



**City of Silverton – Parks and Recreation Task Force Committee
Regular Meeting**
Silverton City Council Chambers
421 S. Water Street

April 16, 2019 – 6:30 p.m.

AGENDA

- I. Call to Order & Introductions**
- II. Discussion Facilitated by Portland State University, Center for Public Service**
 - 2.1 Review background, work performed to date and forms of governance – Kent Robinson, PhD**
 - 2.2 Discussion on proposed District boundaries – Kent Robinson, PhD**
 - 2.3 Process for Parks and Recreation Special District creation – Kelly Sherbo**
- III. Adjournment**

A copy of the packet and materials is available for review Monday through Friday 8:00 am to 5:00 pm in the Community Development Office at the Silverton City Hall, located at 306 South Water Street. All documents will be available on our website at www.silverton.or.us.

AMERICANS WITH DISABILITIES ACT (A.D.A.): The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City Clerk at 503-874-2216 at least 48 hours prior to the meeting.

CITY OF SILVERTON
PARKS AND RECREATION STUDY

Memo 1:
Process for Parks and Recreation Special District Creation

March 2019

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1. EXECUTIVE SUMMARY

The memo that follows details the process for creating a new parks and recreation special district and also outlines examples of communities that face similar parks and recreation service challenges as Silverton. In order to form a parks and recreation special district under ORS 266 and 198, the local city must consent to its creation and an economic feasibility statement must be prepared. A petition is then filed in the principal county of the district. The petition must include, among other things, the permanent tax rate proposed, the proposed jurisdictional boundary, and the requisite number of signatures. A prospective petition with this information is filed with the county clerk prior to gathering signatures for the final petition.

Assuming a permanent tax rate will be proposed, the final petition must be filed at least 180 days before a May or November election to be voted on. Thirty to fifty days after the petition is filed, a hearing will be held that may not last longer than 4 weeks. If the county approves the district, an order is filed and a final hearing is scheduled for between 20 and 50 days after the order. A final order is entered after this final hearing. Presuming that a permanent rate will be proposed, the question of the rate and the district formation will go to the ballot as a single question. The district board members would also be elected during that election.

This process must be finalized by March 31st in order to collect taxes for the following year. The Special Districts Association of Oregon (SDAO) estimates that new district formation may take between 12 and 24 months to complete.¹ Once formed, the district will have access to bonding authority, ordinance authority, and be able to collect taxes.

¹ <http://ref.sdao.com/formation/HandbookFormationChapter.pdf>

2. BACKGROUND

Oregon statutes at ORS 198 and 266 govern the creation and operation of parks and recreation districts in Oregon. ORS 266 defines the criteria and requirements for a parks and recreation district. A special district under ORS 198 is an independent local government, not tied to a city or county, established to provide specific services to a specified service area. Based on its charter and voter adoption, the special district may raise its own property tax revenues if authorized by the voters. In this case, a hypothetical special district would provide parks and recreation services to a service area including the City of Silverton and some area surrounding the City. The City of Silverton is currently providing parks and recreation services within the service area contemplated for a hypothetical new district.

The Special Districts Association of Oregon (SDAO) notes that the formation of a new district may take from 12-24 months to complete. This process should be reviewed with City legal counsel for legal completeness. Not covered in this memo is the possibility of a county service district, which is a service district where the county commissioners serve as the governing board. Also not covered are intergovernmental coordination and consolidation options at ORS 190.010. These options, which may provide useful program and service design tools, will be defined and explained in a separate memo.

The purpose of this memo is to define one option that the City could consider in redesigning and re-visioning parks and recreation services. The memo addresses two topics: 1) the process steps to form and establish a special district under ORS 198 and the authorizing statute; and 2) several examples of recent formation of parks and recreation special districts or cities that are contemplating making a change to their parks and recreation service provision.

3. DISTRICT FORMATION PROCESS

3.1 Overview

1. City Consent to Formation
2. Economic Feasibility Statement (Contemporaneous with Step 1).
3. Preparation of Petition
 - A. Determination of District Boundary
 - B. Other Content of Petition
 - C. Signatures
4. Prospective Petition
5. Filing the Petition
6. Initial Hearing
7. Order and Final Hearing
8. Election

Below, this process is described in more detail.

3.2 Formation Process Detail

Step 1: City Consent to Formation

ORS 198.720(1) requires that when a district is located within a city, the city must approve the petition for formation through a resolution. A certified copy of the resolution must be included with the petition for formation. (See also ORS 198.835(3)).

Step 2: Economic Feasibility Statement

Prior to filing the petition with the county, the principal petitioners must create an economic feasibility statement which will be used to as the basis for the permanent tax rate. The feasibility statement must include: (1) A description of the services and functions to be performed or provided by the proposed district; (2) An analysis of the relationships between those services and functions and other existing or needed government services; and (3) A proposed first year line item operating budget and a projected third year line item operating budget for the new district that demonstrate its economic feasibility. (ORS 198.749).

Step 3: Preparation of Petition

In order to form the district, a petition must be filed in the principal county in which the proposed district will exist (ORS 198.800(1)), in this case, Marion County. ORS 198.795 gives the principal county original jurisdiction, even where the district spans county lines.

Determination of District Boundary

The district boundary must be of a size that may reasonably be served by the facilities or services of the district. ORS 198.720(3). The boundary description must be included in the petition. ORS 198.750(2).

Other Content of Petition

ORS 198.750 governs the content of the petition. The petition must include: (1) that the petition is filed under ORS 198; (2) names of affected districts counties; (3) the principal act of each affected district; (4) that the petition is for formation of a new district; (5) whether the territory of the district is inhabited or uninhabited; (6) the number of board members to be elected (three or five) and the method of election selected from ORS 266.375² (ORS 266.110); (7) a proposed permanent tax rate limit sufficient to support district operations (determined by economic feasibility study) (presented in dollars per \$1000 of assessed value); (8) any proposed terms and conditions to which formation is subject; (9) an indication of whether the petition signers are landowners and/or electors in the proposed district; and (10) a request that proceedings be taken for the proposed formation. ORS 198.750(1). In addition to these, a name for the district may be proposed (ORS 198.750(3)). Lastly, the circulator of the petition must certify on each signature sheet of the petition that they witnessed the signing of the signature sheet by each individual who has signed the sheet (ORS 198.750(4)).

Signatures

ORS 198.755(1) specifies the number of signatures required for a formation petition. The number of signers required must be the greater of 15% of the electors or 100 electors in the proposed jurisdiction; or the greater of 15 owners or the owners of 10% of the acreage in the proposed jurisdiction. ORS 198.760 specifies how the signatures must appear on the petition given the type of signer. It also specifies that there may not be more than three chief petitioners. Signatures must be secured within six months of the date of the first signature (ORS 198.765). ORS 198.770 describes how the county assessor will determine validity of signatures.

Alternative Petition: Formation by All Landowners in District

ORS 198.830 provides an alternative method of formation whereby owners of all of the land in the district consent to the district, and therefore no formation election is required.

Step 4: Prospective Petition

ORS 198.748 requires a "prospective petition" to be filed with the county clerk prior to circulating a petition for formation. The prospective petition must include a description of the boundaries of the new district.

Step 5: Filing the Petition

The final petition is filed in the county where a majority of the district exists (ORS 198.765(1); ORS 198.800(1)). 198.800 (1)(a) requires the county to file the petition with a local boundary commission within 10 days of the filing where applicable. If the district will be using ad valorem

² Board members may be nominated and elected based on zones of roughly equal population, at large, or a combination of these options. (ORS 266.375).

taxation, the final approved petition must be filed with the county assessor and the Department of Revenue (ORS 198.720(4); see ORS 308.225).

ORS 198.765(1) requires that the petition be filed within 180 days before the next May or November election where the petition will be voted on if the petition includes a proposed permanent tax rate. ORS 198.765(2) and (3) set forth the county's duties pertaining to the filing.

A security deposit of up to \$10,000 is required at the time the petition is filed (ORS 198.775). It can be in the form of a bond, cash, or other security deposit. These funds are to reimburse the county for costs associated with the formation proceedings, excluding costs incurred by a boundary commission.

Challenge to or Support for Petition

ORS 198.735(1) allows for interested persons to appear and present written statements for or against the granting of the petition for formation on or before the date set for a hearing on a petition. Section (2) of that statute requires that a written statement for or against a proposed formation or change of organization or a request for an election must be in writing, must clearly specify the defect, error, irregularity or omission to which objection, if any, is made and must be filed within the time and in the manner provided by ORS 198.705 to 198.955. Any statement not so made and filed shall be considered voluntarily waived.

Step 6: Initial Hearing

ORS 198.800(1)(b) requires the county in which the petition is filed to set a hearing date for between 30 and 50 days after the petition is filed. The county is responsible for the notice associated with the hearing. ORS 198.800(2).

ORS 198.805 governs the proceedings of the hearing, including the authority given to the county board when no boundary commission exists. The county determines whether the proposed area could be benefitted by the district using the criteria in ORS 199.462 and ORS 198.805. If the hearing is adjourned from time to time, the total hearing cannot last longer than four weeks without additional notice (ORS 198.805(1)). The county may adjust the proposed boundaries within certain limitations (ORS 198.805(1)).

Step 7: Order and Final Hearing

ORS 198.810 mandates that when a petition for formation is approved by the county, an order will be entered and will contain a time and place for a final hearing (ORS 198.810(2)). The final hearing will be scheduled for between 20 and 50 days from the date of the order.

If an order of formation is entered by the county board, within 10 days the county board must file copies of the order with the Oregon Department of Revenue, Oregon Secretary of State, and with any affected county (ORS 198.780). ORS 198.782 additionally requires that a notice of formation be filed with the Secretary of State by the new district prior to any financial or business transactions may take place.

Alternative Formation: By County Board

ORS 198.835 allows the county board to directly form a district located within a single county via order. The district is still subject to hearing and election as the other formation procedures. (ORS 198.840). The district must reimburse the county for costs associated with formation if this method is successful (ORS 198.845).

Step 8: Election

ORS 198.810 sets forth when an election on district formation will be held after the final order. An election will occur where: a minimum number of electors within the district request an election; a permanent tax rate limit is proposed; or an ad valorem tax is proposed in addition to a permanent tax rate for bonded debt for capital needs (in which case the election is held on the question of incurring bond debt if the electors also approve the district formation itself).

The county board is responsible for providing a notice and order that an election be held as well as fixing the date of the election (ORS 198.815(1) and (2)). When a permanent rate will be set, the ballot will encompass a single question for both the formation of the district and setting the permanent rate at the next May or November election. The first board will be elected on the same ballot (ORS 198.815(4) and (2)). If the formation and permanent rate pass, the district may impose operating taxes up to the amount of the permanent rate limit (ORS 198.815(5)).

The county board of commissioners must enter an order establishing and forming the district within 30 days of a successful election and certify the elected board members (ORS 198.820(1)). The formation date of the district is the date of the order (ORS 198.820(3)).

Where no formation election is required, the first board must still be elected after the county's order is entered (ORS 198.825). The county board will set the date of the election under ORS 255.345 and run the election as required by ORS 255.

Election of the Board

ORS 255 governs nomination and election of parks and recreation district board members, conduct of parks and recreation district elections, and initiative and referendum processes. (ORS 266.040).

4. SETTING UP AND FINANCING A NEW DISTRICT

4.1 Setting the Tax Rate

Process must be complete by March 31st in order for the county to collect the tax rate at the next collection.³

4.2 Election of Board

Election of the board occurs at the next election after formation or during the same election on formation of the district (see above). The board is made up of three or five members, and members must be electors within the district (ORS 266.310). The members appoint a secretary in addition to the members (ORS 266.310(1)). Board members serve staggered four-year terms⁴ per ORS 266.320 and 266.330. Board members are elected at large or by zone, if the district is zoned (ORS 266.330).

4.3 Funding

A permanent tax rate must be approved by voters. Other methods of funding, such as user fees, would be up to the discretion of the board. Each year, the board determines the amount of money to be levied by taxation; the amount must not exceed one-half of one percent (0.0050) of RMV of all the taxable property in the district (ORS 266.420).

Sinking Funds

Sinking funds are permitted under ORS 266.430 for particular capital projects. The board may use this mechanism via resolution. It operates as a restricted fund and is collected the same as other taxes for the district. If funds are leftover once the designated purpose is accomplished, the funds may be applied toward operations and maintenance of the district.

General Obligation (GO) Bonds

ORS 266.480 limits the purposes for which a parks and recreation district may use bonded debt. An election to approve the bond must pass by a majority (ORS 266.490). General obligation (GO) bonds may not exceed two and one-half percent of the RMV of all taxable property in the district (ORS 266.512(2)). GO bonds are issued and prescribed under ORS 287A (see ORS 266.512(4)).

Revenue Bonds

Revenue bonds are authorized and limited in scope under ORS 266.514. They must similarly be approved by voters prior to issuance. Revenue bonds are not limited to a percent of RMV as GO bonds and are only payable from district operating revenues.

³ <http://ref.sdao.com/formation/HandbookFormationChapter.pdf> p. 79.

⁴ The first seated board serves less than four year terms to begin the staggering of terms.

4.4 Ordinances and Rules

Once the new board is elected and seated, they may begin to pass ordinances under ORS 198.

5. EXAMPLES OF SPECIAL DISTRICT FORMATION TO PROVIDE FORMERLY CITY (OR OTHER) SERVICES

The following are examples of other special districts formed with the intent of taking over services formerly provided by a city. Any of these examples would be good resources for anecdotal information about new district formation, lessons learned, and advice.

*City of Gresham*⁵

Similarly to the process currently underway in Silverton, Gresham undertook a study in 2010 to review the feasibility of creating an ORS 266 Parks and Recreation District. Gresham also considered several other options for funding parks such as General Obligation bonds, fees, and System Development Charges. However, the feasibility study⁶ ultimately recommended the creation of a new district and a public education campaign to garner support for the district.

As a result of these efforts, the Springwater Parks and Community District idea was posed. This platform was used to educate the cities and citizens in the proposed district area. However, as of January 2019, the district has not yet become a reality. Instead, Gresham turned to a \$7.50 monthly charge on utility bills to help fund its police, fire EMS, and parks and recreation functions, of which parks received five percent.

*Molalla River School District*⁷

An election was held in 2017 regarding the formation of Molalla Aquatic District and a permanent rate of 29 cents per \$1,000 of assessed value, which passed.⁸ The district's sole purpose is to manage the Aquatic Center in Molalla. The Aquatic Center had been built via a bond passed by the Molalla River School District. It had been operated and maintained by the City of Molalla, but funding prevented the facility from being open to the public.

*Mid County Parks and Recreation District (Tillamook)*⁹

Similar to the Silverton area, MCPRD was formed to take on the burden of Parks and Recreation services previously provided by multiple organizations. The district itself was formed via Tillamook County, but the permanent tax rate was voted on in an election.¹⁰

*North Clackamas Parks and Recreation District (County Service District)*¹¹

⁵ <http://www.springwaterpcd.org/new-page-4/>

⁶

https://issuu.com/marastine/docs/gresham_parks_feasibility_study?utm_source=conversion_success&utm_campaign=Transactional&utm_medium=email

⁷

http://www.cityofmolalla.com/sites/default/files/fileattachments/city_council/page/2321/public_notice_-_pool_measure_2017_special_election.pdf

⁸ <https://www.clackamas.us/elections/20170516.html>

⁹ https://www.tillamookheadlightherald.com/news_paid/county-forms-mid-county-park-and-recreation-district/article_4e7d8636-4282-11e8-b7b3-d7e2850662ec.html

¹⁰ <https://www.co.tillamook.or.us/gov/Clerk/Elections%202006/measure29-97.pdf>

NCPRD is a Clackamas County Service District and recently attempted to be re-created as an independent special parks and recreation district. According to the website, it is the only county service district providing these types of services in the state. In addition, the district held an election to raise the taxing rate (which hadn't changed since the original district formation) to 89 cents per \$1,000. The prior rate is unable to keep up with community demand for services. However, the ballot measure failed¹² and the district continues to be a county service district.

*City of Eugene*¹³

The City of Eugene has undertaken a study to review the impact of creating a parks and recreation special district to manage their services portfolio. The City is still in the initial phases of reviewing whether a specialized district is viable and advisable.

*Hood River Parks and Recreation District*¹⁴

Hood River Parks and Recreation District is a more established district but the above linked feasibility study shows they are struggling with some of the same issues as other parks and recreation providers. This district was originally tasked with operation of a municipal swimming facility and over the years has taken on more responsibilities approved by voters.

*City of Corvallis*¹⁵

The City of Corvallis recently examined the feasibility of creating a parks and recreation district. The idea for a district was in response to severe funding cuts in the City budget.

¹¹ <https://dochub.clackamas.us/documents/drupal/3d666fad-da3b-45a9-af5b-4cf1afabf474>

¹² <https://ncprd.com/november-ballot-measure>

¹³ <https://www.eugene-or.gov/3909/Parks-and-Recreation-Special-District-An>

¹⁴ <http://hoodriverparksandrec.org/wp-content/uploads/2017/12/TPL-HRVPRD-Feasibility-Study-FINAL-2015.pdf>

¹⁵ https://liberalarts.oregonstate.edu/sites/liberalarts.oregonstate.edu/files/opal/prd_full_report.pdf