (e.g., Mt. Angel, which Richard and Brian will cover further). In others (e.g., an Albany “island” annexation) there wasn't much we could do. But we continue to build credibility and name recognition around the state. We remain actively involved with local chapters, e.g., our Eugene UGB affiliate, the River Road/Santa Clara Property Owners Association, who are dealing with ongoing annexation issues. As always, our mission is to **make sure those most impacted have a MEANINGFUL voice in the process!**

THE GUBERNATORIAL RACE: This is shaping up to be a battle in both the primaries and the general election. Former Governor **John Kitzhaber, M.D.**, is being pushed to oppose Governor Kulongoski in the Democratic primary. Dr. Kitzhaber is the **LAST** person we want at Mahonia Hall if we value annexation rights. He demonstrated repeatedly that he is in lock step with the development lobbies when it comes to citizen participation in annexations. He hasn't decided at this writing whether to run – but if he does, he'll be a force to be reckoned with. **State Senator Vicki Walker** (D., Eugene) and **Lane Co. Commissioner Pete Sorenson** are challenging Kulongoski for the Democratic nomination. Both have been our allies. Vicki cosponsored HB 2484.

On the Republican side, **State Senator Jason Atkinson** (R, Grants Pass) will likely be a formidable candidate. He's smart, articulate and has solid legislative experience. **He made the motion to move HB 2484 onto the Senate floor**, where it gained final approval before going to the Governor. He voted with us on HB 2484 and HB 2722. Kulongoski signed HB 2484 and HB 2722. But he also signed SB 887. So this race is likely to get interesting, very possibly resulting in a difficult choice for us as we consider **ALL** our major issues, not just annexation. - *JJR*

THOUGHTS FROM THE VICE-CHAIR: Our Secretary deserves high praise for his diligence and success in dealing with the Legislature and defending our right to vote. In addition, a hearty "Thank You!" to members who took a moment to call, write or email Legislators as Jerry requested.

Make no mistake, your "presence" is felt. A couple of Legislators even asked Jerry to "call off the dogs." It's good to know OCVA members understand that politics is sometimes simply about "numbers and noise." As a reminder to those of you who may have held off answering the OCVA call to action— remember, "More is Better."

OCVA BOARD MEMBER BILL BODDEN REPORTS FROM DESCHUTES COUNTY: Bill's October 19th letter to the *Redmond Spokesman* expresses his concern about plans to annex 2000 acres. Deschutes County schools opened with some classes in high schools exceeding 40 students. In spite of this overcrowding, some local officials are floating a plan to add 2,000 acres to the Redmond Urban Growth Boundary (UGB).

Bill estimates that if six new homes per acre were built, "That will mean 12,000 homes hooking up to city roads, sewer, water, lighting, police, fire and other services." Bill warns, "Taxpayers may be on the hook for \$120 million if only \$10,000 of these costs per home are not covered by SDCs." As Bill points out, "**Tax increases are a grave injustice taxpayers can ill afford but, apparently, one to which elected representatives, developers and school officials are callously indifferent.**"

MOUNT ANGEL WINS THE VOTE: On September 20, Mount Angel taxpayers joined the growing number of Oregon citizens and 30 other OCVA member cities who have the right to vote on annexations. Rick Schiedler, Jeff Wall, and Mike Donohue quickly collected 222 signatures and got the measure on the ballot. In spite of the opponents' usual fear-mongering, the measure passed by a 3:1 margin.

Says Schiedler, "**The greatest benefit to voting is that developers will have to come in with something that's beneficial to all of us.**"

OCVA responded to the call from Schiedler, Wall, and Donohue and provided guidance and ideas for the annexation vote. Thanks to the good folks of Mount Angel who stepped up and won an important victory for taxpayers everywhere.

SALEM'S 500-ACRE GORILLA: Recently, the City of Salem announced its intention to annex 500 acres. At the same time, Salem taxpayers were discovering that eight elementary schools in town are overcrowded. Salem-Keizer School District estimates, before the 500 acres are annexed, the District needs \$450 million to cover costs over the next 10 years.

FAREWELL, JIM: It is with considerable regret that we announce Jim Thompson's resignation as OCVA Chair. Jim served the OCVA Board for a number of years and led the campaign giving the citizens of Turner the right to vote on annexations. He supported and led opposition to the Calpine generator that would have spewed literally tons of noxious fumes into our Valley. We hope Jim's well-deserved retirement is healthy and joyful.

However, **it creates an opening in the all-important role of OCVA Chair.** Please let us know if you're willing to serve or if you can recommend someone who might. The work is in no way burdensome but in every way vital to a livable Oregon.

BROOKINGS CONSIDERS DOUBLING SDCs: A recent article in the Curry County Pilot reports that the City of Brookings is considering nearly doubling its SDCs. The council is relying on a report by Michael Dees, of Dyer Partnership. According to the study, the city could almost double its current SDCs to \$16,065 per new house. To put that in context, Brookings Public Works Director Don Wilcox said **Gilroy, CA currently charges \$65,000 per house.** City Councilor Larry Anderson said **fees in Pleasanton, CA are more than \$100,000 per house.**

(For the full article see: http://www.currypilot.com/news/story.cfm?story_no=11564)

THOUGHTS FROM THE TREASURER: Well, by the time I get the microphone everyone is usually tired and wants to go home, so I'll make this brief. Of course, I must echo Jerry's and Richard's THANK YOUs to all who helped make this year's Legislative session a good one for OCVA. Well done!

OCVA's financial condition remains healthy. Our newsletter distribution costs are nearly zero thanks to electronic delivery, so we won't be sending any dues notices out again next year.

On a technical note: We may be changing Internet providers for our web site. This will be mostly invisible; however we may change to a different method of distributing our email alerts. The new method may require you to "opt-in" to the new list. Don't worry, we'll explain everything in an alert prior to any change. We just wanted to give you a "heads-up." And if you have email but are not getting our alerts, please visit our web site to get signed up.

I'll contribute a short story about voting on annexations (VoA) in action here in my town of **North Plains**. Three land owners and their developer want the City to annex two areas totaling 144 acres, which is 97% of the 20-year land supply approved only a couple of years ago. They first applied early this year, and publicly stated that they intended to build the whole thing out in 7 years, doubling the population. The voters rejected that proposal by a very slim 14 votes out of about 620 ballots cast.

They immediately come back with an almost identical proposal that's on the November ballot. But this time, they've entered into an "agreement" with the City to spread development over 12 years, in four phases of three years each. The "agreement" specifies the number of units per phase. Sounds like the developers listened, right? Well, it turns out that the numbers of units per phase are only "estimates," not maximums. The mixed-use areas aren't covered. And here's the best part: this "agreement" can be changed by a vote of the City Council! Citizen testimony would not even be required. There's more, of course, but you get the idea. We shall find out if the voters will see through all the holes in this "agreement." However, if it wasn't for VoA, the original fast-track growth plan would have been a slam-dunk for the developer. Long live "THE VOTE!"

While we're talking about VoA, OCVA members may wish to follow the progress of a lawsuit that's been filed against **North Plains**, alleging that the above annexation measure violates ORS 222.111(7) because the two areas (which are miles apart) have been submitted to the voters as one measure. Those in **Grants Pass** will surely remember back to 2001, when their town lumped 15 of 16 annexations into one ballot measure. OCVA hopes that the judge will see that such "all or nothing" actions undermine the intent of our City Charter changes and rule in favor of the plaintiffs.

And a final thought: Unhappy with the way things are being run in your town? Well, next year is election year, and it's time to consider stepping up and running for one of your local offices. There are few better ways to make a real difference in your town. Better yet, draft a couple of friendlies and run as a slate!

That's about it for now. Enjoy the winter season!

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