

STATE OF MICHIGAN

DEPARTMENT OF CONSUMER & INDUSTRY SERVICES

BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #95-AP-4

The proposed annexation of
territory in Howell Township
to the City of Howell.

FINDINGS OF FACT AND ORDER

This matter of the proposed annexation of the following territory situated in Howell Township to the City of Howell and described as follows:

All that part of the East ½ of the West ½ of the Southwest 1/4 of Section 35, T3N-R4E, Howell Township, Livingston County, Michigan, which lies Southwesterly of a line 103 feet Southwesterly of (measured at right angles) and parallel to the centerline of east bound I-96, EXCEPT the south 99 feet.

This matter came before State Boundary Commissioners VerBurg and Rutledge, and Howell County Commissioner Douglas Cameron for final adjudication in Lansing, on Thursday, August, 8, 1996. The Commission, being fully advised as to the positions of the respective parties, made its findings on said date.

SUMMARY OF PROCEEDINGS

1. On August 21, 1995, a petition was filed requesting the annexation of certain territory in Howell Township to the City of Howell.
2. On December 19, 1995, an adjudicative meeting was held to determine legal sufficiency and the petition was found to be legally sufficient pursuant to Public Act 191 of 1968, as amended, and Public act 279 of 1909, as amended. The Commission voted to expand the subject territory northerly to the existing city limit to include the right-of-way of I-96.
3. On March 6, 1996, a public hearing was held to receive testimony given pursuant to

Public Act 191 of 1968, as amended. Notice of said hearing was published and mailed pursuant to Section 8 of Public Act 191 of 1968 as amended.

4. On August 8, 1996, an adjudicative meeting was held to consider the record and reach a decision.

INFORMATION TO BE NOTICED

1. The petitioner reported that:
 - the petitioner has been pursuing sewer and water services for at least 5 years,
 - the petitioner owns approximately 10 acres that are undeveloped,
 - over 1.7 acres in the southeast corner of the property are in the city,
 - the remaining 8.3 acres are in the township,
 - a 39 foot strip running along the southern edge of the property in the township, north of the Mason Road right-of-way, is in the city,
 - the city will not service property in the township,
 - the township can not service the 1.7 acres in the city without agreement from the city,
 - it is not economical to pay the cost of extending city services across I-96 to service only the 1.7 acres,
 - due to the current market, time is an important factor,
 - the city can provide services now for a cost that can be determined now, whereas the time and cost for township sewer and water services can only be estimated,
 - the petitioner contends that it is most economical for him if all of his property is provided with city services.
2. The township reported that:
 - the 1995 state equalized value (SEV) of the area proposed for annexation was \$6,800,
 - the 1995 SEV for real property in the township was \$105,127,950,
 - the 1995 millage rate for the township was 2.0223,
 - the zoning for the proposed area is Neighborhood Service Commercial, which provides for retail trade and services in the immediate neighborhood.
3. The city reported that:
 - the 1995 SEV for real property in the city was \$158,525,300,
 - the 1995 millage rate was 17.8661
 - the portion of the petitioner's property that is within the city is zoned B2, General Business District,
 - the city's future land use plan designates all of the petitioner's property as General Industrial,
 - treated water and sewer lines are 1700 feet from the proposed annexation area,
 - the 39 foot strip contains the city's main raw water line that runs from its wells located in the township to the city treatment plant,

-the city does not have a written easement for the 39 foot strip that contains the raw water main.

4. The township reported:

- the 1970 population was 2,426,
- the 1980 population was 3,999,
- the 1990 population was 4,298,
- an area of 32.5 square miles.

5. The city reported:

- the 1970 population was 5,224,
- the 1980 population was 6,976,
- the 1990 population was 8,184,
- an area of 4.4 square miles.

6. The city reported or testified that:

- it would accept the area if the annexation were approved,
- it would not be willing to detach the 1.7 acres owned by the petitioner,
- city policy is that the developer has to pay the cost of extending water and sewer lines,
- the city will negotiate the costs of extending sewer and water to the petitioner's property in consideration for the lack of a written easement for the raw water line.

7. The township reported or testified that it opposed the petition because:

- the township is working on sewer and water systems,
- the township would be willing to provide water and sewer to all of the petitioner's property, including the portion in the city,
- I-96 is a natural boundary, the city only has jurisdiction over the approximately 1 acre parcel on the south side of I-96,
- annexation would create an "island" south of I-96, served by the city,
- annexation will create an island between Howell and Marion Townships in terms of sewer and water services,
- whether the parcel stays with the township or goes with the city, it will have township water and sewer pipes running in front of it to service the other areas south of I-96,
- annexation is not required for the provision of sewer and water: the city and township currently have agreements for provision of services to other areas, and they could negotiate one for the proposed area,
- the township has invested years of engineering designs and studies to create a new water district.

8. The county reported that:

- there are preliminary plans to develop 1,000 homes in Marion Township that will significantly impact Mason Road,
- they are assisting the township with updating their master plan, the possible annexation

will be a factor in the future land use designation.

9. The township reported or testified that:
 - the property has not been included in any special assessment district because the owner has not petitioned the township for sewer or water services.
 - the Marion-Howell-Oceola-Genoa Utility Authority had issued contracts for the construction of water mains,
 - on August 15, 1996 construction bids would be received for a one million gallon water tank,
 - the water softening plant will be in place on September 1, 1997,
 - Marion Township has awarded contracts that include a 12 inch water main on Mason Road adjacent to the petitioner's parcel,
 - the Authority should have water to the parcel in 1996
 - the bonds that were sold for the water district did not include any portion of the petitioner's property.

10. The city testified that:
 - the water in the raw water main is potable without treatment,
 - it is possible that the petitioner could tap into the raw water main that is on the property,
 - treated water mains are approximately 1700 feet from the proposed annexation area,
 - although extension of mains to the petitioner's property would require crossing I-96, the casings for water and sewer mains have already been installed south of the intersection of I-96 and Mason Road,
 - present water usage is at 58% of capacity,
 - Michigan Department of Public Health has requested the city to increase its peak pumping capacity in order to add additional transmission main to the city's water system,
 - treated water could be available to the property in the Fall of 1996.

11. The township reported or testified that:
 - Howell Township and Marion Township are jointly designing plans for sewer services to the area,
 - on July 10, 1996, the Department of Environmental Quality issued preliminary effluent limitations for the waste water treatment facility,
 - sewer plans for the adjacent area of Marion Township will be finished by April 15, 1996,
 - sewer services will be available to the proposed area by the summer of 1997.

12. The city reported or testified that:
 - city sewer capacity is at 83%, as reported in the questionnaire, 72-75% based on flow and design, as stated at the public hearing,
 - there is some difficulty with hydraulic loading from a concentration loading,
 - if they were to take additional flow there is a question whether it would have to be enlarged or not,
 - sewer service could be provided in the summer of 1996.

13. The township reported that:
 - cost estimates for water and sewer, not including connection, are \$80,000 for water and sewer,
 - the township did not report what the connection fees would be for sewer and water.
14. The petitioner testified that the township quoted an estimate for connection fees to sewer and water at \$2,500 per unit.
15. The city reported that:
 - the estimated cost of extending treated water and sewer to the property is \$75,000-\$150,000, depending on the type of development,
 - the connection fee for each is \$605 per residential equivalent unit.
16. There was no public input on the record from residents or property owners in the area supporting or opposing the annexation.
17. The record showed that the proposed area was originally city territory that had been detached in 1940.

FINDINGS OF FACT

1. There is no significant detriment to the township if the annexation is approved.
2. There is no detriment to the Utility Authority if the annexation is approved since the bonds that were sold for the water district did not include the petitioner's property.
3. Sewer plans are not at a stage where there is certainty of the date service will be available to the petitioner's property.
4. Although the township has to put its water and sewer lines along Mason Road to service adjacent properties even if the annexation is approved, the city already has a water line on the property and has installed casings for lines under I-96.
5. In light of all the testimony given, the petitioner still believes it is most economical to receive city services.
6. If the annexation is denied the city and the township would have to enter into an agreement to provide services to all of the petitioner's property. There is not certainty as to if or when that would occur.
7. Granting the annexation would not create a breach in the current boundary between the city

and the township.

8. The property is bounded on three sides by the city, and although I-96 would make a logical boundary between the city and the township, the city boundary is already south of I-96.

IN CONCLUSION, THE COMMISSION FINDS THAT

1. The Commission has considered the information contained in the record of this docket in terms of the criteria stipulated under Section 9 of Public Act 191 of 1958, as amended.

2. On August 8, 1996, State Boundary Commissioners VerBurg and Rutledge, and Livingston County Boundary Commissioner Cameron voted to annex the following described territory to the City of Howell:

All that part of the East ½ of the West ½ of the Southwest ¼ of Section 35, T3N- R4E, Howell Township, Livingston County, Michigan lying Southerly of the north right-of-way line of I-96, except the south 6 rods (99.0 feet) thereof.

3. On August 8, 1996 the Commission directed the Executive Director to prepare a draft Findings of Fact and Order for distribution to the Commissioners prior to final action.

4. On September 17, 1996, a meeting was held between State Boundary Commissioners VerBurg, Rutledge, and Walker, and Livingston County Commissioner Cameron, and after review, the Findings of Fact were approved.

5. On September 17, 1996 the Commission voted to recommend that the Director of the Department of Consumer and Industry Services sign the Order.

ORDER

DOCKET #95-AP-4

IT IS ORDERED THAT these Findings of Fact shall be effective as of September 17, 1996, and the annexation of the subject territory, with adjustments, to the City of Howell shall be effective 30 days from the date the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT a certified copy of these Findings of Fact and Order shall, forthwith, be transmitted to the Clerks of Livingston County, Howell Township, and the City of Howell.

Kathleen M. Wilbur

Kathleen M. Wilbur, Director
Department of Consumer and Industry Services

9/27/96

Date