

THE CORVALLIS RESOLUTION MAY 2, 2016

TO: City Council for May 2, 2016
FROM: Jim Brewer, City Attorney”
DATE: April 26, 2016
THROUGH: Mark W. Shepard, P.E., City Manager
SUBJECT: Senate Bill1573 Resolution
Action Requested:

CORVALLIS ENHANCING COMMUNITY LIVABILITY

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Discussion:

As discussed at the April 12, 2016 work session, Senate Bill1573 requires the legislative bodies of cities to annex territory adjacent to the City limits without submitting the annexation proposal to the electors of the city, notwithstanding local charter provisions or ordinances requiring a vote. While good policy arguments both support and oppose voter approved annexation, the City Council's primary question about SB 1573 should be whether the legislature has exceeded its authority by infringing on constitutional rights to initiative, referendum and home rule for cities. As we discussed in the work session, regardless of the policy direction the City Council makes regarding SB 1573, that direction is likely to lead to litigation. With that in mind, no matter the decision the City Council makes, we recommend that the City Council adopt a resolution before any specific annexation proposal is presented to the Council. Such a resolution will clearly state the policy decision, direct City Staff, and inform the public and applicants how the City of Corvallis will process and decide proposed annexations.

After considering the Oregon Constitution, state law including SB 1573, relevant case law regarding home rule issues, the Corvallis Charter, the Comprehensive Plan and the Land Development Code, our opinion is that the City Council should defend the Constitutional rights of voter initiative and referendum, and home rule, and defend the City Charter. If the matter is litigated, no result can be certain, other than the fact that resources will certainly be required (although other interested parties may be willing to participate or contribute resources). A draft resolution reciting the constitutional issues with SB 1573 and directing Staff to process annexations for voter approval is the attachment to the staff report. If the City Council decides to follow SB 1573 and approve annexations without a vote of the people, then the City Council can direct the City Attorney to draft an appropriate resolution reflecting that decision.

RESOLUTION 2016-May 2

A RESOLUTION RELATED TO VOTER APPROVED ANNEXATIONS AND SENATE BILL 1573, DIRECTING STAFF TO COMPLY WITH SECTION 53 OF THE CITY CHARTER AND CORVALLIS LAND DEVELOPMENT CODE

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WHEREAS, the Constitution of the State of Oregon limits the grant of power to the Oregon Legislature by reserving to the people the right of initiative and referendum, and further reserves to the voters of cities the right of initiative and referendum on local, special and municipal legislation, and further reserves to the voters of cities the right to adopt and amend municipal charters; and

WHEREAS, the people of the City of Corvallis voted and exercised the power under the Constitution and laws of the State of Oregon to enact a home rule charter; and

WHEREAS, the people of the City of Corvallis voted and exercised the power of initiative to amend the Charter by enacting Section 53, which requires that any annexation to the City of Corvallis be approved by a prior majority vote among the electorate, unless mandated by State law; and

WHEREAS, the City of Corvallis adopted a Comprehensive Plan and a Land Development Code, acknowledged by the State of Oregon as consistent with Statewide Planning Goals and State land use laws; and

WHEREAS, consistent with the City Charter, both the Comprehensive Plan and Land Development Code require that proposed annexations which comply with the land use criteria, except for those annexations mandated due to health hazards, must be referred to the voters for approval by a majority of the electorate, prior to being final; and

WHEREAS, in 2016 the Oregon Legislature passed an emergency law, Senate Bill 1573 (Chapter 51, Oregon Laws 2016), directing that annexation decisions must be made by the governing body of cities, and may not be made by the voters; and

WHEREAS, Senate Bill 1573 acts outside of the authority granted to the legislature by the Oregon Constitution by attempting to effectively amend the city charters of Corvallis and other home rule cities, and by frustrating the rights of the voters of cities to exercise their home rule authority; and

WHEREAS, Senate Bill 1573 conflicts with the City Charter, and the public, City Staff and applicants need to understand how the City of Corvallis will proceed with annexation proposals;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORVALLIS RESOLVES that notwithstanding Senate Bill 1573, the City Council intends to refer all annexation approvals to the voters as required by the City Charter, Comprehensive Plan and Land Development Code; and

BE IT FURTHER RESOLVED that City Staff are directed to seek applicants' voluntary agreements to submit annexation proposals to the voters as required by the City Charter; and

BE IT FURTHER RESOLVED that City Staff are directed to comply with the Charter, Comprehensive Plan and Land Development Code of the City of Corvallis by processing all proposals for annexation without regard to Senate Bill 1573; and

BE IT FURTHER RESOLVED that the City Manager and City Attorney are directed to seek assistance, resources and support from other cities and organizations in order to defend the City Charter and the rights of the voters of Corvallis. [Emphasis added- RR]

Upon motion duly made and seconded, the foregoing resolution was adopted at the May 2 council meeting.