BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

PAUL KNEELAND,
Petitioner,

vs.

DOUGLAS COUNTY,
Respondent,

and

ROBERT CAVANER, LILLIAN ELDER,
BRUCE STIMPSON, TRI-CITY WATER DISTRICT
and TRI-CITY SANITARY DISTRICT,
Intervenors-Respondent.

LUBA No. 2004-150

FINAL OPINION
AND ORDER

Appeal from Douglas County.

Charles F. Lee, Roseburg, filed the petition for review and argued on behalf of petitioner. With him on the brief was Lee and Kaser, PC.

No appearance by Douglas County.

Eileen G. Eakins, Portland, filed the response brief and argued on behalf of intervenors-respondent. With her on the brief was Jordan Schrader, PC.

DAVIES, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member, participated in the decision.

AFFIRMED 01/03/2005

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Opinion by Davies.

NATURE OF THE DECISION

Petitioner challenges a decision by the Douglas County Board of Commissioners approving the formation of a special district, the Tri-City Water and Sanitary Authority.

MOTION TO INTERVENE

The Tri-City Water District, the Tri-City Sanitary District, Robert Cavaner, Lillian Elder and Bruce Stimpson, move to intervene on the side of the county. There is no opposition to the motion, and it is allowed.

FACTS

On May 5, 2004, a petition for formation of the Tri-City Water and Sanitary Authority, signed by 18% of the electors registered to vote within the boundaries of the Tri-City Water District and Tri-City Sanitary District, was filed with the county. The petition, as required, included a legal description of the property subject to the formation petition, and stated that the boundaries of the proposed district are the same as the existing combined boundaries of the Tri-City Water District and the Tri-City Sanitary District.

On May 20, 2004, the county board of commissioners adopted an order scheduling a hearing on the matter for June 23, 2004. The order identified the property to be included in the proposed special district as the property contained in the legal description attached to the order. That legal description was different from the legal description attached to the petition. Notice of the proposed hearing was published on June 7, 2004 and June 17, 2004. The legal description included in the published notices was the same legal description that was attached to the board's May 20, 2004 order. The notice contained several errors. First, while the heading of the notice clearly identified the proposed action as the formation of a water and sanitary authority, the text of the notice announced a hearing for the formation of a road

district.[1] Second, the published notice did not include the required statement, "that all interested persons may appear and be heard."

On June 23, 2004, the first hearing was held. Apparently, nobody appeared to testify, and the board scheduled a second hearing for July 28, 2004. Requirements for publication of the notice for the July 28, 2004 hearing were not satisfied, and the hearing was rescheduled for August 11, 2004. Notice for the August 11, 2004 hearing was published July 26, 2004 and August 5, 2004. That notice eliminated the "road district" language and included the language: "All interested persons may appear and be heard." Record 251-52. The legal description attached to the notice was different from the legal description provided with the initial petition and also different from the legal description in the notice for the June 23, 2004 hearing.

Petitioner appeared at the August 11, 2004 hearing and objected to the sufficiency of the notice and to the formation of the special district. The hearing was continued to August 23, 2004, at which time the county approved the formation of the Tri-City Water and Sanitary Authority. The board's order approving formation contained a legal description that was, again, slightly different from that attached to the notice for the final hearing. This appeal followed.

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[1] The notice provided, in pertinent part:

> "IN THE MATTER OF FORMATION OF THE
>
> "Tri City Water and Sanitary Authority
>
> "IN DOUGLAS COUNTY, OREGON
>
> "Based on the Petition of:
>
> "Chief Petitioners Robert Cavaner, Lillian Elder, and Bruce Stimpson
>
> "IT IS HEREBY ORDERED that a hearing on the Petition of petitioners herein for road district formation of real property described in the attached Exhibit 'A' into the Tri City Water and Sanitary Authority, Douglas County, Oregon, shall be held in Room 216 of the Douglas County Courthouse, Roseburg, Oregon on **June 23, 2004** at 10:00 a.m. * * *." Record 373. (Emphasis in original).

JURISDICTION

Intervenors-respondent (intervenors) argue that LUBA lacks jurisdiction over the challenged decision because it is not a land use decision, a limited land use decision, or a significant impact land use decision. Petitioner does not contend that the decision is a limited land use decision or a significant impact land use decision.[2] Accordingly, we will only address whether it is a "land use decision" subject to LUBA's jurisdiction under ORS 197.015(10)(a).[3] *See Price v. Clatsop County*, 25 Or LUBA 341, 348 (1993) (where petitioner does not contend a challenged decision is a land use decision under the significant impact test and it is not obvious to LUBA that it is, LUBA will conclude that it is not a significant impact land use decision).

Formation of the special district challenged in this appeal is governed by ORS chapter 198. Specifically, ORS 198.805 provides the standards that apply to a county board's decision to approve formation of a special district.[4] ORS 198.805(1) requires that the

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[2] ORS 197.015(12) provides:

> "'Limited land use decision' is a final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns:
>
> > "(a) The approval or denial of a subdivision or partition, as described in ORS chapter 92.
> >
> > "(b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review."

[3] ORS 197.015(10)(a) provides the following definition of "land use decision":

> "(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:
>
> "(i) The goals;
>
> "(ii) A comprehensive plan provision;
>
> "* * * * *"

[4] ORS 198.805 provides, in relevant part:

determination whether the area could be benefited by the formation of the district be made "in accordance with the criteria prescribed by ORS 199.462." ORS 199.462(1) provides, in pertinent part:

> "[The county] shall consider local comprehensive planning for the area, economic, demographic and sociological trends and projections pertinent to the proposal, past and prospective physical development of land that would directly or indirectly be affected by the proposed boundary change or application under ORS 199.464 and the [statewide planning goals]."[5]

Petitioner argues that the challenged decision is a land use decision under ORS 197.015(10)(a)(A) because ORS 198.805(1) requires the county to apply the criteria in ORS 199.462 and those criteria require consideration of "local comprehensive planning for the area" and the statewide planning goals.

The jurisdictional issue in this case is nearly identical to the issue presented in *Price v. Clatsop County*. The petitioner in that case challenged the formation of a domestic water supply district and a sanitary service district. In deciding that LUBA lacked jurisdiction over

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> "(1) At the time stated in the notice, *the county board shall hear the petition and determine, in accordance with the criteria prescribed by ORS 199.462, if the area could be benefited by the formation of the district*. It may adjourn the hearing from time to time, but not exceeding four weeks in all unless additional notice is given. The county board may alter the boundaries set forth in the petition to either include or exclude territory. In determining the boundaries of the proposed district, the board shall consider the benefit the proposed district will have within the territory in or out of the proposed district. The board shall not modify the boundaries so as to exclude from the proposed district any land which could be benefited by its formation, nor shall there be included any land which will not, in the judgment of the board, be benefited.
>
> "(2) If the county board determines that any land has been improperly omitted from the proposed district and that the owner has not appeared at the hearing, the board shall continue the hearing and shall order notice given to the nonappearing owner requiring the owner to appear before it and show cause, if any, why the land of the owner should not be included in the proposed district. The notice shall be given either by posting and publication, in the same manner as notice of the original hearing and for the same period, or by personal service on each nonappearing owner. If notice is given by personal service, service shall be made at least 10 days prior to the date fixed for the further hearing." (Emphasis added)."

[5]Although ORS 199.462 is titled, in part, "Standards for review of boundary changes," the criteria are made applicable to the formation of the proposed joint authority in this case through ORS 198.805(1).

that decision, we interpreted ORS 198.805(1) and ORS 199.462(1), the same statutes at issue in this case. *Price*, 25 Or LUBA at 344-48. We will discuss our disposition of certain issues in *Price* where they are similar to the issues presented in this appeal.

A. Statewide Planning Goals

Petitioner argues that the challenged decision is a "land use decision" pursuant to ORS 197.015(10)(a)(A)(i) because the criteria in ORS 199.462(1) and ORS 198.805(1) make the statewide planning goals applicable to the challenged decision. Petition for Review 5. Although petitioner in this case does not argue that ORS 197.175(1) requires that the statewide planning goals apply to the formation of a special district, the petitioner in *Price* did.[6] We held in that case that ORS 197.175(1) does not make the goals directly applicable to a decision approving formation of a special district, where the applicable comprehensive plan is acknowledged. *Price*, 25 Or LUBA at 345-46 (citing *DLCD v. Marion County*, 23 Or LUBA 619, 626-27 (1992)). We held that, in that instance, it is the acknowledged comprehensive plan that applies. We then turned to the remaining question: whether ORS 199.462(1) makes the statewide planning goals applicable standards to the challenged decision. We held:

> "* * * [the] provisions of ORS 199.462(1) simply require the county to 'consider,' among other things, the comprehensive plan for the area and the statewide planning goals. This requirement should be interpreted together with the provisions of ORS 197.175 and 197.835, to establish that prior to acknowledgment the goals are applicable to such a county decision, but after acknowledgment it is the acknowledged plan that is applicable." *Id*. at 347.

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[6] ORS 197.175(1) provides:

> "Cities and counties shall exercise their planning and zoning responsibilities, including, but not limited to, a city or special district boundary change which shall mean the annexation of unincorporated territory by a city, the incorporation of a new city and *the formation or change of organization of or annexation to any special district authorized by ORS 198.705 to 198.955, 199.410 to 199.534 or 451.010 to 451.620, in accordance with ORS chapters 195, 196 and 197 and the goals approved under ORS chapters 195, 196 and 197. * * *.*" (Emphasis added).

The parties in this case do not dispute that the applicable comprehensive plan is acknowledged.[7] Accordingly, the challenged decision here, like the decisions at issue in *Price*, does not concern the application of the statewide planning goals.

B. Comprehensive Plan Provisions

Petitioner also argues that the challenged decision concerns the application of comprehensive plan provisions pursuant to ORS 197.015(10)(a)(A)(ii). *See* n 3. In *Price*, we explained that a challenged decision concerns the application of a comprehensive plan only where the plan contains "provisions that are standards or criteria for making the challenged decision." *Price*, 25 Or LUBA at 347. We held that the burden is on the petitioner to establish that the appealed decision falls within the statutory definition, and because the petitioner failed to identify a county comprehensive plan provision as applicable or to argue that any plan provisions were approval standards for the challenged decisions, the challenged decisions did not concern the application of a comprehensive plan provision. *Id.* at 348.

Intervenors argue that the same analysis applies here; *i.e.*, that in order for a decision to concern the application of a comprehensive plan provision, the plan must contain standards or criteria for making the challenged decision. Intervenors' Brief at 5 (citing *City of Portland v. Multnomah County*, 19 Or LUBA 468, 474 (1990); *Portland Oil Service Co. v. City of Beaverton*, 16 Or LUBA 255, 260 (1987)). Intervenors assert that because petitioner carries the burden of establishing jurisdiction and petitioner has failed to identify "any county comprehensive plan provision as applicable, or to argue that any plan provision is an approval standard for the challenged [decision]," the appeal should be dismissed. Intervenors' Brief 5.

[7] Intervenors request that we take official notice of the fact that the comprehensive plan is acknowledged. Petitioner does not argue, however, that it is not acknowledged, so it is unnecessary to address intervenors' request.

ORS 199.462(1) requires the county to "consider" a number of criteria in making its determination whether the area is benefited by the formation of the special district. One of those criteria is "local comprehensive planning for the area." At a minimum, ORS 199.462(1) requires the county to review the applicable comprehensive plan to determine whether it contains any language that applies to the challenged decision. Although we agree with intervenors that petitioner has not identified a specific applicable plan provision, the challenged decision addresses the comprehensive plan's policies or requirements regarding adequate capacity for water and sanitary systems and concludes that the boundary of the proposed district is "fully consistent with" the Douglas County Comprehensive Plan.[8]

Here, unlike in *Price*, the comprehensive plan apparently contains applicable language and the county specifically addressed it in its decision. *See Jaqua v. City of Springfield*, 46 Or LUBA 566, 574, *remanded on other grounds* 193 Or App 573, 91 P3d 817 (2004) (local government decision "concerns" the application of a comprehensive plan provision or land use regulation if (1) the decision maker was required by law to apply its plan or land use regulations as approval standards, but did not, or (2) the decision maker in fact applied plan provisions or land use regulations). The challenged decision, therefore, concerns the application of a comprehensive plan provision, and this Board has jurisdiction to review it under ORS 197.015(10)(a)(A)(ii).

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[8] The findings of fact adopted by the county in support of the challenged decision provide:

> "**4. Land Development.** If formed, the Authority would acquire the buildings, plants and systems of both the Tri-City Water District and the Tri-City Sanitary District. No additional land development is expected, and no direct or indirect land impacts are anticipated due to formation of the Authority. *According to the Douglas County Comprehensive Plan, both systems have adequate capacity to serve the population within their boundaries through the year 2010. The proposed boundary for the Authority is fully consistent with Douglas County's acknowledged Comprehensive Plan*." Record 12-13 (emphasis added).

FIRST ASSIGNMENT OF ERROR

Petitioner requests reversal of the challenged decision because public notice of the hearing was inadequate. As discussed above, formation of special districts is governed by ORS chapter 198. The statute requires that the county post notice of the initial hearing in at least three public places and publish the notice twice before the hearing. ORS 198.800(2).[9] The statute also requires a second hearing on the petition and that the notice of the second and final hearing be given by publication. ORS 198.810(1).

Petitioner argues that the notice published for the initial hearing on June 23, 2004, is defective for the following reasons: (1) it erroneously identifies the petition as one for a road district, (2) it fails to state the purposes for which the district is formed, (3) it fails to state that all interested persons may appear and be heard, and (4) the legal description in the notice is different from the legal description submitted with the initial petition. Petitioner argues that these errors are jurisdictional and that they result in a failure to accomplish the purposes for which such notices are required. Petition for Review 9. Petitioner cites to two cases in which the Oregon Supreme Court determined that defects in notice divested the county of jurisdiction to establish irrigation districts. *See In re Harper Irr. Dist.*, 108 Or 598, 216 P 1020 (1923) (notice of hearing signed by county clerk, not by petitioner, as required by

[9]ORS 198.800(2) provides:

> "The county board shall cause notice of the hearing to be posted in at least three public places and published by two insertions in a newspaper. The notice shall state:
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> "(a) The purpose for which the district is to be formed.
>
> "(b) The name and boundaries of the proposed district.
>
> "(c) The time and place of the hearing on the petition.
>
> "(d) That all interested persons may appear and be heard."

statute); *Hanley Co. v. Harney Valley Irr. Dist.*, 93 Or 78, 180 P 784 (1919) (defect in statutorily required publication of notice).[10]

Intervenors argue that, since those cases were decided, the courts have applied the doctrine of "substantial compliance" "to avoid the harsh results of insisting on literal compliance with statutory notice requirements" where the purpose of a notice requirement is satisfied. *Brown v. Portland School Dist. No. 1*, 291 Or 77, 81, 628 P2d 1183 (1981). Intervenors also argue that any defect in notice is a procedural error and that petitioner has failed to show any prejudice to his substantial rights.

LUBA's scope of review for procedural errors is governed by ORS 197.835(9)(a)(B).[11] Pursuant to that statute, the relevant inquiry is whether petitioner's substantial rights were prejudiced by the alleged failure to comply with statutory notice requirements. Petitioner does not argue that the errors alleged are substantive rather than procedural in nature. Rather, he argues that the alleged defects in notice divested the county of jurisdiction over the challenged decision. The logical extension of petitioner's argument is that, because the statutory notice requirements are jurisdictional, LUBA's scope of review for procedural errors under ORS 197.835(9)(a)(B) does not apply.

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[10] In *Hanley*, the "affidavit of publication of notice" indicated that notice had been published "once a week for a period of four weeks beginning on the eighth day of August, 1917, and ending on the fifth day of September, 1917," although the statute required publication "once each week for at least four successive weeks." If the first notice was published on August 8, 1917, and the fourth notice was published on September 5, 1917, publication would not have occurred on four successive weeks, as required by the statute. The court stated that the notice requirement was jurisdictional, and because it was not satisfied, the court held that the county court could not approve the formation of the irrigation district. *Hanley*, 93 Or at 87.

[11] ORS 197.835(9) provides, in pertinent part:

"[T]he board shall reverse or remand the land use decision under review if the board finds:

"(a) The local government or special district:

"* * * * *

"(B) Failed to follow the procedures applicable to the matter before it in a manner that prejudiced the substantial rights of the petitioner[.]"

We have recognized at least one exception to the substantial prejudice requirement in ORS 197.835(9)(a)(B). In *Ramsey v. Multnomah County*, 43 Or LUBA 25 (2002), we held that where a statute specifically provides that failure to provide the statutorily required notice renders the county's action of "no legal effect," petitioner need not demonstrate prejudice to his substantial rights. The issue presented here is whether the statutory notice requirements in ORS 198.800 *et seq*. are jurisdictional, like the requirements in *Ramsey*. Although petitioner does not cite to *Ramsey*, he relies on *Harper* and *Hanley* to make essentially the same argument; *i.e.*, that the statutory notice requirements are jurisdictional, and ORS 197.835(9)(a)(B) therefore does not apply. Petitioner's argument fails for several reasons, as discussed below.

First, *Hanley* and *Harper* involved statutes in effect in 1919 and 1923 respectively, not the statutes at issue here. The court stated clearly in both cases that the notice requirements at issue there were jurisdictional. *Hanley*, 93 Or at 87; *Harper*, 108 Or at 606-607. Petitioner cites to nothing in the special district formation statutes involved in this case that makes strict compliance with the notice provisions jurisdictional. The current legislature obviously knows how to make such requirements jurisdictional if that is what it intends. *See Ramsey*, 43 Or LUBA at 27 n 2 (quoting and discussing ORS 215.060, in which legislature provided that failure to comply with procedural requirements rendered county action "of no legal effect"). We can find nothing in the statutory requirements that apply in this case that would suggest the legislature intended them to be jurisdictional.

Second, petitioner appears to believe that *Hanley* and *Harper* stand for the proposition that *all* notice requirements for the formation of special districts require strict compliance. *See* Petition for Review 8-9 (citing *Hanley*, 93 Or at 87 (organization of irrigation district is of "vast importance" and it is essential that there be no issue regarding proper formation)). That belief is simply misplaced. Only the *Hanley* court suggests that its holding rests, at least in part, on the gravity of forming a governmental entity. The holding in

Harper is, in no way, based on that rationale.[12] Further, the error alleged in *Hanley*, like the error alleged in *Harper*, could not be cured. As discussed below, at least some of the errors alleged in this case were cured.

We conclude that LUBA's scope of review for procedural errors applies to procedural statutes like the statutes at issue in this case, where the requirements are not jurisdictional. Accordingly, we turn to the question whether petitioner has demonstrated that the cited errors resulted in prejudice to his substantial rights.

Even if petitioner were prejudiced by the defects he alleges in the initial notice, at least some of those defects were cured in the second notice. *See Crowley v. City of Bandon*, 41 Or LUBA 87, 104 (2001) (whatever prejudice petitioner might have suffered as a result of procedural error by planning commission in refusing him adequate opportunity to comment was cured by city council hearing, where petitioner was given opportunity to present testimony). Here, the notice that was mailed for the August 11, 2004 hearing corrected the reference to a road district and included the language that persons may appear and be heard. This republication cured any defect with regard to those required items in the first notice, as evidenced by petitioner's appearance and presentation of testimony at the August 11, 2004 hearing.

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[12]In concluding that the requirement that the petitioner sign the notice of hearing was jurisdictional, the court in *Harper* cites to an 1881 case that explains:

> "the state is the sovereign by whose power alone the citizen can be compelled to appear in its courts to answer an action brought against him. * * * Hence, since the notice is in the nature of process to bring a party before a tribunal exercising judicial powers, it must be given by some one authorized by the state to give it." *Minard v. Douglas County*, 9 Or 206, 210 (1881).

Because the petitioner, not the county clerk, was authorized by the "sovereign" to summon a party before the tribunal, a notice signed by the county clerk was "insufficient to give the court jurisdiction over the persons interested in the organization of the proposed irrigation district * * *." *Harper*, 108 Or at 611.

The nature of the proceeding, *i.e.*, the formation of a governmental entity, was clearly irrelevant to the court's holding. Further, we question whether the Oregon Supreme Court would consider the holding in *Harper* good law, as the "substantial compliance" doctrine appears to be directly contrary to the rationale quoted above.

Regarding the changes in the legal description of the property to be included in the district, intervenors concede that the legal description in the first notice differs from the legal description in the second notice. Intervenors appear not to recognize, however, that the deficiency in the legal descriptions does not end here. Apparently, the legal description attached to the final order approving the formation differs slightly from the legal description included in the notice for the final hearing. *See* Petition for Review 9-10; *compare* Record 5 and Record 73. In any event, we agree with intervenors that petitioner does not allege that he was prejudiced in any way by the errors in the legal descriptions, and there appears to be no evidence in the record that the changes to the legal descriptions altered the status of his property with regard to the boundaries of the proposed district. To the extent petitioner alleges that some other person may have been affected by the error, that allegation does not provide a basis for reversal or remand. *See Bauer v. City of Portland*, 38 Or LUBA 432, 436 (2000) (under ORS 197.835(9)(a)(B), prejudice must be to *petitioner's*, not a third party's, substantial rights). Furthermore, the original petition states that "[t]he boundaries of the territory proposed to be included in the proposed Authority are the existing combined boundaries of the Tri-City Water District and Tri-City Sanitary District." Record 487. The intention that the boundaries of the proposed district mirror the boundaries of the two existing districts was clear.

Petitioner has not demonstrated that his substantial rights were prejudiced in any way by the alleged procedural errors. Accordingly, this assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

Petitioner argues that the challenged decision is not supported by substantial evidence "under the criteria prescribed by ORS 199.462." Petition for Review 11. He argues that the county did not consider whether land outside of the boundaries would benefit from being included or whether land located within the boundaries would benefit from being excluded, as required under ORS 198.805(1). *See* n 4. He therefore asserts that the finding that the

"affected area could be benefited by formation of the district" is not supported by substantial evidence. Petition for Review 11.

Although not contained in the challenged decision itself, the record contains an explanation by the county counsel of the county's determination not to "reassess the appropriateness of including all land currently within the water and sanitary districts (but only that land) within the boundaries of the joint authority * * *." Record 70.

> "The statute says that the Board is to determine whether the land proposed to be included in the joint authority's boundary 'could be benefited' by being included. That is the same standard that has applied to the formation of the water and sanitary districts, and to all annexations thereto, if any. I believe that it is appropriate for the Board to base its current decision – about the land being benefited or not – on what the Board has done in the past with respect to the boundaries of the water and sanitary districts, especially in a case like the present one, where the Remonstrator has never argued that he cannot be benefited and therefore should be excluded from the boundary of the joint authority." Record 70-71.

We agree with the county counsel's explanation and conclude that it and the county's adopted findings support the county's conclusion that the "affected area could be benefited by formation of the district."[13]

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[13] We read petitioner's second assignment of error to challenge only the county's failure to consider whether areas outside the boundary of the proposed special district could be benefited by inclusion and whether areas inside the proposed boundary could be benefited by being excluded. Intervenors appear to read petitioner's argument more broadly and respond accordingly. If petitioner's second assignment of error is a broader challenge to the adequacy of the findings regarding the ORS 199.462(1) criteria, he fails to specifically challenge the county's findings addressing those criteria. In addition to the finding addressing the comprehensive plan, cited in n 8, the challenged decision found:

> "1. **Purpose.** The proposed Tri-City Joint Water and Sanitary Authority ('Authority') would be formed for the purpose of providing domestic water and sanitary sewer services to residents of the current Tri-City Water District and Tri-City Sanitary District. These services are currently being provided by the respective Districts, which would be dissolved upon formation of the Authority by operation of law pursuant to ORS 450.722. * * * By forming the Authority, the chief petitioners hope to achieve the efficiencies and economies of scale by crating one entity rather than two, with one board of directors, one group of staff, one budgeting process, etc. The two Districts are already jointly managed.
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> "2. **Population Served.** The two Districts currently serve an area covering 3.12 square miles, and a population of approximately 3,519 people. The Districts serve 1,367 residential households and 54 commercial or industrial buildings.

1 This assignment of error is denied.

2 The county's decision is affirmed.

> "3. **Demographics.** The demographics of the Authority are consistent with the demographics of Douglas County at large. No demographic change or impact is expected if the Authority is formed, beyond those projected in the Douglas County Comprehensive Plan.
>
> "* * *
>
> "5. **Financial Impact.** The proposed operating budget is based on the Districts' combined current operating budgets of approximately $1,975,514. The Tri-City Water District has a property tax rate of $0.1720 per thousand dollars of assessed value, and the Tri-City Sanitary District has a property tax rate of $0.5658 per thousand of assessed value. The proposed tax rate for the Authority is $0.7378 per thousand dollars of assessed value, which represents a combination of these two rates. Thus, residents within the Authority will see neither an increase nor a decrease in their property taxes if the Authority is formed. However, operational expenses of the Authority are expected to be slightly lower than for the two Districts combined, because of anticipated efficiencies and economies of scale to be achieved by managing one public entity rather than two.
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> "6. **Social Impacts.** Like the existing water and sanitary districts, the proposed Authority will continue to provide potable water for domestic use and sanitary sewer services to customers within its boundaries. Both of these services are necessary to the physical health of the population and financial health of the region and of Douglas County. Adequate water and sewer services promote livability and productivity, and are crucial to support growth and development within this geographic region. Water and sanitary sewer service are essential to achieving state, local and District goals for urbanization and community development." Record 12-13.

The county clearly considered the criteria set forth in ORS 199.462(1), addressed those criteria in its findings and, based on those findings, concluded that the area could be benefited by formation of the district.