



Oregon Communities For A Voice In Annexations

Promoting & Protecting Citizen Involvement in Land Use Issues

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Dear OCVA Members & Friends:

From The Secretary: It's been a while since we put out a printed newsletter. We've gotten into the habit of conducting all our communications and updates by email – it's a lot easier and a lot cheaper. However, we recognize that not all our members have email and the officers thought it would be appropriate to put out a written update. In the future though, we will be relying more and more on email. The main advantage is that it's a lot faster. As many of you know, we used this tool effectively during the 2003 Legislative session (more on that later).

So the first thing we're going to ask you to do is make sure we have your current email address. Please do this at your earliest convenience by sending your email information to treasurer@ocva.org. Brian's message at the end of the newsletter will explain our move to electronic newsletter distribution for those who have Internet access. This will allow us to trim mailing costs. **If you don't have email, please review the enclosed membership form and send us any changes ASAP.** Now on to some updates:

THE 2003 LEGISLATURE: the longest session in state history ended with the budget in crisis and a band-aid plan to fix it that was badly out of touch with the voters, as we saw on Feb. 3. While the budget dominated the session, there were other key issues of significance to us that came up. As you know, for each legislative session, the Board develops a list of legislative priorities on which we focus during the session. On the 3 issues where we devoted the most effort, we had one win, one loss and one tie.

PRESERVATION OF VOTER ANNEXATION: Always priority one for us since the '97 session. But unlike that one and every session since, the builders, the realtors and the League of Oregon Cities didn't take us on this time. We devoted much effort to educating all incoming legislators about the issue prior to the start of the session. What began as a high priority issue for development interests in 1997, when one lobbyist vowed to "kick them (VA initiatives) in the head," didn't even surface this time. So we accomplished our prime directive by default. Were the lobbyists tired of losing repeatedly in the Legislature, in the courts and at the ballot box when they tried to stop voter annexation? Did they and/or the Legislature finally get the message?

We'll probably never know. **AND IN NO WAY SHOULD WE ASSUME THEY WON'T COME AFTER US AGAIN.** But for now, this is another great victory for us. And make no mistake: WE as an organization are responsible for it. Powerful lobbies are constantly trying to limit citizen involvement in the public process. They wield enormous clout in Salem, which is a scathing indictment of the legislative process, but it is an unfortunate fact of life. We've been in the trenches against this bunch for nearly a decade and know the drill. The principles we stand for are anathema to them and they have fought us tooth and nail on every one of our issues. So it's always great to win "the big one" – **and you can all be very proud of that accomplishment!**

Unfortunately, it didn't go so well for SDC reform.

SDC REFORM - STILL NO SUCCESS: Nearly a dozen bills relating to System Development Charges were introduced in the 2003 session. Of these, SB-511, introduced by Senator Charles Starr (R., Hillsboro) contained the language closest to what we were seeking. We sought the ability of cities to charge SDCs for schools, fire and police protection and libraries, which development interests have so far prevented. However, we were not able to get this bill, nor any of the others favorable to our cause enough support to advance very far through the process. The usual culprits were behind the effort to make sure “status quo” on SDCs was maintained. Some legislation was actually introduced to further limit SDCs (e.g., the OBIA’s HB-2934 & 2983). Both these fortunately died in committee.

Despite efforts by OCVA’s **Richard Reid, Jim Thompson, David Dodds** and others, SB-511 never got out of the Revenue Committee, chaired by our old nemesis, Senator Ryan Deckert. You’ll recall that Deckert, when he was a representative two sessions ago, carried the development interests’ banner against us with his HB-3389 to outlaw voter annexation. We made life pretty miserable for him in our ultimate defeat of that effort. There might have been a little payback with SB-511. The bottom line is that we did not succeed in our SDC reform effort.

Meanwhile, local budgets statewide are sinking deeper in the hole. A major reason is that communities are growing and that growth is not paying for itself. **Redmond** is a classic example. Growing faster than most of Oregon’s cities, it is in a serious budgetary bind and desperately needs new schools. Voters are wise to the fact that rampant growth in Redmond is not paying its way and is being subsidized by the taxpayers. This is at least partly due to the efforts of OCVA’s **Bill Boddin** and others who have been tirelessly spreading the message about the true cost of growth and SDC reform. City officials have shown no interest in joining the SDC reform effort. These are two of the reasons why Redmond voters have hammered past bond measures.

But the city plans to put another school bond, this one for \$36.6 million, before the voters in March. They say it will buy 1400 new school seats (that’s \$26,000 each). The city is also contemplating annexing its UGB via ORS-195. But as we’ve shown in other similar situations, UGB annexation can cost a city more than it brings in with additional tax revenue. It should be clear by now that the voters are NOT prone to bailing out city budgets through more bonding. **Something’s got to give.** We say that “something” is that growth must start paying its own way. To us, that means substantial SDC reform, which will certainly be revisited in the 2005 session.

And speaking of SDC reform....our own **David Dodds** (Mr. Mayor of West Linn) recently appeared as a guest speaker before the Eugene City Club. He was up against Roxie Cuellar, spokesperson for the Lane County Homebuilders’ Association. The topic was SDCs. David did a great job articulating the case for SDC reform. The builders, of course, want no part of it. Thanks David – keep spreading the message!

ORS-195 – THE FIGHT CONTINUES: Since we weren’t facing another do-or-die fight to preserve voter annexation, we put major effort into clarifying the voting provision of Oregon’s “Urban Service Provider Annexation” law. We’ve discussed it enough in the past to where a lengthy explanation is not necessary. In short, OCVA has always maintained that the existing language can be interpreted as meaning a fair “double majority” vote or a grossly unfair “combined vote” to approve an ORS-195 annexation. **The League of Oregon Cities** and most of its members insist that only the latter is correct. We saw what happened in Bend when that interpretation was forced on the populace: an unwanted “shotgun wedding” of Bend and its UGB.

Once again, we got Bend area **Reps. Ben Westlund and Tim Knopp** to carry the torch, this time with HB-3211. The bill clarified that the intent of the language is a “double majority” vote. But the League supported HB-3530 to force the “combined vote” interpretation. The fact that there were two diametrically-opposed bills which both made it past Legislative Counsel was acknowledgement that two interpretations ARE possible, just as we’ve said.

We killed 3530 in committee, and got 3211 out of committee with a 5-1 “do pass” recommendation. During the latter testimony, the opponents insisted that passage of this bill would result in massive “urban blight” and other horrors. The League lobbyist asserted that all League member cities opposed the bill. This was untrue and we had letters to prove it. Their testimony didn’t sit well with the committee members. After the overwhelming approval of our position, the committee chairman privately expressed disgust at “all the bureaucrats” lined up against us. It was a very gratifying moment....but then the political machine swung into action, as it almost always does.

ORS-195, Continued: When the bill got to the House floor two unfortunate things happened. First, Westlund and Knopp bailed on us. It became clear that they introduced the bill to placate their angry Bend UGB constituents, but expected it to go nowhere. When it looked like it might fly, they abandoned us at the critical point where the bill emerged so strongly from committee, and neither would respond to our repeated requests for an explanation. Second, the bill never got a floor vote. It was remanded back to committee where Speaker Karen Minnis kept it bottled up till session's end. We have never been able to get a straight answer from anyone as to whom the culprits were – but we have little trouble guessing.

There were two results of all this maneuvering. First, the League and the OBIA did not get their way: the language of the ORS-195 voting provision remains unchanged. Of course, we didn't get our way either – but far better to have both bills fail than to have 3530 pass. Second, and more important, there was now acknowledgement that two different interpretations ARE possible. This would soon prove beneficial, as we'll later see in the Klamath Falls case. Special thanks for their help on this effort goes to **The River Road/Santa Clara Property Owners' Association**, our Eugene UGB affiliate. This fight for fundamental fairness is NOT over! We convinced two bipartisan House Committees of the fairness issue, and in time, we'll convince a majority in the Legislature. **Rep. Bill Garrard** (R., Klamath Falls) offered to sponsor a retry in 2005, and we have asked him to get started.

In conclusion, it was a long session for all of us. It was a session which showed how out of touch with the electorate the Legislature has grown. A serious lack of trust has developed. We are hopeful that the members of the 2005 session will recognize this. If they do, it bodes well for our causes. **Thanks to all of you for your excellent support in these battles!** You kept us going and your continuing support has paid significant dividends.

ELSEWHERE AROUND THE STATE

LEBANON VOTER ANNEXATION: We discussed the background in the last newsletter. The initiative was defeated in the May 2003 election by a substantial margin. It was only the second local voter annexation initiative we've lost. The mayor and his allies brought out all the big guns, assuring residents that passage of the measure would lead to loss of jobs, economic stagnation and other unsubstantiated claims. And so development can now have its way in Lebanon. But the voters, not the city leaders got to make that decision, and in that we can take some comfort. Special thanks to **Jim & Irina Just, Sharon Konopa** and **Warren Troy** for their efforts and help.

TURNER RECALL: Here it appeared to be a classic case of sour grapes by the former “powers that be” who were defeated in November 2002 by OCVA's **Jim Thompson** (mayor) and several new city councilors. Unhappy with decisions that were being made by the new “smart growth” city leaders, the defeated parties launched a recall effort in late June of last year. They got enough signatures to force a recall election – but happily, the effort was shot down in flames by Turner voters last September. **We congratulate Jim for the confidence he and his allies on the council have obviously earned from Turner voters!** See Jim's report on p.5 for additional details.

KLAMATH FALLS UGB ANNEXATION: Here's where our efforts at ORS-195 reform have apparently paid off. The city of Klamath Falls is considering annexing a big chunk of its UGB. However, the Klamath County Commission, bless their hearts, has insisted that any such annexation be approved by a **double majority vote**. City leaders aren't real happy about this, and it is unclear at this writing if or when they will proceed with the effort. But this is excellent news, and hopefully sets a precedent. It will now be difficult for any city to insist that the “combined vote” is the only option.

McMINNVILLE – DEVELOPER SUES CITY: As is the case in most of our member communities, McMinnville voters approve nearly all annexation proposals put before them. But there has been one particularly large proposal that has come before the voters 4 times and been defeated each time. The people simply do not feel the 219 acre development proposal is a good fit for the community and will end up costing the taxpayers too much. So now, the developer has filed a \$60 million lawsuit against the city. Since Oregon's highest courts have repeatedly upheld the right of voters to approve – or deny – annexations, and since Measure 7 was declared unconstitutional, we're not sure what grounds the developer has to stand on. We'll obviously be watching this situation closely and will keep you posted.

CANBY- TIME TO PUT ON THE BRAKES? In one of our early member communities, Canby voters shut the door on 5 annexation proposals in November. *The Oregonian* opined this signaled that “*it may be time to put the brakes on residential development*” in Canby. We don’t think there have ever in the past been this many annexation proposals turned down in one election in any of our communities. Sounds to us like a message!

SALEM voters also turned down two large annexation proposals, after having approved 20 straight annexations since giving themselves the right to vote on these matters in 2000. **This prompted a renewed threat by business groups to come after us again in the 2005 Legislature.** And the Salem Chamber of Commerce is reportedly working to make annexation proposals include less information about development plans. Given that annexation proposals are just recently starting to fail at an increased rate in some of our member communities, we definitely expect to see another challenge by development interests. **IT’S NOT TOO EARLY TO BEGIN TALKING TO YOUR ELECTED REPRESENTATIVES AND PROSPECTIVE ELECTED REPRESENTATIVES ABOUT THIS.** The fact that we’ve beaten our opponents repeatedly must not inspire complacency! As we have always reminded you, WE have to win every time. THEY have to win only once.

HOOD RIVER: The city council denied a Wal-Mart proposal for a “superstore.” Similar Wal-Mart battles are going on around the state, including in LaGrande, Central Point and Hillsboro. Wal-Mart also lost the latter battle. Wal-Mart has had a lot of bad press lately for its employment of illegal aliens, “locking in” its workers on the night shift, allegations of forced unpaid overtime and other issues. It was the main driver of Lebanon’s VA initiative. The big issue for communities is the cost Wal-Mart inflicts on them in shuttered local businesses and infrastructure. Unfortunately, millions of Americans shop at Wal-Mart. Not THIS American: not now & not ever!

ANNEXATION ATTEMPTS: a number of ORS-195 annexation attempts are in various stages of development around the state. These involve Beaverton, Tualatin, LaGrande, Redmond and others. In each case, we have been approached by citizens’ groups trying to respond. We have provided them all with copies of our summary of the law and recommendations on how to respond (“our “*Hostile Takeover*” package). Unfortunately, all except Klamath Falls are intending to use the “combined vote” interpretation if they proceed. This should swell the ranks of angry people who will be willing to assist us in our efforts to amend the law!

MADRAS: OCVA’s **Mike Sheehan** is currently arguing a case before LUBA where plaintiffs, whom he represents, are challenging the city’s plan to nearly double its size through an annexation proposal. Initially, the city offered special incentives to some wealthy property owners to annex, which it did not offer to others. There are a number of constitutionality and other questions that have been raised, and this could be a really pivotal case. We’ll be following it closely. The LUBA docket # is 2003-170.

DLCD CHANGES: Many of you have probably read about the Governor’s intention to “Put the “D” back into DLCD.” Gov. Kulongoski and others continue to put forth the argument that growth is the way out of the state’s budgetary woes. We believe that argument has more holes in it than Clyde Barrow’s Ford and that, to a large degree, growth is what got us INTO this mess. In any event, there have been some new appointees to the LCDC, presumably more “D”- oriented. Former Representative **Lane Shetterly**, with whom we’ve been able to work in the past, will now head the agency. I’ve testified before Lane’s committees in the House and found him to be open-minded. But the really good news is that our own **Pat Zimmerman** joins **Jack Johnson** on the DLCD Citizen Involvement Advisory Committee. And Jack advises us that **Ian Maitland**, appointed to the “at large” position, is a good LCDC contact for us. Jack and Ian have worked together on land use issues in the past.

SPRINGFIELD UGB - 10 YEAR ANNIVERSARY of “THE FIGHT:” It hardly seems possible, but it was 10 years ago that the City of Springfield (primarily certain city staff) and the Lane Council of Governments (LCOG) sprang their Springfield Comprehensive Urbanization Study and Annexation Plan (**SCUSA Plan**) on unsuspecting UGB residents. The plan had actually been cooked up two years earlier (1992) with virtually no public knowledge. In 1993, city officials flatly denied that an annexation plan existed – and denied it again in 1994 after UGB residents had received a letter from the mayor “inviting” them to join the city. To make a long story short, massive public opposition resulted in an ugly fight. A wise and responsive City Council eventually shelved the plan. The Springfield UGB group called “Neighbors United Against Annexation” led the fight against the plan. **This group went on to become among the co-founders of OCVA and is now our “Springfield UGB Chapter.”**

OCVA IN THE UK?: We've been getting a number of emails from the United Kingdom on topics that have no relationship to anything we're doing. The mystery was recently solved when Mr. Neil Smith of the **Oxfordshire Council for Voluntary Action** in Oxford, across the pond, responded to our inquiry about the meaning of the messages. It seems that when emailers forget to attach a *.uk* to the end of their email address it ends up coming to us. Now that some of the British know about us, maybe we'll get to start a chapter there! "**OCVA – Oxford Chapter:**" Has a nice ring to it, don't you think? God Save The Queen!

MESSAGE FROM ACTING CHAIRMAN JIM THOMPSON: It's been a long time since we've mailed a newsletter and so we're taking this opportunity to update you on a number of matters. Even though the Board hasn't met recently, OCVA is still involved in "**Promoting and Protecting Citizen Involvement in Land Use Issues.**" By not meeting, however, we are still functioning with an acting chairperson. I asked in our last newsletter if there was any interest in this position and we didn't hear anyone volunteer. Therefore, we will continue to operate as we have since our co-founder Jeff Lamb stepped down as chairman.

Jerry has already mentioned that we didn't achieve SDC reform in the 2003 Legislature. **Richard Reid, David Dodds** and I worked this issue until, unfortunately, it was jointly decided that we had no chance of achieving our objectives. There was some talk of perhaps putting this question on the ballot by initiative, but we haven't heard if that is currently being pursued. In talking with David, I believe he still has an interest in doing so. He recently advised me that representatives from West Linn, where he serves as mayor, are planning to meet with representatives of other cities that signed the **SDC reform and 20-year land supply resolutions** that OCVA and West Linn drafted and circulated last year. Recall that almost 20 cities showed support for these resolutions. Such a meeting should give us some indication if the interest is still there.

In Turner, a majority on the city council is fighting to protect our land use rules, certain provisions of our Comprehensive Plan and related ordinances in an effort to keep a natural gas-fired power plant out of our city limits. Our rules specify light manufacturing only in our industrial zone. The **Calpine Corporation** of San Jose has an option to buy property and is pursuing permits that will allow it to build a 620 megawatt plant. I won't go into all the details, but, as an example, our rules say an industrial building cannot exceed 45 feet in height and towers, etc. cannot be more than 10 feet above the building height. Emissions cannot have an adverse effect on neighboring properties and the process must be contained in a single building. Some of Calpine's proposed buildings are 105 feet high with towers extending to 155 feet. Emissions would be as much as 300 lbs per hour. We say it's not a match for our community – but others disagreed and mounted a recall against us. As reported earlier, this effort failed. We'll have more to report after the Energy Siting Council issues a ruling, which is expected in the near future.

Hats off to our allies in Salem who, with the help of a number of supporting organizations, defeated an annexation attempt that would have played havoc with traffic in South Salem and at the Exit 252 interchange. This was the first time Salem voters have rejected an annexation proposal since they gave themselves "the vote" in 2000. A majority on the current city council is not reacting favorably! There was a major change in the Salem political structure during the last council & mayoral election. The newcomers don't favor this approach, nor are they keen to the land use study group known as **Salem Futures**, which was created by the previous city council.

MESSAGE FROM TREASURER BRIAN BEINLICH: The good news from the financial side of OCVA is that we have enough funds left over from last year that **we won't be asking for dues this year**. Everyone who paid dues in 2003 will be automatically renewed for 2004. As Jerry mentioned at the beginning of the newsletter, we're going to cut costs by relying less on mailed newsletters and more on electronic delivery.

ELECTRONIC NEWSLETTER DISTRIBUTION: Here's how it will work: If you have Internet access, you will be notified via email when a newsletter is published. The email message will contain a link that will allow you to easily view or download the newsletter from our web site. You'll need Adobe Acrobat reader, but the reader is free, and most people already have it. **Those of you without Internet access will continue to receive the printed version via US mail if you paid dues in 2003. However, this will be the last printed newsletter you will receive if you did not pay dues last year.** (You may continue receiving printed newsletters by paying dues.) To be sure we have your current contact information, please review the enclosed membership form. If everything is correct, you need not do anything. To send us your email address or make changes, use one of these three methods:

1. Email your updated information to treasurer@ocva.org,
2. Fill out the Member Information Update form on our web site. (Go to <http://www.ocva.org> and select "Member Services", then "Change your membership information"), or
3. Return the enclosed membership form.

If you have any comments or concerns about this change, please be sure to contact me. My telephone number is (503) 647-2163.

In closing, we think OCVA is in good health and is well positioned to continue our primary objectives and to work for positive change in the coming year and the next Legislative session. We have also explained how we are currently operating OCVA. **Is this satisfactory, or do you think we should make changes? Is there a need for a board meeting? Let us know your thoughts.** May the Force be with you!

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