



# **SOUTH DAKOTA ASSOCIATION OF TOWNS AND TOWNSHIPS – ANNUAL CONFERENCE ANNEXATION PROCEDURES AND CASE STUDIES**

**December 4, 2024**

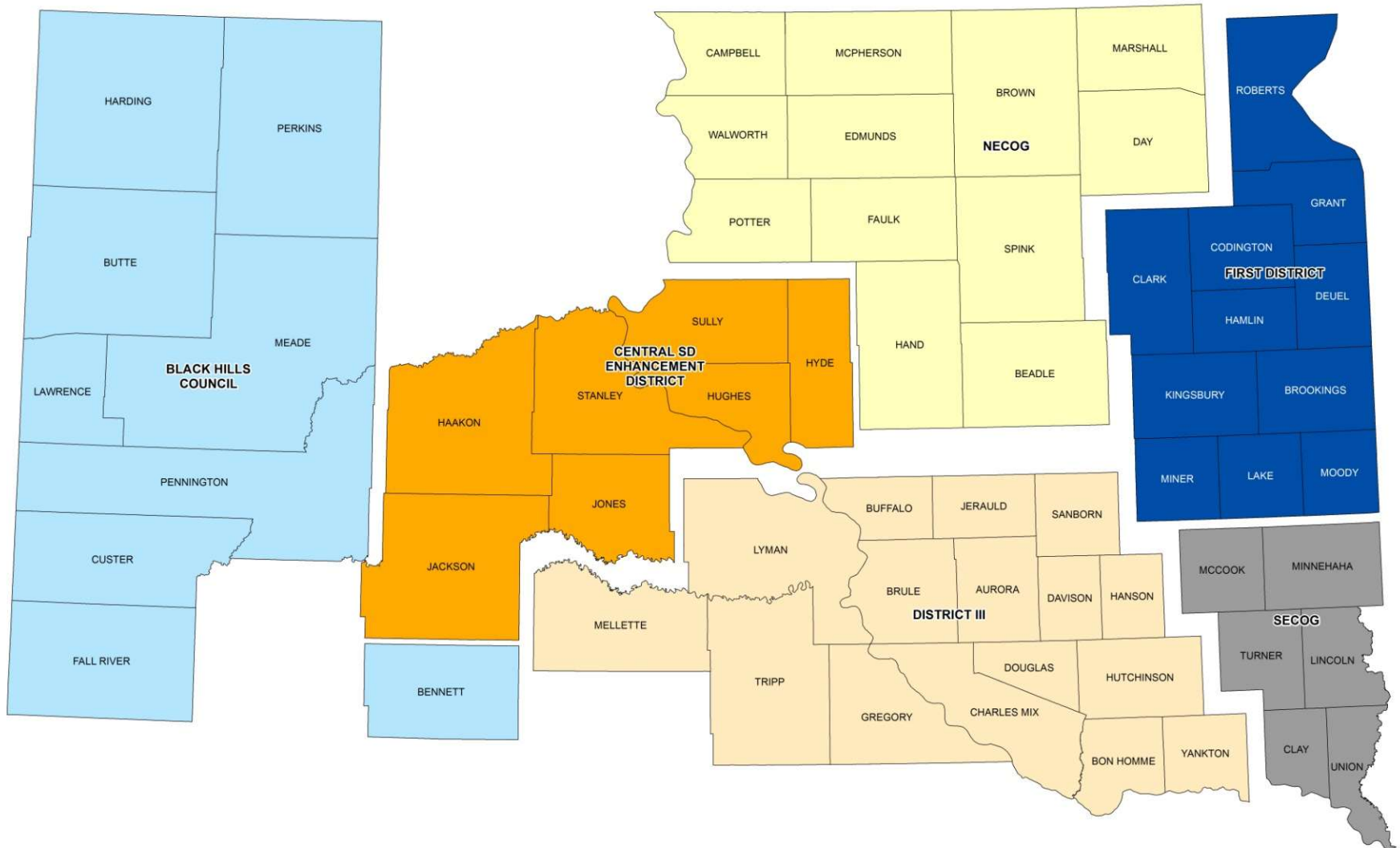
**Todd Kays**

*Executive Director, First District Association of Local Governments*

**Luke Muller**

*Senior Planner, First District Association of Local Governments  
Zoning Officer, Codington County*

# FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS





# TOPICS

- **Planning 101**
- **Annexation Statutes**
- **Annexation Administrative Process**
- **Annexation Case Studies**
- **Annexation Best Management Practices**
- **Stump a Planner**





# Why Plan?

- **Shape the future**

*Long range planning does not deal with future decisions, but with the future of present decisions. — Peter Drucker*

- **Enhance economic development**
- **Provide more efficient public service**
- **Minimize land-use conflicts**
- **Protect natural resources**
- **Limit safety and health hazards**





# Statutory Authority Under State Law

- Dillon's Rule: A doctrine, framed by Judge John Dillon (1868), stating that the power of municipalities is limited to those powers "expressly granted, necessarily or fairly implied, or absolutely indispensable." **(Municipalities are creatures of the state so if statutes are silent, the power does not exist.)**
- **Home Rule Charter – Sioux Falls must follow state laws also, but where state law is silent Sioux Falls can, in some cases, create own rules.**
- Standard Enabling Acts of 1920's basis for most state planning statutes around the country
- Planning and zoning authority granted by the State of South Dakota Legislature can be found in SDCL 11-2, 11-3, 11-4 and 11-6.



An aerial photograph of a rural or semi-rural area. The image shows a mix of residential buildings, including houses and barns, scattered across a landscape of green fields and some bare earth. A prominent feature is a large, circular structure with several tall, cylindrical silos or storage tanks, likely a farm or processing facility. The background shows more residential development with houses and trees. A colorful, wavy graphic element is visible in the top left corner, transitioning from red to yellow to green to blue.

## State Statutory Authority

- Comprehensive Plan required before Zoning or Subdivision Ordinances are effective
- Planning Commission recommendation required for comprehensive plans and amendments to zoning ordinances and subdivision ordinances
- Due process requires public hearings for both planning commission and governing body (10 day notice ahead of meeting)
- **Due Process!**





## Local Ordinances And Administration

“The referee must abide by the rule book.”

All local ordinances must comply with

- US Constitution
- State Law

**Basis of decision making must be substantiated by your plans and ordinances.**



# LEGISLATIVE VS ADMINISTRATIVE DECISIONS

- Legislative Decisions
  - Adopts (or amends) Plans or ordinances that **sets** policies for future application.
  - All legislative decisions are made by elected bodies, but not every decision by an elected body is a legislative decision.
- Administrative (Quasi-Judicial)
  - Decisions that **apply** previously established policies.
  - Decisions can be made by elected bodies, planning commission, board of adjustment, or staff. Approval authority identified in the ordinance and/or state law.
- Legislative decisions allow the community more discretion in setting policies with limited predictability for landowners. **Decisions can be based on community norms to some extent.**
- Administrative decisions allow limited discretion for the community in providing input. **Decisions based just on the Facts.**

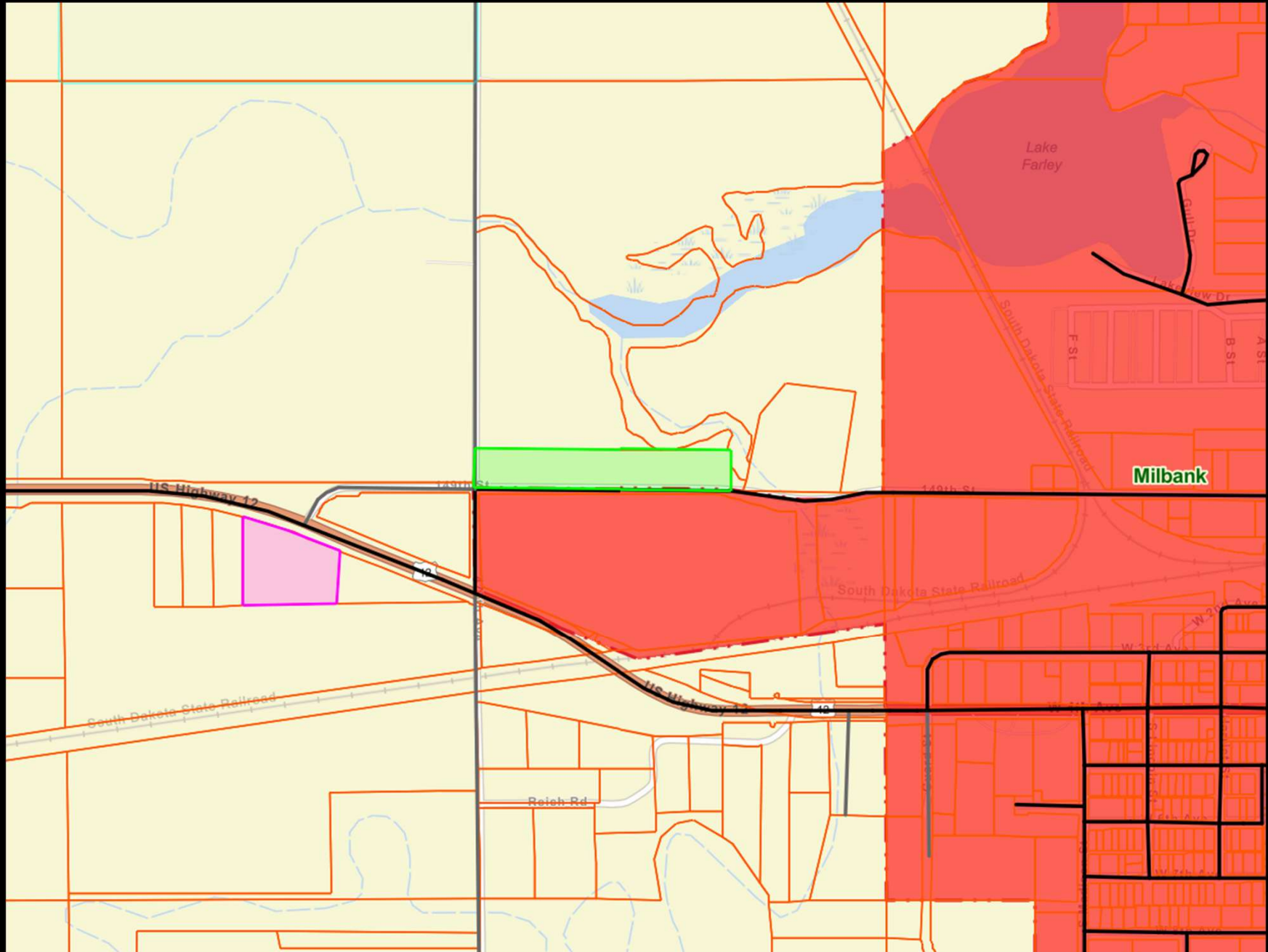




# FORMS OF ANNEXATION

- Petitioned vs. Forced
- Petitioned
  - 9-4-1 - At least  $\frac{3}{4}$  of resident electors and by owners with at least  $\frac{3}{4}$  of the value of territory to be annexed.
    - 9-4-1.1 – Municipalities can negotiate annexation
  - What is Contiguous?







# ANNEXATION

## • Process (Petitioned)

- Receive Petition to Annex and Zone property
- Prepare Joint Public Hearing Notice on Annexation and Zoning
  - Planning Commission/City Council (recommend joint notice)
- Publish Public Hearing Notice (SDCL 9-4-4.3)
  - (not less than 10 days but not more than 20 days prior to hearing)
  - Notify all affected property owners and County
  - Notify all property owners within 250 feet of proposed zoning (recommended)

## • Timeline (Petitioned)

December 4, 2024

- Receive Petition to Annex and Zone property

December 20, 2024

- Prepare and Email Joint Public hearing Notice on Annexation and Zoning.
  - Planning Commission/City Council (recommend joint notice)

December 24, 2024

- Publish Public Hearing Notice (SDCL 9-4-4.3)



# ANNEXATION

## • Process (Petitioned)

- **Publish Public Hearing Notice (SDCL 9-4-4.3)**
  - (not less than 10 days but not more than 20 days prior to hearing)
  - Notify all affected property owners and County
  - Notify all property owners within 250 feet of proposed zoning (recommended)
- **Planning Commission/City Council Public Hearing/1<sup>st</sup> Reading (SDCL 11-4-5 and SDCL 9-4-4.4)**
  - Take Public Comment
  - Planning Commission makes recommendation on annexation, plat, zoning
  - City Council holds 1<sup>st</sup> reading zoning by title and sets 2<sup>nd</sup> reading date

## • Timeline (Petitioned)

On or before December 27, 2024

- Provide notice to “affected parties.”
- Mail letters and/or post sign

January 6, 2025

- Planning Commission/ City Council Joint Hearing;  
Recommendation (PC);  
1<sup>st</sup> Reading (Zoning Ordinance – CC)



# ANNEXATION

## • Process (Petitioned)

- City Council 2<sup>nd</sup> Reading (SDCL 11-4-5)
  - Minimum 5 days between 1<sup>st</sup> and 2<sup>nd</sup> Reading of Zoning
  - City Council passes resolution to annex and plat and holds 2<sup>nd</sup> reading of zoning ordinance
  - No public comment without public hearing notice
  - Thumbs up/Thumbs down – if substantive amendments are made, schedule another public hearing.

## • Timeline (Petitioned)

February 3, 2025

- City Council 2<sup>nd</sup> Reading
- City Council Action (vote)

On or before February 7, 2025

- Email notice of adoption and resolution to newspaper for publication



# ANNEXATION

- **Process (Petitioned)**
  - **Publication (SDCL 11-4-8, SDCL 9-9-17)**
    - **Publish Resolution of Annexation and Zoning Ordinance Amendment – effective 20 days later**
    - **File Annexation petition and resolution and plat with Register of deeds after effective date**
- **Timeline (Petitioned)**
  - **February 11, 2025**
    - **Notice of adoption and annexation resolution published**
  - **March 3, 2025**
    - **Effective date of annexation and zoning**

**Special Note:** *Once effective, send a copy of annexation resolution and vicinity map to South Dakota Department of Revenue to update municipal boundaries*



# FORMS OF ANNEXATION

- **Forced**

- 9-4-4.1 – Annexation study required
  - Identify need and resources necessary to extend municipal services
- 9-4-4.2 – Resolution of Intent (Large Municipalities)

- 9-4-4.3 and 4.4 – Notice and Public Hearing

- Public hearing notice of Resolution of Intent to landowners and County not less than 10 days but nor more than 20 days prior to hearing
- Within 60 days of adoption of Resolution of Intent.. A Public hearing will be held on Resolution of Annexation adoption of notice of intent resolution
  - Public hearing notice of Resolution of Annexation to landowners and County not less than 10 days but nor more than 20 days prior to hearing
  - 9-4-4.5 allows landowners being annexed to petition for a public vote if petition is submitted within 20 days after public hearing notice of Resolution of Annexation
- Resolution to annex must be acted on within 120 days after public hearing

# FORCED ANNEXATION TIMELINE

## December 5, 2024 to December 15, 2024

- Send by Certified Mail to County Commissioners and affected landowners the proposed resolution of intent to annex property and the notice of Public Hearing of the City Council Regarding the Adoption of the Resolution of intent to annex prescribed property (Not less than 10 and not more than 20 days prior to public hearing).

## December 24, 2024

- Publication of Notice of Public Hearing of the City Council regarding the Adoption of a Resolution of intent to annex prescribed property.

## January 6, 2025

- City Council: Public Hearing and Adoption of Resolution of Intent to Annex specified property. **If approved continue with the following timeline – Public Hearing on formal Annexation has to occur within 60 days of the adoption of the Resolution of Intent to Annex.** *January – March may be the only calendar months this works without a special meeting.*

## January 14, 2025

- Publish Minutes including resolution of intent



# FORCED ANNEXATION TIMELINE

## January 14, 2025 – January 22, 2025

- Send by Certified Mail to County Commissioners and affected landowners copy of approved Resolution of Intent to Annex adopted on November 10, 2024 and notice of Joint Public Hearing of the Planning Commission and City Council Regarding the Adoption of a Resolution Annexing prescribed property (ies) and affixing Zoning Designation(s) to specified property (ies)

## January 22, 2025

- Publication of Notice of Joint Public Hearing of the Planning Commission and City Council Regarding the Adoption of a Resolution Annexing prescribed property and affixing Zoning Designation(s) to specified property (ies)

# FORCED ANNEXATION TIMELINE

## February 3, 2025

- Joint Public Hearing of the Planning Commission and City Council Regarding the Adoption of Resolution Annexing prescribed Property and affixing Zoning Designation(s) to specified property (ies)
- Plan Commission: Recommendation of approval of Annexation
- Plan Commission: Recommendation of approval of Zoning Designations
- City Council: Announce that the Resolution of Annexation will be considered at the January 12, 2015 meeting of the City Council
- City Council: 1<sup>st</sup> Reading of Ordinance affixing Zoning Designation to property.

## March 3, 2025

- City Council: Adoption of Resolution Annexing prescribed Property
- City Council: 2<sup>nd</sup> Reading of Ordinance affixing zoning designation to property



# FORCED ANNEXATION TIMELINE

## March 11, 2025

- Publication of Resolution of Annexation in newspaper
- Publication of Notice of adoption of zoning amendment (assigning zoning designations)

## March 11, - March 31, 2025

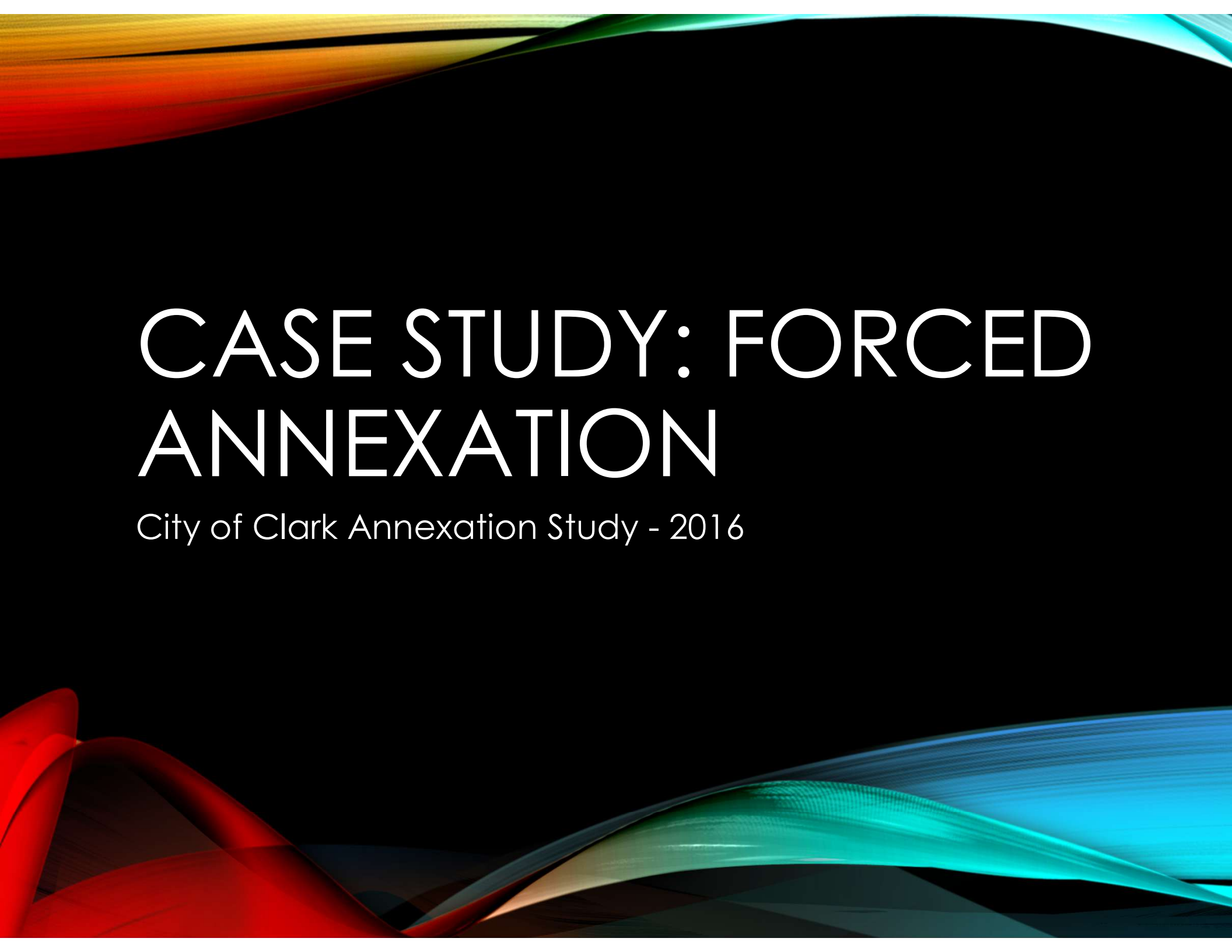
- petition referring Resolution of Annexation to vote of the people may be filed (*less than 20 days from publication of annexation resolution - assuming publication date of March 11, 2025*)

## March 31, - April 20, 2025

- Last date for City Council to set date for special election (*less than 10 days from receipt of petition*)

## May 10, - May 30, 2025

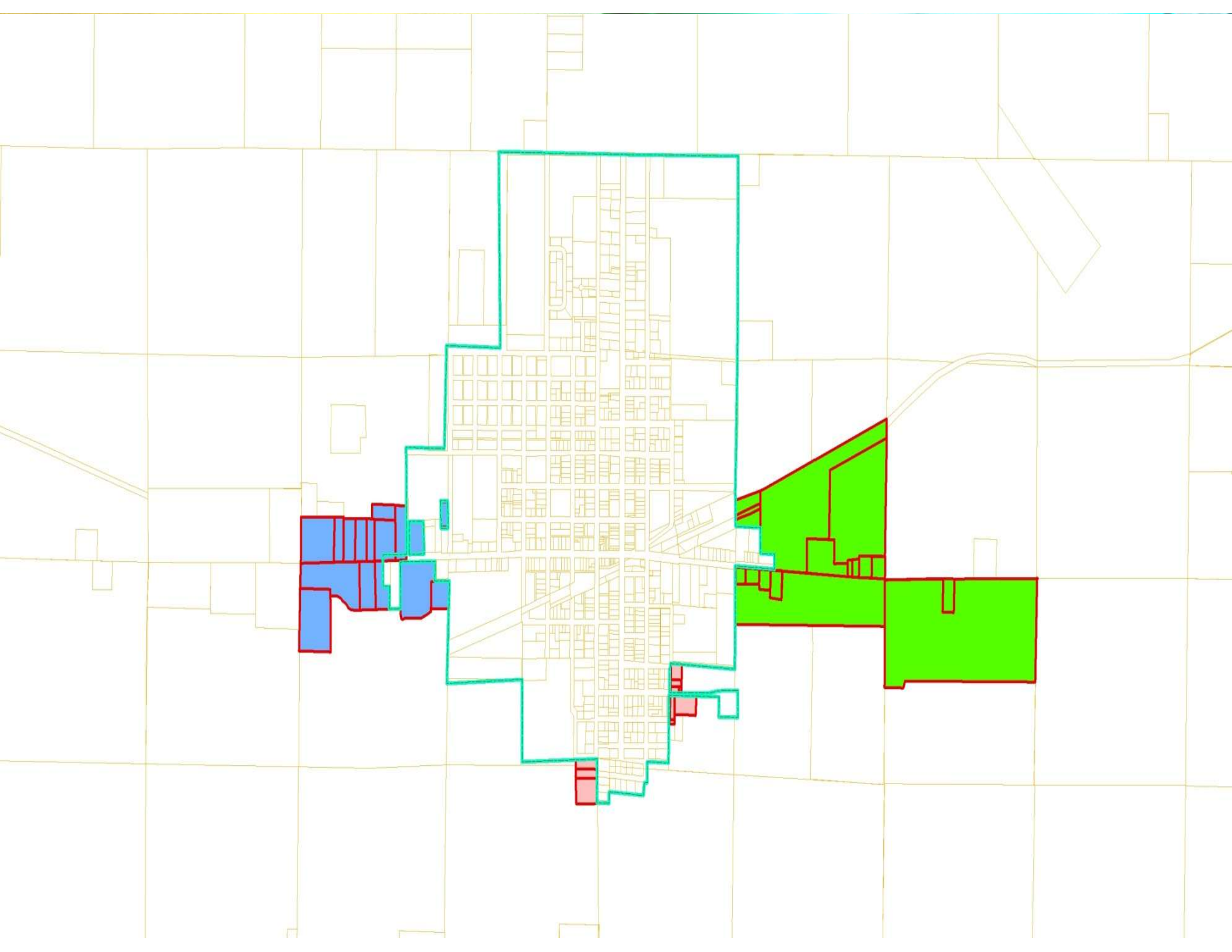
- Referred Annexation Election for city to occur in this time frame (assuming petition received on March 31, 2025)



# CASE STUDY: FORCED ANNEXATION

City of Clark Annexation Study - 2016





# SDCL 9-4-4.2 (ANNEXATION STUDY)

- The description and boundaries of the territory to be annexed;
- That ample and suitable resources exist to accommodate the orderly growth or development of the contiguous territory;
- That municipal utilities and a major street network are considered in terms of the proposed boundary extension and that there is a definite timetable upon which municipal service will be extended into the contiguous territory;
- The approximate cost of the extended service to the residents of the contiguous territory and the municipality;
- The estimated difference in tax assessment rate for the residents in the contiguous territory;
- That exclusions and irregularities in boundary lines are not the result of arbitrariness;
- That there is reasonable present or demonstrable future need for annexing the contiguous territory; and
- That population and census data indicate that the municipality has or may experience growth or development beyond its present boundaries.





# OVERVIEW

- Pgs 3 – 6: Existing Socio-economic conditions
  - Population has generally remained relatively constant
  - Comprehensive Plan identifies need for additional development land
- Pgs 7-10: Impacts of Annexation
  - Describes City's case for annexation and potential impacts to units of government and landowners
  - Compares public services
  - Annexation should occur prior to urban development



# OVERVIEW

- Pgs 11-28: Potential Annexation Areas
- 3 Areas with defined sub areas
  - Cost of providing services
  - Potential revenue from services and taxes
  - Subsets



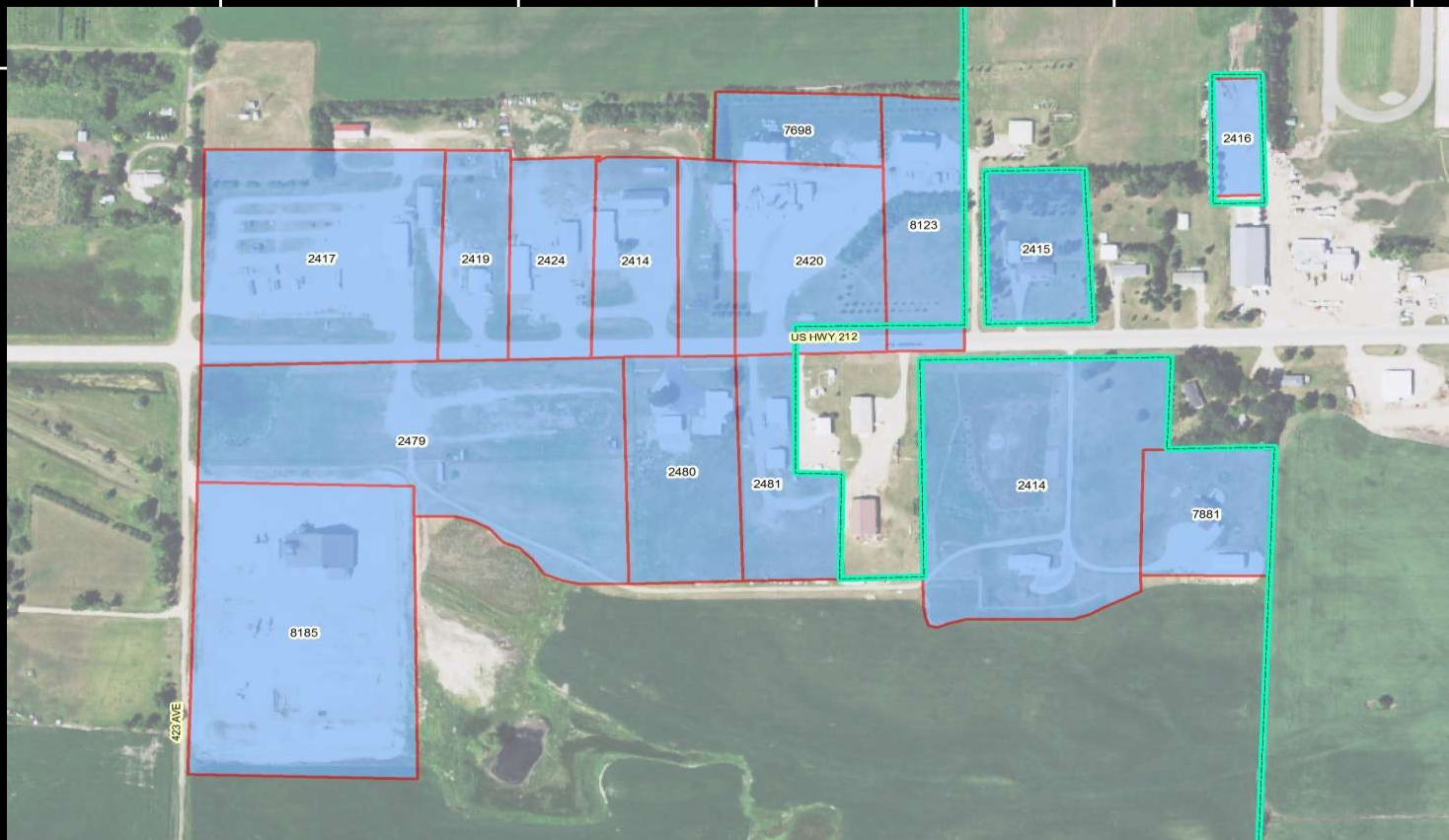
# AREA A

		Water and Sanitary Sewer Revenue	Subtotal	Sales Tax*	Adjusted Annual Total	Sanitary Sewer Improvement Costs**
Area	Property Tax					
Area A 1	\$1,209	\$936	\$2,145	---	---	\$52,300
Area A2	\$2,927	(\$1,152)	\$1,775	---	---	---
Area A3	\$1,278	(\$1,152)	\$126	---	---	---
<b>Total</b>	<b>\$5,414</b>	<b>(\$1,368)</b>	<b>\$4,046</b>	<b>---</b>	<b>\$4,046</b>	<b>\$52,300</b>



# AREA B

		Water and Sanitary Sewer Revenue	Subtotal	Sales Tax*	Adjusted Annual Total	Sanitary Sewer Improvement Costs
Area	Property Tax					
Area B1	\$5,399	\$378	\$5,777			
Area B2	\$9,928	\$2,940	\$15,820			
<b>Total</b>	<b>\$15,327</b>	<b>\$3,318</b>	<b>\$18,645</b>	<b>\$16,300</b>	<b>\$34,945</b>	<b>\$320,000</b>





# AREA C

		Water and Sanitary Sewer Revenue	Subtotal	Sales Tax*	Adjusted Annual Total	Sanitary Sewer Improvement Costs**
Area	Property Tax					
Area C1	\$3,128	\$2,214	\$5,342	---	---	
Area C2	\$27,910	\$4,428	\$32,338	---	---	\$413,800
Area C3	\$12,009	\$3,690	\$15,699	---	---	\$415,000
<b>Total</b>	<b>\$43,047</b>	<b>\$10,332</b>	<b>\$53,379</b>	<b>\$1,750</b>	<b>\$55,129</b>	<b>\$828,000</b>



# TOTALS

		Water and Sanitary Sewer Revenue	Subtotal	Sales Tax*	Adjusted Annual Total	Sanitary Sewer Improvement Costs**
Area	Property Tax					
Area A	\$ 5,414	(\$1,368)	\$ 4,046	---		\$ 52,300
Area B	\$15,327	\$ 3,318	\$18,645	\$16,300		\$ 320,000
Area C	\$43,047	\$10,332	\$53,379	\$ 1,750		\$ 828,800
<b>Total</b>	<b>\$63,788</b>	<b>\$12,282</b>	<b>\$76,070</b>	<b>\$18,050</b>	<b>\$94,120</b>	<b>\$1,201,100</b>

Area	2016 Taxable Valuation	If outside City Limits	If in City Limits	Net Township Loss (if annexed)	City Share of Taxes (if annexed)
<b>Area A Totals</b>	\$383,149.00	\$4,795.27	\$10,058.62	\$150.54	\$5,413.90
<b>Area B Totals</b>	\$1,156,887.00	\$17,203.15	\$33,075.67	\$474.32	\$15,326.43
<b>Area C Totals</b>	\$3,019,593	\$52,354	\$93,849	\$1,171.60	\$43,047



# CONCLUSIONS

- In the case of Clark, there are several reasons for the annexation of the property detailed in this report.
  - ❑ Many of the proposed areas to be annexed have for many years been, functionally, a part of the City. Residents and businesses outside of the City have benefitted from the provision of city services i.e., water, sanitary sewer, police protection and access to city facilities such as streets, parks, and libraries.
  - ❑ Annexation would ensure future development could be properly managed and conducted in a fashion which would enhance the development of the City
  - ❑ Annexation would provide for regular and non-arbitrary boundaries.
  - ❑ Annexation would provide additional annual property and sales tax revenue for the City - \$63,788 and \$18,050, respectively.
  - ❑ Annexation would provide additional annual water and sanitary sewer user revenue for the City - \$12,282.



## WHAT NEXT?

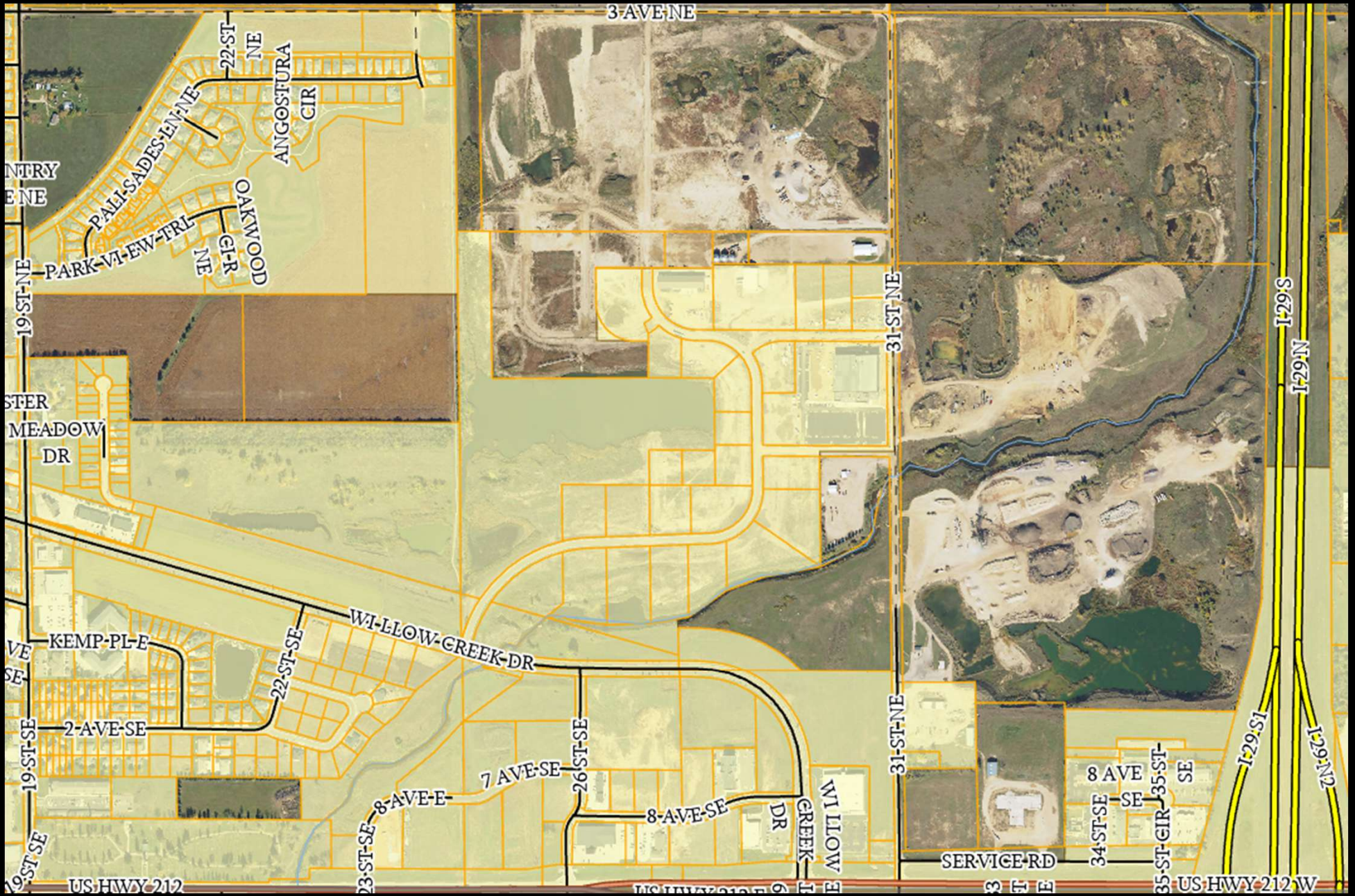
- Determine whether or not to annex and which properties
- If yes - Start process – six months

# EXAMPLE # 1





# EXAMPLE#2





# EXAMPLES #3



QUESTIONS ON ANNEXATION?

QUESTIONS ON COUNTY/CITY  
ZONING?

Luke Muller

[luke@1stdistrict.org](mailto:luke@1stdistrict.org)

Todd Kays

[todd@1stdistrict.org](mailto:todd@1stdistrict.org)

605-882-5115

