WHITE PAPER
ANNEXATION - INCORPORATION
IN CLACKAMAS COUNTY

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Clackamas County Urban Services Project - Phase II
Steering Committee and Task Force

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TABLE OF CONTENTS

LIST OF TABLES. ................................................................. 5

LIST OF FIGURES. .............................................................. 6

Chapter

I.  INTRODUCTION. .............................................................. 7

II.  STUDY AREA - PROJECT PARTICIPANTS ......................... 9

III. ECONOMIC AND DEMOGRAPHIC TRENDS. ....................... 12
     County Characteristics ............................................ 12
     City Characteristics ................................................ 15
     Service Districts and Unincorporated Areas .................. 17

IV.  LANDUSE PLANNING IN OREGON .................................. 19

V.  BOUNDARY COMMISSION .............................................. 22

VI.  METRO: ITS ORIGIN AND DEVELOPMENT ....................... 24
     Metro Regional Planning .......................................... 26
     2040 Growth Concept .............................................. 28
     Urban Growth Boundary and Urban Reserve Areas .......... 31
     Metro Summary ...................................................... 33

VII. STATE AND FEDERAL LEGISLATION ............................... 36
     State Mandates ...................................................... 36
     Federal Legislation ................................................ 36

VIII. FISCAL ISSUES .......................................................... 39
      Property Taxes .................................................... 39
      Measure 5 .......................................................... 41
      Tax Base and Annexation ........................................ 43
      Transfer Funds and Annexation - Incorporation ........... 44
      Other Revenue Sources .......................................... 44
IX. LEGAL EMPOWERMENT OF LOCAL GOVERNMENT
   Types of Local Governments ........................................ 46
   Boundary Commission .............................................. 46
   City ............................................................... 46
   County ............................................................ 47
   County Service District ......................................... 47
   Special District - Authority - People's Utility District .... 48
   Metro ............................................................... 49
   ORS 190 Entity ................................................... 50
   Consolidations, Mergers and Withdrawals .................... 50
   City-County Consolidation ....................................... 50

X. ANNEXATION ..................................................... 52
   History of Annexation ............................................ 52
   Annexation Methods .............................................. 52
   Annexation in Oregon: Guidelines and Procedures ......... 53
   Special Districts and Annexation .............................. 55
   Annexation Plan Method ....................................... 55

XI. IS BIGGER BETTER? THEORETICAL PERSPECTIVES
    ON OPTIMAL FORMS OF GOVERNANCE .......................... 59
    Public Choice .................................................... 59
    Institutional Reform .......................................... 60

XII. TRENDS IN UNITS OF GOVERNMENT AND ANNEXATION .......... 62
     Units of Government .......................................... 62
     Annexation Trends .......................................... 64

XIII. ANNEXATION IMPACTS ......................................... 68
      Cities .......................................................... 68
      Special Districts ............................................ 69
      Counties ...................................................... 69

XIV. CASE STUDIES OF ANNEXATION - INCORPORATION ............ 71
     Tanner Basin .................................................... 71
     City of McLoughlin ............................................. 72
     City of Keizer Incorporation ................................ 74
     Tualatin Valley Fire and Rescue District Annexation .... 75
     Powell Valley Road Water District Area Annexation .... 76
     Columbia Ridge Consolidation ................................ 78
     Voting on Annexation ........................................ 79
     Washington Square Annexation ............................... 80
     Springfield Annexation Studies ............................... 81
     Clackamas County Business Plan .............................. 85
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>XV. ALTERNATIVES.</td>
<td>89</td>
</tr>
<tr>
<td>Status Quo.</td>
<td>89</td>
</tr>
<tr>
<td>City-County Consolidation.</td>
<td>89</td>
</tr>
<tr>
<td>Municipal County.</td>
<td>91</td>
</tr>
<tr>
<td>One City</td>
<td>93</td>
</tr>
<tr>
<td>New Cities.</td>
<td>94</td>
</tr>
<tr>
<td>Multiple Larger Cities.</td>
<td>96</td>
</tr>
<tr>
<td>Regional Coordinating Council.</td>
<td>99</td>
</tr>
<tr>
<td>Mixed Options.</td>
<td>102</td>
</tr>
<tr>
<td>Other Recommendations.</td>
<td>102</td>
</tr>
<tr>
<td>Conclusion.</td>
<td>103</td>
</tr>
</tbody>
</table>

REFERENCES .......................................................... 105
<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table II-1</td>
<td>Steering Committee</td>
<td>9</td>
</tr>
<tr>
<td>Table III-1</td>
<td>County Characteristics</td>
<td>12</td>
</tr>
<tr>
<td>Table III-2</td>
<td>City Characteristics</td>
<td>15</td>
</tr>
<tr>
<td>Table III-3</td>
<td>Characteristics of Select Service Districts</td>
<td>18</td>
</tr>
<tr>
<td>Table VI-1</td>
<td>Single Family Detached Housing - 1990 and 2017</td>
<td>30</td>
</tr>
<tr>
<td>Table XII-1</td>
<td>Units of Government in the Oak Lodge Area</td>
<td>62</td>
</tr>
<tr>
<td>Table XII-2</td>
<td>Select Cities of Oregon - Annexed Population 1980-1990</td>
<td>65</td>
</tr>
<tr>
<td>Table XII-3</td>
<td>Mean Percent of Population Increase from Annexation</td>
<td>66</td>
</tr>
<tr>
<td>Figure</td>
<td>Description</td>
<td>Page</td>
</tr>
<tr>
<td>----------</td>
<td>-----------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>II-1</td>
<td>Study Area.</td>
<td>10</td>
</tr>
<tr>
<td>III-1</td>
<td>Residential New Construction as a Percent of Three County Total (Based on Value).</td>
<td>13</td>
</tr>
<tr>
<td>III-2</td>
<td>Non-Residential New Construction as a Percent of Three County Total (Based on Value).</td>
<td>13</td>
</tr>
<tr>
<td>III-3</td>
<td>New Construction in Unincorporated Areas of Clackamas County as a Percent of All New Construction (Based on Value).</td>
<td>14</td>
</tr>
<tr>
<td>III-4</td>
<td>Residential New Construction as a Percent of Five City Total (Based on Value)</td>
<td>16</td>
</tr>
<tr>
<td>III-5</td>
<td>Non-Residential New Construction as a Percent of Five City Total (Based on Value)</td>
<td>16</td>
</tr>
<tr>
<td>XII-1</td>
<td>Number of Governments by County.</td>
<td>64</td>
</tr>
</tbody>
</table>
INTRODUCTION

In this White Paper, it is my intention to provide an informed and balanced discussion of options for annexation and incorporation in the urbanized area of Clackamas County. To help the reader understand the context in which these options are considered, I synthesize information relating to the economic and demographic character of the study area, discuss the legal mandates and planning goals required by regional, state, and federal governments, and analyze fiscal issues and their impact on local government. To set the discussion in the appropriate legal context, I describe the empowerment of various types of local governments and explain how they consolidate and merge. I also review the annexation methods permitted by Oregon statutes, describe annexation trends, weigh the impact of annexation on different types of local government, and examine case studies of annexation in Oregon. In the final chapter of the White Paper, I discuss eight alternative governance scenarios. I consider the advantages and disadvantages of each and make suggestions as to how state statutes might be altered to improve the viability of several alternatives.

This White Paper is part of the Clackamas County Urban Services Project. The overall purpose of the project is “to develop, and begin to implement, a model process to create urban services agreements for urbanizable portions of the North Clackamas area.” ¹ This model project is “designed, in part, to begin to address the requirements of [ORS 195], a recently passed statute that requires urban services agreements for certain services to be signed by all relevant parties no later than the time of each local government’s state-mandated Comprehensive Plan periodic review.” ²

In Phase I of the Clackamas County Urban Services Project, McKeever/Morris Inc., the consultant team selected to facilitate the project, used a nine-step structured consensus building process to help participants identify key interests, develop a long term vision of potential city and service delivery boundaries, and explore how local governments and urban service providers could implement an integrated vision of consolidated services.

Participants completed the major tasks undertaken in Phase I. A common set of maps illustrating current urban service boundaries was created and descriptions of service providers were assembled. Using an exercise which projected the year 2015 as the vision date, participants drew and ranked optimal boundaries for future cities and urban service areas and developed transition strategies to move from the current situation to the envisioned future. As the final task of Phase I, participants created a work program for Phase II of the project.

Phase II of the project builds on the results of the visioning exercises of the first phase. In Phase II participants address the practical issues of producing agreements regarding who will provide urban services and of determining how local governments might best be structured given the unique context and needs of the study area. Phase II proceeds in four steps:

Step 1. The Clackamas County Board of Commissioners adopts a statement supporting the incorporation of urban and urbanizable land in the study area. The intent of this statement is to demonstrate the county’s leadership and its commitment to the goals of the project. Also during this step the Urban Services Project Steering Committee is expanded and appoints a Citizens Task Force. Together these committees review and comment on versions of the White Paper.
Step 2. The Steering Committee reaches consensus on a broad strategy for pursuing annexation-incorporation and for determining which jurisdictions will provide each of the urban services. The consensus building process is supported by the technical analysis of service-area subcommittees and is informed by comments from citizen focus groups regarding the political acceptance of various alternatives.

Step 3. The Steering Committee makes a final determination of which, if any, patterns of annexation, incorporation, consolidation, or merger should be pursued and what steps are necessary to implement any recommendations for change.

Step 4. The Steering committee oversees the negotiation and signing of the cooperative agreements and urban service agreements required by Oregon Revised Statute 195.¹

At present, the project is well into the implementation of Steps 1 and 2 of Phase II. The Clackamas County Board of Commissioners has adopted the proposed policy statement supporting the incorporation of urban and urbanizable land. The Project Steering Committee has been expanded and the Citizen Task Force appointed. Technical aspects of urban service delivery are being examined by the service-area subcommittees and draft sections of the White Paper have been reviewed by Steering Committee.

The final draft of the White Paper is presented for your review. The final draft represents my assessment of the options for annexation and incorporation. My assessment of these options will have been informed by the personal interview and documentary material assembled for the background sections of the paper and by the revisions to the White Paper suggested by the Steering Committee and the Task Force. The final draft does not represent a consensus of either one or both of the reviewing committees, nor the opinions, comments, or conclusions of any individual members of these committees regarding the substantive matters of the paper.

The final draft of the White Paper will be reviewed by the Steering Committee and Task Force. Following these reviews, the paper will be revised to reflect minor changes and a final version will be submitted to the Steering Committee.

² Ibid., p. 4.
³ Clackamas County Urban Services Project Steering Committee, "Clackamas County Urban Services Project Phase II: Work Program," (fax memo), May, 1996.
STUDY AREA - PROJECT PARTICIPANTS

Study Area

The study area includes all the territory within Clackamas County east of the Willamette River and within the Metro Urban Growth Boundary and Urban Reserve Study Areas. It also includes the Boring Fire District area and the City of West Linn and its surrounding unincorporated area within the Metro Urban Growth Boundary and Urban Reserve Study Areas (Figure II-1).

Project Participants

With the addition of new members to the Steering Committee in Phase II, twenty-two local jurisdictions are now represented in the Clackamas County Urban Services Project. The lists of voting and non-voting participants are given in Table II-1.

Table II-1
Steering Committee

<table>
<thead>
<tr>
<th>Voting</th>
<th>Non-Voting</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Gladstone</td>
<td>City of Gresham</td>
</tr>
<tr>
<td>Boring Fire District</td>
<td>Boundary Commission</td>
</tr>
<tr>
<td>City of Happy Valley</td>
<td>Metro</td>
</tr>
<tr>
<td>Clackamas Fire District No. 1</td>
<td></td>
</tr>
<tr>
<td>City of Milwaukie</td>
<td></td>
</tr>
<tr>
<td>Oak Lodge Fire District No. 51</td>
<td></td>
</tr>
<tr>
<td>City of Oregon City</td>
<td></td>
</tr>
<tr>
<td>N. Clackamas Parks and Recreation</td>
<td></td>
</tr>
<tr>
<td>City of Portland</td>
<td></td>
</tr>
<tr>
<td>Clackamas Co. Service District No. 1</td>
<td></td>
</tr>
<tr>
<td>City of West Linn</td>
<td></td>
</tr>
<tr>
<td>Oak Lodge Sanitary District</td>
<td></td>
</tr>
<tr>
<td>Clackamas County</td>
<td></td>
</tr>
</tbody>
</table>

Five types of local governments are represented among the voting members of the Steering Committee: county, city, ORS 190 entity, special service district, and county service district. In the study area, six types of urban services are provided by these local governments:

Sanitary Sewer: Four jurisdictions provide sanitary sewer services to the study area. The Oak Lodge Sanitary District serves the unincorporated areas of Oak Grove, Jennings Lodge and a portion of Gladstone; Clackamas Service District #1, a county service district, serves the Cities of Milwaukie and Happy Valley and a portion of Gladstone and the urban areas east of the Oak Lodge service territory; and the Tri-City Service District, a county service district, serves the Cities of West Linn, Oregon City and a portion of Gladstone. The City of Portland serves approximately a thousand Portland residents in various parts of the study area just south of the Clackamas - Multnomah County boundary.
Roads: Local roads generally are serviced by each city in the incorporated areas and by Clackamas County in the unincorporated areas. The State provides services for state highways.

Water: There are four special water districts in the study area: Clackamas River Water District serves most of the unincorporated areas east of the Oak Lodge service territory and the urban and rural areas surrounding Oregon City; Damascus Water District serves the Damascus community; Mt. Scott Water District serves Happy Valley and the areas around it; and Oak Lodge Water District serves the Oak Grove and Jennings Lodge communities. The Cities of Milwaukie and Gladstone provide water service to their individual cities, and the City of Portland serves its residents in the study area. The South Fork Water Board provides water services to the Cities of Oregon City and West Linn. South Fork was created by an ORS 190 agreement between these two cities.

Fire and Emergency Medical Services: The Cities of Milwaukie, Oregon City, and West Linn have their own full-service fire protection services. The City of Gladstone has a volunteer fire department. The City of Portland serves its residents in the study area. The Oak Lodge Fire District services the Jennings Lodge and Oak Grove communities. Clackamas Fire District No. 1 serves the entire unincorporated urbanized area east of the Oak Lodge Fire District. Boring Fire District serves rural parts of the study area from the boundary of Clackamas Fire District No. 1 east to 352nd Street, and from the Clackamas - Multnomah County boundary south to the Clackamas River.

Parks: The Cities of Gladstone, Happy Valley, Oregon City, and West Linn all provide their own parks and recreation services. The City of Portland serves its residents in the study area. The North Clackamas Parks and Recreation District, a county service district, serves the City of Milwaukie and all the unincorporated areas within the Metro Urban Growth Boundary. Metro is also active in the study area. Metro has plans to develop or acquire 21 open space or park areas and to develop a major regional trail along the Clackamas River.4

Law Enforcement: Law enforcement services are provided by each city, except for Happy Valley, which has an agreement with the Clackamas County Sheriff’s Office. The Clackamas County Sheriff provides services for all the unincorporated areas throughout the county. In addition, the County Enhanced Law Enforcement District, a county service district, provides higher levels of service and covers all lands within the Urban Growth Boundary.5

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1 See Chapter IX in this document for a description of types of local governments.
5 In addition to the county service districts described in this section, Clackamas County has also formed a county lighting district to serve the unincorporated areas of Clackamas County within the Metro Urban Growth Boundary.
ECONOMIC AND DEMOGRAPHIC TRENDS

The purpose of this section is to establish some base line characteristics for Clackamas County, the six incorporated cities, and the special and county service districts in the study area. In assembling the data and creating the tables and graphs, I attempt to identify the population, housing, and economic growth characteristics that are most relevant to the concerns of this study. I also attempt to present data that is available for all levels of government and is relatively consistent across jurisdictions and time periods. However, this is not always possible. At the special and county service district level, data is not readily available for several jurisdictions. In terms of time frame, the years referenced may vary depending on the source of the data, and the reader is cautioned to be aware of these distinctions.¹

County Characteristics

Clackamas County’s 1995 population of 308,600 makes it slightly smaller than Washington County and roughly half the size of Multnomah County (Table III-1). Population growth in the last five years has been substantial for all three counties in the metropolitan area, but the fastest growth has been in Washington County. From 1990-95, Washington County grew 18.8%, Clackamas 10.7% and Multnomah 7.3%. Fifty-five percent of Clackamas County residents live in unincorporated areas, the highest level of the three counties. Residents of the Clackamas and Washington Counties have very similar but much higher median household incomes than residents of Multnomah County. In terms of housing characteristics, Clackamas county has the most owner occupied units, the highest level of one unit detached housing of the three counties, and about half the level of 5+ units housing. In terms of newer housing, 22% of Clackamas County housing was built between 1980-90 in comparison with 28% in Washington County and only 9% in Multnomah County.

Table III-1
County Characteristics

<table>
<thead>
<tr>
<th></th>
<th>Clackamas</th>
<th>Multnomah</th>
<th>Washington</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population 1995</td>
<td>308,600</td>
<td>626,500</td>
<td>370,000</td>
</tr>
<tr>
<td>Percent Population in Unincorporated 1995</td>
<td>55%</td>
<td>5%</td>
<td>48%</td>
</tr>
<tr>
<td>Population Change 1990-95</td>
<td>10.7%</td>
<td>7.3%</td>
<td>18.8%</td>
</tr>
<tr>
<td>Median Household Income 1990</td>
<td>$35,419</td>
<td>$26,928</td>
<td>$35,554</td>
</tr>
<tr>
<td>Percent Owner Occupied Units 1990</td>
<td>71.7%</td>
<td>55.3%</td>
<td>60.8%</td>
</tr>
<tr>
<td>Median Value Owner Occupied 1990</td>
<td>$85,100</td>
<td>$61,800</td>
<td>$85,500</td>
</tr>
<tr>
<td>Percent Built 1980-90</td>
<td>22.5%</td>
<td>9.3%</td>
<td>28.4%</td>
</tr>
<tr>
<td>Percent One Unit Detached 1990</td>
<td>69.9%</td>
<td>62.6%</td>
<td>60.6%</td>
</tr>
<tr>
<td>Percent Five or More Units 1990</td>
<td>12.2%</td>
<td>23.2%</td>
<td>22.6%</td>
</tr>
</tbody>
</table>

In comparing new residential construction (based on value)² in the three counties, half or better of the new residential construction occurred in Washington County in both 1991 and 1995 (Figure III-1). During that time, the share of new residential construction in Washington County increased from 50% to 59%, while the share of new residential construction in Clackamas County remained constant at about 32%.
The most dramatic changes in both Washington and Clackamas Counties have occurred in commercial-industrial (non-residential) construction. Between 1991 and 1995, the share of non-residential construction (based on value) occurring in Washington County grew from 28% to 40% of the total, while the share in Clackamas County dropped from 25% to 13% of the total (Figure III-2). The share of non-residential construction in Multnomah County was the highest of all three counties and remained constant at 47% for 1991 and 1995.
While these shifts are very significant for those who are interested in the relative economic well-being of Clackamas County, the most compelling data from a governance perspective is the growing amount of all new construction that is occurring in the unincorporated areas of Clackamas County. In 1991, 41% of all residential new construction was taking place in unincorporated areas (Figure III-3). Instead of declining, this trend has increased slightly to 43% in 1995.

In non-residential new construction, Figure III-3 illustrates a dramatic change. While a substantial 34% of all non-residential new construction was occurring in unincorporated areas in 1991, that figure had nearly doubled to 66% in 1995.

Figure III-3
New Construction in Unincorporated Areas of Clackamas County as a Percent of All New Construction (Based on Value)

In sum, Clackamas County is growing rapidly but only about half as fast as Washington County. The housing stock in Clackamas County is considerably newer than that in Multnomah County. It tends to be more oriented to single family owner-occupied housing and considerably less oriented to multi-family units than even Washington County. In Clackamas County, the median household income of residents and median housing value are as high as any of the three metropolitan counties. Although about twice as much residential new construction now occurs in Washington County, the relative share of residential new construction taking place in Clackamas County is about the same as it was in 1991. On the other hand, in non-residential new construction, the relative share occurring in Clackamas County is seriously declining. Finally, much of the control of development is being left to the County and service districts since over half of the population, 40% of the new residential construction, and 66% of the commercial-industrial construction, is now occurring in the unincorporated areas.
City Characteristics

There are six incorporated cities in the study area. At 20,000, Milwaukie is the largest of the six communities, followed closely by Oregon City and West Linn at about 19,000 each (Table III-2). Gladstone with 11,500 is in the middle range, and Happy Valley with 2600 and Johnson City with 615 are the smallest. The fastest growing communities, Happy Valley, Oregon City, and West Linn, are located on the edges of the study area.

Of all the communities, Happy Valley is growing most quickly, increasing by 75% between 1990-95. Happy Valley is a community composed nearly exclusively of high value, one unit detached homes occupied by households with incomes about $15,000 above the county average (Table III-2).

Table III-2
City Characteristics

<table>
<thead>
<tr>
<th></th>
<th>Gladstone</th>
<th>Happy Valley</th>
<th>Johnson City</th>
<th>Milwaukie</th>
<th>Oregon City</th>
<th>West Linn</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population 1995</td>
<td>11,475</td>
<td>2660</td>
<td>615</td>
<td>20,015</td>
<td>18,980</td>
<td>19,370</td>
</tr>
<tr>
<td>Population Change 1990-95</td>
<td>13.0%</td>
<td>75.1%</td>
<td>4.9%</td>
<td>7.2%</td>
<td>29.1%</td>
<td>18.2%</td>
</tr>
<tr>
<td>Median Household Income 1990</td>
<td>$32,069</td>
<td>$51,654</td>
<td>$23,062</td>
<td>$29,693</td>
<td>$28,687</td>
<td>$45,474</td>
</tr>
<tr>
<td>Percent Owner Occupied 1990</td>
<td>70.6%</td>
<td>94.8%</td>
<td>90.8%</td>
<td>56.2%</td>
<td>54.2%</td>
<td>76.6%</td>
</tr>
<tr>
<td>Median Value Owner Occ. 1990</td>
<td>$72,800</td>
<td>$119,300</td>
<td>$60,000</td>
<td>$65,500</td>
<td>$60,900</td>
<td>$102,400</td>
</tr>
<tr>
<td>Percent Built 1980-90</td>
<td>8.7%</td>
<td>14.3%</td>
<td>26.1%</td>
<td>13.7%</td>
<td>8.8%</td>
<td>32.0%</td>
</tr>
<tr>
<td>Percent One Unit Detached 1990</td>
<td>73.3%</td>
<td>97.5%</td>
<td>5.3%</td>
<td>65.0%</td>
<td>62.9%</td>
<td>81.9%</td>
</tr>
<tr>
<td>Percent Five or More Units 1990</td>
<td>10.7%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>21.0%</td>
<td>18.2%</td>
<td>8.3%</td>
</tr>
</tbody>
</table>

The second most rapidly growing community in the study area is Oregon City, having grown nearly 30% since 1990 (Table III-2). However, that level of growth is a new phenomenon. Between 1980 and 1990, Oregon City experienced comparatively slow growth in its housing stock. In 1990, the value of its housing stock was below the county average, only a little over half were owner occupied, and only 63% were one unit detached (Table III-2). Since 1991, Oregon City has experienced a dramatic growth in both residential and commercial-industrial construction. As a percent of the total for the five largest cities in the study area, 38% of all new residential construction occurred in Oregon City in 1995 (Figure III-4). This was a rise of over 2000% since 1991, when only 3% of new residential housing in the five cities was being constructed in Oregon City. In non-residential construction in 1991, Oregon City accounted for 56%, a substantial figure (Figure III-5). However, by 1995, 73% of all new non-residential construction was taking place in Oregon City.

West Linn has grown substantially between 1990-95 at 18% over that time (Table III-2). In most ways, except for its much larger size, it is similar to Happy Valley, with higher income households, higher value housing, mostly one unit detached. One feature which distinguishes West Linn from Happy Valley and the other four cities, however, is that nearly a third of all its housing stock was built between 1980-1990. In new residential construction, West Linn is still a major target for growth in the study area, however, construction there has not kept pace with the
hottest markets the study area. Since 1991, the relative share of new residential construction in West Linn has declined from 62% of the five city total to 42% in 1995 (Figure III-4). On the other hand, development in West Linn is diversifying from its primarily residential base. Since 1991, the relative share of non-residential new construction in West Linn has nearly doubled and now comprises nearly one-fourth of the total for the five cities (Figure III-5).

Figure III-4
Residential New Construction as a Percent of Five City Total (Based on Value)

Figure III-5
Non-Residential New Construction as a Percent of Five City Total (Based on Value)
The more stable communities with the largest share of houses built before 1980 are in the mid section of the study area, Johnson City, Milwaukie, and Gladstone. Johnson City is a small stable community experiencing slow growth. The housing units are primarily mobile homes, over 90% of which are owner occupied (Table III-2).

Between 1990-95, Milwaukie grew moderately at 7% (Table III-2). It was in much the same position as Oregon City in 1990, with some new housing stock, median household incomes and house values below the county median, about twice the county percent of 5+ units, and only about half of all housing units occupied by owners. Unlike Oregon City, however, Milwaukie has not experienced substantial growth between 1990-95. In fact, the share of new residential and non-residential construction taking place in Milwaukie has declined considerably relative to the other four communities. In 1991, Milwaukie’s percent of the total new residential construction was 20% and its share of non-residential was 30% (Figures III-4, III-5). In 1995, the share of new construction occurring in Milwaukie in those two categories was 4% and 5% respectively.

Gladstone’s population growth was fairly strong at 13% between 1990-95 (Table III-2). Its numbers are very close to the Clackamas county median in terms owner occupied, median household income, median value and percent of one unit detached housing. In one area, however, it is significantly different, that is in new housing construction between 1980-90. With only 8.7% new housing construction in these years, Gladstone was the lowest of all cities in the study area. Gladstone has held its own since 1991, however, in residential new construction. In the face of high growth areas such as Oregon City, Gladstone’s share of new residential construction has remained at 5% of the total (Figure III-4).

Service Districts and Unincorporated Areas

In my discussion of special and county services districts, I will focus on five service areas: Oak Lodge Sanitary, Clackamas Water, Mt. Scott Water, Damascus Water, and Clairmont Water. (Note: The data used for this analysis was assembled before Clairmont Water District and Clackamas Water District merged to form Clackamas River Water District in July, 1995. For the purpose of this analysis I will continue to refer to them as separate districts.) These service areas should be adequate to fill in the picture for those parts of the study outside the city boundaries.

The Mt. Scott Water service area surrounds and includes Happy Valley. Subtracting for Happy Valley, this area includes about 9000 residents (Table III-3). The Damascus Water service area juts out from the Southeast corner of the Mt. Scott service area and includes about 6000 residents. If the populations of the Mt. Scott and Damascus service areas (including Happy Valley) were incorporated into a city, it would be the largest city in the study area. In terms of characteristics, both are very similar to Happy Valley; rapid population growth (especially Mt. Scott) high income, high value single family residences at least one-fourth of which have been built since 1980. What is remarkable about the two areas are the population growth projections for 2015. Mt. Scott is projected to increase by 77% and Damascus by 97%.
Table III-3
Characteristics of Select Service Districts

<table>
<thead>
<tr>
<th></th>
<th>Oak Lodge Fire</th>
<th>Oak Lodge Sanitary</th>
<th>Damascus Water</th>
<th>Clackamas Fire</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population 1992</td>
<td>27,415</td>
<td>24,977</td>
<td>6096</td>
<td>57,387</td>
</tr>
<tr>
<td>Percent Change 1980-1992</td>
<td>11.5%</td>
<td>11.0%</td>
<td>35.8%</td>
<td>32.1%</td>
</tr>
<tr>
<td>Population Estimate 2015</td>
<td>30,734</td>
<td>27,401</td>
<td>11,991</td>
<td>89,605</td>
</tr>
<tr>
<td>Percent Change 1992-2015</td>
<td>12.1%</td>
<td>9.7%</td>
<td>96.7%</td>
<td>56.1%</td>
</tr>
<tr>
<td>Median Household Income 1992</td>
<td>$31,363</td>
<td>$30,072</td>
<td>$44,805</td>
<td>$34,805</td>
</tr>
<tr>
<td>Percent Built 1980-90</td>
<td>11.3%</td>
<td>11.4%</td>
<td>26.7%</td>
<td>23.7%</td>
</tr>
<tr>
<td>Percent Single Family 1992</td>
<td>73.9%</td>
<td>71.2%</td>
<td>99.6%</td>
<td>81.7%</td>
</tr>
<tr>
<td>Percent Multi-Family 1992</td>
<td>26.1%</td>
<td>28.8%</td>
<td>0.4%</td>
<td>18.3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Clackamas Water</th>
<th>Clackamas Sanitary</th>
<th>Clairmont Water</th>
<th>Mt. Scott Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population 1992</td>
<td>28,936</td>
<td>37,668</td>
<td>14,397</td>
<td>11,895</td>
</tr>
<tr>
<td>Percent Change 1980-1992</td>
<td>28.3%</td>
<td>37.9%</td>
<td>14.1%</td>
<td>72.0%</td>
</tr>
<tr>
<td>Population Estimate 2015</td>
<td>36,420</td>
<td>52,949</td>
<td>27,120</td>
<td>21,006</td>
</tr>
<tr>
<td>Percent Change 1992-2015</td>
<td>25.9%</td>
<td>40.6%</td>
<td>88.4%</td>
<td>76.6%</td>
</tr>
<tr>
<td>Median Household Income 1992</td>
<td>$29,452</td>
<td>$34,439</td>
<td>$37,632</td>
<td>$47,382</td>
</tr>
<tr>
<td>Percent Built 1980-90</td>
<td>23.7%</td>
<td>26.2%</td>
<td>13.9%</td>
<td>31.6%</td>
</tr>
<tr>
<td>Percent Single Family 1992</td>
<td>72.6%</td>
<td>75.9%</td>
<td>95.2%</td>
<td>88.9%</td>
</tr>
<tr>
<td>Percent Multi-Family 1992</td>
<td>27.4%</td>
<td>24.1%</td>
<td>4.8%</td>
<td>11.1%</td>
</tr>
</tbody>
</table>

Clairmont Water service area takes in that large unincorporated area east and south of Gladstone and Oregon City. The population of the area is 14,000, about 3000 larger than Gladstone (Table III-3). This is a median income, moderately growing area, nearly all single unit detached. This area is also projected to grow by 88% by 2015.

Oak Lodge is nestled between Milwaukie, the Willamette, and Gladstone. It has a population of between 24-27,000 (Table III-3). Clackamas Water encompasses the area between Milwaukie and the Mt. Scott Water service area. Its population is 29,000. If either Oak Lodge or the Clackamas Water service areas were cities, they would be the largest in the study area. The characteristics of these two areas are similar. They reflect the more stable, lower than median income and housing value, mixed multi-unit and single-unit housing of the middle study area. Only moderate growth is projected for this area by 2015.

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2 In this section, all comparisons of residential and non-residential construction are based on the total value of construction and not on the number of units constructed.

3 Comparisons in Figures II-4, II-5 do not include Johnson City.
LAND USE PLANNING IN OREGON

The roots of Oregon's land use legislation are to be found in the strong and continuing tradition of regional planning and environmental concern that have characterized the political culture of Oregon since the 1960's. The impetus for these concerns can be found in the post WW II population boom. Between 1950-1970, Oregon more than doubled its population with most of the growth concentrated in the Willamette Valley. Leading the migration were dissatisfied Californians seeking respite from the suburban sprawl that had characterized development in their state. Supported by these new migrants and by the concern of native Oregonians that their pristine forests and farmlands would be despoiled by unfettered development, political leaders such as Governor Tom McCall took the lead in sponsoring a package of land use and environmental legislation that included one of the first effective Clean Water Acts, and the first coastal development commissions in the nation. With the passage of Senate Bill 10 in 1969, Oregon also became the second state in the country to require that all cities and towns adopt comprehensive land use plans.

Although Oregon’s initial land use legislation was innovative, it lacked provisions for enforcement and mechanisms for reconciling inconsistency between jurisdictions. After four years of local resistance and ineffective implementation, the state legislature passed Oregon Revised Statute (ORS) 197 which established the basic framework of land use controls that exist in Oregon today. At the heart of ORS 197 is the requirement that all county and city comprehensive plans conform to specific statewide planning goals and that these jurisdictions enact subdivision, zoning, and other regulations necessary to implement local plans. The legislation established the Land Conservation and Development Commission (LCDC) and directed it to develop the specific statewide land use goals. It also created the Department of Land Conservation and Development to administer the program and to review local comprehensive plans to see that they are in compliance with the statewide standards.

The legislation offers both carrots and sticks to encourage compliance. It provides funding to local jurisdictions to carry out their mandated responsibilities, and it gives the LCDC power to withhold state transfer funds from a jurisdiction in noncompliance. The legislation also anticipates the need for timely revision by establishing a procedure for periodic review of between 4-10 years. Finally, ORS 197 establishes the Land Use Board of Appeals (LUBA) as a forum for resolving disputes.

At the direction of ORS 197, the LCDC, in 1974 adopted 14 statewide planning goals to be considered by local governments in their planning process. These goals require:

1. Citizen involvement
2. Assuring an adequate basis for land use plans and land use decisions
3. Conservation of agricultural lands and uses
4. Conservation of forest lands and uses
5. Conservation of open spaces and protection of natural, scenic, and historical resources
6. Maintaining and improving the quality of air, water and land resources
7. Protection against natural disasters and hazards
8. Satisfaction of recreational needs
9. Diversification and improving of the state’s economy
10. Provide for the housing needs of the citizens of the state
11. Plan and provide for public facilities and services
12. Plan and provide for transportation systems
13. Conservation of energy resources
14. Establishing urban growth boundaries.

Two years later, LCDC adopted another 5 goals relating to the Willamette Greenway, estuaries, coasts, beaches and ocean resources. Together, these 19 goals remain the guiding principles for comprehensive planning in the state.6

One of the more important provisions in terms of growth management has been the requirement that Metro in the tri-county metropolitan region, and cities and counties elsewhere in the state, establish an Urban Growth Boundary (UGB) to mark the separation between land designated for urban development and that reserved for rural use. The land within the UGB is to include only those lands to which urban services can be efficiently provided. The boundary of the UGB is required to be expansive enough to provide an adequate supply of buildable land to accommodate growth for a period of twenty years.7

Land use legislation continues to garner a wide spectrum of political support in Oregon and the state legislature has been receptive to new ways to improve its regional planning process. In 1993, it passed Oregon Revised Statute (ORS) 195, a significant new effort to involve special districts in the planning process. Recognizing the problems of coordination among the special districts and general purpose governments, ORS 195 requires the adoption of cooperative agreements (these establish the process mechanisms of coordination and long term planning) and urban service agreements (these determine where the ultimate responsibility for providing services will reside) between and among all special districts and general purpose governments that provide an urban service inside an urban portion of a county. In the Portland area, Metro must also be included in the process as a signatory to cooperative agreements8 and reviewer of urban service agreements.9 The responsibility for convening the agreement process resides with the county, and agreements must be completed by the time of the county’s next comprehensive plan periodic review.10

Along with provisions requiring service districts and other local governments to plan together, ORS 195 also creates a new mechanism for annexation. In a case where ORS 195 urban service agreements have been concluded among all the appropriate parties, the city or district has the option of submitting an annexation plan to the electors of the territory to be annexed and the city or district. The annexation vote requires majority approval, but under provisions of ORS 195, the majority is to be obtained from the combined votes of those in the city or district doing the annexing and those in the territory being annexed.11 By including the electors of the annexing city or district, this method significantly empowers the voters of the larger territory, if they favor the annexation, to annex areas with less population.

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2 Ibid.
3 City Club of Portland, Planning for Urban Growth in the Portland Metropolitan Area, March 29, 1996.
4 Ibid.

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5 This list appears in the introduction to Western Advocates, Inc. “Implementing SB 122 Local Government Planning Coordination,” coursepack, 1994., p. 6.
7 City Club of Portland. March 29, 1996.
8 Oregon Revised Statute (ORS) 195.020(2).
9 ORS 195.065(2)(a).
10 Western Advocates, Inc. 1994.
11 ORS 195.205 to ORS 195.235.
BOUNDARY COMMISSION

The Portland Metropolitan Area Local Boundary Commission has the authority to approve or disapprove all boundary changes involving annexation, consolidation, merger, incorporation or dissolution of cities, special districts, peoples utility districts and county service districts1 within Clackamas, Multnomah, and Washington Counties. The Boundary Commission was created in 1969 in response to a recognition that the provision of urban services in metropolitan areas was becoming increasingly fragmented. As suburban jurisdictions and small cities incorporated to prevent annexation by central cities and as numerous special districts were created to meet the needs of those in unincorporated areas, there was growing concern among “good government” advocates that the emerging patchwork of jurisdictions was inefficient, parochial, and a barrier to regional planning. Advocates saw the Boundary Commission as a tool for reducing complexity and encouraging efficiency and professionalism through consolidation of governmental units.2

The degree to which the Boundary Commission reflects a “good government” mission is apparent in the legislative language. The purposes of the Boundary Commission as abstracted from the guiding statute are to:3

- Provide a method for guiding the creation and growth of cities and special service districts in Oregon in order to prevent illogical extensions of local government boundaries and to encourage the reorganization of overlapping governmental agencies;

- Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;

- Provide an impartial forum for the resolution of local government jurisdictional questions;

- Provide that boundary determinations are consistent with acknowledged local comprehensive plans and are, in conformance with statewide planning goals.

- Reduce the fragmented approach to service delivery by encouraging single agency service delivery.

Because its advocates were rooted in the regionalist and “good government” tradition, and because this language is found in the legislation creating the Commission, it is understandable that the Boundary Commission has favored consolidation of services even if this meant some loss of local identity and control. As a general rule, the Commission favors general purpose government over single purpose, and larger units of government over smaller.4 At times it has lent its support to major consolidation efforts such as the incorporation of a new City of McLoughlin in north Clackamas County.5

As one of a number of efforts in regional coordination, planning, and environmental protection which came to fruition in 1969-70, the history of the Boundary Commission overlaps and compliments the history of Metro. To make the Boundary Commission more accountable, in
1988, the state granted to Metro the authority to appoint commissioners. In 1992, when Metro’s Home Rule Charter was approved by the voters, a provision in that charter required that the Metro Council, with the advice of the Metro Policy Advisory Committee (MPAC), undertake a complete review of the Boundary Commission. The final report of the six member committee established by MPAC is now complete, and suggestions for change may be placed before the next state legislature. The MPAC committee made recommendations in four areas: (1) function and structure, (2) decision-making criteria, (3) geographic limits of Commission authority, and (4) funding.\(^6\)

In terms of function and structure, the committee recommended that the boundary change review process be reduced to a consideration of only “contested” cases where matters of concern between two or more jurisdictions were being disputed. To implement this proposal, a two track system of review is to be put in place which would dispense of the non-contested cases as long as they met legal and public input criteria. Two reasons were given for this major change in focus. First, it was found that most annexations are small and of limited regional concern. Second, the committee felt that the requirement of ORS 195 for urban service agreements should mitigate the need for oversight by the Boundary Commission. The committee also recommended that the Boundary Commission be transferred from the state to Metro. This would complete an historical shift begun in 1988 when appointment of Boundary Commission members was relinquished by the state in favor of Metro.\(^7\)

The committee’s recommendations in the other three areas were also significant. In response to allegations that the Boundary Commissions decisions were sometimes arbitrary, the study committee recommended that the statutory language which enables the transfer of authority to Metro include the requirement for clear and objective decision criteria. The committee also recommended that the territorial coverage of the new Boundary Commission be reduced from all of the three metropolitan counties to only those areas within Metro boundaries. The final recommendation suggested that funding come from three sources, assessments to jurisdictions, filing fees, and payments for costs of review by the party contesting the case.\(^8\)

While the role and function of the Boundary Commission may eventually change, for the immediate future its legal function as a tribunal for all proposals for annexation, consolidation, merger, incorporation or dissolution of a city, special district, or county service district remains intact. In addition, ORS 195 annexation plans will be subject to Boundary Commission advisory review.

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1 School districts and certain other districts are exempt from Boundary Commission oversight.
3 ORS 199.410.
5 Proposal No. 1625 - Consolidation of City of Milwaukee with Unincorporated Adjoining Territory, hearing before the Portland Metropolitan Area Local Boundary Commission.
6 "Final Report From the Metro Policy Advisory Committee Boundary Commission Workgroup."
7 Ibid.
8 Ibid.
The immediate concern that led to the creation of the organizations which evolved into Metro was the proliferation of special districts in the unincorporated areas surrounding Portland. Attempts in the 1960’s by Portland to solve the problem through aggressive annexation proved inadequate. As a result civic leaders looked to the state legislature for a regional solution. The response was the creation of the Portland Metropolitan Study Commission (PMSC). The Commission was active for eight years and in an interim report recommended the creation of “a greater municipality for the Portland Urban Area.” Recognizing the political difficulties such a bold approach would encounter, the PMSC put its political influence behind several successful incremental approaches which resulted in the creation of the Portland Metropolitan Area Local Government Boundary Commission, the Columbia Region Association of Governments (CRAG) and the Metropolitan Service District.\(^1\)

CRAG replaced the Metropolitan Planning Commission, an earlier attempt to organize regional cooperation, and was intentionally designed to include representatives from suburban cities who had not been given a seat on the former commission. Its operation was given a timely boost by a requirement of the federal Department of Housing and Urban Development that every metro area in the country create a “Metropolitan Planning Organization.” Although empowered by this federal recognition, CRAG was hampered in its attempt to build a consensus around regional comprehensive planning by unstable funding and inadequate commitment from the mayors and council members who volunteered their services. CRAG was given some respite in 1973, when the state legislature gave official status to the Columbia Region Planning District and made membership mandatory for the three counties and their cities. However, the reputation of CRAG remained tenuous, and its one significant effort to coordinate planning among of its constituent members met with several rebuffs and ended in the adoption in 1976 of a fairly general set of “CRAG Goals and Objectives.”\(^2\)

Metro’s immediate precursor, the Metropolitan Service District (MSD) was approved by a large majority of voters in May, 1970. By November, however, this potential mandate was neutralized when voters in the three urban counties rejected a tax base for the fledgling organization. The legislative machinations which permitted the issue to come to a vote, tied the fate of the MSD authorization to a bill creating Tri-Met, the regional transportation authority. This linkage was solidified in the language of the authorization bill which gave MSD the power to take over Tri-Met. This so-called “marriage clause” remains active in Metro’s current charter.\(^3\)

MSD was directed by a seven member board representing the cities and counties of the area. The ostensible purpose of MSD was solid waste planning for the three county region, but its somewhat open design made it a potential shell for other regional services. With no source of funding other than a small tax on discarded tires and a grant from the Department of Environmental Quality, MSD grew slowly through its first years of operation. It shared many of the same board members with CRAG and its planning functions were largely carried out by staff borrowed from CRAG.\(^4\)

The first function added to the MSD shell was the Washington Park Zoo. The City of Portland offered to transfer functions of this money-losing operation if MSD was successful in passing a five year tax levy to support operations. A successful vote on this levy and subsequent
good management which turned the Zoo into a major regional attraction helped establish MSD’s reputation as the logical home for regional civic facilities.

As MSD struggled, its supporters worked to find new ways to make regional governance more effective. Recommendations from a new commission, organized to study a three-tiered government structure, proved to be critical. The Tri-County Local Government Commission concluded that (1) a reconstituted MSD would be the appropriate vehicle for regional government, (2) that the problems of split loyalties that had plagued the appointed boards of regional councils such as CRAG could be overcome with directly elected district representatives, (3) representatives should have a district rather than at-large political base, (4) that the Executive Officer should be directly elected.

A measure with these provisions was presented to the state legislature in early 1977 and was approved for a vote. With little vocal opposition and an ambiguous title which suggested that the referendum was primarily designed to abolish the unpopular CRAG, the measure passed with a fifty-five percent majority. In January 1979, the old MSD closed its doors and reopened as the newly named Metro, the first and only directly elected regional government in the country.

Under the provisions of its new authorization CRAG was abolished and Metro took over its planning functions. In addition, Metro was given special authority to coordinate local comprehensive planning efforts and to require that city and county comprehensive plans be in compliance with regional and statewide planning goals. Metro was also given the important task of establishing the Urban Growth Boundary for the Metro area. Finally, Metro was given significant authority to plan in the functional areas of transportation, water quality, air quality, and solid waste management. It also was given the authority to provide regional aspects of solid waste services and to levy a tax, or tipping fee, on these services.

As part of the transfer of functions from CRAG, it was intended that Metro become the federally recognized MPO (Metropolitan Planning Organization) and therefore be the designated recipient of federal transportation funding. However, the nature of Metro’s elected commission precluded it from meeting the federal guidelines for representation by local governments. For that reason, Metro created the Joint Policy Advisory Committee on Transportation (J-PACT) to serve this function and to provide a forum for regional input on transportation matters.

Metro was a government with new powers, but its evolution over the next years was hindered by political and managerial inexperience. It failed in an overly ambitious attempt to improve flood control planning of the Johnson Creek watershed. It ran into overwhelming resistance in attempting to find a site for a solid waste incinerator and was forced to abandon the project. Unexplained budget losses amounting to $600,000 damaged its fiscal reputation. Possibly as a result of these public embarrassments, Metro was defeated in two attempts to secure a tax base.

Since these early problems Metro has sited a long term landfill and has continued to evolve as the appropriate vehicle to manage regional civic facilities. Within the framework of the Metropolitan-Exposition Recreation Commission, Metro now manages the Oregon Convention Center, Civic Stadium, the Portland Center of the Performing Arts and the Expo Center. In May of 1995, Metro was given a overwhelming vote of approval with the passage of Measure 26-26, which provided $135 million to fund the acquisition of regionally significant natural areas, trails and greenspace projects. Finally, J-PACT has proved to be an effective vehicle for promoting Metro’s vision for regional transportation planning. It has helped secure
state and federal support for the nearly completed East West light rail project, and it has helped keep alive the South North light rail project in the face of federal funding reductions.

The most significant contribution to the enhancement of Metro’s regional status was voter approval in 1992 of Metro’s charter. The charter reduced the number of electoral districts from 13 to 7, and provided for the direct election of Metro’s executive officer. It also limited the executive veto, which had been restored by special legislation in 1987, to matters of budgets, taxation, and service charges or assessments. It created several new offices, the Office of the Metro Auditor and the Office of Citizen Involvement, and it created the Metropolitan Policy Advisory Committee (MPAC), an important advisory body whose membership is drawn primarily from general and special purpose governments in the Metro region but also includes citizen representatives. Under the charter, Metro was given the authority to offer any local government service which it decided was of regional importance, and for which it could obtain majority approval from electors or from MPAC. It was also given the authority to impose, with elector approval, broad based taxes and to establish, without elector approval, user fees and other limited taxes. Metro’s existing property taxes were allowed to continue without a separate vote as was the payroll tax assessed for mass transit. The charter kept in place the “marriage clause” of the MSD which allows Metro, by ordinance, to assume the functions of Tri-Met with the provision that it create a seven member mass transit commission to oversee operations. The most important new functions granted by the charter were in the area of regional planning. The evolution of Metro regional planning including the new responsibilities required by charter are discussed in the next section.\[13\]

Metro Regional Planning

Regional planning by Metro falls somewhere between the comprehensive planning functions of cities and counties and the broader goal-setting and oversight functions of the state. At the oversight level, Metro establishes regional goals and objectives and then reviews the comprehensive plans of cities and counties within its boundaries for compliance with these goals and objectives. At the comprehensive planning level, Metro undertakes activities similar to that of cities and counties. While Metro is not empowered to adopt a legally binding comprehensive plan, it (1) develops and adopts a fairly detailed long-range growth concept document which is supported by a growth concept map, (2) implements this growth concept in a Regional Framework Plan and functional plans which include specific performance criteria in areas such as traffic congestion and housing density, (3) requires Metro area governments to bring their comprehensive plans into compliance with Metro’s Regional Framework Plan and its component functional plans, and (4) officially adopts the Metro area Urban Growth Boundary which must be part of city and county comprehensive plans.\[14\]

Metro’s regional planning functions have been slow to evolve. When Metro statuted was adopted in 1977, the Oregon State Legislature directed it to develop “land use goals and objectives” for the Portland metropolitan region. These goals and objectives were intended to replace those which the Columbia Region Association of Governments (CRAG) had adopted following considerable controversy. However, Metro did little to implement the directive until 1988, when it adopted the “Urban Growth Boundary Periodic Review Workplan.” This Workplan identified the establishment of Regional Urban Growth Goals and Objectives.
(RUGGOs) as an essential policy tool for management of the UGB and for coordination of the specific functional plans which Metro was beginning to develop.15

The RUGGOs were adopted in September of 1991. They were presented in two sections. Goal I clarified the relationship between Metro planning authority and that of the cities and counties, and established a process for regional planning coordination and citizen involvement in future goal setting activities. Goal II opened the discussion of alternative urban forms for the region. Rejecting the idea of making a definitive statement about urban form, Goal II sought instead to establish some essential building blocks around which the question of urban form could be considered.16

Overall, the RUGGOs declared Metro’s intention to embrace its regional planning mandate. They also established the ground rules for Metro’s oversight relationship with cities and counties and demonstrated Metro’s desire to involve local governments and citizens in the regional planning process. Finally, the document recognized that the RUGGOs were only a first step, and it called upon citizens and officials to participate in a Region 2040 study which would examine urban form from a fifty year perspective and provide a basis for RUGGO amendments.17

Within a year of the passage of the RUGGOs voters approved Metro’s Home Rule Charter.18 Charter passage was especially important because it built upon the RUGGO foundation and because it spoke directly, specifically, and authoritatively to Metro’s regional planning role. The new charter required Metro to adopt a “Future Vision” statement by July, 1995, which would provide a visionary look at what population and settlement patterns the region could accommodate within the next fifty years. The charter also created the Metro Office of Citizen Involvement and the Metro Policy Advisory Committee (MPAC). MPAC was to be a planning coordination and policy discussion forum for officials from all types of local governments including special districts. Most importantly, the charter required Metro to adopt a Regional Framework Plan, by December 31, 1997 which would address:

- regional transportation and mass transit systems,
- management and amendment of the urban growth boundary,
- protection of lands outside the urban growth boundary for natural resource, future urban or other uses,
- housing densities
- urban design and settlement patterns,
- parks, open spaces and recreational facilities
- water sources and storage
- coordination...with Clark County, Washington
- planning responsibilities mandated by the state.19

The charter broadened Metro’s mandate by encouraging it to include in the Regional Framework Plan “other growth management and land use planning matters which the council...determines are of metropolitan concern,” and to write model terminology, standards and procedures for local land use decision making.” 20

To implement Metro’s regional planning functions, the charter required that the comprehensive plans of Metro area local governments be brought into compliance with the
Regional Framework Plan within three years after its adoption and stated that local governments are to make land use decisions consistent with the Regional Framework Plan while their local plans are under compliance review by Metro. Finally, it allowed Metro to adopt the Regional Framework Plan in components as well as a whole.\textsuperscript{21}

2040 Growth Concept\textsuperscript{22}

[Authors note: See footnote 22 for important comments on sources and for a discussion of limitations of the data.]

As required by Charter provision, Metro adopted a “Future Vision” statement by the expected date. While not a perfunctory exercise, the “Future Vision” statement has taken a back seat to what has become the more important planning exercise, the creation of the 2040 Growth Concept document. When the Regional Urban Growth Goals and Objectives (RUGGOs) were first adopted in 1991, there was agreement that future RUGGO amendments should be determined from analysis of urban form over the very long term. To implement this vision, citizens and officials were urged to participate in a Region 2040 study which would attempt to model alternative urban forms and their consequences over a fifty year period.\textsuperscript{23} The Region 2040 study was completed in three years, and in the end, Metro satisfied its RUGGO commitment and its newly adopted Charter provision to involve citizens and Metro region officials in the planning process.\textsuperscript{24}

The 2040 Growth Concept planning process considered various scenarios for future growth and urban form for the region and attempted to model the outcomes in terms of population, transit modes, housing location, mix, and density, employment patterns and quality of life. From what was learned in this exercise, citizens and planners produced a “recommended alternative” which provides the core concepts intended to guide growth in the region for the next 50 years. The key to Metro’s recommended alternative is the concept of preserving open spaces by creating a compact urban form. To achieve a compact urban form, the recommended alternative relies heavily on more intense development of vacant land in existing inner and outer neighborhoods and channeling new development along light rail and transport corridors.\textsuperscript{25}

The recommended alternative projects a population of 1.86 million by 2040, an increase of about 830,000 over 1990. To accommodate this projected 80% growth in population, the recommended alternative suggests that the UGB be expanded by only 6% over the 50 year period. The recommended alternative portrays a radical departure from current development patterns which, if they were to continue, would require a 50% increase in the UGB over the same 50 year period. To constrain development within the much reduced area allocated under the recommended alternative and yet provide adequate amount of buildable land and affordable housing as required by state land use law, the concept calls for:

- increasing densities of single-family developments by reducing the average lot size from 8,500 to 6,550 square feet,
- planning for 20% of all single family dwellings to be rowhouses, duplexes or similar small lot housing,
- changing the ratio of single-family to multi-family dwellings from a 70/30 split to a 62/38 split.\textsuperscript{26}
The increase in residential density is closely linked to a transportation system which reduces auto use and directs employment and residential development to areas around light rail stations and along transport corridors such as Macadam Avenue which have convenient transit. By 2040, the concept plan projects that one-third of all households and 25% of all employment will be located along transport corridors or within a half-mile of a light rail station. By concentrating living and working spaces along dense corridors, it is expected that more people will be able to use mass transit or walk or bike to work.\(^27\)

Since little new land outside the urban growth boundary will be allocated for development, the recommended alternative will also necessitate intense development of vacant land in inner and outer neighborhoods. Inner neighborhoods are cities such as Portland and older suburbs such as Milwaukie that are accessible to employment areas but are primarily residential. These neighborhoods are expected to accommodate 28% of new households and 15% of new employment. By 2040, inner neighborhood’s total share of all households will be 34% and of all employment will be 10%. Outer neighborhoods are cities such as Oregon City that are on the edge of the UGB and farther away from employment areas. Outer neighborhoods are expected to accommodate 28% of new households and 10% of new employment. By 2040 their total share of all households will be 18% and of all employment will be 5%. Together, transport corridor and light rail station areas plus inner and outer neighborhoods are expected to accommodate 80% of all households by 2040.\(^28\)

The majority of new jobs (two thirds) will be accommodated along corridors and main streets and in regional centers that will be served by transit. Intensification of job and housing development especially at light rail stations, along transport corridors, and in cities such as Milwaukie that will be connected by light rail, is expected to significantly increase transit ridership. While population by 2040 is projected to increase by 80% over 1990 totals, transit ridership is expected to increase by 317 percent.\(^29\)

The intensification of urban development is expected to have benefits in terms of reinvigorated main streets in outer and inner neighborhoods, lower vehicle miles traveled, cleaner air and water than could be expected under most other alternatives, and the possibility of slightly lower costs for some urban services. The primary benefit will be the preservation of open space. The recommended alternative calls for setting aside 34,000 acres of open space or about 14% of total land within the expanded UGB. This open space will include non-buildable land in floodplains, wetlands, and parks and additional purchased land that buffers stream corridors, significant topographic features and habitat areas.\(^30\)

The 2040 Growth Concept document along with its supporting map was adopted by Metro Council, December 8, 1994.\(^31\) The 2040 Growth Concept, perhaps more than most citizens and local government leaders recognize, officially establishes a fairly detailed vision of a desired future which calls for a significant departure from past behavior in terms of how land is developed and how people get from place to place. Because it is an agenda setting document, its impact is perhaps more profound even than the Regional Framework Plan and the individual “functional plans” which between now and their completion date of December, 1997 are intended to provide the specific implementation and compliance features of the Growth Concept. In final part of this section, I will discuss a few of the more important impacts 2040 Growth Concept and the Regional Framework Plan will have on the Clackamas study area.
One of the most obvious impacts will be on housing type. Using fair share housing allocation estimates presented in an April 24, 1996 draft of the Urban Growth Management Functional Plan, I compare 1990 percentages of single family detached housing for locations in Clackamas study area with allocations being projected by the draft functional plan for the year 2017 (Table VI-1).

<table>
<thead>
<tr>
<th>Location</th>
<th>Percent 1990</th>
<th>Percent 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gladstone</td>
<td>73%</td>
<td>56%</td>
</tr>
<tr>
<td>Happy Valley</td>
<td>98%</td>
<td>70%</td>
</tr>
<tr>
<td>Milwaukie</td>
<td>65%</td>
<td>52%</td>
</tr>
<tr>
<td>Oregon City</td>
<td>63%</td>
<td>47%</td>
</tr>
<tr>
<td>West Linn</td>
<td>82%</td>
<td>67%</td>
</tr>
<tr>
<td>Unincorporated</td>
<td>82%</td>
<td>49%</td>
</tr>
</tbody>
</table>

It is apparent that significant changes from 1990 housing patterns will have to be made to meet the compliance targets especially in Happy Valley, Oregon City, and the unincorporated areas where most growth in the study area is projected to occur. The allocation requirements are even more dramatic when one considers that the 2017 allocations include existing housing stock where the ratio of single family detached to other types of housing is considerably higher. This suggests that much of the new housing stock built between now and 2017 will be something other than single family detached. The functional plan also includes design standards to complement the compact urban form. Currently accepted development practices of providing wide winding streets and creating cul de sacs to limit through-traffic will be discouraged in favor of more narrow streets, grid patterns and fewer cul de sacs.

Metro’s Regional Transportation Plan (RTP) is being updated and will include performance standards for congestion and will reflect the 1992 Oregon Department of Transportation Planning Rule which calls for reducing parking spaces per capita by 10% over ten years. The overall goal is to reduce per capita vehicle miles traveled from 12.4 in 1990 to 11.8 in 2040 while increasing transit ridership from 136,800 to 570,000 (317% increase). A key element in the transportation plan for the Clackamas study area is the extension of the South North light rail to the Clackamas Town Center and Milwaukie regional centers and the possibility of later creating a light rail loop which would connect Oregon City to both Milwaukie and the Clackamas Town Center.

In terms of new road projects, the Sunrise Corridor, if it is completed, would become a major regional highway connecting I-205 to Highway 26 in the Damascus Area. A major interchange is planned for the Damascus area, but only a few other interchanges are being
considered along the Sunrise Corridor. The Oregon Department of Transportation continues to work out the details of the alignment, but so far no state or federal funding is available\textsuperscript{38}

Transport corridor routes, along which the 2040 Growth Concept anticipates to concentrate employment and residential development are planned along:

- Rock Creek Road from Foster Road to Carver Road,
- Sunnyside Road from the Clackamas Town Center to Damascus,
- 82nd Street from the Clackamas Town Center north,
- Johnson Creek Blvd. from McLoughlin to I-205,
- Linwood through Milwaukie,
- Webster Drive and Highway 224 from Milwaukie to Gladstone,
- Highway 43 from Lake Oswego to West Linn,
- Highway 213 south from Oregon City.\textsuperscript{39}

The Sunnyside Road corridor is drawing considerable attention because Sunnyside Village, a neo-traditional village is being developed along its southeast section. The Village recently won a $1.6 million federal grant to pay for a transit plaza and 3 acre park to enhance the development. Sunnyside Village is recognized as one of the models of a transport corridor development because it features the increased densities, reduced lot sizes, mixed use, and greenspaces envisioned by the 2040 Growth Concept.\textsuperscript{40}

In May of 1995, Metro area voters approved Ballot Measure 26-26 which provided $135 million for land acquisition and regional trail projects. This funding will go a long way toward implementing Metro’s Greenspaces Master Plan. In the Clackamas study area, there are plans to acquire or develop 21 open space or park areas. A major regional trail is proposed along the Clackamas River from the Willamette to the edge of the UGB. Bond money may also be used to purchase the Portland Traction Co. right-of-way between Milwaukie and Gladstone.\textsuperscript{41}

Urban Growth Boundary and Urban Reserve Areas

The primary tool which empowers Metro to channel growth toward a more compact urban form is the establishment and control of the Urban Growth Boundary (UGB). An Urban Growth Boundary marks the separation between land designated for rural use and land set aside for urban development. The UGB is not unique to Metro but is required as part of Oregon’s land use planning legislation. Each city and county in the state (and Metro for this region) is required to designate a UGB for its urban area. The UGB is required to contain an adequate amount of buildable land to accommodate residential growth for 20 years.\textsuperscript{42} Metro’s UGB has become one of its trademark accomplishments, and Metro’s periodic reevaluation of whether to expand beyond its current 234,000 acre size produces one of its trademark controversies.

Need for expansion of the UGB is currently being considered.\textsuperscript{43} The Metro Policy Advisory Committee (MPAC) in early July, 1996, voted to support no immediate expansion of the UGB. This is a strong signal from representatives of Metro area local governments that they agree with the compact urban form concept and are willing to make the commitments necessary to implement a decision to delay expansion for the present.\textsuperscript{44}
At least one Metro Councilor has voiced his support of a moderate expansion of the UGB and has sought an independent assessment of the impact of delaying expansion. A study personally commissioned by Metro Councilor Don Morissette and conducted by the Center for Urban Studies at Portland State University makes no specific UGB expansion recommendation but suggests that minimal expansion is unrealistic. The authors of the study argue that development is not occurring at expected densities and that growth is being forced outside the UGB to neighboring cities. They also suggest that overly constraining the UGB is in part responsible for dramatic housing price rises and that continued adherence to a minimal expansion would put Metro in conflict with state planning Goal 10 which requires the provision of affordable housing.

Zero UGB expansion advocates counter that housing was undervalued in Portland, that housing price rises are similar to what has been experienced in other fast growing parts of the country where UGB’s are not in place, and that the most current market data shows that the market is building to higher densities. They argue for a two year delay on UGB expansion to encourage higher density development and to give local governments time to implement the Urban Growth Management Functional Plan. However, 2040 Means Business, a special committee of business leaders established to advise Metro Executive Mike Burton, has come to a conclusion similar to that of the Portland State researchers. The business leaders suggest that the region’s buildable land has greatly diminished and that home builders are not responding to Metro’s initiative to build at higher densities. They recommend an immediate 9000 acre growth expansion.

The controversy over the expansion of the UGB could have significant implications for local governments and service providers in parts of Clackamas County where large tracts may be designated as “urban reserves.” Urban reserves are areas just outside the urban growth boundary that are best suited for urban expansion. They are intended to provide a 30-year supply of buildable land which can be incorporated into the UGB as needed. As a part of its responsibilities in determining the UGB, Metro is also required to designate urban reserves. There are several ongoing studies, including economic, population and housing-needs analysis, which will determine how many acres Metro will designate as urban reserves in order to meet the 30 year supply target. As part of its public process of determining which lands should be selected as urban reserves, Metro in February of 1996, set aside 22,800 acres as Urban Reserve Study Areas (URSA). It is from the “study” areas that the final selection will be made.

Designation of the urban reserves will precede the decision on UGB expansion. Metro’s “recommended alternative” calls for a 14,500 acre expansion of the urban reserves. However, given that the region’s growth has exceeded by 40% the projections used by Metro in developing the 2040 Growth Concept and the “recommended alternative,” it is possible that a considerably larger portion of the study areas will be adopted as urban reserves. At present, over half of all land under consideration is in Clackamas County. Within Clackamas County, two locations are targeted. About 30% of all URSA land is in the Damascus - Pleasant Valley area east of Happy Valley. About 20% is contiguous with the south and east boundaries of Oregon City. Not surprisingly, among all cities in the Clackamas study area, Oregon City and Happy Valley have shown the greatest change in population between 1990-95. Also, the fastest growing service districts, have been Damascus Water and Mt. Scott Water. These two districts along with the former Clarmont Water District area, south of Oregon City, are all projected to have population increases of between 75-95% by 2015.
Decisions are imminent. Metro is scheduled to make a final decision on the urban reserves later this year, and on UGB expansion by early next year. It is difficult to know what direction the council will take in these matters, but several competing pressures will likely influence the decision. On the one hand, population and housing prices are rising more rapidly than was anticipated when the 2040 Growth Concept was being developed. In addition, there are conflicting opinions as to whether the private market is building to the densities permitted. On the other hand, the 2040 Growth Concept “recommended alternative” assumes that the UGB will only expand 14,500 acres in the next 50 years. Recommending a 5000-10,000 acre expansion, within a few years after the plan is adopted and at the beginning of the 50 year period would certainly call into question the seriousness and commitment of Metro in implementing their plan. In addition, Metro Councilors have received a strong vote of confidence from MPAC, their regional governments advisory committee, to stay the course and not expand the boundary in the immediate future. Whichever way the decisions go, it is likely that at least half of the designated urban reserves will be in Clackamas County.

Metro Summary

Metro has begun to establish its presence in the area of regional planning. The 2040 Growth Concept document has been completed, marking the end of a unique public planning exercise. The 2040 Growth Concept offers a vision for a future different from what unfettered market forces would produce. It is a vision which requires a change in preferences and behaviors. If this vision is to be implemented, local governments will be required to develop more sophisticated mechanisms of cooperation and more willingness to think regionally and plan deliberately. Metro has invested heavily in the 2040 Growth Concept and is being forced by its impending 1997 deadline to move quickly to develop its Regional Framework Plan. Within three years of the adoption of the Regional Framework Plan, local governments will be required to bring their comprehensive plans into compliance and to demonstrate through their zoning, subdivision and other regulations how they will meet the performance criteria laid out in the framework plan. For local jurisdictions, this will probably not be an indifferent exercise. Metro now has some carrots and sticks by which to influence local jurisdictions to act in concert with its vision. Depending on the political will exercised by the Metro Council, by JAPT and by MPAC, this vision will carry weight in Metro area local governments. JAPT is vigorously pursuing its light rail-mass transit component of the vision, MPAC, representing local governments, has voiced its support of the vision through its endorsement of zero expansion of the UGB in the near term, it now remains to be seen how aggressively the Metro Council will move at this important moment.

2 Ibid.
3 Ibid.
4 Ibid.
The Recommended Alternative, a result of the Region 2040 study, was the recommendation brought to the Metro Council by the Executive. This Growth Concept grew from the previous 2040 alternative scenarios: Base Case, Concepts A, B, and C (see Concepts for Growth, June 1994)

The Recommended Alternative Analysis is a record of the background work completed as part of the Region 2040 study. The Analysis documents the issues considered, the assumptions made, and the results used in describing and quantifying the Alternative. The Analysis includes a description of the Recommended Alternative, a map, modeling results and a technical appendix. This should not be confused with the Growth Concept description or the Growth Concept map being adopted, which are more generalized or conceptual in nature.

This attachment to Resolution No. 94-2040-C is intended to provide a record of the analysis done in support of the Metro 2040 Growth Concept. Therefore, no amendments have been made to this material.

My purpose in drawing readers’ attention to these sources is to clarify their origin and intended purpose. My decision to use this data is based on the fact that these data were essential to the assumptions and the planning process used in developing the 2040 Growth Concept and were appended to the document as it was adopted by the Metro Council. As such they represent the most widely circulated and comprehensive presentation to date of how and why Metro created the 2040 Growth Concept and how it relates to the UGB and the Urban Reserve Areas. I am well aware that since the creation of these documents, Metro has continued to revise projections and draft and redraft functional plans. My analysis, therefore, should be read with an understanding of its strengths and limitations.


Ibid.


32 Sources of data for 1990 single family detached housing: Center for Population Research and Census, Portland State University, Demographic, Housing and Socioeconomic Characteristics of Clackamas County, its Cities, and Census Tracts: Selected Data from the 1990 Census of Population and Housing STF3A; ; Center for Population Research and Census, Portland State University Oregon Monthly and Year-to-Date Building Permit Report and Manufactured Housing and Condominium Reports.


34 The 1990 percent of single family detached housing for unincorporated areas of Clackamas County was derived by averaging the percent single family housing statistics for all service districts given in Table III-3, p. 18.


36 Ibid.


42 City Club of Portland. March 29, 1996.


47 Nokes, July 8, 1996.


52 Metro Data Resources Center, “Market Profile Report,” prepared for McKeever/Morris Inc., 1995. See also Table III-3, p. 18.

STATE AND FEDERAL LEGISLATION

State and federal legislation has a significant impact on local government functions and finances. Not surprisingly, it also affects local government decisions about how urban services will be provided and whether and how to alter local government boundaries. For example, provisions of the federal Safe Drinking Water Act make it more difficult for smaller service districts and cities, acting independently, to provide the types of treatment and water testing facilities necessary to satisfy legislative mandates. In response to this, some of these smaller jurisdictions have considered alternatives such as mergers, consolidations, and contracting for services.

It is beyond the scope of this study to attempt a comprehensive analysis of the impacts of state and federal legislation on local government. What I offer instead is a small sample, in order to help the reader understand the types of intergovernmental issues that local governments must deal with on a day to day basis and that affect their boundary change decisions.

State Mandates

A 1988 study State Mandates on Cities and Counties in Oregon,\(^1\) conducted by the Bureau of Governmental Research and Service at the University of Oregon, identified 57 new mandates that had been imposed by the previous year’s state legislative session. While many of the mandates concerned administrative details, such as changes in requirements for recording liens or a requirement that local governments file annual reports on water use, other mandates from the 1987 session had more substantial consequences. Oregon Revised Statute (ORS) Chapter 672 required the removal of architectural barriers for handicapped citizens from all public buildings, and ORS Chapters 638, 696, and 762 required reports relating to the storage and handling of hazardous substances.

State mandates affect local governments by adding incrementally to administrative overhead and to the level of service they are expected to deliver. These cumulative effects create financial burdens on local governments which are not compensated by state funding.

Federal Legislation

The influence of federal legislation on local governments covers the spectrum from criminal justice to wage and employment practices. One area of substantial concern for local governments in Oregon is federal environmental legislation.

The execution of environmental policy in Oregon is primarily the responsibility of the State Department of Environmental Quality. The five-member Environmental Quality Commission adopts the regulations and standards which the Department oversees.\(^2\) Oregon’s environmental policy is closely interwoven with it land use planning law. Nearly all of the 19 planning goals established by the Land Conservation and Development Commission speak directly or indirectly to environmental preservation. These goals set the standards for the comprehensive plans of each city and county in the state.
Clean Water Act: The basic federal legislation dealing with water pollution is the Clean Water Act. The Act identifies two major sources of water pollution: “point source” which originates from a specific source such as an industrial plant, and “nonpoint source” which is diffused and is conducted to water bodies through surface water runoff.

Historically, most efforts to reduce water pollution have been aimed at point sources. Building sewage treatment plants to handle municipal wastes and reducing waste discharges by industry have been the key strategies of the Clean Water Act. Recently, there has been a shift in focus to nonpoint source pollution. Nonpoint source pollution is much more difficult to control but the development of Water Quality Indexes have helped officials monitor patterns of stream quality change. These measurements provide benchmarks against which to measure the efficacy of remediation programs.³

Safe Drinking Water Act: Drinking water quality is regulated under the Safe Drinking Water Act. Requirements are applicable to “public water systems” containing at least 15 service connections or regularly serving at least 25 individuals at least 60 days per year. The legislation was enacted to protect underground sources of drinking water and to regulate contaminant levels in public drinking water systems. The Act gives the states primary enforcement authority, although the Environmental Protection Agency has the backup authority if a state fails to meet its enforcement responsibilities.⁴

Regulatory mandates resulting from both the Clean Water Act and the Safe Drinking Water Act have made it more difficult for smaller water and sanitary service districts to continue independent operations.

Endangered Species Act: The Endangered Species Act put into place an aggressive federal policy to protect all species of fish and wildlife which are either in danger of extinction or likely to become so within the foreseeable future. The Act brings to the forefront the protection of biological diversity. Biological diversity comprises three related concepts: genetic diversity, species diversity, and ecosystem diversity. Genetic diversity refers to the range of heritable characteristics possessed by the organisms on the earth. Species diversity concerns the range of distinct organisms. Ecosystems diversity describes the range of coherent biological communities of organisms.⁵

Protection of biological diversity, so broadly defined, permits the Endangered Species Act to leverage the protection of a wide range of habitats. The Act impacts the Clackamas study area in terms of reduced timber harvests on federal land and the consequent reduction of federal forest receipts to Clackamas County.⁶ It also affects the study area in terms of Salmon restoration plans which will significantly affect river operations, including a need to increase river flows when fish are migrating.⁷

Clean Air Act: The federal Clean Air Act establishes maximum allowable concentrations of certain air pollutants. Jurisdictions who fail to meet ambient air quality standards may have penalties imposed on them such as loss of federal highway funding or restrictions on proposed industrial development. The Portland metropolitan area is currently in violation of the carbon dioxide and ozone standards. Both of these pollutants are primarily caused by automobile exhausts. At the direction of the 1993 state legislature, the DEQ has developed a plan to reduce auto emissions which has as its goal a reduction in the number of vehicle miles traveled. The plan
is being implemented through land use regulations that reduce the number of parking spaces per capita, and mandates that require employers with 50 or more employees to provide commuting alternatives for workers.  

4 Ibid.
FISCAL ISSUES

Property Taxes

Property taxes are one of the primary sources of revenue for local jurisdictions. Cities, counties, county service districts, school districts, metropolitan service districts and special districts are authorized by Oregon state statutes to levy property taxes. Because urban services for a particular property are sometimes provided by a mix of local governments, the number of separate jurisdictions taxing any particular property can be quite large. While the complexity of funding may not be well understood by the average voter, in theory, voters have final authority to determine their total property tax obligation. By Oregon statute, no local jurisdiction may levy any property tax without the approval of the voters.¹

There are three general categories of property tax levies that voters may approve: (1) special levies, (2) debt levies, and (3) tax base levies.² Special levies provide temporary taxing authority and are used for special purpose operating funds. Library operations, law enforcement, park development, and even general local government operations are sometimes funded by special levy. Special levies may be approved for one to five years and may be re-authorized with voter approval.³

Debt levies are used to pay the principal and interest on bonded debt. General obligation bonds (GO bonds) are primarily used by local jurisdictions to finance capital improvements.⁴ Tax base levies represent a jurisdiction’s permanent authority to levy an annual dollar amount. The size of the tax base is subject to voter approval. Once approved, the tax base may only increase by six percent annually or by the addition of revenues from annexed territory. Annexed territory increases the tax base by the amount that would have been produced had the annexed land been taxed in the previous year.⁵

If the revenue needs of a jurisdiction are not adequately met by the levies permitted under the existing tax base, the annual six percent increases, or by the addition of annexed territory, the jurisdiction may ask the voters to increase the size of its tax base.⁶ Such a decision, however, is not taken lightly or done repeatedly by local officials since tax base votes subject the local jurisdiction to considerable political debate.

There is considerable variation between jurisdictions and over time in the degree to which they rely on the various types of property tax levies. While reliance on the tax base levy is most common, other patterns are possible. For example between 1982 and 1987, special levies provided between 60 percent and 95 percent of the City of Cornelius’ property tax revenues. However, the passage of a tax base increase in 1986, reversed this pattern and by the 1987-88 fiscal year, 98 percent of the City of Cornelius’ property tax revenues were from tax base levies. In contrast to this pattern, property taxes for the City of Beaverton from 1982 to 1990 came almost exclusively from tax base revenues.⁷

The amount of property taxes that an individual property owner pays is usually described in terms of dollars of tax paid per $1000 of assessed value. This amount is called the tax rate. In general, the tax rate each property owner pays depends on the total assessed value of property in the jurisdiction imposing the tax and on the mix of services received. If a property owner is in a jurisdiction of very high valued properties and is receiving an average mix of urban services, that property owner’s tax rate will be lower than it would be if the property owner was in a
jurisdiction of low valued properties and was receiving the same mix of services. Simply put, for an individual tax payer, the cost of local government services is lower if that cost is spread over a larger taxable base.

An example, using the City of Milwaukie budget may help to illustrate some of the concepts just discussed. For the 1995-96 fiscal year, Milwaukie’s tax base was $4,980,891. Since the total assessed value of all Milwaukie property was $1,090,603,734, each property owner’s tax rate for the tax base levy was $4.57 per $1000 assessed value. For a Milwaukie homeowner whose property was valued at $100,000, this would require $457 to pay for local government services funded by the tax base levy.

However, the tax base levy is not the total tax liability for the Milwaukie homeowner. In 1994, the voters of Milwaukie approved two special (serial) levies which were to be paid down over the fiscal years of 1995-96, 1996-97 and 1997-98. The 1995-96 fiscal year cost of the serial levies for Milwaukie taxpayers was $1,058,000. This caused their tax rate to increase from $4.57 to $5.54. Milwaukie voters have also approved long term general obligation bonds for capital improvements. For the 1995-96 fiscal year, the debt service on these bonds added an additional $0.77 to the tax rate bringing the total to $6.31. As a result of these additional obligations, the Milwaukie homeowner whose property was valued at $100,000, was required to pay $631 in property taxes for the Milwaukie local government services funded by the tax base levy, the special (serial) levies, and the debt levies.

The City of Milwaukie is not the only government that provides local government services to Milwaukie residents. Milwaukie residents receive services from Clackamas County government, the North Clackamas County Parks and Recreation District which maintains all the park facilities in the city, a county library system, Tri-Met, and others. Combined, all these non-city services added $3.68 to the tax rate bringing the total tax rate to $9.99.

Historically however, local government services make up less than half of a property owner’s tax liability. In Milwaukie, as in most other jurisdictions, the largest share of property taxes has traditionally gone toward educational services. For property owners in Milwaukie, educational services add another $10.53 to the tax rate. Combining educational and local government services, the tax rate for the 1995-96 fiscal year for residents of the City of Milwaukie totaled $20.52 per $1000 assessed value. For the homeowner whose property was assessed at $100,000, this would result in a tax cost of $2052 for all local government and educational services.

The City of Milwaukie is preparing to ask voters to approve an increase in the city’s tax base. This will be the first increase requested by the city since 1984. The increase will include the allowed 6% plus $1,058,000, the amount of the final year charge for the serial levies. Since the combined amount is equivalent to current tax base plus 6% and the amount of the annual cost to service new serial levies if they were approved in amounts equivalent to existing serial levies, the tax rate for property owners should be relatively unaffected. The advantage for the city of asking voters to approve an increase in the tax base rather than asking them to approve new serial levies is that the tax base increase puts the property tax levies of the city on a more permanent footing, and because the tax base is permitted to increase by 6% annually whereas the serial levies are not.
Measure 5

The Oregon property tax system was substantially changed in November, 1990 with the passage of Ballot Measure 5. Measure 5 places limits on the total tax rate for an individual property. This is distinct from the tax base limitation which affects the total dollar amount of tax base property taxes each jurisdiction can levy. With Measure 5, taxes to pay for schools are limited to a rate of $5 per $1000 assessed value. Taxes to pay for all non-school local government services are limited to a rate of $10 per $1000 assessed value. Together the tax rates for an individual property should not exceed $15 per $1000. For a property valued at $100,000, this would be equivalent to a property tax limit of $1500. Measure 5 includes all types of property tax levies and can even extend to flat fees linked to property ownership. One major and important exception to the Measure 5 limitations are debt levies.\(^{10}\) Since debt levies are used for large capital expenditures, this exception makes it possible for an individual property to have a much higher combined tax rate than $15.

Let us first examine the impact of Measure 5 on all non-school local government services. In situations where the combined levies of all the local governments (city, county, special district, Tri-Met, etc.) which provide services to an individual property exceed the $10 tax rate limit, the levies of all jurisdictions are reduced proportionally. When this happens, a jurisdiction is said to be in compression.\(^{11}\) When Measure 5 was first approved there was concern that cutbacks in funding were imminent and that many urban service providers would be in compression. However, the $10 tax rate limit for these categories was not as restrictive as expected. Traditionally, urban services have been provided with revenues that were somewhat under the $10 per $1000 limit.\(^{12}\) Returning to the City of Milwaukie example, total non-school local government tax levies for the 1995-96 fiscal year were $9.99. This figure, however, included $0.77 for debt levies which are not subject to the Measure 5 limitations. Excluding this amount, the tax rate was $9.22, which is under the $10 limitation.

The impact on local government services was also muted because Measure 5 was implemented during a period when assessed values were dramatically increasing. If, for example, the owner of a $100,000 home, paying the maximum allowed tax of $1500, sees the market value of that house increase by 12% to $112,000, that property may now be taxed up to $1680. Assuming that this level of increase is typical across the jurisdiction, it is apparent that the tax base limitation, which restricts the total dollar amount of tax base property taxes each jurisdiction can levy, remains the more restrictive element for local governments. However, if the real estate market should take a downturn, this situation could be reversed.\(^{13}\)

Measure 5 has had its most dramatic impact on the funding for educational services. When Measure 5 was approved, it was understood that the combined educational levies (K-12, Community College, ESD) of most jurisdictions would be far in excess of the $5 tax rate limit.\(^{14}\) In anticipation of revenue shortfalls, Measure 5 directed the state to make up for the loss of property tax revenues to schools. Faced with requirements to provide considerable compensatory funding and unwilling to raise revenues through other sources such as a sales tax, the state legislature revisited its traditional commitment to fund basic school support. Because basic school support was not covered by Measure 5, the state legislature reduced its funding levels in this area while providing full compensation for lost property tax revenue for schools.\(^{15}\)

School district property tax reductions required by Measure 5 were phased in over a five year period ending in the 1995-96 fiscal year. By the 1996-1997 fiscal year, school funding...
levies will have been reduced to the $5 tax rate limit imposed by Measure 5. While increasing property values have also muted the impact of the school levy limitation, there has still been a shortfall. During the five year phase-in, state per-student appropriations have not adequately compensated for inflation and growing student enrollments. As a result, there has been about an 8% reduction in total educational funding in the state.\textsuperscript{16}

While Measure 5 caused some reduction in total education funding available in the state, its most profound affect was in the redistribution of resources. Measure 5 requires property tax compensation from the state to school districts in the aggregate but does not require dollar-for-dollar replacement to individual districts.\textsuperscript{17} Because the state legislature attempted to distribute its funding equally to all districts, the net effect has been that higher cost districts such as Portland have suffered while lower cost (usually rural) districts have benefited. For example, while Portland has cut more than 1000 positions from its budget since 1990, Woodburn, a district on the urban fringe between Portland and Salem, has added 72 positions, increased teacher salaries by 31%, and nearly doubled its budget.\textsuperscript{18} While the equalization of funding has been decried by urban school districts, others have argued that equalization gives a well-deserved boost to rural education.

It is possible that the funding disparities between schools could have an impact on future development in the urban fringe. The desire for better educational services has been one of the traditional attractions pulling family households to the exurban areas. Nationwide, central city and inner ring suburban schools are underfunded, buildings are older, overhead expenditures higher, and student populations more diverse. The push of aging schools in the urban centers combined with the pull of newer, more homogenous, and less costly schools on the urban edges has enhanced the desirability of these exurban locations over the central city and inner suburbs.\textsuperscript{19}

Until recently, the high quality of Portland area schools has mitigated the impact of this incentive and has helped preserve Portland from the cycle of disinvestment that has occurred in other cities. It is possible that Measure 5 has altered this equation. As is evident in the example above, urban fringe districts such as Woodburn saw dramatic increases in their budgets while Portland and other urban schools suffered. Such disparities exacerbate push pull affects and enhance the desirability for families to locate in urban fringe areas including those in Clackamas County. The result could be more than expected pressure for development and an unanticipated need for complementary urban services.

Measure 5 has had a substantial impact on mitigating an increase in property taxes primarily by shifting school funding to the state. However, the mitigation in property taxes resulting from the phase-in of Measure 5 is now over and property taxes are likely to rise with market value increases and with the obligations that result from the passage of new general obligation bonds. Measure 5 has also had the effect of shifting the tax burden from commercial/industrial base to a residential base. Because residential valuations have risen more dramatically than commercial/industrial valuations much more of the tax burden is now carried by residential property owners.\textsuperscript{20} The long term impacts of these changes are uncertain, but it seems likely to produce more residential property owner backlash and more resistance to any annexation or incorporation proposals that might appear to result in higher taxes.

Measure 5 has had some impact on the mix of taxes and levies utilized by jurisdictions. Local governments that had previously avoided the tax base limitations by the use of pay-as-you-go special operating levies are now constrained by Measure 5 overall limitations. Also, those local governments whose development, impact, or user fees were determined to be taxes linked
to property ownership have rewritten them so that they do not come under Measure 5 definitions. Washington County, for example, specifically designed its traffic impact fee to avoid Measure 5 provisions. Measure 5 has also severely limited the use of tax increment financing techniques such as those used to facilitate the development of the Clackamas Town Center.

Measure 5 has caused schools and governments to rely more on general obligation bond funding and to bundle certain repairs and deferred improvements for general obligation bond funding. The recently passed Portland school bond measure for computers, libraries and facility repairs is an example of this shift. Finally, cities such as Portland while in compression, have shifted to other revenue sources such as increased utility franchise fees to compensate.

Portland’s opportunity to shift to other revenue sources when property taxes were constrained illustrates an option cities have relative to service districts. While service districts are limited in their funding sources, local governments have a wider array of taxing and service fee options. Two popular options for cities have been increases in utility franchise fees and hotel/motel taxes. The later is especially popular because hotel/motel taxes are primarily paid by those outside the jurisdictions. There are numerous other revenue sources that are utilized by cities and counties: business license fees and income taxes, rental car and entertainment taxes, payroll and personal income taxes, real estate transfer taxes and local excise taxes. At least one city in Oregon has authorized a local sales tax.

Tax Base and Annexation

The structure and limitations of the Oregon property tax system affect how local jurisdictions finance infrastructure needs and may determine the annexation strategies which they employ. A study prepared for the Department of Land Conservation and Development, *Impact of the Six Percent Tax Base Limitation on Local Government Financing of Infrastructure Needs of Urban Growth* concluded that the six percent limitation did not substantially limit the ability of local governments to finance infrastructure since local governments were able to utilize special levies and debt levies which were not subject to the six percent limitation.

However, the study did conclude that the treatment of annexed land under the current tax base system was probably having an impact on the annexation strategies of local jurisdictions. Under the current system, undeveloped land that is annexed increases the tax base of the jurisdiction only by the amount the land would have been valued in the year before it was annexed. If the annexed land is later developed, the jurisdiction is able to claim no tax base increase for the amount that the development increases the land value. As a result, the jurisdiction is forced to provide, without the ability to capture additional revenues, the urban services that are now required in the newly developed areas.

Such a dilemma forces local jurisdictions to make a difficult choice, either annex land before it is developed in order to be able to impose planning and building control, or wait until the land is developed so as to capture the tax base increase. Annexing early provides control but risks underfunding of services. Annexing late provides funding but risks loss of land use control, resistance by special districts created to service the new areas, and resistance to annexation by new residents in developed areas.

Different counties have followed different paths in regard to this decision. In Multnomah County, intergovernmental agreements between cities and the county have guaranteed that the
county will not provide urban services in unincorporated areas. Perhaps as a result, Portland and Gresham have both annexed aggressively. In Clackamas County where the county has undertaken to provide urban services to unincorporated areas through county service districts, there has been a disincentive for citizens in unincorporated areas to actively seek to be annexed to cities and for cities to actively pursue annexation programs.

Transfer Funds and Annexation - Incorporation

Cities and counties receive designated transfers of gasoline, cigarette and liquor taxes from the state. Cities receive 15.6% of the gas tax, 34% of the liquor tax, and 7% of the cigarette tax. Counties receive 24.4% of the gas tax, 10% of the liquor tax, and 7% of the cigarette tax. With the exception of the county gas tax distribution which is based on vehicle registrations, all of the tax transfers are based on population. The proceeds from the gas tax are dedicated to streets and roads and some of the city appropriation from the liquor tax is also dedicated for addiction treatment. The remainder of the allocations are available for general appropriations.

The allocation of tax transfers has implications for the annexation and incorporation of cities. Simply put, increasing city populations through annexation or incorporation increases an area’s overall take from the tax transfers. Comparing two counties of identical population, one where all persons live within city boundaries and the other where all persons live in rural areas, the county of all city residents would receive roughly double the transfer income from these three taxes.

City-County consolidations would not be affected in terms of tax transfers. State statutes guarantee that a city-county will be entitled to all state and federal tax transfers due to both city and county entities.

Other Revenue Sources

All municipal corporations including cities, counties and service districts are authorized to establish user fees (system development charges, fee-for-service charges, impact fees, developer exactions, etc.). With the increase in voter resistance to property taxes, the imposition of these fees has become increasingly popular. In some jurisdictions user fees generate more revenues than property taxes. In Multnomah County, for example, user fees make up 18% of the total budgeted resources for 1995-96, 2% more than all property taxes. Their popularity derives from the fact that, in theory, user fees create a more direct link between the service provided and its cost or impact. In many cases, revenue from user fees cannot be expended for purposes other than the service provided. Perhaps more importantly, user fees do not require voter approval nor are they subject to Measure 5 or tax base limitations. While they are not adequate in themselves to fund infrastructure projects they may be used to fund on-going operating and maintenance costs, bonded indebtedness and even some level of reserve fund accumulation.

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Prior to 1953, a few jurisdictions in Oregon had the authority to levy rate-based taxes. These jurisdictions were allowed to retain these taxes when the law was changed.


Ibid.

Ibid.

Ibid.


The City of Milwaukie budget examples used throughout this section are taken from: Angus Anderson, “Working Papers - City of Milwaukie Budget Committee,” August 21, 1996. Since these figures are not part of an officially adopted document, some caution should be taken in citing these figures for other purposes.

Rufolo et. al., December, 1990. When Measure 5 has been fully phased in, educational services will no longer be receive the dominant share of local property taxes.

Rufolo et. al., December, 1990.


Anthony M. Rufolo, Professor of Urban Studies and Planning, Portland State University, interviews by author, June 24-25, 1996.

Ibid.


Tax Supervising and Conservation Commission, 1996.

Rufolo et. al., December, 1990.

Tax Supervising and Conservation Commission, 1996.

Rufolo interviews, 1996.

Rufolo et. al., December, 1990.

Comments, Steering Committee Meeting, July 17, 1996.

Rufolo et. al., December, 1990.

Ibid.

Ibid.

Ibid.

James Scherzinger, Oregon Legislative Revenue Office, interviews by author, June 24-25, 1996.

ORS 199.753 (5).

In the context of this discussion, the term user fee will be used generically.

Rufolo et. al., December, 1990.

Tax Supervising and Conservation Commission, 1996.

This statement does not apply to cities which have charter provisions requiring voter approval of user fees.

Rufolo et. al., December, 1990.
LEGAL EMPOWERMENT OF LOCAL GOVERNMENT

In this section, I provide basic information about the formation, powers, operation, and boundary alterations of local governments.¹ I discuss (1) types of local governments, (2) the role of the Boundary Commission, (3) the empowerment of cities, counties, county service districts, special districts, Metro, and ORS 190 entities, and (4) how boundary changes are accomplished through consolidation, merger, and withdrawal. Information relating to boundary changes accomplished through annexation will be discussed in a separate section.

Types of Local Governments

There are two types of local governments in Oregon: general purpose and special purpose. Cities and counties are general purpose governments. General purpose governments provide a wide range of urban services, exercise regulatory powers such as planning, zoning and police, and have a broad range of taxing powers and sources of revenue.

School districts, special districts, and authorities are special purpose governments. Special purpose governments usually offer only one type of service (such as fire protection or water) have few regulatory powers, and have a narrower range of taxing powers and sources of revenue.

Metro is a special case. While it is possible to consider it a type of local government, it is probably more appropriate to classify it as a regional government. In terms of its role and function, it is more than a special purpose government but less than a general purpose government. Metro began as a special type of service district but now has charter authority and service, taxing, regulatory powers that make it more like a general purpose government.

Boundary Commission

The formation and financing of a local government, or the addition, withdrawal, or transfer of territory to or from a local government, generally requires voter approval. In some parts of Oregon it also requires approval of a boundary commission. Presently there are two boundary commissions in the state, one for Lane County and one for Washington, Multnomah and Clackamas Counties. All proposals for boundary changes for local governments in Clackamas County must be reviewed or approved by the Portland Metropolitan Area Local Boundary Commission.²

The boundary commission statute classifies boundary changes as major and minor and requires different procedures and standards of review for each. Major boundary changes involve the incorporation, merger, consolidation or dissolution of a city or district. Minor boundary changes are those relating to annexation, withdrawal or transfer of territory to or from a city or district.³
City

Local governments obtain their authority from three sources, (1) a charter—a constitution for a local government usually adopted by vote which sets out the structure and authority for the government, (2) from statutes and implementing regulations, and (3) by contract with the State or another local government.

A city is empowered by a charter approved by the electors of the city. The charters of some older cities were adopted as a special statute by the legislative assembly. Most charters authorize the city to exercise the broadest possible power allowed by state law. Thus, most cities can perform any function or exercise any power that is or could be allowed under the state constitution and statutes. Some cities have charters which specifically delineate the power of the city and limit its authority.

The formation of a city requires a petition signed by a ten percent of the electors of the territory to be incorporated. This incorporation petition and an economic feasibility study must be presented to the Boundary Commission for approval. If the Boundary Commission approves the petition, an election to approve the charter is held in the affected area.

If empowered by its charter, a city can provide any number of services and perform a wide variety of functions. If a function can be performed by a local government, it is likely that it can be done by a city. Cities have broad powers to condemn, tax, charge fees and finance improvements. They can regulate and punish private conduct.

The initial boundaries of a city are set in its charter. Changes to a city boundary are accomplished through annexation, withdrawal, or consolidation. The charter power of a city ends at its borders. When a city operates extraterritorially (e.g., annexation of territory to the city, utility operations and property ownership outside boundaries of the city), it acts under state law and by authority of state statute. Thus, how a city expands and how it plans for the provision of services to the expansion area are regulated extensively by state law.

Special limitations apply when the area to be incorporated lies within three miles of an existing city. In such a case, petitioners in the territory that wishes to incorporate must be given prior approval by the existing city or they must show that the existing city has taken no action on their request for approval within 120 days of its submission.4

Cities may also disincorporate. If a city is not liable for any debt or other obligation, it may submit a petition to the Boundary Commission, and if approved, hold an election on the matter. If the majority of electors approve, the city will surrender its charter and all assets will be turned over to the county.5

County

Counties are also allowed to self-power through adoption of a charter, and nine Oregon counties have chosen to do so: Washington, Multnomah, Hood River, Clatsop, Benton, Jackson, Umatilla, Josephine, and Lane Counties. Most counties in Oregon, including Clackamas County, are empowered solely through state statutes. Under these statutes, counties can exercise broad authority over "matters of county concern." Like cities, counties can condemn, tax, charge fees and finance improvements. Unlike cities, any county ordinance imposing or providing an exception from a tax requires voter approval. Counties cannot adopt regulations which apply
within an incorporated city without the consent of that city. The boundaries of counties are set by state statute.

When a county operates, however, to perform services only within a defined part of the county and to raise money for those services within that discrete area, it usually forms a separate legal entity to do this, a county service district.

County Service District

A county service district is a municipal corporation formed to provide one or more services to part or all of the territory within a county and may include territory in another county. It is formed by order of the board of county commissioners, following formation approval by the Boundary Commission. This order is adopted after preparation of various reports and the holding of public hearings by the Boundary Commission. The formation of a county service district must be approved by the voters in the affected area if a vote is requested by a sufficient number of electors or if services will be financed by property taxes.

The formation process describes the services to be provided and the facilities to be built by the district. Any change to the authority of a county service district, such as allowing provision of a new type of service, requires a similar process as that used in the district's formation.

The governing body of a county service district is the board of county commissioners. Many counties appoint an advisory committee for a county service district, which acts as its de facto governing body. County service districts can condemn property, levy taxes, charge fees and finance improvements. They have limited regulatory authority.

County service districts can be formed or expanded to provide a number of services (comprehensive planning services, sanitary and storm sewer disposal facilities, street lighting, park and recreational facilities, flood control, water supply facilities, solid waste disposal, public transportation, agricultural extension services, emergency medical and ambulance services and library services). Clackamas County has formed county service districts to provide sanitary sewer, parks and recreation, lighting, and enhanced law enforcement services.

If a single county service district provides multiple urban services, or if a number of county service districts have substantially overlapping boundaries, it may create a situation in which the county acts as a defacto municipal government.5

Annexations, withdrawals, consolidations, mergers or dissolutions of a county service districts require Boundary Commission approval. A county service district can annex the territory of a special district (such as a sanitary or water district) with the approval of the district. Consolidations or mergers of county service districts do not require voter approval if they have been approved by the Boundary Commission. Territory within a city can only be joined to a county service district by consent of the city.

Special District - Authority - People’s Utility District

A special district or authority is a type of local government providing a single type of service. "Special" districts (as distinguished from school districts) are authorized by different
chapters of Oregon Revised Statutes (ORS). There are more than 30 different types of special districts listed in the ORS chapter regulating these districts. There are more than 1,000 special districts in the state. The most common special districts are sanitary, water, fire and irrigation districts.

The authority of a special district is usually circumscribed by state statute to the provision of a single service or two closely related services (for example, provision of stormwater drainage control by a sanitary district or fire services by a water district). Special districts are governed by a district board composed of three to five members, usually elected at-large. The more common districts have financing and tax authority and some limited regulatory authority.

The process of creating a district requires elector petition, Boundary Commission approval, and in some cases, voter approval. Elections are called for if there are remonstrances (objections filed which lead to elections) to the formation order or if a tax base is requested. Annexation to a district is processed very similarly to a city annexation.

Certain services (water, sanitary sewer and joint water/sanitary sewer) can be provided through an authority, a governmental entity very similar to a special district. Authorities are less vulnerable to city annexations than districts because of statutory protections of their boundaries and facilities.

Another type of district with unique status is a People’s Utility District (PUD). The initial provision for these districts was established by voter initiative in 1930. Its intent was to allow areas without water power, water services or electrical energy to create their own districts to supply these services. In most regards, PUDs are established, governed and have similar powers to special districts. They have the power of eminent domain and the power to raise revenue through services charges, tax levies, and the issuance of bonds. PUDs may hold real property, enter into contracts, annex, merge and consolidate. In addition, a PUD is permitted to purchase distribution facilities outside of its boundaries. The most important area of difference is in the ability of cities to annex a PUD. The city may annex PUD territory, but unlike the situation with special districts, the city cannot withdraw the district’s property or infrastructure.

Metro

Metro is a metropolitan service district empowered by its charter and by state statute. Metro's charter was approved by the voters in November, 1992. Under the charter (and to a lesser extent under state law) Metro has primary responsibility for adopting regional land use policies and plans. Metro's charter allows it to exercise limited authority in certain areas (solid waste disposal, regional facilities, zoo, disaster planning, parks and recreational facilities) and provides for processes to take on additional functions or authorities. These additional functions can be authorized by popular vote or by approval of the Metro Policy Advisory Committee.

Metro is a unique local government in that it exercises overlapping authority with other local governments in the area of land use planning. Its powers and authority are not yet settled. Metro is assigned responsibility for coordinating the plans of districts, cities and counties and must play a role in the ORS 195 process.
ORS 190 Entity

State law allows local governments to jointly form a separate legal entity by a contract among those local governments. This separate entity can sue or be sued, contract, issue revenue bonds and perform those functions detailed in the contract (which is called an "intergovernmental agreement"). The South Fork Water Board is an example of this kind of entity. The South Fork Water board is an entity formed by the cities of Oregon City and West Linn to provide their cities’ water services.

Consolidations, Mergers, and Withdrawals

Oregon statutes provide for the consolidation of two or more adjoining or nonadjoining incorporated cities, or for the consolidation of two or more cities with adjoining or nonadjoining unincorporated territories. A consolidation must include the most populous city in the county and it requires a petition signed by ten percent of the electors of each of the affected cities. The consolidation petition and an economic feasibility study is presented to the Boundary Commission for hearing and approval. If approved, an election is held in the affected areas. A consolidation must receive a favorable majority of votes in each city and in the unincorporated area. A consolidation results in a new city.

Adjoining cities may merge. Mergers require Boundary Commission approval and a favorable vote of electors. Special districts may also merge or consolidate using procedures similar to those described above. A merger results in one district dissolving; a consolidation of results in the formation of an entirely new district. As a general rule, only districts with similar functions may be joined. Territories may also withdraw from a city or district. Withdrawals require a petition, approval by the Boundary Commission and an election.8

City-County Consolidation

City-county consolidation in the United States may take several forms, including: (1) the consolidation of a county and the cities within it into a single government, (2) substantial consolidation of the county as a separate unit for some functions, and (3) unification of some, but not all, of the municipal governments and the county government. Sometimes the consolidation is broadened to include the territory of two or more counties and the county and municipal governments within them, or to include other local governments.9 The most notable consolidations have merged a dominant central city with a single county. Indianapolis-Marion County, Nashville-Davidson County, Jacksonville-Duval County are examples.10

Each city-county consolidation has been “custom made” for its area. The ideal structure represents a compromise of tradition with political realities. Traditional functions of the county government are continued as independent functions while the new government assumes service provision for all unincorporated areas. City-county consolidations do initially achieve several key goals: unification of the tax base and the centralization of the planning and zoning authority.11 Promoters of city-county consolidation suggest that it has the advantage of providing the base for a unified coordinated program of service, development, and control over an enlarged
area. It is thus suited to the more effective handling of area-wide problems, the achievement of the optimum scale of operations, and the improved relationship between expenditure needs and fiscal resources. Promoters also argue that city-county consolidation simplifies the voter’s task of understanding the governmental structure and holding it responsible. Some studies have shown that administrative economies from the elimination of duplicated activities are likely to be greatest where the city and the overlying county with which it consolidates are closest to one another in size.12

Chapter 199 of the Oregon Revised Statutes contains a procedure for forming a "city-county," in which a county and the most populous city in the county consolidate. (As the statute is presently written, this procedure is available only for the consolidation of Multnomah County and the City of Portland.) The procedure also allows the city-county consolidation to include cities other than the most populous city. In such a case, the smaller cities merge with the most populous city (automatically dissolving as distinct entities) while the most populous city consolidates with the county.

City-county consolidation requires a petition, charter development, and approval by the majority of voters. In the case where it is a consolidation of the county and the most populous city, a majority of voters must approve consolidation in both the city and the county. In the case where smaller cities are also involved, the voters in each smaller city must approve the merger of their city with the most populous city. Only those cities approving the merger with the most populous city will be included in the city-county consolidation.

If the consolidation vote receives the requisite majorities, the city-county will be both city and county within the meaning of the state law. This includes its ability to receive state and federal transfer funds both as a city and as a county and the responsibility to carry out the required functions of both a city and a county.13

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1 The material in this section was adapted from unpublished text provided by Timothy Sercombe, Preston Gates and Ellis Attorneys, Portland, Oregon and other cities, August, 1996.
2 ORS 199.425.
3 ORS 199.415.
4 ORS 221.031.
5 ORS 221.
8 ORS 199.
11 Ibid.
12 Bollens and Schmandt, 1975; Rusk, 1993.
13 ORS 199.
ANNEXATION

Annexation is the process of adding territory to an existing city or special district. It is the most commonly used procedure for adjusting the boundaries of local governments in the United States. The degree to which local governments use annexation depends on the nature of state legislation, on local circumstance and historical period, and on the type of jurisdiction. Special districts have generally been reactive in their use of annexation, responding to requests of those wishing to receive the service they offer. Cities have been both reactive and proactive. Overall, cities have been the dominant users of annexation, and the historical and legal literature on annexation reflects this orientation.

History of Annexation

Many of the nation’s largest cities accomplished their present size mainly through annexation. The period of exceptional use of annexation was prior to 1900, during a time when the area around most of the large cities was sparsely settled. Annexation was relatively simple to achieve because it could be accomplished by special legislative act, by unilateral action of the annexing city, or by approval of a simple majority of the combined vote of the city and the territory to be annexed.

Around the turn of the century, annexation became more difficult as suburbanization grew, and residents of some of the fringe areas succeeded in getting changes in state constitutions and statutes to forestall absorption by their larger neighbors. Many states gave fringe-area residents exclusive authority to initiate annexation proceedings and required separate majority votes in both the annexing city and the territory to be annexed. New cities and villages gradually were incorporated around the edges of the central cities and amendments to many state annexation laws made it difficult to annex anything but unincorporated areas.

In the post World War II period, annexation has continued to be an important means of enlarging the boundaries of cities. Generally, however, annexations have been of smaller areas in contrast to the large annexations by the big cities in the 19th century. The post war period has also seen the shift in annexation activity to the South and West to areas where population has been growing most rapidly. The areas of most intense use in recent years have been Texas, North Carolina, California, Alabama, and Florida. These are also states with laws more favorable to the use annexation.

Annexation Methods

There are several kinds of annexation procedures. A classification scheme used by Sengstock illustrates each principal method:

- *legislative determination*: city boundary changes are made by special acts of the state legislature,
- *popular determination*: citizens decide whether a proposed boundary change might take place,
- *municipal determination*: a unit of local government is empowered to extend its boundaries by unilateral act of its governing body,
- *judicial determination*: a court determines if a proposed boundary modification will take place,
- *quasi-legislative determination*: an independent non-judicial assembly or board is authorized to decide if a proposed boundary change will take place.

Annexation in Oregon: Guidelines and Procedures

The courts have generally ruled that municipal corporations are political subdivisions of the state and that the power to change boundaries is “incident” to the power to create and abolish municipalities. Therefore the power to set annexation laws and procedures rests with the state legislature.\(^7\) Annexation laws and procedures enacted by state legislative bodies establish the approaches and requirements to be followed in each respective state. While the particular provisions vary from state to state, nearly all define annexable territory, the process for initiating annexation proceedings, the steps necessary to complete an annexation, and the conditions of judicial review of the annexation proceedings.\(^8\)

The general statutes relating to annexations in Oregon are found in ORS Chapters 195, 198, 199 and 222. These statutes lay out the procedures relevant to non-boundary commission areas and boundary commission areas. Since Clackamas County local governments fall within the jurisdiction of a boundary commission, only those procedures relating to boundary commission areas will be discussed. All annexations in Clackamas County, with the exception of ORS 195 Annexation Plans, must be approved by the Portland Metropolitan Area Local Boundary Commission. ORS 195 Annexation Plans are required to pass a procedural review by the Boundary Commission.\(^9\)

There are some general guidelines for all annexations in Oregon.

- A city may not annex territory that is within another city.
- If two cities both initiate procedures to annex the same territory, the city that first initiates the procedures is awarded exclusive jurisdiction.\(^10\)
- A city may not act arbitrarily in annexing territory.\(^11\)
- An annexation proposal may permit a phase-in of property taxes for up to ten years in the area to be annexed.
- Neither the Oregon nor the US Constitution guarantees a right to vote on local government annexations.\(^12\) The opportunity to vote on *some types of annexations* is granted solely by Oregon state statutes.

Oregon statutes declare annexations to be effective unless a remonstrance (objection) is filed by a specified number of electors in the territory to be annexed. If electors remonstrate, an election is required *in the territory to be annexed.* “Double majority,” “island,” and “health hazard” annexations are not subject to remonstrance.\(^13\)
Annexations may be initiated in a number of ways:

**City Council Resolution:** A city council may adopt a resolution of intent to annex. This resolution does not require the prior consent of property owners in the territory to be annexed, but it is subject to remonstrance.

**Elector Petition:** Annexation may be initiated by the signed petition of 10 percent of the electors in the affected territory. Elector petition is subject to remonstrance.

**Property Owner Petition:** This form of annexation requires a petition signed by the owners of at least one-half of the land area in the territory affected. It is subject to remonstrance.

**Boundary Commission Resolution:** The boundary commission may initiate an annexation by resolution. This resolution does not require prior consent of property owners, but is subject to remonstrance.

**Double Majority:** This type of annexation requires a petition signed by owners of one half of the property in the affected territory, a petition signed by one half of the electors residing in the affected territory, and a resolution by the annexing city or district. Since approval by a majority of electors has already been obtained, no remonstrance is permitted. If the city council initiates this type of annexation, it must file a petition with the Boundary Commission before contacting any property owners or electors.

**Triple Majority:** Triple majority is initiated by written consents to annex, filed with a city council, from a majority of property owners, who own a majority of the property, which has a majority of the assessed value in the territory to be annexed (hence its name). Historically, it has been one of the preferred methods of annexation because it did not require an election. However, use of triple majority annexation has been declared unconstitutional by the Oregon Court of Appeals\(^4\) and cities no longer use the procedure.

**Island Annexation:** This type of annexation is initiated by city council when the territory to be annexed is surrounded by a city or by a city and some body of water. Island annexations do not require prior consent of property owners or residents in the affected territory and they cannot be remonstrated.

**Health Hazard Abatement:** If conditions within a contiguous territory are found to have caused danger to the public health, and if it is found that the extension of city sewer, water or other urban service will mitigate the hazard, the affected territory may be annexed without consent of property owners or electors.\(^5\)

**ORS 195 Annexation Plan:** This method of annexation requires the creation of an annexation plan and its submission for approval to the electors of the city and the territory to be annexed. The annexation plan method must meet certain preconditions and is more fully explained below.
Special Districts and Annexation

It is often the case that a special district will be providing services to an area annexed by a city. When an entire service district territory is annexed to a city, the service district ceases to exist and all of its assets, liabilities, and functions are transferred to the city. When only a part of a service district territory is annexed, that part of the district is automatically withdrawn from the district or the city has the option to withdraw the affected territory at some time in the future. Until the territory is withdrawn, it continues to function as a part of the service district. The general provisions of withdrawal are modified somewhat depending on the type of service district involved and whether or not it is in a boundary commission area.\textsuperscript{16}

Transfers of functions which affect public employees are subject to special legislative provisions. No public employee may lose their job as a result of an withdrawal of territory. The employee must be retained by the annexing jurisdiction at the same salary and scale and without loss of benefits.\textsuperscript{17}

Annexation Plan Method

The annexation plan method is provided for in ORS 195, “Local Government Planning Coordination,” which was passed by the legislature in 1993. The intent of the statute is (1) to integrate the planning efforts of cities and counties with special districts, (2) to integrate the state’s annexation law with its land use planning law, (3) to give city residents more of a voice in city annexations. Planning integration is accomplished by requiring all local government urban service providers within a county and UGB to develop long term agreements regarding planning coordination and the delivery of urban services. The integrated annexation goal is accomplished by linking the successful conclusion of urban service agreements to an option for cities to develop and put to the voters a strategic annexation plan. The opportunity to give city voters more of a voice in annexation is accomplished by allowing the adoption of the annexation plan to be determined by a combined majority of city voters and voters in areas to be annexed. This contrasts with most existing annexation methods which allow annexation to be determined solely by the voters of the affected area.

It is hoped that the linkage of the urban service planning process to the annexation planning process will provide all local governments with a clear picture of each others intentions. If the designers of ORS 195 are successful, local service districts should be more fully involved in land use planning and growth management, and they should experience less uncertainty with regards city annexation intentions. Cities, on the other hand, should become more proactive in developing long term annexation strategies, and when they move forward with annexation, should experience less resistance from service providers and residents in unincorporated areas.

ORS 195 requires the adoption of cooperative agreements (these establish the process mechanisms of coordination and long term planning) and urban service agreements (these determine where the ultimate responsibility for providing services will reside) between all special districts and general purpose governments that provide an urban service within a county and
UGB. The responsibility for convening the agreement process resides with the county, and agreements must be completed by the time of the next comprehensive plan periodic review.

Cooperative Agreements: In the statute, Metro in the tri-county Metro region, and counties elsewhere in the state, are assigned final responsibility for coordinating and integrating the land use planning activities of cities, counties, and special districts within their boundaries. The cooperative agreements should describe how the city and county will involve the special districts in comprehensive land use planning. The agreements should also establish each party’s role and responsibility regarding city and county approval of new development. Finally, the agreements should consider how cities and counties will work cooperatively with special districts to assure that land use plans consider the long term needs and investments of special districts.

While ORS 195 assigns final responsibility for planning coordination to Metro and to the counties elsewhere in the state, it also allows for other alternatives. In non.Metro areas, cities and counties may petition for an election to form a regional planning agency to carry out the coordinating functions, or the county and a majority of participating cities may create a voluntary association of local governments.

Urban Service Agreements: All counties, cities and special districts that provide an urban service within a county and UGB are required to conclude urban service agreements. The number of agreements is a matter of local discretion. The urban service agreements should (1) specify which government entity will provide the service to what area, (2) state who will be responsible for planning, constructing, and maintaining the facilities, (3) define the terms of transition from one provider to another, (4) establish a process for review of agreements. The statute also requires that parties to the agreements undertake a comprehensive analysis of financial, managerial, physical, demographic, equity, and other factors. However, the extent of the analysis is left to local government discretion.

Annexation Plan: ORS 195 establishes a new method for annexation. The annexation plan is essentially a strategic plan detailing the local government’s long term annexation intentions. An annexation plan is not required by the statute but is provided as an addition to existing annexation procedures. If a local government chooses to develop an annexation plan, it must include:

- an appropriate description of territories to be annexed,
- the timing and sequence of annexation,
- local standards of urban service availability required as a precondition of annexation,
- a schedule for providing urban services to the annexed territory,
- the impacts of annexation on existing urban service providers, especially with regard to tax base and budget,
- long term benefits of the annexation plan.

As a precondition of the submission of the annexation plan to the electors, the city must have concluded urban service agreements with all local governments providing urban services to
territories to be annexed. It is also required that these agreements expressly state that they may be relied on as a prerequisite of the annexation plan method.

When the annexation plan is completed, it is submitted to the electors of the city and the territories to be annexed. The annexation plan must receive majority approval of the voters of the city and affected territories combined.

The role of the boundary commission is limited under ORS 195. Prior to submission of the annexation plan to the electors, the boundary commission conducts an advisory review to determine if the plan conforms to ORS 195 and 199 criteria. If it does not, the annexation plan may be amended and resubmitted for review.24

Comments: No local government has yet passed an ORS 195 annexation plan. Since there is no case law or administrative rulings and little experiential record to look to, we must rely on the somewhat indeterminate language of the statute for the meaning of its provisions. This is particularly problematic with regards to the annexation plan. For example, ORS 195 establishes no time frame for the annexation plan. Although one presumes that it will follow the time frame of the city’s comprehensive plan, there is no specific requirement that it do so. The only statutory requirement is that it be consistent with city and county comprehensive plans.

This could have implications for how a city might structure its annexation plan if it chooses to create one in connection with the ORS 195 process. A city government that anticipates that city residents will favor the annexation plan while residents in one potential annexation area will not, might choose a shorter time frame for its annexation plan and exclude the most resistant territory from its annexation plan. This would increase the odds of a favorable vote on the plan. At the conclusion of the shortened annexation plan period, the city might submit a second annexation plan to the voters which would include only the more resistant territory. This would have the affect of diluting the voting power of the affected territory and might again produce a favorable vote on the annexation plan.

Cities might also structure their annexation plans to create islands out of the resistant territories. This would exclude the resistant territories from participating in the annexation plan election. If the annexation plan is approved, it would allow the city to annex the affected territory without consent of its electors.

These suggestions are very speculative. Such gerrymandering of annexations is frowned upon, and there are many reasons of justice and politics that cities would not pursue such a course. My intention is only to point out some potential difficulties of the current statute.

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3 Ibid.
4 Bollens and Schmandt, 1975.
8 Sengstock, 1960; Bollens and Schmandt, 1975; Hill Jr., 1978.
9 The procedures and guidelines described in this section generally apply to service district annexations as well.
12 *Mid-County Future Alternatives v. City of Portland*, 310 Or 152, __ P2d __ (1990)
16 ORS 236.610 to 236.640.
17 ORS 195.065.
18 ORS 195.085.
19 ORS 195.020.
20 ORS 195.025.
21 ORS 195.065 to 195.085.
22 ORS 195.205 to 195.220.
23 ORS 195.225.
IS BIGGER BETTER? THEORETICAL PERSPECTIVES ON OPTIMAL FORMS OF GOVERNANCE.

In the “Trends” section which immediately follows this one, I consider trends in the number of units of government utilized to provide urban services. As a means of introduction to the analytical discussion, I briefly consider theoretical perspectives on optimal forms of governance. In the simplest terms, I address the question “Is bigger better?” when it comes to the size of governmental units providing urban services.

Two schools of thought, “public choice” and “institutional reform,” currently dominate the debate over optimal forms of governance. In this section I will examine both schools with the intent of clarifying their respective positions and identifying the values implicit in each.

Public Choice

Those who espouse the public choice model attempt to bring the logic of the market to the public sector. They argue that providing services through fewer more central units of government limits the ability of individual households to express diverse preferences for bundles of services. Multiplicity of governments allows households to choose and be taxed only for that bundle of services they prefer or can afford. Central to this model is the availability of an adequate number of alternative providers and the ability of households to “vote with their feet,” i.e. to locate in those areas where preferences are best satisfied.1

Public choice advocates recognize that competition between service providers can put some jurisdictions at a disadvantage and that problems which require resource sharing are not well handled by voluntary cooperation. However, they accept the inevitability of inequality as a potent sorting mechanism and an incentive for economy of production.2

Public choice advocates suggest that creation of more centralized all-purpose government is not necessary to achieve efficient service delivery. Instead they argue that functional ties among urban service providers will naturally emerge in those areas where cooperation would create economies of scale. They suggest that local government has been exceptionally innovative in the myriad of forms and arrangements that have evolved to provide urban services. Utilizing special districts, intergovernmental agreements, contracting out, and other entrepreneurial forms of cooperation, local governments have developed an intricate web of metropolitan governance that successfully substitutes for metropolitan government.3

In terms of citizen access and accountability, public choice theorists suggest that large, centralized bureaucracies are difficult for citizens to access, and because they are local monopolies, large central governments are less responsive to citizen demands. Retaining more and competitive service providers keeps local government accountable, responsive and efficient.4

In summary, the public choice model gives preeminence to freedom, individual choice, the maximization of options, innovation through experimentation and diversity, the primacy of market forces as a resource allocation mechanism, and the inevitability of inequality in the provision and availability of services. The public choice model resonates with a constitutional preference for limited government and for the “checks and balances” of competing branches and levels of government.
Institutional Reform

Institutional reform advocates do not believe that market forces are the best mechanisms for the allocation of resources in the public sector. They argue that market forces maximize individual preferences at the expense of the provision of collective goods. Because the provision of collective goods such as parks, well planned transportation networks, common development standards, and clean air and water, cross jurisdictional boundaries, they will be underprovided in a fragmented system of multiple service providers. Their underprovision will result from the high maintenance costs of negotiated cooperation, free rider problems, and a lack of enforcement mechanisms to constrain individual behavior and fairly allocate the costs across jurisdictions.\(^5\)

Institutional reform advocates also argue that fragmented systems lead to high levels of inequality between jurisdictions. Well-organized and resource-rich areas will act effectively through means such as incorporation or selective annexation to maintain or increase their tax resource advantage and thereby offer a high level of government services. Others jurisdictions who are initially disadvantaged and resource poor will see their position eroded to the point where they are providing only minimal levels of service.\(^6\)

Institutional reform theorists would question the notion that individual preferences are innate. Instead they would argue that preferences are a result of structural inequities. In effect the preference of low income households for low levels of service and low taxes is a result of a basic resource inequality which precludes consideration of other alternatives. From this perspective, low income households are free to choose, but only from a constrained set of preferences.

In terms of access and accountability, institutional reformers point to the complexity of fragmented systems and the high investment costs for citizens to understand and participate in government decisions. They argue that lack of citizen knowledge reduces participation, makes access a privilege of the wealthy, and makes it less possible for citizens to identify those responsible for decisions.\(^7\)

Institutional reform advocates believe that the solution to these problems is in the creation of fewer, more general purpose local governments. The creation of fewer governments will reduce transaction costs, institutionalize rules of cooperation, and make government more understandable and accessible. General purpose government will enhance the possibility of the provision of collective goods because it will be able to overcome free rider problems, equitably distribute costs and resources, and enforce its institutional decisions. General purpose government will also reduce inequities by providing a forum in which the less advantaged populations have a more equal voice in deliberation, and by preventing the advantaged jurisdictions from further enhancing their position relative to others.\(^8\)

In summary, institutional reformers believe that market forces will lead to the underprovision of collective goods and to inefficiencies related to the high costs of negotiated cooperation. They value the efficiency of institutionalized cooperation and argue that fewer more central units of government reduce complexity for citizens and increase their ability to identify responsible parties. Institutional reformers believe in compensation for structural inequities and the establishment of decision rules which encourage fair treatment. They value the collective good over individual preferences, and equality over freedom. The institutional reform model resonates with the civic republican tradition in American government and has emerged periodically in American history in populist and progressive reform movements.\(^9\)
4 Ibid.
7 Phares, 1989.
8 Ibid.
TRENDS IN UNITS OF GOVERNMENT AND ANNEXATION

In this section, I examine local trends in the number and types of local governments that citizens in the three urban counties have chosen to provide urban services. I begin by considering the historical development of service delivery in the Oak Lodge area. I follow this by comparing trends in service delivery and units of government in Multnomah, Clackamas and Washington Counties at two points in time 1970 and 1994.

I also examine annexation trends in the state for the 1980-1990 decade and compare Metro area cities and counties to each other and to the state-wide trends. I conclude the section with a brief discussion about the relationship between the trends in units of government and trends in annexation.

Units of Government

Local government services may be provided by a few or many units of government. The number of local governments that provide services to an area is seldom decided in a comprehensive way, rather it is a result of cumulative incremental decisions made within the developmental context and the political culture of an area. Table XII-1 provides an historical look (current to 1994) at the units of government added in the Oak Lodge area and its impact on the number of elected and appointed officials charged with providing services to a typical household in the area.¹ The table also presents the amount of property taxes paid for each of the services in 1994 by a typical homeowner whose property was assessed at $100,000.

Table XII-1
Units of Government in the Oak Lodge Area

<table>
<thead>
<tr>
<th>Date</th>
<th>Unit of Government Added</th>
<th>Total Elected Officials</th>
<th>Considered by Oak Lodge Voters</th>
<th>Appointed Officials</th>
<th>Tax 1994</th>
</tr>
</thead>
<tbody>
<tr>
<td>1843</td>
<td>Clackamas County²</td>
<td>9</td>
<td>9</td>
<td>-</td>
<td>373</td>
</tr>
<tr>
<td>1922</td>
<td>Oak Lodge Water District</td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>23</td>
</tr>
<tr>
<td>1940</td>
<td>Oak Lodge Rural Fire Protection District</td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>261</td>
</tr>
<tr>
<td>1957</td>
<td>Clackamas Education Service District³</td>
<td>7</td>
<td>3</td>
<td>-</td>
<td>67</td>
</tr>
<tr>
<td>1956</td>
<td>Oak Lodge Sanitary District</td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1964</td>
<td>Clackamas Co. Vector Control District</td>
<td>-</td>
<td>-</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>1966</td>
<td>Clackamas Community College District⁴</td>
<td>7</td>
<td>1</td>
<td>-</td>
<td>106</td>
</tr>
<tr>
<td>1969</td>
<td>Tri-Met</td>
<td>-</td>
<td>-</td>
<td>7</td>
<td>20</td>
</tr>
<tr>
<td>1972</td>
<td>North Clackamas School District⁵</td>
<td>16</td>
<td>10</td>
<td>-</td>
<td>883</td>
</tr>
<tr>
<td>1973</td>
<td>Port of Portland</td>
<td>-</td>
<td>-</td>
<td>9</td>
<td>17</td>
</tr>
<tr>
<td>1974</td>
<td>Clackamas Co. Service District No. 5⁶</td>
<td>(3)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1974</td>
<td>Clackamas Co. Soil and Water Cons. District</td>
<td>7</td>
<td>7</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1979</td>
<td>Metro⁷</td>
<td>9</td>
<td>3</td>
<td>-</td>
<td>20</td>
</tr>
<tr>
<td>1990</td>
<td>North Clackamas County Park District⁸</td>
<td>(3)</td>
<td>-</td>
<td>9</td>
<td>53</td>
</tr>
<tr>
<td>1995</td>
<td>Clack. Co. Enhanced Law Enforcement District⁹</td>
<td>(3)</td>
<td>-</td>
<td>12</td>
<td>66</td>
</tr>
<tr>
<td>1995 TOTAL</td>
<td></td>
<td>70</td>
<td>48</td>
<td>42</td>
<td>$1890</td>
</tr>
</tbody>
</table>
By 1995, a typical household in Oak Lodge was being serviced by 15 local government units. If the members of that household chose to exercise their franchise, they would need to consider the merits of 48 candidates for local office. Another 42 appointed officials would be available to hear their concerns. Given these rather large numbers, one is struck by the difficulty that a typical citizen would have in attempting to determine who provides a particular service or who to call if something goes wrong. This is perhaps one explanation for why citizens tend to be reactive in their relationship with local government. It takes an investment of considerable effort to understand the workings of local government and to discern where ultimate responsibility resides. Until a household is negatively affected in some way, most citizens are reluctant to make such an investment.

The multiplicity of government officials may also speak to the low level of participation which most local government elections generate. It is unlikely that even a long-time resident of a community would have good information about the qualifications and political orientation of most local government officials. One consequence is that citizens either ignore elections or utilize symbolic issues as a means of assessing elected officials competence and political orientation.

On the other hand, Table XII-1 illustrates a remarkable picture of local government. Given the seeming complexity of jurisdictions, local governments have, of necessity, become adept at coordinating their work and providing a reasonably high level of integrated services. For the interested citizen, the large number of local government positions provides numerous opportunities for involvement in local government. Serving in local government is an excellent training ground for active citizenship and for higher levels of political office. The large number of governments also demonstrates a singular characteristic of governance in the United States. As a general rule, we prefer to fragment power rather than centralize it. As a part of this, we tend to encourage small operating units which we expect to be more entrepreneurial and innovative and which we assume will be more responsive to the people being served.

Finally, Table XII-1 illustrates the increasing number of services which citizens have requested over time. The diversity of new services requested points to the increasing complexity of citizen needs. The cumulative effect of the incremental service additions illustrates the difficulty of bringing a comprehensive vision to local government.

The Oak Lodge illustration suggests that the Clackamas study area has a large number of service providers. But perhaps Oak Lodge is unique or perhaps Clackamas County is similar to other counties in the area. Figure XII-1 shows the number of governmental units and the number of service districts (special districts and county service districts combined) that were present in the three urban counties in 1970 and the number that were present in 1994.\textsuperscript{10}
It is clear that the citizens of Clackamas County have chosen a different path in terms of the number and increase of service districts and local government units over time. While both Washington and Multnomah Counties had more districts and local government units in 1970 than did Clackamas County, both have substantially reduced their numbers. Clackamas County has followed an opposite trend, increasing its numbers in both areas.

Annexation Trends

In the spring of 1990, the League of Oregon Cities mailed a questionnaire to 140 member cities in Oregon requesting information and comments about their annexation experiences. Fifty cities responded. The response rates were directly related to city size, from 100% for cities over 20,000 to 3% for cities under 2500. Table XII-2 displays the results of a survey question which ask cities to identify the number of persons added by annexation between 1980 and 1990. Cities are listed in rank order by the percent of population increase from annexation. The City of Portland and Metro UGB cities within Clackamas County are highlighted in bold. Table XII-3, immediately following, displays the mean percent of annexed population for all cities in the study and compares the means of Metro UGB cities for the three urban counties.
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gresham</td>
<td>65470</td>
<td>24270</td>
<td>37.1%</td>
</tr>
<tr>
<td>Tigard</td>
<td>27050</td>
<td>5517</td>
<td>20.4%</td>
</tr>
<tr>
<td>Portland</td>
<td><strong>432175</strong></td>
<td><strong>60383</strong></td>
<td><strong>14.0%</strong></td>
</tr>
<tr>
<td>Beaverton</td>
<td>44265</td>
<td>5217</td>
<td>11.8%</td>
</tr>
<tr>
<td>Klamath Falls</td>
<td>17210</td>
<td>1503</td>
<td>8.7%</td>
</tr>
<tr>
<td>Albany</td>
<td>28030</td>
<td>1645</td>
<td>5.9%</td>
</tr>
<tr>
<td>Hillsboro</td>
<td>33810</td>
<td>1404</td>
<td>4.2%</td>
</tr>
<tr>
<td>Milwaukie</td>
<td><strong>18830</strong></td>
<td><strong>674</strong></td>
<td><strong>3.6%</strong></td>
</tr>
<tr>
<td>Gladstone</td>
<td>9685</td>
<td>334</td>
<td>3.4%</td>
</tr>
<tr>
<td>Corvallis</td>
<td>43715</td>
<td>1499</td>
<td>3.4%</td>
</tr>
<tr>
<td>Salem</td>
<td>99860</td>
<td>2752</td>
<td>2.8%</td>
</tr>
<tr>
<td>Rogue River</td>
<td>1855</td>
<td>46</td>
<td>2.5%</td>
</tr>
<tr>
<td>Seaside</td>
<td>5780</td>
<td>131</td>
<td>2.3%</td>
</tr>
<tr>
<td>Pendleton</td>
<td>14765</td>
<td>331</td>
<td>2.2%</td>
</tr>
<tr>
<td>Redmond</td>
<td>7000</td>
<td>150</td>
<td>2.1%</td>
</tr>
<tr>
<td>Newberg</td>
<td>11890</td>
<td>212</td>
<td>1.8%</td>
</tr>
<tr>
<td>Hood River</td>
<td>4640</td>
<td>82</td>
<td>1.8%</td>
</tr>
<tr>
<td>Roseburg</td>
<td>16635</td>
<td>258</td>
<td>1.6%</td>
</tr>
<tr>
<td>Lake Oswego</td>
<td><strong>29425</strong></td>
<td><strong>448</strong></td>
<td><strong>1.5%</strong></td>
</tr>
<tr>
<td>Oregon City</td>
<td><strong>14975</strong></td>
<td><strong>211</strong></td>
<td><strong>1.4%</strong></td>
</tr>
<tr>
<td>Scappoose</td>
<td>3540</td>
<td>46</td>
<td>1.3%</td>
</tr>
<tr>
<td>Sandy</td>
<td>3735</td>
<td>45</td>
<td>1.2%</td>
</tr>
<tr>
<td>St. Helens</td>
<td>7580</td>
<td>87</td>
<td>1.1%</td>
</tr>
<tr>
<td>Medford</td>
<td>45290</td>
<td>484</td>
<td>1.1%</td>
</tr>
<tr>
<td>Molalla</td>
<td>3235</td>
<td>33</td>
<td>1.0%</td>
</tr>
<tr>
<td>Bandon</td>
<td>2535</td>
<td>19</td>
<td>0.7%</td>
</tr>
<tr>
<td>Hermiston</td>
<td>9830</td>
<td>72</td>
<td>0.7%</td>
</tr>
<tr>
<td>Bend</td>
<td>19510</td>
<td>140</td>
<td>0.7%</td>
</tr>
<tr>
<td>Canyonville</td>
<td>1370</td>
<td>7</td>
<td>0.5%</td>
</tr>
<tr>
<td>Springfield</td>
<td>41460</td>
<td>205</td>
<td>0.5%</td>
</tr>
<tr>
<td>Eugene</td>
<td>109785</td>
<td>537</td>
<td>0.5%</td>
</tr>
<tr>
<td>Forest Grove</td>
<td>12180</td>
<td>59</td>
<td>0.5%</td>
</tr>
<tr>
<td>Florence</td>
<td>5075</td>
<td>21</td>
<td>0.4%</td>
</tr>
<tr>
<td>McMinnville</td>
<td>16310</td>
<td>59</td>
<td>0.4%</td>
</tr>
<tr>
<td>West Linn</td>
<td><strong>14270</strong></td>
<td><strong>50</strong></td>
<td><strong>0.4%</strong></td>
</tr>
<tr>
<td>Port Orford</td>
<td>1060</td>
<td>2</td>
<td>0.2%</td>
</tr>
<tr>
<td>Ontario</td>
<td>9700</td>
<td>17</td>
<td>0.2%</td>
</tr>
<tr>
<td>Lincoln City</td>
<td>6280</td>
<td>11</td>
<td>0.2%</td>
</tr>
<tr>
<td>Mt. Angel</td>
<td>3135</td>
<td>5</td>
<td>0.2%</td>
</tr>
<tr>
<td>Silverton</td>
<td>5480</td>
<td>8</td>
<td>0.1%</td>
</tr>
<tr>
<td>Cottage Grove</td>
<td>6945</td>
<td>9</td>
<td>0.1%</td>
</tr>
<tr>
<td>Independence</td>
<td>4125</td>
<td>4</td>
<td>0.1%</td>
</tr>
<tr>
<td>Wilsonville</td>
<td>5800</td>
<td>5</td>
<td>0.1%</td>
</tr>
<tr>
<td>Keizer</td>
<td>20585</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Coos Bay</td>
<td>14220</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Astoria</td>
<td>10160</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Baker City</td>
<td>9285</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Stayton</td>
<td>4950</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Dunes City</td>
<td>1225</td>
<td>0</td>
<td>0.0%</td>
</tr>
<tr>
<td>Banks</td>
<td>500</td>
<td>0</td>
<td>0.0%</td>
</tr>
</tbody>
</table>
Table XII-3
Mean Percent of Population Increase from Annexation

<table>
<thead>
<tr>
<th>Cities</th>
<th>Mean % Population from Annexation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro UGB Cities - Multnomah Co.</td>
<td>25.3%</td>
</tr>
<tr>
<td>Metro UGB Cities - Washington Co.</td>
<td>15.3%</td>
</tr>
<tr>
<td>Metro UGB Cities - Clackamas Co.</td>
<td>2.1%</td>
</tr>
<tr>
<td>All Cities</td>
<td>2.9%</td>
</tr>
</tbody>
</table>

Gresham was the most active of all cities, adding 37.1% to its population by annexation during the decade. Gresham was followed by Tigard, Portland and Beaverton all adding populations in the double digits. Clearly the most active cities in the Metro area are in Multnomah and Washington Counties. The mean for the two Metro UGB cities in Multnomah County is 25.3% and the mean for three Metro UGB cities in Washington County is 15.3%. The most active cities in Clackamas County have been Milwaukie and Gladstone which added 3.6% and 3.4% respectively. However, the mean of 2.1% for all five Metro UGB cities in Clackamas County was below the 2.9% mean for all fifty cities who responded to the survey.

It is plausible to draw a relationship between the large and increasing number of service providers in Clackamas County and the rate of annexation for cities in Clackamas County. As will be discussed in the case study section, annexation is seldom undertaken against the wishes of those in unincorporated areas. The willingness of those in unincorporated areas to request or approve annexation is largely dependent on their desire to receive urban services. In Multnomah County, the county has agreed not to provide urban services to unincorporated areas. Clackamas County has taken a different route and formed several county service districts to provide urban services. Possibly as a result, Clackamas County has historically been less supportive of active annexation because they, like other special service providers, could potentially lose an important share of their service district tax base to annexing cities.

The data suggest other possible conclusions. The example of fast growing cities in other Metro counties show that it is possible to add considerable population to a city’s base if a city is willing to actively pursue annexation and if other conditions are favorable. On the other hand, actively pursuing annexation was the exception and not the norm during the 1980-90 decade. Most cities in Oregon, even larger cities such as Salem and Eugene, did not actively annex surrounding areas and added very little population from annexation.

1 Data for Table XII-1 was adapted from Kenneth S. Martin, “The Jurisdictional Realm: The City and its Region,” an informational paper prepared for the Portland Metropolitan Area Local Government Boundary Commission. In many cases, the numbers for Total Elected Officials were changed from the original. The changes were verified with Ben Marberry, Clackamas County Elections Manager, interview by author, August 5, 1996.
2 Voters elect three county commissioners, six county officers, and nine judges. The nine judges are not included in the count because they are state officials.
3 Oak Lodge voters elect two at-large and one district representative.
4 Oak Lodge voters elect one district representative.
5 The total of 16 elected officials includes the 7 members of the school board plus the 3 members elected for the advisory boards for each of 3 high schools. For any individual voter of the Oak Lodge area, this would mean they would vote on the 7 school board members and the 3 advisory board members for their attendance area.
6 Clackamas County Commissioners are the official governing body for Clackamas County Service District No 5.
7 Metro has 7 Councilors and two elected officers. Voters in Oak Lodge only consider the two elected officers and 1 District Councilor.
8 Clackamas County Commissioners are the official governing body for the North Clackamas County Park District.
9 Clackamas County Commissioners are the official governing body for the Enhanced Law Enforcement District. The district was formed in 1994, but did not become operational until 1995, the year the tax for its support was first levied.
10 Data for Figure XII-1 was adapted from Kenneth S. Martin, “The Jurisdictional Realm: The City and its Region,” p. 12.
11 Data for the Tables XII-2 and XII-3 was adapted from Ad Hoc Committee on Annexation of the League of Oregon Cities, “1990 Annexation Questionnaire Results” in “1990 Community Annexation Report - Appendices,” Nov. 7, 1990, pp. 2-3.
ANNEXATION IMPACTS

Annexation has differing impacts on cities, counties and special districts. To help understand these differences, I will summarize relevant parts of the "Annexation and Growth Management Study"\(^1\) carried out by the Lane Council of Governments and funded by the Oregon Department of Land Conservation. The study reported the results of interviews conducted with 20 special districts, 10 counties, 30 cities and 3 citizens groups in Oregon. The focus of the study was "governmental roles, service delivery and annexation methods."\(^2\) While the study was concerned with issues other than annexation, I will summarize only those results which report what cities, counties and special districts perceive to be impacts of annexations and its relationship to growth management.

Cities

While cities generally view annexation in a positive light, annexations produce varied revenue returns for cities. Annexation of developed commercial and industrial property is considered the most beneficial because it does not usually require an investment in infrastructure, and because the high valued property significantly increases a city’s tax base. Annexation of high value residential property with city-level services in place may also produce positive revenue returns for a city.

In the short term, annexation of moderate or low value residential properties which will require a city to invest in extending or upgrading city services may require more investment than the area returns in tax revenue. Annexation of undeveloped land can be especially problematic because cities are required to provide urban services to the annexed areas but are not able to increase their tax base beyond the value of the undeveloped land. As a general rule, poorly planned annexations can cause irregular service boundaries or situations where physical barriers make it impractical for the city to extend services to an area.

While some cities are pro-active in carrying out annexations, the majority are reactive and are reluctant to annex against the wishes of residents. This reluctance comes from concern over future political problems and the possibility that residents in the annexed areas will express their discontent through opposition to any city-proposed tax measures.

From the city resident point of view, annexations can reduce the tax subsidy for county services such as sheriff, planning, and roads which city residents use little or less than residents in unincorporated areas but for which they are taxed at the same rate. City residents feel especially disadvantaged relative to residents in unincorporated areas because city property valuations are most often higher than those in unincorporated parts of the county. City residents also feel that annexation reduces a second type of tax subsidy. This subsidy is for the city services such as library, parks, city police, and road maintenance which urban fringe residents who shop and work in the city use, but for which they pay no city property taxes.

There are two other positive advantages that cities realize with annexation. By increasing city populations, annexation also increases the amount of state transfer revenues from road, liquor, and cigarette taxes. Finally and perhaps most importantly from a growth management perspective, annexation can increase the planning, zoning and subdivision control for the city thereby mitigating some of the consequences of unplanned development.
Special Districts

Special districts see their primary mission as providing efficient, high quality, low cost service. They feel that they are the most accessible of all types of government because they understand their local areas, are governed by locally controlled boards, are volunteer supported, and because they are very sensitive to providing only those services needed and desired by their constituents. They feel they can offer services at a lower cost than city governments because they do not use revenues from services such as water and sanitary sewer to subsidize other tax supported functions.

Special districts are legally empowered to annex but most are not pro-active in the exercise of this function. When special districts annex it is usually at the request of property owners wishing to have service provided. Most expansion for special districts occurs through infill and through consolidation or merger with other districts.

Service districts are especially disadvantaged by city annexations of their service territory. Upon annexation of all or part of a special district’s territory, a city is legally empowered to assume the tax base and assets associated with the annexed territory. If the annexation is of the entire service district territory, the service district goes out of existence. If only part of the district is annexed, the city and district negotiate for the transfer of assets. In some cases, negotiations can be costly, acrimonious and prolonged.

Depending on the size of the withdrawal of territory by a neighboring city, special districts can be inconvenienced or financially threatened. Small withdrawals may cause lesser difficulties related to fragmentation of service areas and some shifting of personnel and functions. Larger withdrawals may create islands of unserviceable territory, considerable loss of tax base, changes in bond and insurance ratings, layoff of personnel, reductions in service level, or increased service charges for customers. If the withdrawals of territory and tax base are very substantial, it may make it impossible for a service district to survive.

The prior right of cities in cases of annexation makes it difficult for special districts to undertake long term planning. Unless they work closely with cities or negotiate agreements which delimit city annexation plans, it is difficult for special districts to anticipate infrastructure needs and capital improvements. Their concern with issues of growth management and planning is primarily related to their economic viability and their ability to provide cost effective service. While they recognize that large numbers of service providers can create difficulties in maintaining consistent development standards and create significant transaction costs in establishing and maintaining intergovernmental agreements, they feel that annexation to a city is not the best method of resolving these difficulties. Their preferred solution to coordination and long term planning is to regionalize their service territories rather than to let cities selectively annex territories without regard to its impact on service providers or their customers.

Counties

For most counties, annexation impacts are either neutral or mixed. While the county does not receive any immediate tax benefits, it is relieved of providing urban services to the affected territories. Roads, police, planning and other services are taken over by the city leaving more revenues available for a county to service its rural areas. County concerns for annexation usually
relate to the inability of small communities to meet the commitments to residents to provide services or their ability to accomplish the planning tasks required of them.

Counties such as Clackamas County that provide urban services through county service districts may be disadvantaged by city annexations. City annexation would have the same impact on county-run service districts as it would on other special districts. It would result in the removal of tax base, fragmented service districts and the other difficulties described above.

Counties have considerable leverage in planning and controlling development in unincorporated areas, although many prefer not to play this role. Counties may enhance their planning control by including in their comprehensive plans a prohibition against the creation of any special districts outside of urban growth boundaries. They may also create zoning requirements that require that all urban services be in place before development can occur. It is also possible for a county to conclude intergovernmental agreements with major cities not to provide urban services outside of city limits.

Counties may choose a different path that does not limit development in unincorporated areas. They do this by placing no restrictions on the creation of special districts in unincorporated areas and by creating county service districts to provide urban services to unincorporated areas. Clackamas County has historically chosen this path.

CASE STUDIES OF ANNEXATION - INCORPORATION

The complexity of issues surrounding methods of annexation, incorporation, consolidation, and merger can be more easily understood through case studies such as those I will present in this section. The case studies here presented were suggested by the Steering Committee and Task Force and by other reviewers associated with the Clackamas County Urban Services Project. As such, they are more important for the variety of issues discussed rather than for their representativeness or scope. In presenting the cases, I have attempted to draw some lessons relevant to the concerns of this study. I am well aware that others, perhaps more intimately knowledgeable of the events, might draw different, even contradictory lessons from the cases.

Tanner Basin

Tanner Basin is an area adjacent to the City of West Linn in Clackamas County and within the UGB. Because of steep elevations and other factors, the area was originally zoned by Clackamas County for low density development, and residential patterns had followed this designation with scattered single family dwellings on 1-10 acre lots. Because the area was in a desirable location and was within the UGB, developers began exerting pressure to open the area for more intense development. They were initially met with well-organized neighborhood resistance and a reluctant city. West Linn officials voiced concern that topographical features precluded the city from economically extending the water, sewer, and street improvements necessary to make development feasible. In an attempt to resolve what was becoming a difficult situation, the City of West Linn agreed to set up a task force of residents both within and near the Tanner Basin area and to hire a consultant-facilitator to involve citizens in a local planning effort. The end product of the year-long process was a mini-comprehensive plan for the area and the mitigation of local resistance to the development.

Today Tanner Basin is being developed to substantially higher densities (12 units/acre) including limited commercial development. The arrangements that permitted development to proceed included:

- a change in state annexation statutes to permit delayed annexation - the phasing in of annexed properties over a ten year period,
- agreement by developers to pay up-front costs of major public improvements,
- an intergovernmental agreement between city and county which gave the city control of planning and zoning for the area,
- cooperation of the Boundary Commission in approving delayed annexation in a way that excluded territory that was already developed with large lot single family dwellings.\(^1\)

There are several lessons to be learned from the Tanner Basin case. First, it emphasizes how current tax law creates a disincentive for cities to annex before development takes place.
As was previously discussed, annexing before development precludes the annexing jurisdiction from getting a tax base increase for any amount other than the value of the undeveloped land. Delayed annexation, which makes the provision of service contingent on agreement to be annexed at a later date, permits the annexing jurisdiction to exert its planning, zoning and subdivision authority while not annexing the land before it is developed.

A second lesson lies in the manner in which inter-governmental agreements were used by the city and county to grant land use control to the jurisdiction with the most compelling community interest. Similar agreements on a broader scale are conceivable for jurisdictions in Clackamas County.

Tanner Basin also illustrates the power of residents in unincorporated areas to resist annexation. Without the willingness of the Boundary Commission and the city to exclude the previously developed large-lot single family residences from the delayed annexations, it is doubtful that the settlement of the issue would have been as amicable.

Finally, Tanner Basin illustrates some potential problems for residents of new developments subject to delayed annexation. It is possible that many new residents, at the time they purchase their home, are unaware that they are scheduled to annex to the city and that they will be paying city taxes. Also, in the transition period before annexation, but during the time when the city exerts considerable regulatory control over the development, residents are left without a voice in city affairs. While they are permitted and encouraged to attend planning commission and other public meetings, until their property is annexed to the city, residents cannot vote in city elections.

City of McLoughlin

On June 30, 1981 a proposal to consolidate the City of Milwaukie with adjacent unincorporated territory to form a new incorporated city to be named McLoughlin was defeated by a 5-1 margin. While the negative vote was substantial both in and out of the city, there was a difference in strength of the sentiment. City voters opposed the consolidation by a 3 to 1 margin while those in the unincorporated territory were 7 to 1 against.² The defeated proposal would have included about 29 square miles, contained about 80,000 persons, and included most of eleven special service districts. As originally proposed, the new city was to have enclosed roughly all the territory from the Willamette River east to Happy Valley and from the northern Clackamas County line south to the Clackamas River excluding Johnson City and Gladstone. It would have also included Errol Heights, an area in Multnomah County roughly half the size of Milwaukie and adjacent to its northeast corner.³

The proposal originated from a study conducted by Boundary Commission staff of potential governance structures in the Oak Lodge area. While the study concluded that Oak Lodge area residents were content with the status quo, a sufficient number of residents and special district officials continued to push the idea and garnered enough support to petition the Boundary Commission for approval.⁴

Supporters of the proposal included officials from special districts in unincorporated areas who felt their tax rates had been rising relative to the city’s. The City of Milwaukie, which had at first been unenthusiastic, became a supporter when it became convinced that its future prospects depended on its ability to grow. Supporters argued that a city would be a more cost
efficient service provider and that it had more alternative revenue sources. Supporters also expressed the notion that change in the area was inevitable and that it was better to guide change than react to it.5

As the original proposal advanced, considerable opposition arose from other local governments, citizens in the unincorporated areas, and even a Milwaukie council member. As a result, a revised proposal was submitted which excluded about 3 square miles and 15,300 persons. All areas within Happy Valley RFPD and the Mt. Scott Water District were excluded. Errol Heights was also excluded when citizens expressed their identity with the City of Portland. Citizens of the Oakridge Subdivision were also excluded after they petitioned to be considered for annexation by Gladstone.6

Accommodation of the opposition and arguments for growth and improved efficiency, however, did not prove sufficient to convince the citizenry of the need for dramatic change. The substantial defeat of the City of McLoughlin proposal offers a number of possible lessons. The first lesson is that one cannot assume that city residents will favor consolidating with unincorporated areas even if it seems that their relative tax charges might be lowered. Although city residents were much more in favor of the consolidation than those in the unincorporated areas, they still voted against the proposal 3 to 1.

The high negative vote of those in the unincorporated areas suggests that consolidation with a city will be very unpopular if those in the unincorporated areas are relatively satisfied with the level of urban services they are receiving and do not desire to pay for the potentially more complete mix of services they might be offered if they were city residents. A third lesson is that adjusting the boundaries of a proposal (this is often criticized as gerrymandering) to exclude those who oppose a proposal is not always successful. In this case, a substantial adjustment was made to the boundaries to no avail.

There are several observations relative to the changing situation of the special districts. In this case, the proposal was favored by some special districts who pushed the proposal and were co-sponsors of North Clackamas-Milwaukie Consolidation Study,7 a document intended to serve as an educational tool for citizens. Eleven special districts were to be substantially absorbed by the new consolidated city. The lesson from this perspective is that it is inaccurate to assume that special districts are necessarily opposed to larger service areas and consolidation into city units. Support of some special districts for the proposal also suggests that their financial and political position relative to general purpose governments changes over time. In 1980, special districts might have felt they were in weaker position relative to general purpose governments. Special districts may no longer feel this is the case. Although some special districts supported consolidation, several special districts were very much opposed to it. As it turns out, these districts were ones which would not have been completely absorbed but which would have lost significant share of their territory and tax base because of the consolidation. Special districts do not have the legal authority of cities to resist consolidation or annexation by a city. Losing a share of the tax base can have substantial consequences to a special district’s ability to continue service at its previous level.

There are a number of lessons to be learned in the manner that was chosen to proceed with the consolidation. The North Clackamas-Milwaukie Consolidation Study describes four possible options for unification into a single local government: (1) annexation of the surrounding unincorporated area, (2) incorporating a new city and then consolidating it with other cities, (3) disincorporate an existing city or cities and simultaneously form a new larger one, (4)
consolidate an existing city with the surrounding area. The authors of the study were prescient in
discarding the first three options. As they observed, “Resistance to major structural change on
the part of existing municipalities is always high and state law giving veto power over
incorporations to all cities within three miles adds weight to that resistance.”

Beyond the sensible observation that the first three options would produce more resistance, there was another
possible reason for choosing the fourth alternative; it allowed electors in the City of Milwaukie
to vote on the proposal as well as those in the unincorporated areas. Under annexation
procedures only electors in the unincorporated areas would have the opportunity to vote.
Perhaps there is a lesson here relevant to the new method for annexation allowed under ORS 195
where city residents are also able to express their preference. As is evident in the vote on the
City of McLoughlin consolidation, there is no guarantee that city residents will feel comfortable
overriding the wishes of those in the unincorporated areas who express obvious resistance to
being a part of a city.

Finally, there is a possible lesson about the nature of local identity. The consolidation
proposal would have required both city residents and those in the unincorporated areas to adopt a
new identity. Besides the inconveniences of establishing new mailing addresses and the other
every-day conversational references that would have to be adjusted, citizens would have been
required to re-design the mental maps of their community and the relationships that create the
context of community allegiance. The sorts of political resistance that these behavioral
adjustments engender are often underestimated in the debate over rationalization of service
delivery boundaries.

City of Keizer Incorporation

The City of Keizer, population 20,585, lies directly north of the City of Salem and shares,
on its east and south, roughly half of its border with Salem. Prior to its incorporation in 1982,
limited urban services were provided by Marion County, with light, water, and fire services
provided by special districts. Because the unincorporated Keizer area was located within the
urbanized area (three miles from city boundary) of Salem, the city had made several attempts to
annex, but each time was rejected by Keizer area voters.

Keizer’s successful incorporation in 1982, was the second attempt to create a city
government. In 1964, three local citizens, E. T. Riley, Robert Stutzman, and Z. E. Smithley,
organized a petition for incorporation and persuaded the City of Salem to let the vote proceed.
Salem’s power over the petition was derived from then-existing section 221.030 of Oregon
statute which gave existing cities the power to prevent petitions for incorporation for areas within
three miles of their boundary. The 1964 incorporation election focused on taxes. Supporters
argued that incorporation would not require new taxes because state transfer funds would provide
sufficient revenue for city operations. Voters were unconvinced, and the area remained
unincorporated.

In 1981 the movement for incorporation was revived, but by this time, Salem’s position
on incorporation had solidified, and the city council refused to let the vote proceed. Keizer area
residents were incensed, and with the help of their newly elected state representative, Peter
Courtney, were able to secure passage of special legislation which specifically exempted areas
with more than 20,000 residents and a certain minimum population density from the requirement
of securing pre-approval for an incorporation vote from an existing adjacent city. Although not mentioned in the legislation, it was understood that it was tailored for Keizer and two other locations in the state: River Road-Santa Clara near Eugene, and an unnamed area close to the City of Milwaukie.\textsuperscript{13}

In the second incorporation vote in 1982, the issues of concern were local control and school district divisions. Those who favored incorporation, argued that Salem was a distant government unconcerned with issues that mattered to Keizer residents. The placement of the Willow Lake sewage treatment facility in the Keizer area lent support to those who argued that Salem was insensitive to local concerns. Those who opposed incorporation argued that the two areas already shared a school district and that incorporation would create unnecessary divisions. A third group, who preferred the status quo, also opposed incorporation. In the end the local control argument was the most persuasive, and the vote for incorporation passed.\textsuperscript{14}

Keizer incorporation could accurately be described as a defensive incorporation, one which is mobilized, at least to an extent, by the fear that a neighboring entity will eventually succeed in bringing an area within its boundaries. In the 1960’s, the incorporations of Tigard, North Plains, Happy Valley, King City, Durham and Maywood Park were defensive incorporations, some of them in reaction to Portland Mayor Terry Schrunk’s aggressive annexation campaign.\textsuperscript{15}

The legislation that benefited Keizer and the two other locations contained a sunset provision repealing it December 31, 1987. Of the three areas, only Keizer successfully pursued incorporation. Under current state law, such an incorporation would be unlikely. Current state statutes make no exceptions for the requirement that petitioners representing an area within the urbanized territory (three miles) of an existing city obtain permission of the existing city council before they petition the county for an election or that they show that the existing city raised no objections within 120 days of the presentation of the petition.\textsuperscript{16} It is unlikely that an existing city would either approve such a petition or would not object.

Finally, the case study illustrates that the state laws governing annexation and incorporation evolve, sometimes in response to a particular situation. Oregon state statutes currently give cities the power to prevent incorporations close to their boundaries. On the face of it, such a grant of power seems rational and unassailable. However, at least one other state is rethinking the power of cities to control dissatisfied groups, even within existing city boundaries. Currently, the California legislature is considering a bill which would allow 1.2 million residents of the San Fernando Valley to vote on whether they would like to carve out their own city from within the larger City of Los Angeles. The bill, sponsored by State Assemblywoman Paula L. Boland, has already received approval in the Assembly and has been sent to the California Senate. If it passes, the Governor is expected to sign.\textsuperscript{17} Even if the bill fails to pass, its serious consideration and its involvement of a city the size and importance of Los Angeles could mark a watershed shift in attitudes toward the traditional territorial powers granted to cities.

Tualatin Valley Fire and Rescue District Annexation

Prior to 1996, Tualatin Valley Fire and Rescue District (TVFR) provided services to all of east Washington County (excluding Beaverton) and portions of Clackamas County extending as far south as the Willamette River. Because TVFR and the City of Beaverton Fire Department
shared boundaries, it was incumbent on them to work cooperatively. Since the early 1980’s, this cooperation had extended to developing common standards and sharing equipment. In 1986, TVFR and the Beaverton Fire Department agreed to functionally consolidate, and a series of intergovernmental agreements between 1986 to 1995 provided for the shared utilization of city personnel and facilities. The city benefited from the consolidation by being able to proceed on its annexation path without resistance from TVFR and without having to invest in capital and personnel infrastructure for fire and emergency services. Beaverton residents benefited from a reduced city tax levy. The benefits of the consolidation for TVFR were in lowering its administrative overhead and its ability to plan fire and rescue service for the entire 177 square mile area.\textsuperscript{18}

In 1994, the City of Beaverton and TVFR decided to seriously explore the possibility of making the final transition to integrated services by allowing the area served by the City of Beaverton Fire Department to annex to TVFR. Following a period of study, the two parties agreed that annexation met the needs of both entities and an application was submitted to the Boundary Commission. The Commission approved the proposal and annexation became effective June 30, 1996.\textsuperscript{19}

The discussion of annexation usually involves a city annexing territory served by a special district. The case of the Tualatin Valley Fire and Rescue District annexation presents something quite different and unique for Oregon, a well planned and cooperative annexing of all the territory within a city to a special district. While the practice of cities contracting with special districts for service provision is common, with this action, a city has been willing to relinquish the legal and budgetary management of a service to a special district operating within its boundaries. With annexation, it becomes very difficult for the city to reestablish its own fire and emergency service. It would require action by the Boundary Commission, a favorable vote of Beaverton residents to withdraw from TVFR, and substantial capital and personnel investment.

The annexation is also important because it forces us to reconsider our mental configuration of cities and physical boundaries. Cities are conceptually and legally defined by their physical boundaries. It is legally required and commonly assumed that within those physical boundaries a minimum set of urban services will be provided by the city either through its own departments or by contract. The fire district annexation disrupts the connection between the physical boundary of the city and the control of services. In its place it establishes a connection between the service provided and the boundary. It continues to disestablish the relevance of a physically identifiable place in favor of the service or services provided. Extending this principle somewhat further, it is possible to see city households as unattached to any local identity and simply being a receptor of services provided by whichever districts they fall within. Until now this has been the situation only for those in unincorporated areas. Perhaps now the same will become true of “city” residents.

Powell Valley Road Water District Area Annexation

The annexation agreement signed on January 26th, 1994, between the City of Portland and the Powell Valley Road Water District (Powell Valley) is considered by some to be a model of the types of agreements that should be worked out under provisions of ORS 195. In essence it
creates an annexation plan for the area, establishes who the ultimate provider of the service will be, and works out the details of an orderly transition from one provider to another. Except for the substantial legal controversy that has surrounded the annexation process of which Powell Valley was a part, it should still be considered a potential model of an ORS 195 type agreement.

To understand the legal controversy and its relationship to the Powell Valley agreement one must go back to 1985 when the Oregon Department of Environmental Quality identified the large un-sewered area in mid-Multnomah County as a threat to groundwater resources and required the Cities of Portland and Gresham to provide sanitary sewer in their respective urban service areas. In answer to the state mandate, Portland proceeded to create a number of Local Improvement Districts which households were required to join. For the average household, the cost of the sewer connection was substantial (roughly $5000), and by the early 1990’s there was considerable unrest and displeasure. The Portland Organizing Project sought to channel this unrest, arguing that the cost was burdensome and was likely to force low and fixed income homeowners out of their homes.20

Citizen dissent emerged at an opportune moment. Council members and mayoral candidates, anticipating the coming election, were eager to demonstrate their concern. To mitigate the costs to homeowners, the council created the “Window of Savings” program which allowed property owners to prepay for their connection, and if need be, to borrow the money from the city on very favorable terms and with few credit restrictions. The program proved to be quite successful. For the property owners, it provided a substantial cost reduction. Since the completion date for the projects was 2003, prepaying for the connection allowed property owners to avoid all potential inflation cost adjustments. Also, easy credit and low interest offered advantages over the private market.21

The program was also beneficial for the city. As a part of the deal, property owners were required to agree to be annexed. Being assured that the area would be within the city boundary, and projecting a large pool of capital from the program, the city was able to develop the sanitary sewer program as one large capital improvement project. This brought the project completion time down from 2003 to 1998, resulting in considerable savings for the city.

The Powell Valley area annexation was only one of a number of annexation projects affected by the “Window of Savings” program. At the time the “Window of Savings” program was initiated, Powell Valley Road Water District serviced about 7,800 customers in the mid-Multnomah County area between the Cities of Portland and Gresham. As Portland undertook its aggressive annexation program through the 1980s, Powell Valley began to be impacted in terms of dead-end water lines, illogical boundaries, etc. To mitigate the problems, the City of Portland and Powell Valley entered into a series of intergovernmental agreements which set service boundaries and other details of cooperation.22

In 1992, Powell Valley absorbed Gilbert Valley Water District, forcing Powell Valley to negotiate a new agreement with the City of Portland. Seeing the writing on the wall from the annexation program and recognizing this as a critical decision moment, Powell Valley decided to take a comprehensive look at its future service alternatives. The Powell Valley Commission considered various merger options, and in the end, settled on three alternatives which were submitted to their patrons for consideration. In a survey, patrons were asked whether they wished to:
• do nothing and simply dissolve when the area was completely annexed,
• negotiate a new agreement with Portland which would allow the District to continue in existence until 2005 and spend down its capital improvements budget on the local system rather than letting it go into Portland Water Bureau funds,
• turn over assets to Rockwood Peoples Utility District, but maintain an advisory board for the district.

Powell Valley patrons voted 78% in favor of the second option, and in a special meeting in September 1993, the Powell Valley Board of Commissioners unanimously passed a resolution to negotiate a new agreement with the City of Portland.23

While the survey made it clear that the City of Portland had not pre-approved the terms, the final agreement concluded with Portland in 1994, closely followed the option which patrons had approved. The main points of the contract:

• all of Powell Valley Road Water District would annex to Portland except the District office (this allowed the District to legally continue operations),
• City of Portland would not transfer assets or withdraw territory within Powell Valley boundaries until the agreement concludes in 2005,
• arranges for the transfer of employees to the city upon dissolution,
• allows for the extension or termination of the agreement if both parties agree.

Essentially, the City of Portland was able to continue to seek annexation consents from residents in the area, and Powell Valley was able to continue operations until 2005 when their capital improvement budget will be spent down.24

While the agreement left Powell Valley in a very good position, the final resolution is now in doubt. Individuals unhappy with the requirement that property owners be required to sign annexation agreements in order to participate in Portland’s “Window of Savings” program, have taken the matter to court. Their argument that the program violated the “undue influence” provisions of the 14th amendment to the U.S. Constitution, has been sustained by the courts. The U.S. Supreme Court refused to hear the City of Portland’s appeal, and the issue has been remanded to the federal circuit court for a remedy. Arguments as to what that remedy might entail are now being prepared. One outcome could be the negation of all annexations concluded under the “Window of Savings” program. This would include the negation of the Powell Valley agreement.25

Columbia Ridge Consolidation

The proposed consolidation in 1983 of the City of Fairview with its surrounding unincorporated area is a case of important but unintended consequences.26 The proposed consolidated city, to be named Columbia Ridge, was to include the city of Fairview and all the area west to 82nd Street (Portland’s boundary at the time), north to the Columbia River and south to the Multnomah County line.
(The Columbia Ridge consolidation is related to the Powell Valley annexation because the areas involved overlap and because the issue of polluting septic tanks in mid-Multnomah County in the 1980’s is also involved in the Columbia Ridge Consolidation.)

The proposal for consolidation was submitted to the Boundary Commission and was denied based on: (1) the Commission’s assessment that the issue of providing sanitary sewer to the area was not adequately addressed, (2) the belief that creation of a new city would not be compatible with the Commission’s mission to encourage fewer rather than more units of government, (3) the financial argument presented by the Cities of Portland and Gresham that existing cities, because of their better bond ratings, would provide urban services more economically than a new city, and (4) the assertions by the Cities of Portland and Gresham that they would substantially increase their annexation efforts and complete the annexation of the unincorporated territory in three years.

The denial was challenged in the courts by the City of Fairview but ultimately was resolved in favor of the Boundary Commission based on a technical issue rather than on the merits of the case. The technical issue was not inconsequential, however, since the ruling established that a consolidation must include two cities and not a single city with an unincorporated area.

The more important consequence of the failed consolidation effort was the impetus it provided for the Cities of Portland and Gresham to undertake aggressive annexation programs. Both cities substantially heightened their financial and personnel commitments, unofficially settled the boundary of their interest areas, and successfully annexed to it. The program added considerable land and population to both cities. Between 1980-1990, annexation increased Portland’s population by 14% (60,000) and Gresham’s population by 37% (24,000).

This case study offers an important counterpoint to the assumption that large scale annexations are not possible and that those in unincorporated areas will successfully resist annexation. In this case, conditions were right: (1) cities committed the resources to the annexation program, (2) the county agreed not to provide urban services in the unincorporated areas, (3) residents lacked a critical urban service, (4) the Boundary Commission held that annexation was a better solution than consolidation.

Voting on Annexation

Perhaps it is a trend, or perhaps voters are responding to unique local situations, but there are now four cities in the state that have amended their charters to require city-wide votes on any annexations approved by their city councils. Until this year, Corvallis was the only city in Oregon to require this type of approval; now voters in McMinnville, Newberg, and Philomath have approved initiatives which follow the Corvallis model.

The approved charter amendments do not change the usual procedural requirements for annexation, they simply give city residents the ability to approve or disapprove a potential annexation. The charter amendments do impact the process, however, by requiring developers to provide more detailed plans if they hope to secure approval for their annexation.

The upshot of the charter amendments is to give city residents more control on where, when, how, and if growth will take place. However, it also makes it more difficult and costly for city councils to use annexation to expand city boundaries and developers to undertake projects.
Whether or not these votes indicate a trend is unclear, but there is some sense that these initiatives are a proxy vote on uncontrolled growth, and that they could be used to prevent multi-unit development if city residents perceive this as an undesirable form of growth. If electors in these cities exercised their vote in this exclusionary manner, the city might find itself in conflict with Goal 10 of the state land use planning law and provisions which require a mix of housing types. Cities might also face legal challenges similar to those that successfully thwarted exclusionary zoning.  

The passage of the charter amendments also suggests that city residents may react favorably to the ORS 195 annexation plan method. Like the charter amendments, ORS 195 gives city residents a substantial voice in new annexations and engages them more actively in the discussion of a city’s long term plans for growth. It is also possible to speculate that if ORS 195 is used to exclude certain types of development (multi-family, manufactured housing), it could also create conflicts with Goal 10 and encounter legal challenges on the basis of this exclusion.

Washington Square Annexation

The successful annexation by the City of Tigard of the Washington Square regional shopping center and the approximately 500 residences in the Metzger area surrounding it depended on careful targeting of pro-annexation areas and the successful negotiation of a pre-annexation agreement with the regional shopping center. A previous annexation vote covering a greater part of the Metzger area had resulted in a 5-4 defeat of the proposal. Analysis of the voting patterns indicated that several precincts were close or supportive of the annexation and two precincts were overwhelmingly against. Owners of the Washington Square mall were also against the annexation and felt disenfranchised by the vote in which they had little influence.

To make the proposal more acceptable to those in the annexing area as well as to avoid potential litigation from Washington Square, Tigard redesigned the boundaries of its proposal to exclude the negative voting precincts, and it negotiated a pre-annexation agreement with Washington Square. The pre-annexation agreement provided for an eight year phase-in of property taxes for the shopping center and related properties, with 15% to be paid in the 1987-88 fiscal year, 25% in 1988-89 and increasing by 10% each year thereafter until reaching 100% payment in 1994-95.

This case study indicates again the importance to cities of annexing after development takes place, but it also points to the costs of waiting. Although Washington Square could not impact the annexation through the vote, it did have the ability to forestall the process through litigation and to create some competitive bidding with Beaverton. Because of these threats, Tigard agreed to a tax-differential that was quite favorable to Washington Square. But the benefits of being able to immediately increase its tax base, plus generate revenues through city business taxes and franchise fees, persuaded Tigard of the value of the agreement.  

31
Springfield Annexation Studies

Between 1992 and 1995 the City of Springfield, with the cooperation and assistance of Lane Council of Governments, completed six study documents on the topic of city annexation. The studies evolved over the period of time that ORS 195 was being considered and eventually adopted by the state legislature. In part, the studies were intended to provide planning information to the city about future annexations. But to a greater extent, the studies were designed to test the potential application of the ORS 195 annexation method and to develop models of the urban service agreements and annexation plans described by the legislation. The six documents prepared for the City of Springfield were:

- Springfield Comprehensive Urbanization Report (June 1993)
- Model Annexation Plan (June 1993)
- Model Coordination Agreements (June 1993)
- Urban Services Financing Report (June 1994)
- Springfield Annexation Study Report (May 1995)
- Implementing Senate Bill 122 in Springfield: Evaluations and Recommendations (June 1995).

Overall, the six documents provide:

- a base of information about potential areas of annexation for the city,
- a fiscal analysis of the potential revenues and costs of annexing each sub-area,
- model urban service agreements,
- a model ORS 195 annexation plan,
- a report on the preferences expressed by residents regarding annexation and urban services
- an evaluation of how the studies were implemented and recommendations for change.

Since the annexation studies prepared for the City of Springfield document the first attempt in Oregon to develop an ORS 195 annexation plan and urban services agreements, they are very relevant to the topic at hand. While I will provide a summary of some aspects of the studies, I would recommend that the original full-text documents be examined, especially if any jurisdictions in the Clackamas study area intend to develop an ORS 195 annexation plan.

In summarizing the Springfield annexation studies, I will attempt to convey a sense of what the documents reveal about the political process, public involvement and neighborhood opposition. I will provide limited details about the “Model Annexation Plan” and I will examine the problems encountered by the city in its attempt to accurately project the fiscal impacts of the planned annexations. Part of my discussion will focus on the public involvement program undertaken by the city, what the responses reveal about the attitudes of those in the city and in the potential annexation areas, and how elected officials responded to the opposition that developed. I will also discuss how the annexation study team evaluated the political environment and its own efforts, and the recommendations they left for those who, in the future,
would be developing ORS 195 annexation plans. Finally, I will comment on the implications of the annexation studies.

**Model Annexation Plan:** The “Model Annexation Plan” provides a blueprint for future ORS 195 annexation plans. The plan provides maps and descriptions of the proposed areas of annexation, describes existing and planned urban services, outlines timing and sequencing of annexations, explains the impacts on existing service providers and intergovernmental agreements, and lays out an implementation plan. The document also discusses the city’s perception of the long-term benefits of annexation for the city and for the residents in the potential annexation areas.  

**Benefits of Annexation:** The “Model Annexation Plan” provides a conventional list of what a city would describe as the direct benefits of annexation for city residents and city government. The tax base will increase with the addition of the value of the annexed properties. The larger population will also increase general fund revenues from franchise fees for utilities and cable, state-revenue transfers for cigarette, liquor and road use, and revenues from federal programs such as the Community Development Block Grant. As undeveloped land in annexed areas is built up, the city would be able to charge the system development fees and assessments for sewer, drainage and transportation impacts which the city cannot now receive when land is developed outside of its boundaries.

The “Model Annexation Plan” also remarks on the indirect benefits of annexation to city residents who will reduce their “tax subsidy” of fringe area residents who shop and work in the city and presumably receive the benefits of city services and facilities (streets, police, fire, library, etc.) but do not pay for them. City residents will also reduce the amount of “tax subsidy” they pay for county services such as sheriff and county planning which are used nearly exclusively by county residents but are partially paid for by city residents who pay both city and county taxes. The other benefits noted by the city are increases in the efficiency of service delivery, reduction in staff time spent on intergovernmental coordination, and improvements in long-term planning.

The “Plan” also describes what the city perceives to be the benefits of annexation for residents in the potential annexation areas. The list includes an increased level of police, fire and emergency medical service, a free library card, a higher level of drainage improvement services, city-level street maintenance including leaf pick-up, and the potential for sidewalk and street improvements if residents wish to form a local improvement district. Besides these direct benefits, residents could also expect to become members of a community and participate in local elections and serve on city boards.

**Public Involvement Surveys:** There is considerable contrast between what the city perceives to be the benefits of annexation and those actually expressed by residents in the potential annexation areas and in the city. The responses reported below are taken from surveys conducted by the city as part of its extensive public involvement project. The city initially mailed out an “Urban Services Survey” to residents and property owners in the potential annexation areas in order gauge their knowledge and preferences related to annexation and city services. Toward the end of the study period, two random sample telephone surveys were conducted. The survey of residents in the potential annexation areas asked about level of interest
in annexation. The survey of city residents asked about their preferences in terms of annexation methods.39

When residents in the potential annexation areas were asked which time frames for annexation they preferred, 62% said they were never interested; when asked if they wanted to play a bigger role in city government only 7% agreed; when asked to rank the advantages in remaining outside city limits, 82% cited “no change in property taxes,” with the next highest preference (58%) being “retain the rural character of my neighborhood;” when asked when they wanted to receive city services, 40% refused to answer and many respondents wrote in “never;” of those who wanted a city service the highest positive responses were 28% for police service and 28% for fire and emergency medical. Even though my list of responses is selective, it would be difficult to characterize the majority response to any of the survey questions, regardless of how positively the question was framed, as indicating a favorable attitude to annexation or to the benefits which the city characterized as important. Overall, residents in the potential annexation areas preferred existing service levels over the possibility of paying higher city taxes.40

The survey questions put to city residents were more limited but their responses were interesting none-the-less. When asked about whether there should be a vote on annexation, 90% thought there should be. In terms of who should participate, 67% felt that city residents should vote, 48% thought it should be a combined election of city residents and those in the annexed areas. Only 12% thought they should vote separately and 7% wanted only city residents to vote. Among city residents, it appears that annexation without some sort of vote would not be acceptable. The survey results, as reported, are somewhat ambiguous as to how that vote should be conducted, but there is a strong signal that city residents would like a say in the annexation. If these surveys are a bellwether of sentiment in other cities, it would seem that the ORS 195 process of combining the votes of city residents and those in the unincorporated areas will find more favor with city residents than those in the unincorporated areas.41

Revenues/Cost Analysis: In their evaluation of the revenue/cost analysis undertaken for the annexation studies, the comments of the study team are self-critical and revealing. They relate that two separate studies were undertaken, one by Lane Council of Governments (LCOG) staff and one by City of Springfield staff. The two studies produced different outcomes. The LCOG study concluded that “annexation of developed portions of most sub-areas would result in net revenue to the City.” The city staff analysis concluded, “that it is not cost-effective to annex developed residential areas but that it is cost-effective to annex developing residential properties using delayed annexation effective dates.” In their evaluation of these contradictory findings, the study team remarked that “There was general agreement that there is no reliable method for projecting the fiscal impact of annexation on the City,” and that projections are largely dependent on assumptions.42

Even though the limitations of fiscal projections were noted, the evaluation team did not dismiss the need for analysis and made several suggestions for improvement. They suggested quantifying the “tax subsidy” to fringe area residents and including it in the analysis. They also suggested that those who would be using the study agree to assumptions which reflect what the city really plans to do in regard to level and phasing-in of urban services in the annexed areas.43

It is refreshing that the evaluators were so forthright about the difficulties of their analysis. I would agree that analysis is important and should be undertaken as part of the annexation plan. I would recommend that jurisdictions anticipating development of an
annexation plan examine the models and the assumptions made for the Springfield annexation studies.

**Political Process, Public Involvement, and Neighborhood Resistance:** By time of the completion of the annexation studies, the Springfield City Council had not adopted an ORS 195 annexation plan. On the contrary, public opposition from residents in the potential annexation areas had been sufficiently strong that city officials expressed the sentiment that the “annexation plan” amounted to a form of “non-consenting” annexation. County commissioners also openly expressed their opposition to using the method and stated that “they would not approve any urban service agreement that contained the language, [as required by statute] ‘this agreement may be relied on for the annexation plan method.’”\(^{44}\) Also, several special district signatories to urban service agreements refused to include such language in their agreements.\(^{45}\)

Study evaluators suggested that public and official resistance resulted from a lack of consensus between staff and elected officials about the goals of the project. This lack of consensus had led to miscues in the public involvement program. Staff viewed the public involvement program as an aggressive attempt to educate the broader public about annexation. City Council perceived the public involvement program as a means of discerning the sentiments of potential annexation area residents regarding annexation and the provision of city services.\(^{46}\)

Regardless of the differences in perception, it is likely that the public involvement program contributed to a high level of interest in the project. Over 400 study area residents attended neighborhood meetings arranged by the city, and by the end of the project, over 95% of study area voters said they were aware of the project. The public involvement program might also be credited with alerting and perhaps solidifying the opposition. “Neighbors United Against Annexation,” according to study evaluators, “grew in momentum as the study progressed.”\(^{47}\)

It is clear from the remarks of the evaluation team that the political aspects of the project had not gone well. The evaluation team provided several suggestions for those who sought to use an ORS 195 annexation plan in the future:

- develop initial consensus among all political officials and staff as to the purpose of the project and continue to keep everyone on track during the process,
- make use of public relations professionals and develop new educational tools such as a video to explain the process,
- continue to have an inclusive public information program but (1) broaden the audience to include city residents as well as residents in the potential annexation areas, (2) broaden the discussion to include the importance of annexation as a planning and growth management tool, (3) use the process to educate as well as inform,
- allow several years for the development of an annexation plan - the process is complex and new and requires everyone involved to think differently about annexation.
The evaluation team also suggested changes to state and local legislation:

- change ORS 195 so that the development of an annexation plan is not dependent on expressed statements in the urban service agreements that they may be relied on for the annexation plan method,
- consider a change in the state statute or the adoption of a local ordinance that would commit the city to a policy requiring consent agreements from majority of residents in the potential annexation areas before the annexation plan could proceed.\(^{48}\)

**Comments:** It is apparent that the newness of the annexation plan method was in part responsible for the conflict and confusion of the political process. ORS 195 was adopted while the studies were in progress and political officials did not seem to have the same perception as staff that the purpose of the project was to test the annexation plan method. In reading the evaluation documents, there is a sense that Springfield area political officials were more comfortable with status quo annexation methods and had not yet come to terms with the new method available under provisions of ORS 195. The evaluation document also suggests that staff would have liked to use the public involvement program as a tool to educate and involve city residents who they felt would be more likely to favor the planning and growth management aspects of the annexation plan method.\(^{49}\)

I find the legislative recommendations contradictory and puzzling. The first, which suggests that ORS 195 be changed to de-link the urban service agreements from the annexation method, indicates a desire to facilitate the political process and make it easier for a city to adopt an annexation plan. The second recommendation, which suggests returning veto power to those in the potential annexation areas, would have the effect of hobbling the political process. Given the limited amount of experience with the ORS 195 process, neither of the two recommendations seem warranted at this time. The first recommendation violates the very intent of the legislation which was to bring special districts into the planning process and to link annexation plans to an orderly process of service provision and transition. The second recommendation, suggesting pre-annexation consent agreements, would return the annexation process to the status quo. The status quo was what ORS 195 was intended to get beyond.

Finally, there are some obvious lessons to be taken from the Springfield study that should not be overlooked. Regardless of method, annexation of those who do not wish to be annexed will produce political resistance. Political officials will take this opposition seriously because new city residents in the annexed areas will be able to express their dissatisfaction in future elections.

Clackamas County Business Plan

Clackamas County is in the final stages of developing a county business plan.\(^{50}\) The business plan is a major functional review to determine which are the county's priority services, and under a condition of future fiscal constraint, which functions could be transferred to other local government jurisdictions and which could be phased out. The plan assumes a 5-20 year time horizon; it assumes that all of the territory within the UGB will be within a city; and it
assumes a continuation of the current fiscal trends. The plan classifies services into (1) those that are essential, (2) those that the county and its citizens have a strong preference for providing, (3) those that are discretionary, and (4) those that are likely to transitioned to other local jurisdictions. Essential services are those mandated by state law or are services considered so important that some level of the service would always be delivered. Preferred services are those which are highest on the priority list for the county and its citizens, assuming that financing is available. Discretionary services are those lower on the priority list. Transitioned services are those which the county sees as possibly being provided by other local government jurisdictions.

Of most concern to the issues of annexation and incorporation is the decision by the county to place rural transportation, planning and development functions in its essential service category and to place these same functions for the urbanized areas in the category of services to be transitioned elsewhere. The intention of the county to focus on its rural planning concerns and to relinquish its planning role in its urbanized area rests heavily on the assumption that all the areas within the UGB will be within city boundaries. One method being considered for this transition would be for the county to sign ORS 190 intergovernmental agreements with existing cities granting them planning, zoning, and code enforcement in their extraterritorial urbanized areas.

If Clackamas County does transition away from providing planning, zoning and development in the urbanized areas of the county and does assume that these services should be provided by a city or cities in the urbanized area, it would be aligning itself with other counties in the Metro region. Washington County’s 2000 Plan calls for it to focus on providing only county-wide services, and by the year 2000, to transfer to city control any urban services provided by the county.\(^\text{51}\) Multnomah County currently has agreements with its cities that it will not provide urban services outside of city boundaries.\(^\text{52}\) Like the Clackamas County Business Plan, the Washington County 2000 Plan and the Multnomah County agreements have the effect of giving their cities considerable extraterritorial control over land development.

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1 This section follows closely a description of Tanner Basin provided in personal correspondence from Kenneth S. Martin, Executive Officer of the Portland Metropolitan Area Local Government Boundary Commission, June 27, 1996. Supplemental information was taken from, City Club of Portland, *Planning for Urban Growth in the Portland Metropolitan Area*, March 29, 1996, p. 18.
2 Kenneth S. Martin, Executive Officer of the Portland Metropolitan Area Local Government Boundary Commission, personal correspondence, June 27, 1996.
4 Ibid.
5 Ibid.
6 Ibid.
8 Ibid., p. 2.
10 Ibid.
11 Ibid.
12 Oregon Laws 1981, Chap 890 replaced ORS 221.030.
16 ORS 221.031
19 Ibid.
20 John Bonn, Annexation Coordinator - City of Portland, interview by author, July 24, 1996
21 Ibid.
23 Ibid.
24 Ibid.
26 Details of this case study were provided by Deniece Won, Executive Assistant, Portland Metropolitan Local Government Boundary Commission, interview by author, Aug. 22, 1996.
27 The City of Philomath, Oregon charter amendment also includes a provision which requires a vote on any delayed annexation agreements which would extend urban services to an unincorporated area, unidentified City of Philomath, Oregon official, interview by author, July 25, 1996.
28 Bonn, 1996, also, City Manager, City of McMinnville, Oregon, interview by author, July 25, 1996.
29 Ibid.
33 These studies were prepared by the City of Springfield Core Team and the Lane Council of Governments for the City of Springfield and for the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development.
36 Ibid.
37 Ibid.
38 Ibid.
40 Ibid.
41 Ibid, pp. 16-18.
43 Ibid.
44 Ibid, p. 10.
46 Ibid.
48 Ibid.
49 Ibid.
50 The information in this section was taken from a draft version of the Clackamas County Business Plan (tentative title) and from information provided by Terry Ferrucci, Staff Assistant to the Board of County Commissioners, Clackamas County, Aug. 14, 1996.
52 Multnomah County Resolution A, 1983.
ALTERNATIVES

In this White Paper, I have attempted to assemble, synthesize, and interpret the information necessary for readers to come to an informed decision about which governance alternative will best serve the collective interest of all project participants and simultaneously be appropriate for the community each participant represents. This section is the culmination of that effort. Here presented are eight alternative governance scenarios. The alternatives range from preserving existing arrangements to suggestions for substantial institutional change. While my discussion will indicate which of the scenarios I believe are most feasible, I do not make a recommendation for a preferred alternative. That decision remains the responsibility of project participants.

Status Quo

The status quo is an acceptable option. Choosing the status quo might best be described as a choice to continue with gradual and inevitable change rather than to make a dramatic departure from current governance arrangements or patterns of behavior.

To a certain extent, the final determination on whether the status quo is acceptable depends on the value tradeoffs participants are willing to make. In this study, these value tradeoffs were described in “Is Bigger Better? Theoretical Perspectives on Optimal Forms of Governance.” To summarize - if you favor a market approach to the public provision of service, value individual choice over equality, and think that area-wide coordination will evolve as the need arises, the status quo is probably your preferred option. Choice, diversity, entrepreneurial development and evolutionary transition in the provision of urban services aptly describes the historical and current situation in the study area.

On the other hand, if you think that market approaches will underprovide collective goods, that equity in cost and provision of service is more important than maximizing individual choice, and that centralization of functions simplifies government and makes it more efficient and accountable, you will probably prefer that some new direction be taken for the provision of urban services in the study area.

City-County Consolidation

City-county consolidations are promoted for their ability to unify a tax base, centralize planning, zoning, and development controls over a large area, eliminate fragmentation and create economies of scale in the provision of service. They are also promoted for their ability to simplify the citizen’s task, making it more likely that they will be able to identify who is responsible for the delivery of services, who to credit for the successes, and who to fault for failures.

Creating a workable design for a city-county consolidation and developing the necessary consensus in support of this design is a formidable task. At a minimum it would require adherence to existing state legislation. It is more likely that it would require the development
and passage of a new act tailor-made for Clackamas County and the cities involved in the consolidation effort.

The enabling statute, as it is currently written, requires that a city-county consolidation include the county’s “most populous city” and it further defines “most populous city” as a “city of not less than 300,000 population.” This effectively limits the use of the statute to City of Portland and Multnomah County.

Assuming that the population language could be changed, the statute would still require that the consolidation include the most populous city in the county which currently is Lake Oswego. All other cities included in the consolidation territory would be required to merge with the most populous city, relinquish their charters, and lose their functional identity as cities.

Under provisions of the current statute, the consolidation vote would require that each of the cities included in the city-county consolidation receive a majority vote from its residents in favor of merger. It would also require that the majority of residents county-wide and separately in the most populous city favor the consolidation. If one or more of the cities to be merged voted against merger but the consolidation measure still passed in the most populous city and county wide, the result might be a patchwork of jurisdictions and overlaps which would accomplish little.

A city-county consolidation in Clackamas County would be unlike the typical pattern of successful consolidations. As a general rule, successful consolidations have brought together a county and a single large city whose land area and/or population dominated the county. This is not the situation in Clackamas County. The land area of Clackamas County is overwhelmingly rural. Its urbanized area is located primarily in its northwest corner. Within the urbanized area, more of the population lives in unincorporated areas than in incorporated areas and there is no dominant city. Rather, the six largest cities range in population from 11,000 to 33,000.

It is conceivable that some form of city-county consolidation could be crafted for the area, but it would require special state legislation designed only for Clackamas County and perhaps only for the urbanized northwest corner of Clackamas County. The legislation would probably need to exclude cities west of the Willamette. It would need to clarify the county’s role in terms of its major rural responsibilities. It would require that county responsibilities be delineated in a way that would be equitable and politically attractive to both rural and urban constituents in the county.

To develop and promote such a piece of legislation would require a very high level of commitment among a core group of dedicated supporters. It would require that these core supporters develop an effective model and promote it with vigor. Since the new legislation would probably not eliminate the need for smaller cities to merge with the largest city in the consolidation territory, majority approval would still be required in each of the cities to be merged. If some cities voted for and some against, little would be gained.

Overall, city-county consolidation (1) would require new state legislation, (2) is not consistent with historical preferences of residents in the area nor with the direction envisioned for Clackamas County in its business plan, (3) is not one of the most favored governance scenarios developed in Phase I of the Clackamas County Urban Services Project, (4) would be unlikely to receive the support of Lake Oswego, the County’s most populous city, and (5) and would be unlikely to awaken quiescent public sentiment to support its creation.
To mobilize a major development effort for a project that would break new ground in terms of typical patterns of city-county consolidations and one that would be so politically tenuous, would require more interest and political resources than seem currently available.

Municipal County

A municipal county is a more elegant form for accomplishing the purposes of a city-county consolidation. In its pure form it would require the dissolution of all cities and service districts in the county. To a certain extent, an ideal municipal county would be the flip side of the "one city" approach, the difference being that a county would perform most or all of the urban service functions typically offered by both cities and counties.

Under the most idealized model there would be one county-wide local government police force, one fire and emergency service, one water and sanitary service, one park system, one court system, one transportation system, one zoning code, one set of development standards, and so forth. There would also be a uniform property tax levy that would encompass all county-wide services.

Taken as a whole the idea of a municipal county is very appealing if for no other reason than its elegance and simplicity.

The difficulties associated with creating a municipal county are substantial. First is the issue of tax equity. Single units of government are required by the state constitution to treat all classes of citizens equally. Since Clackamas County is primarily rural, urban services paid for by all would not be equally available to all. One solution to the tax equity problem would be to create separate rural and urban counties. This would be possible but politically difficult. In addition, deciding where to divide the county would be a formidable exercise in growth projection. A boundary that included too much rural area would not solve the tax equity problem, a boundary that was too narrowly drawn could lead to a spillover of urban development into the "rural" county.

An alternative solution would be to create a single multi-purpose county service district for the urbanized area of the county. This district would have a separate tax base, provide the full range of urban level services from police to planning, and be governed by the county board of commissioners. Under this model, the county would maintain its existing boundaries and county government would focus on its traditional functions. The urbanized area, serviced by the multi-purpose district, would receive and be taxed for both the urban services and the traditional county services, while the rural part of the county would receive the traditional county services and be taxed only for these. This would alleviate the tax equity problem, would not require the partitioning of the county, and would give the county considerable control over development in its urbanized area.

The most difficult roadblock to creating a municipal county would be the necessity for existing cities to dissolve. However, this problem is also amenable to a more moderate solution. Instead of dissolving, existing cities in the county could gradually transfer their urban functions to the multi-purpose district. The transfer strategy would be much less problematic because it would allow cities to retain their identities and oversight functions, and it would preclude the necessity to vote on dissolution. There are also precedents for such transfer of functions in the
study area. Milwaukie parks and recreation services are now provided by a county service
district as are the sanitary services of other cities.

Either by accident or design, Clackamas County has taken some incremental steps in the
direction of what could become a municipal county along the lines of the multi-purpose county
service district model just described. It has created county service districts for enhanced police
services, for sanitary and surface water management, for street lighting, and for parks and
recreation.

While the boundaries of the service areas do not perfectly overlap, Clackamas County
service districts provide enhanced police, sanitary, street lighting, and parks services to nearly all
the unincorporated areas within the Metro UGB in Clackamas County. In addition they contract
with or directly provide sewage treatment services for the Cities of Milwaukie, Happy Valley,
West Linn, Oregon City, and Gladstone, as well as providing park services to Milwaukie. Add
to this the already existing services provided by the county in planning, transportation, and
regular police services and you have a good beginning for a municipal county.

The creation of a multi-purpose county service district for the urbanized area of
Clackamas County would have the advantage of building on an existing structure of county
service districts and of following the historical preference of citizens, especially in the
unincorporated areas of the county, for receiving urban services from service districts. A multi-
purpose district would offer a full complement of urban services to residents who now reside
outside of incorporated areas, and it would take a large step toward equalizing tax levies for city
residents and residents of unincorporated areas. In addition, the political difficulties sometimes
associated with city annexation would be eliminated, as would be the need to negotiate numerous
intergovernmental agreements. Instead, the multi-purpose county district could rationally plan
for future needs without the uncertainty of imperfect information about other local government
intentions.

On the other hand, the multi-purpose county service district would have substantial
operational disadvantages, especially compared to a city. A city has an unlimited scope of
power, whereas the power of a multi-purpose district are more narrowly defined. A city has
multiple sources for raising revenue beyond the property tax levies and user fees which, for the
most part, define the revenue range of a multi-purpose district. City revenue sources include
utility franchises, business, sales, income, and gas taxes. A city would also receive cigarette,
liquor, and gas tax transfer funds from the state, whereas a multi-purpose district would not. The
multi-purpose district would be controlled by a representative body, the County Commissioners,
that would be elected by the whole county not simply the electors in the district. This would
have the effect of giving influence over district concerns to those who are not directly affected by
its policies. Finally, a multi-purpose district would not provide the type of institutional focus and
identity that a city has for encouraging community oriented and nonprofit activities.

Implementation of the multi-purpose county service district would not occur without
considerable planning and cooperation. County service districts would be required to consolidate
into a single county service district. Also, existing special districts and cities would need to
approve a plan of transition to the new arrangement. As with a city-county consolidation, the
political and psychological resistance to the proposed changes would be substantial and
overcoming it would require an effort of considerable political skill. Whether Clackamas
County, the central political actor necessary to develop such a proposal, would be willing to lend
its support is questionable. On the one hand, the concept is consistent with the historical choices

92
made be the county to provide urban services to unincorporated areas, on the other hand, it is not consistent with new directions taken by the county to transition planning and development functions to city governments.

For those who favor some type of consolidation approach, the proposal to create a municipal county has some promise. However, a municipal county designed along the lines of a multi-purpose county service district would probably not be adequate in itself. A better solution, one which could help to overcome some of the deficiencies of not being a city, would be to craft new state legislation giving city-like status to a multi-service county district. The legislation might contain provisions for a specially elected council which could carry out the day to day operations of the “city-county district.” It might also contain a provision, such as that in the existing city-county consolidation statute, which gives the new entity the ability to be treated as a city in terms of state liquor, cigarette, and gas tax transfer funds. Such a provision could more than double the amount of transfer funds the local area receives and would provide a financial incentive to encourage voters to support the proposal. Such a design would create a unique middle range solution between a “one city” approach and a city-county consolidation.

The “city-county district” is not a perfect solution to consolidation, but because it builds on existing arrangements and preferences, it might face less resistance than other proposals. All of the cautionary notes described in the discussion of city-county consolidation relating to the type of commitment required to create such legislation would apply as well to “city-county district” legislation.

One City

The idea of creating one city which would encompass much or all of the urbanized area of north Clackamas County is one which is revived periodically by those in the area who support governmental consolidation and reform. The City of McLoughlin incorporation proposal remains the most serious attempt to make the vision of consolidated government a reality for the area.

For those who favor multi-purpose over single purpose governments, there is much to be said in favor of the approach of having one city provide urban services for all the area. Cities are the traditional providers of urban services and their institutional history and design makes them best suited for balancing the urban service needs, desires and costs to residents. Cities generally provide a fairer method for allocating scarce resources between popular services such as fire and police and less popular and harder to fund services such as library and planning services. In one large city, all residents would receive a relatively equal bundle of services and the problem of potential tax inequities between residents of incorporated and unincorporated areas would be eliminated. Cities are more financially nimble because they have a wider range of taxing and revenue sources. With one large city there are potential economies of scale and reduced costs of negotiations among multiple service providers. The existence of one large city would promote consistency in transportation and land development planning throughout the urbanized area. Having one set of elected officials would reduce the information needed for citizens to hold government accountable.

However, creating a single city must be ranked among the most difficult proposals to implement. Depending on the coverage of the area to be incorporated, between one and seven
cities would be required to relinquish their charters. For residents in unincorporated areas there would be little incentive in terms of additional urban services to entice them to favor the plan and their large numbers would probably be sufficient to defeat the proposal. It is unlikely that the argument for simplicity and equality in government would outweigh the perception of increased taxes or the risk of service disruptions in the transition to new providers. Clackamas County would be required to reverse its historical pattern of providing urban services to those in unincorporated areas and revert to a more traditional county government role. Complicated and detailed arrangements for transfer of assets and personnel would have to be negotiated with existing service districts. Finally, the one city proposal would have to overcome the legacy of the failure of a similar but more modest proposal in 1981, when the City of McLoughlin proposal was defeated by a significant margin.

One of the most serious impediments to creating a single city is the radical one-time change that would be required for its implementation. Everything would be required to fall into place at one point in time for the “one city” effort to succeed. As an alternative, a stepwise process could be developed which would allow for a gradual transition to one city. The stepwise process would build on a series of initial commitments by all participants, first, to the approximate final form of the “one city,” second, to the decisions to be reached at each decision point, and third, to a timetable for negotiation and decision. This process might be encouraged by interested parties such as LCDC who might financially sponsor the project, or by the special state legislation which would create a gradually increasing stream of state transfer funds as each of the transitional decisions is accomplished.

New Cities

All the evidence points to increasingly rapid growth in the Damascus area especially if the Metro UGB is eventually expanded and if the Sunrise Corridor and the Damascus interchange become a reality. This trend and other factors have led to discussions about the possible incorporation of a City of Damascus. Another candidate for possible incorporation is Oak Lodge. The overlapping of Oak Lodge service districts creates a defacto city. If residents expressed an interest, the next logical step might be to create a city of Oak Lodge.

In both cases, however, incorporation is an unlikely prospect. State statutes give existing cities the power to veto incorporations of new cities within three miles of existing cities’ boundaries. For Oak Lodge to incorporate, Milwaukie, Gladstone, Johnson City, and perhaps other cities, would need to approve. Rejection by any one of these cities would prevent incorporation. Milwaukie in particular would not favor the incorporation. Its recently completed “Vision Statement” clearly states Milwaukie’s preference for “a unified system of governance for the northwest urban area of Clackamas County” and that it will “support the operation of existing service districts until such time as an area is annexed.”

In the case of Damascus, both Gresham and Happy Valley would need to approve an incorporation proposal. While it is impossible to know the sentiment of local jurisdictions, the aggressiveness of Gresham in matters of annexation would indicate that they would be less inclined to view a new incorporation favorably. The possible objection of Happy Valley increases the difficulty of an incorporation plan.

94
While the separate incorporation of Damascus is one possibility, consolidation of Happy Valley and the unincorporated area of Damascus is also being considered. While this would seem a better prospect because consolidation would not require approval of neighboring jurisdictions, such a consolidation of an existing city with surrounding unincorporated areas is no longer possible. In a ruling related to the Columbia Ridge consolidation proposal, the courts found that consolidation must included at least two existing cities.

A third alternative would be to incorporate an entirely new city to encompass Happy Valley, Damascus and surrounding areas. While the incorporation of a new city would require a simultaneous vote in Happy Valley to relinquish its charter, the idea is not without merit. Happy Valley city government is not a heavily entrenched or visibly threatening to residents in surrounding unincorporated areas; it contracts most of its urban services and has only eight full time employees. No other cities in the area would be required to dissolve or merge for the new incorporation to take place.

It is conceivable that the area for the newly incorporated city could also include unincorporated areas west to I-205, south to the Clackamas River, and north to the Clackamas - Multnomah County boundary. Such an expanded city would be aligned with the most preferred governance scenario developed in Phase I of the Clackamas County Urban Services Project. If successful, it would also create a city government with sufficient personnel and resources to accept the urban planning, zoning, and development functions which Clackamas County has decided it would like to transition to cities in the urbanized area.

With careful planning, educational development, and sensitivity to local concerns, it is possible that residents in Happy Valley, Damascus and the other unincorporated areas could realize that preservation of rural character might be better attained if a city existed to guide development and coordinate the other service needs of the community. To allay fears of new tax burdens and urban encroachments, a charter might be crafted which would specifically define the type of city roles, responsibilities, and limitations its potential citizens desired. Potential threats to service district territory and fears by residents that the new city would be immediately burdened by new service responsibilities could be alleviated by concluding service agreements prior to incorporation and appending them in some legally acceptable way to the Charter vote.

A new incorporation, while tenable, would not be accomplished without considerable negotiation and political leadership. It would require that residents in Happy Valley and the surrounding unincorporated areas agree that their interests are best served by a new larger city. Such an expectation may not be consistent with the history of the area. Also, prior approval for the Charter petition would be required from the Cities of Portland, Gresham and Milwaukie and perhaps other cities. It is difficult to know what interests any of these cities might have in the area. It is conceivable that they would prefer a single larger city to the status quo, or to two smaller cities. Milwaukie’s stated preference for unified governance in the area and the likelihood that its planning interests would not extend east of I-205 would suggest that Milwaukie would not object. The Multnomah - Clackamas County boundary creates a natural jurisdictional boundary for the Cities of Portland and Gresham which has been transgressed only minimally by Portland.

Incorporating a new city to include the Damascus area is also dependent on decisions by Metro to designate the area as an Urban Reserve Area (presently it is part of the Urban Reserve Study Area) and then to expand the UGB to include the Damascus area. These decisions are
months or perhaps years away. Without the decision to include Damascus in an expanded UGB, the chartering of a new city to include area outside the UGB would violate state land use laws.

The chartering of a new large city inclusive of the City of Happy Valley, Damascus and other unincorporated areas, would face many hurdles. However, it is encouraging that the discussion of alternatives is taking place in the area. While residents in the area may have a history of preferring the status quo, this may not be possible in light of the type of growth and development that the area will continue to experience. At some point, area residents may see that chartering a new city is the best means of preserving rural character. While much will depend on the decisions of others including Metro, Clackamas county is already on record as preferring that unincorporated urbanized areas be incorporated into a city. In addition, the Clackamas County Urban Services Project has envisioned a new large city as a preferred alternative for the area. On balance, perhaps the chartering of a new city in the Happy Valley - Damascus area should be given serious consideration.

Multiple Larger Cities

The preferred governance scenario developed in Phase I of the Clackamas County Urban Services Project calls for the creation of three large cities east of the Willamette. One method of at least partially attaining that vision is for Milwaukie, Oregon City, and Happy Valley to undertake deliberate assertive annexation programs. To do so, however, with be a significant break with past patterns. Traditionally, gains by annexation in Clackamas County have been slow, incremental, and marginal. Recently, however, two new tools for annexation have become available which may help overcome some of the disincentives for cities to actively pursue annexation programs.

Delayed Annexation: With the change in state annexation statutes in 1991, the way is now clear for cities to overcome one stumbling block to an active annexation program. The tax base problem related to “annexation before development” may now be sidestepped by skillful use of delayed annexation. Under a program of delayed annexation, agreements may be concluded with property owners before land is developed which permit the phased annexation of land after it is developed. The use of the delayed annexation method is probably most appropriate for sparsely populated unincorporated areas on the urban fringe that are targeted for development.

ORS 195 Annexation Plan: A primary goal of the Clackamas County Urban Services Project is the concluding of urban services agreements among local governments in the study area. It is assumed that these agreements will have been reached with an appreciation of their connection to the annexation goals of cities and that the signed urban service agreements will have statements which confirm that they may be relied on for the ORS 195 annexation plan method. If the agreements contain the required language, then the groundwork will have been laid for interested cities to develop annexation plans which outline their long term intentions to bring unincorporated areas within their boundaries.

The annexation plan is the most comprehensive method for cities to proceed with an annexation program. The statutory requirements of the annexation plan include: descriptions of
the territory to be annexed, a schedule for the annexations and for the city’s provision of services, a statement of impacts on existing service providers, and a statement of long term benefits. Although not required by statute, the development of an annexation plan presumes that the city will have undertaken a comprehensive study of urbanization trends and will have identified what role annexation will play in the city’s long term development.

Having laid this groundwork and prepared the appropriate documents, the city places the annexation plan before the voters of the city and the territories to be annexed where it must secure majority approval of their combined votes.

The annexation plan method provides a new tool for cities to expand their boundaries, and it may be the appropriate time for cities in the study area to consider its use. The Cities of Gladstone, Happy Valley, and Milwaukie have, in place, an intergovernmental agreement which settles the boundaries of their extraterritorial interest areas. Similarly, the City of Oregon City’s planning interest areas are uncontested by other cities. Also, Clackamas County, in its business plan, has concluded that it should transition its planning and development authority to cities. In essence, this signals cities to assume responsibility for extraterritorial development policy and to consider annexation as a means to exert this planning control.

The viability of the annexation plan method might also be enhanced by the manner in which the vote of approval is taken. By combining the votes of city residents with those of residents in the territory to be annexed, there is a considerable shift toward city resident preferences in determining the outcome of the vote. This is especially true if the territory to be annexed is undeveloped or sparsely developed.

If cities do commit to developing an annexation plan, they would be well-served to learn from the City of Springfield’s initial attempt to develop an annexation plan. Those who analyzed the results of that attempt concluded that the development of a plan should take place over an extended period, that public officials and staff should share a common purpose in developing and promoting the plan, and that a dynamic public education program should be undertaken.

Comments: All annexation methods face a common problem in the urbanized areas of Clackamas County - resistance by those in the unincorporated areas. Evidence from the case studies indicates that, regardless of annexation method, city officials are reluctant to proceed with annexation against the wishes of those in the affected territories. The evidence also suggests that those in the unincorporated territories will not desire annexation unless it will result in the provision of at least one critical urban service. In Clackamas County, the unincorporated areas do not, for the most part, lack quality urban services, and these services include enhanced police services provided by a county service district.

Taken as a whole, there is little incentive for those in unincorporated areas of urbanized Clackamas County to desire annexation, especially if they perceive that annexation will result in higher taxes and in the loss of a service provider that has historically given high quality service at reasonable cost.

The historical rates of annexation in Clackamas County bear out the impact of this intuitive calculus. Between 1980-1990, cities in the urbanized areas of Clackamas County, on average, added only 2.1% to their populations through annexation. This was less than the statewide average and considerably less than the 25% in Multnomah County where urban services are not provided to those outside of city boundaries.
Added to the problems of resistance to annexation by residents in unincorporated areas, should be the difficulties that annexation poses for the county and special districts that might be providing services to the territories to be annexed. Annexation would be sure to create difficult transition problems for service providers, and it would require great sensitivity and considerable negotiation for the annexation to proceed without tension.

Would the ORS 195 annexation plan method produce better results than traditional methods of annexation? It is possible that it would because it provides a way of mitigating the tension with service districts by linking the urban service agreement process to the annexation plan method. Also, it weights the annexation plan approval vote toward the preferences of city residents who presumably will favor annexation.

However, the overall effectiveness of the annexation plan method is untested. The annexation case studies provide evidence that the city resident approval of an annexation plan could depend on what areas are included in the proposal. There are also indications that city residents may find annexation of those who do not wish to be annexed as problematic as do public officials.

There is the additional problem of numbers. If the annexation plan included a program to annex a large unincorporated territory in the urbanized area of Clackamas County, it is possible that this territory could include nearly as many residents as the city itself. If the unincorporated areas voted heavily against and the city vote was mixed, the annexation plan would probably not be approved.

Under these circumstances, creating an annexation plan that would be inclusive enough to accomplish a city’s objectives but would be limited enough to garner majority support would be a considerable exercise in strategic politics. If done well, it might win approval, but if it involved overly clever maneuvering, this would soon become transparent to voters and could help mobilize resistance.

The annexation plan method does not seem well designed for the development patterns of urbanized Clackamas County. It would seem more suited to a city which was experiencing growth, but had an urban fringe which was substantially undeveloped. In addition this city should be located in a county which did not permit the provision of urban services outside of city limits. In such a case, the city could design an annexation plan which would include a strategy for delayed annexation. This would allow the city to stage the annexation to occur after the development takes place.

Having said all this regarding the disincentives for the annexation in general and the annexation plan method specifically, several caveats should be added. First, in regard to the use of newer annexation techniques, the difficulty of developing an annexation plan, especially for an area like Happy Valley - Damascus, is no greater than using incorporation or consolidation methods and in fact may be considerably easier. An annexation plan would not require the approval of other cities, it would require no change in Oregon statutes, it would not require arduous charter development, and approval would be achieved by a combined majority of all voters rather than separate majorities in the city and the unincorporated areas. For Happy Valley, the annexation plan method would have the additional value of being able to be phased in for the Damascus area when and if it was included within the UGB.

Second, cities who wish to expand should not neglect the traditional methods of annexation available to them. Other cities in the region have developed aggressive annexation programs using only these methods. Traditional annexation methods may be accomplished
without the development of a comprehensive plan and without reliance on urban service agreements. Of all methods available to cities for expanding their boundaries, cities have the most field experience with traditional annexation methods.

Finally, cities may have reason to reconsider the relevance of historical attitudes toward annexation in the study area. The region is undergoing rapid transformation and many areas in Clackamas County have seen an influx of new residents who possibly hold a different set attitudes toward annexation and the provision of services than previous residents. A desire for the comprehensive planning and regulatory authority of cities may be an especially powerful incentive for residents who are experiencing the rapid and seemingly unstoppable growth of the area. Cities who undertake annexation activities would be wise to stress the advantages of city planning and regulation especially if Clackamas County is publicly assertive in transitioning away from providing planning and development services for the area.

Regional Coordinating Council

The benefits to be derived from any of the major consolidation efforts, are not unquestioned. Those who favor continuation of the existing arrangement of having a variety of city and special district service providers would argue that there is little evidence that large cities produce services more efficiently and at less cost. They would argue that individual districts are more focused on providing exactly the quality and type of service desired by the service customer. They would suggest that residents in cities and unincorporated areas are receiving a good mix of urban services and that the flexibility and diversity of smaller providers has best served the interests of area residents. Finally, those who favor the gradualist approach to regional coordination would argue that coordination of services will occur on a need basis.

What follows is a modest proposal for regional coordination that is consistent with a gradualist approach. It requires no local governments to dissolve, merge, consolidate or annex. It continues the work accomplished during Phase I and II of the Clackamas County Urban Services Project and provides a vehicle for enhancing intergovernmental cooperation.

At the center of this proposal is the creation of a regional coordinating council comprised of local governments in the urbanized area of north Clackamas County. The council could take the form of an ORS 190 entity and could be invested with powers as participants see fit. The ORS 190 entity would be flexible and gradualist, and would provide an institutional shell which local governments could fill with the regional functions that are not being serviced elsewhere. It would also be able to seek funding from LCDC and other state agencies who might be interested in supporting such an experiment.

The charge of the new entity would be to continue the ORS 195 process by creating a forum for discussion and coordination of area-wide issues. As a tentative design, five workgroups could be established:
Citizen Access: Those who favor fewer larger governments make a persuasive argument that organizational simplicity improves a citizens ability to understand and access their local government. But institutional centralization is only one mechanism for improving access. One alternative is to create a highly visible electronic entrance point to governmental services providers by installing a 511 service number.

511 is a new service being considered for development by US West. Its development has been stimulated by misuse of 911 for an increasing number of non-emergency calls. While types of calls vary, many of non-emergency calls relate to situations such as dogs barking, leaking water mains, power outages and other governmental or private utility problems. To divert the inappropriate calls, US West is proposing a 511 non-emergency number. The 511 system would work much like 911 by trunking calls to the appropriate local government service provider or private utility.

The 511 service is an available technology looking for users who would be willing to participate in its development. It is an appealing concept for simplifying public access to government and to private utilities services. For residents who are not sure whether the barking dog should be reported to the local police or the county sheriff, or who wonder where to go for a plat of their property, the 511 number could provide a simple an understandable access point to public services provided by local governments and private utilities.

The advantage of 511 is that it increases citizen access and should help mitigate complaints of government complexity. Initial funding for the program might come from grants from telecommunications companies, LCDC, and the Oregon Department of Transportation. If the service proves useful and politically popular, long term funding could come from a telephone tax similar to that which partially funds the 911 service.

Economic Development: Currently economic development activity in the urbanized area of Clackamas County is the product of piecemeal efforts by downtown development commissions, riverfront planning agencies, corridor committees, and numerous Chambers of Commerce. There is no institutional location in which the efforts of all these groups can be organized for coherent action. This is one possible explanation for why the share of commercial and industrial construction in Clackamas County has decreased relative to the share in Multnomah and Washington Counties. While growth is obviously occurring in the urbanized area of Clackamas County, this area has not attracted the types of high tech development seen in other parts of the region.

A workgroup on economic development might stimulate the creation of an area-wide strategic investment plan, pool sufficient resources to fund professional support, and increase local influence on Metro’s planning process.
Procedural Simplification: A workgroup on procedural simplification might consider developing:

- a common set of planning and transportation maps and systems,
- uniform planning, building code, and zoning standards,
- a single access point for developers and a single set of building permits,
- uniform terminology for the names of departments and services,
- a uniform set of job application forms, personnel files, and standards,
- a common set of budgeting and accounting tools.

The procedural simplification workgroup might also examine the economic advantages of consolidating some functions carried out by all local governments. For example, payroll and billing for all jurisdictions might be most efficiently handled by a single provider, either in-house or private contract. A regional coordinating council might be able to negotiate a better health care package than individual local governments. Other areas of coordination might be local government investments and legal council. If area-wide standards are developed for planning, code inspection, zoning, and subdivision regulation, and a common set of building permits evolve, it might be reasonable to consolidate planning functions for all local governments at a single location. That location could either be real or virtual.

Common Resources: The common resources workgroup might develop a single repository for resources used by local government officials and citizens. Maps, codes, consultant reports, local government newsletters, historical documents, minutes of governing councils, and videotapes of hearings might all be assembled at the central repository. To avoid duplication, this information might be archived in a special section of a regional library. The common resources workgroup might cooperate with the citizen access workgroup to create local government kiosks in regional libraries. These kiosks could take the form of hard copy information, dedicated electronic terminals, or internet websites maintained by library staff.

Monitoring and Coordination: This workgroup would be responsible for coordinating and perhaps prioritizing area-wide studies on local government coordination and urban service provision. It would bring together expertise for developing grant applications and identifying sources of private and public sector funding. This workgroup would also consider sources of tax revenues if the functions of the coordinating council prove to be of sufficient value that citizens approve a formal coordinating body that requires funding.

The most important role of this workgroup would be to monitor the progress of ORS 195 coordination agreements and urban service agreements. It might serve as a source of expertise for facilitating consolidations, mergers, intergovernmental agreements and ORS 195 annexation plans.

Comments: One important advantage of creating a regional coordinating council is that it provides a process for consolidating local government functions rather than local government units. Functions may be consolidated with much less legal and public duress than whole units of government. Consolidation by function is also consistent with the patterns emerging in the
technical subcommittees of the Clackamas County Urban Services Project. These subcommittees have begun the process of identifying which services are best delivered by each type and level of local government. Consolidation of whole units of government would discourage this sort of flexible disaggregation of functions and would not permit consolidation to evolve incrementally as situations, such as the need for technological updating, make it viable. Finally, the regional coordinating council continues the ORS 195 process. The legislation is clear in its desire to encourage continuing oversight and review of the agreement process.

There are disadvantages inherent in the creation of a regional coordinating council. Rather than simplifying government, the coordinating council might create more complexity. This would be especially true, if the council did not provide some central point for citizen access such as the 511 service.

An ORS 190 entity, whose role and powers may not be clearly defined, could lack authority, permanence, and independence. It could become a convenient vehicle for avoiding difficult decisions and a useful scapegoat to blame for the failure of consolidation efforts.

Although the organization described in this proposal would be unique, the concept of a council of governments is certainly not new. Councils of government have been tried in most states with varied results. Success requires professionalism and leadership, the capacity to fill a void for local governments, sensitivity to local concerns, and cooperation and commitment from participating governments. Creating a successful regional coordinating council would require close attention to these and other factors.

Some would argue that a regional coordinating council is a duplication of Metro. This is a difficult argument to discount. However, the urbanized area of Clackamas County has a unique history and identity, yet it does not have an area-wide organization to articulate its particular interests. A Clackamas regional council speaking with a single voice might be given more of a hearing in Metro proceedings than the uncoordinated voices of smaller local governments.

Mixed Options

The variety of combinations of consolidations, incorporations, mergers and annexations is considerable, and I will mention only a few of the more obvious. Incremental regionalization of existing service providers is the most obvious. In combination with this, cities might continue to explore transferring functions to regional service providers as the City of Milwaukie has with their park and recreation services. Cities may want to test the waters with limited annexation plans that seem most consistent with transition plans laid out in the urban service agreements. These moderate approaches may also accompany one bold operation such as a Happy Valley - Damascus consolidation.

Other Recommendations

As a part of this project, I was asked to consider how state legislation might be changed to enhance the viability of one or more of the alternatives. For the city-county and municipal county alternatives, I have done this by sketching some of the very basic statutory changes that would be necessary to make some form of city-county or municipal county possible. In the
following paragraphs, I discuss changes that might be relevant if ORS 195 is reconsidered. Since no city has yet approved an ORS 195 annexation plan, the suggestions are tentative. They should be weighed against the concrete experiences of local governments as more of them work through the process of concluding urban services agreements and more of them choose to develop ORS 195 annexation plans.

If ORS 195 is revised there are several changes I would suggest. Cities who intend to use the optional annexation plan method should be required to develop their annexation plan as a part of the urban services agreement process. As it stands, the option to use the annexation plan method may be exercised at any time after the conclusion of the urban services agreements. This is a problematic for those concluding the agreements, especially special districts, because it does not give them and opportunity to include in their decision calculus a detailed picture of city annexation intentions. For special districts who are asked to state in the urban service agreements that the agreement may be relied on for the annexation plan method, this is could be a point of tension and resistance. The intention of the legislation is to create a process of thoughtful cooperation. Linking the annexation plan method more closely to the agreements process would seem to enhance the transparency of everyone’s intentions.

If ORS 195 is revised, the legislation should require that local governments who intend to use the annexation plan method develop a single comprehensive annexation plan. Also, the time frame for implementing the annexation plan should be set to coincide with the time frame of the urban services agreements. This would prevent the use of serial annexation plans to create winnable majorities. No time frame for the annexation plan method is written into the current statute and the use of serial annexation plans is not specifically excluded. While most cities would wisely refrain from such political maneuvering, the possibility is there.

Finally, there is a potential for the annexation plan method to be used by city residents to exclude certain types of developments such as multifamily units, manufactured homes, and low income housing. This has the potential to make cities into gated communities of homogenous residents. Non-exclusionary language should be included if the statute is revised.

Conclusion

While some alternatives presented in this White Paper seem better than others, no one solution seems optimal for all. A decision to pursue any one of the alternatives is a decision to make difficult political choices. This, however, moves the process to the appropriate forum, for it is the function of the political process to find solutions to seemingly intractable problems where interests and values conflict.

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1 ORS 199.705.
5 See “Columbia Ridge Consolidation” in the “Case Studies of Annexation - Incorporation” section of this paper.
6 City of Milwaukee, 1996, p. 6CG-2,3.
7 I have not included Gladstone in the Multiple Larger Cities scenario because it was not consistent with the preferred governance scenario developed in Phase I of the Clackamas County Urban Services Project. Realistically,
however, the Multiple Larger Cities scenario would include an expansion of Gladstone probably to the boundaries established by the "Intergovernmental Cooperative Agreement," cited in footnote 8.

8 ""Intergovernmental Cooperative Agreement" concluded by the cities of Gladstone (Resolution 612, Jan. 12, 1988), Happy Valley (Resolution 88-6, May 2, 1987) and Milwaukie(motion by city council Jan. 5, 1988).

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