



MEMORANDUM

TO: Deschutes County Board of Commissioners (“Board”)
FROM: Nicole Mardell, AICP, Senior Planner
DATE: September 13, 2023
SUBJECT: Preparation for Public Hearing: Mountain View Petition to Incorporate

Staff will conduct a work session with the Board on September 18, 2023, in preparation for a September 20, 2023, public hearing concerning a petition to incorporate a new city. The full record is available at the project website: www.deschutes.org/mountainviewincorporation. The staff report is included as an attachment to this memo and is also available on the website.

I. BACKGROUND

On February 14, 2023, a Prospective Petition for Incorporation of a City was submitted to the Deschutes County Clerk’s office. The Chief Petitioner, Andrew Aasen, seeks to establish a new city, approximately 265 square miles (169,550 acres) in size, extending west of Diamond T Road to the intersection of Highway 20 and Highway 27¹ as shown in the attached map.

Oregon Revised Statute (ORS) sections 221.005 to 221.106 outline the procedures for incorporation of new cities. Under these rules, an unincorporated area of at least 150 persons can submit a petition to incorporate to the county clerk’s office for consideration by the Board. The Chief Petitioner, Andrew Aasen, collected the required signatures from at least 20 percent of registered voters in the petition boundary, which were certified by the County Clerk on April 28, 2023.

On June 9, 2023, the petitioner submitted the petition application and requested a public hearing. The role of the Board is to hold a public hearing to consider the feasibility of the proposal and if it should move forward to the ballot for a vote².

¹ Note: previous materials cited Highway 27 as George Millican Highway, which is a separate road farther inside the proposed boundary. This has been corrected on the project website and in the staff report.

² Only registered voters within the proposed boundary can vote on the proposal if it is added to the ballot. Property owners who are not registered to vote in the boundary cannot vote but should instead provide testimony during the public hearing process.

Case law and statute outline the following three criteria for the Board's review.

1. Whether the proposed boundary correctly includes all lands that would be benefited from being in the proposed city;
2. Whether the taxation rate will support the proposed services; and,
3. Whether the proposed city can and will be able to comply with relevant statewide planning goals, County Comprehensive Plan goals and policies, and implementing ordinances.

The first two issues are required by the ORS and the third is related to land use and is required by Oregon Administrative Rule (OAR) and *1000 Friends of Oregon v. Wasco County Court*, 299 Or. 344, 358-60, 67 (1985).

If the Board were to find all three issues are sufficiently supported by the applicant's analysis and burden of proof, the petitioner could then move forward to a ballot initiative³. At that time, registered voters in the proposed city boundary would vote on official incorporation and formation of a governing body.

II. PROPOSAL AND STAFF REPORT

The applicant's materials and the entirety of the record are found on the project website: www.deschutes.org/mountainviewincorporation. Attached to this memo is the staff report with findings and recommendations.

III. PUBLIC HEARING PROCESS

During their August 9, 2023⁴, meeting, the Board signed Order 2023-033 establishing the parameters for this public hearing.

Testimony provided during the hearing shall follow the time limits to ensure an orderly and efficient hearing process.

- Petitioner Presentation: 45 minutes
- Agency Comment: 10 minutes per agency
- Public Comment: 3 minutes per individual
- Petitioner rebuttal: 10 minutes

A timer will be used to ensure these time limits are followed. As of the date of this memo, staff anticipates at least 15 individuals to testify during the public comment portion of the hearing.

³ As this is a land use decision, staff notes the Board's decision is subject to appeal before the Land Use Board of Appeals.

⁴ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-118>

IV. NEXT STEPS

A public hearing with the Board is scheduled for Wednesday, September 20, 2023 at 9:00 a.m.

ATTACHMENTS:

1. Staff Report
2. Boundary Maps