Legislation Details (With Text)

File #:	21-731	**Version:** 1	**Name:**
Type:	Resolution	**Status:**	Passed
File created:	11/10/2021	**In control:**	City Council
On agenda:	11/23/2021	**Final action:**	11/23/2021

Title: The City Clerk reports that on November 10, 2021 there was filed with her a petition for the annexation of Amara Addition No. 6 Annexation. The City Clerk herewith communicates such to City Council and recommends that the petition and map be referred to the City Administration for review and recommendation regarding whether the petition is in substantial compliance with Section 31-12-107(1).

Presenter:
Sarah B. Johnson, City Clerk

Sponsors:

Indexes:

Code sections:

Attachments: 1. PETITION AMARA ADD NO. 6, 2. 08-AMARA ADDITION NO. 6 10-11-21, 3. Amara_Annex Parcel Overall Layout

Date	Ver.	Action By	Action	Result
11/23/2021	1	City Council	approved	Pass

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Presenter:
Sarah B. Johnson, City Clerk

Summary:
Section 31-12-107 of the Colorado Municipal Annexation Act (the "Act") provides that property owners comprising more than 50% of the landowners in an area and owning more than 50% of the area may petition a municipality to have their property annexed into the municipality. Such a petition must be filed with the City Clerk and must contain the following allegations: (a) that it is desirable and necessary for the area to be annexed; (b) that the requirements of CRS 31-12-104 and 31-12-105 exist or have been met; and (c) that the signers of the petition comprise more than 50% of the landowners in the area and own more than 50% of the are proposed to be annexed. The petition must also include a request that the municipality approve the annexation. Each signature on the petition must include the mailing address of the signer, a date, and the legal description of the land owned by the signer. The circulators of the petition must sign an affidavit attesting that each signature on the petition is the signature of the person whose name it purports to be.

When landowners submit a petition for annexation, the petition must be accompanied by an

annexation map. The map must include a written legal description of the boundary of the area proposed to be annexed, a depiction of the boundary of the area to be annexed, a showing within the boundary of the area to be annexed of the ownership tracts or boundaries and plat numbers if the area is platted, and a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the proposed area.

If the Clerk receives a petition and map that facially complies with the above criteria, the Clerk is required by CRS 31-12-107(f) to refer the petition to City Council as a communication ("The clerk shall refer the petition to the governing body…") . City Council is then charged with the responsibility of determining whether the petition substantially complies with the above criteria ("The governing body, without undue delay, shall then take appropriate steps to determine if the petition so filed is substantially in compliance with" the above criteria). If City Council finds the petition to be in substantial compliance, then it must set a hearing and order the Clerk to issue notice as required under the Act.

Currently annexation petitions are being handled in the following manner: Petitions and annexation maps are submitted by petitioners to a planner. The planner forwards the petition and map to the City Attorney's Office and the Clerk's Office. The City Attorney's Office reviews the petition and map to make sure that they facially comply with the requirements of CRS 31-12-107. If either or both the petition and map are deficient, the City Attorney's Office provides a memorandum to the planner explaining the ways in which the petition and/or map are deficient. The planner communicates this information to the petitioner, who then has the option of fixing the petition and/or map. If the petition and map facially comply with CRS 31-12-107, the City Attorney's Office sends an email to the Clerk's Office telling the Clerk's Office that the petition and map are sufficient to communicate to City Council. The Clerk's Office then communicates the petition and map to City Council. City Council then refers the petition and map to City staff to review to determine whether the petition and map substantially comply with the requirements of the CRS 31-12-107. At the same time, the planner facilitates the negotiation of an annexation agreement between the petitioner and the City administrative staff.

The difference between whether the petition and map "facially comply" or "substantially comply" with CRS 31-12-107 is the level of review. When the City Attorney's Office reviews the petition and map to determine whether they facially comply with CRS 31-12-107, it only looks to see whether the petition includes all of the required elements and that the signatures are done correctly and whether the map includes all of the required elements. The City Attorney's Office does not have the tools to determine whether the petition and map substantially comply with the requirements. Substantial compliance with CRS 31-12-107 has to do with determining whether the area proposed to be annexed complies with the requirements of Section 30(1) of article II of the Colorado Constitution (petitioners are 50% or more of landowners and own at least 50% of land), CRS 31-12-104 (1/6 contiguity and community of interest), CRS 31-12-105 (limitations such as splitting ownership tracts, competing annexations, 3-mile boundary extension, etc.), and any annexation requirements under City Code (7.6.201, et seq.). The determination of substantial compliance requires an in-depth examination of the property and consultation with other interested parties (like the County) and experts. The planner assigned to the annexation works with all other City departments in order to make a recommendation to City Council that the petition and map substantially comply with CRS 31-12-107.

Once staff believes there is sufficient support for a finding of substantial compliance with the Act and there is agreement between the parties regarding the terms of the annexation agreement, City staff recommends a resolution to Council that determines that the petition and map substantially comply

with CRS 31-12-107, sets a hearing to determine whether the area is eligible for annexation, and orders the City Clerk to publish notice in conformity with CRS 31-12-108. Under CRS 31-12-107 if City Council determines that the petition and annexation substantially comply with CRS 31-12-107, City Council is required to provide notice and set a hearing to determine whether the area is eligible for annexation.

Once the hearing has been conducted and City Council has made specific findings (generally that the area is eligible for annexation) then City Council may (or may not) annex by ordinance. Although the Act requires the City to take certain steps once an annexation petition and map are submitted, the Act does not require the municipality to annex the property.

Background:
N/A

Previous Council Action:
N/A

Financial Implications:
N/A

City Council Appointed Board/Commission/Committee Recommendation:
N/A

Stakeholder Process:
N/A

Alternatives:
N/A

Proposed Motion:
Move to refer the Amara Addition No. 6 Annexation petition and map to the City Administration to determine whether the petition and map substantially comply with the requirements of the Municipal Annexation Act of 1965 and City Code.

N/A