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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
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DIRECTOR

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STATE BOUNDARY COMMISSION
BUREAU OF CONSTRUCTION CODES
Conference Room 3, First Floor
2501 Woodlake Circle
Okemos, Michigan 48864

DOCKET 10-I-2 WASHTENAW COUNTY
MINUTES (DRAFT)
June 16, 2011
10:00 a.m.

MEMBERS PRESENT

Mr. Dennis Schornack, State Boundary Commission Chair
Mr. Kenneth VerBurg, State Boundary Commissioner
Mr. Cameron G. Priebe, State Boundary Commissioner
Mr. Wesley Prater, Washtenaw County Boundary Commission

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS PERSONNEL ATTENDING

Mr. Irvin J. Poke, Director
Mr. Keith Lambert, Deputy Director
Mr. Kevin O'Brien, Office of Land Survey and Remonumentation
Ms. Jocelyn Krueger, Assistant to Mr. Poke

OTHERS IN ATTENDANCE

Mr. Shawn Keough, Village of Dexter President
Mr. Thomas J. Ryan, Attorney for Village of Dexter
Mr. William Fahey, Attorney for Webster Township

1. CALL TO ORDER AND DETERMINATION OF QUORUM

Chairperson Schornack called the meeting to order at approximately 10:00 a.m. A quorum was determined present at that time. Introductions made with Mr. Schornack describing his past work experiences.

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2. **DOCKET # 10-I-2 – ESTABLISHMENT OF LEGAL SUFFICIENCY FOR THE INCORPORATION OF THE VILLAGE OF DEXTER AS A HOME RULE CITY**

Mr. O'Brien read the legal sufficiency memo pertaining to this docket dated May 24, 2011. Summary: Staff has recommended that the Boundary Commission find this petition to be legally sufficient. The Chair opened the floor to comments.

Mr. Fahey commented on the Part I Map of the petition. Under Rule 25(1) of the State Boundary Commission Administrative Rule, it appeared to Mr. Fahey that one of the rules was not applied to the map. On page two of the map, there are two parcels of land that fall under Public Act 425 of 1984 (Parcel 1A and West Ridge of Dexter). Those areas are specifically noted in the petition as being transferred to the city. Mr. Fahey asserted that according to MCL 124.29, areas that fall under Act 425 cannot be included in a petition to incorporate as a Home Rule City. Mr. Fahey believes the State Boundary Commission should find that the petition was not legally sufficient.

Mr. Keough noted the initial attempt at this petition occurred approximately one year ago. To give some background information, Mr. Keough noted a City Study Committee was formed in 2007 and met for 18 months. Forward movement was recommended and in 2009 a resolution was passed to submit an application to the SBC. That application was denied after being found to be legally insufficient. The process was revisited in 2010. In 2000, the population of the village was 2,338. The 2010 census found the population had increased to 4,067 and that is the largest increase in the state for any city and/or village. Dexter provides its own water and sewer services, maintains its own streets, has its own wastewater treatment plant, and contracts with Washtenaw County for police protection and also contracts out for fire protection. A full committee exists with eleven full time union positions. Village residents currently pay township taxes and Dexter is unique in that a large portion of the Village is in Scio Township, but part also falls within Webster Township – including the two Act 425 areas – so that residents are paying taxes twice for the same services. The agreement Webster Township and the Village came up with was before Shawn was even a resident and addressed the steps to be taken should incorporation take place. The goal is not to increase the area addressed in the petition as it addresses the same three boundaries in place one year ago. Webster objected to tax-free property and will not cause any undue hardship on those three areas. Logic was followed when considering the dividing line between Webster/Scio as the proposed city boundary to provide continuity. Several public meetings have been held within the last five years with consideration given to those West of the river that are against being drawn into the new boundary. Again, the goal, Mr. Keough noted, is not to obtain a larger area.

Mr. Ryan disagreed with Mr. Fahey's interpretation of MCL 124.29 noting this is not a "transfer" and not an "annexation" but rather an "incorporation" which is a different, dynamic process. Mr. Ryan indicated it would have been evident in their research if Act 425 had been meant to be taken as a blanket Act and therefore it does not apply to the proposed incorporation.

Mr. Fahey countered by emphasizing that the State Boundary Commission exists under its rules and that the Act does apply to "incorporation." (references section of Act 425) Attempting to incorporate areas of Scio and Webster is a transfer of property from one unit to a new unit. The problem the Village ran into when drafting the proposal was the 425 property. Alternate ways of validating the petition have been offered to the Village.

At Mr. Prater's request, Mr. O'Brien read section 5 of the Act 425 agreement between Webster Township and the Village of Dexter. Mr. Keough indicated that if the incorporation were to take place, the city would continue to pay taxes for twelve years on the areas that fall within Act 425. Further, the duration of the agreement is for fifty years unless early termination through a court of law, the expiration in the term of the agreement, or by mutual agreement or if a village becomes a city after which the twelve years applies after the city assumes jurisdiction. Mr. Keough indicated that the property in objection would divide Webster if left out of the proposed plan and that it did not make sense to leave that area as an enclave. Mr. Fahey further countered that Act 425 stands on its own and it states that property within an Act 425 area cannot be transferred, period. If the proposed petition is found to be valid, there will be hearings, arguments, possibly a city election, and they would end up in circuit court. The judge will likely find the Act 425 argument to be correct and the process will be back at square one.

At the request of Mr. Prater, Section 9 of PA 425 was read by Mr. O'Brien. Chairperson Schornack stated that in his opinion, the omission of the word "incorporated" is not just an oversight and that it was considered when the law was put together. Mr. Ryan asked that Act 425 be read again and that the word "transfer" is redundant in this particular situation. Mr. Fahey argued that the word "transfer" is all encompassing and that there are a lot of other items (detachments, etc.) not mentioned in the wording.

At the suggestion of Mr. Verburg, Mr. Keough indicated that he would object to the PA 425 areas not being included. Discussion ensued.

Mr. O'Brien indicated the AG's office had given a verbal confirmation that an incorporation is different than a transfer but he will get written confirmation from the AG's office per the direction of the commission.

Chairperson Schornack **MOTIONED** and Mr. Prater seconded the postponement of this issue until the next SBC, which will be held on August 18, 2011 at 10:00 a.m. in Okemos. **MOTION CARRIED.**

3. ADJOURNMENT

The meeting adjourned at 11:05 a.m.