

**State of Michigan  
Department of Licensing & Regulatory Affairs  
State Boundary Commission**

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**In the Matter of the Proposed Annexation of  
Territory in Caseville Township to the  
City of Caseville**

**Docket No. 11-AR-1**

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**City of Caseville Rebuttals for Caseville Township's 30 Day Submissions**

The City of Caseville files the following Rebuttal Statement to the 30 Day Submissions submitted by Caseville Township's attorneys, Fahey, Schultz, Burzych, Rhodes, PLC to provide the State Boundary Commission with additional information and response.

The Memorandum which has been submitted by Township legal counsel inaccurately applies the statutory criteria of MCL 123.1009, which requires that the State Boundary Commission ("SBC") apply such criteria to the above annexation petition. The City of Caseville agrees that the statutory criteria must be applied; however, the Township Memorandum completely ignores the factual circumstances surrounding the City Petition for Annexation. To refresh the Commissioners' recollections, the City of Caseville has documented that the area proposed to be annexed was historically in the Village of Caseville prior to the incorporation proceedings previously filed with the SBC. The substance of this Petition is to ratify and confirm what has historically been the boundaries of the Village of Caseville, and to incorporate the proposed annexed parcel into the City of Caseville. The record in this proceeding has amply displayed that the City of Caseville has supplied public utilities and tax abatements to facilitate the development of the area to be annexed. This case is a clear example of how the historic boundaries of the Village of Caseville, now City of Caseville, should be ratified to reflect the historic reality of the City and the Township.

In further response to the Memorandum of Township counsel, the City submits the following:

**Criteria 1-2 (Response to Township Memorandum).**

4. The City has proposed the exclusion of the southern parcel that has always been in the Township from the annexation.

**Criteria 3 – 7 (Response to Township Memorandum).**

5. In addition to the parcel owned by Blue Chip Machining Co. and additional parcel is owned by James Devroye and a large portion of the parcels are vacant.
6. The proposed annexation parcels have been zoned industrial by the Village/City since the zoning ordinances were enacted in the 1980's. The parcels proposed to be annexed are not zoned by the Township since they were in the Village/ City.
7. The proponents of Cityhood never promised a reduction in taxes upon incorporation. They did promise that the existing Township taxes and fees collected, with the taxes, would be added to the existing Village millage rate to come up with a City millage rate. The total taxes collected for each tax parcel after incorporation, by the city, was equal to the total taxes collected by the Township and Village prior to city incorporation.
9. The annual property tax to be paid to the City, by Blue Chip Machining Co., was known by the company when they purchased the property and when they proposed a tax abatement to the City.
12. The state has granted a tax abatement that was requested by the City and Blue Chip Machining for the property proposed to be annexed.
13. The boundary originally requested by the Village for incorporation was as the records of the Office of the Great Seal contained. During the incorporation process the discrepancy between the historical boundary and the one supplied by the Office of the Great seal was questioned by the Village officials. The original State Boundary Commission hearing for City incorporation had the entire, original (contained the southeastern quarter section that was removed by Circuit Court action in 1947) Village incorporation boundaries established in 1898. This proposed boundary was dropped by the State Boundary Commission during the incorporation process.

**Criteria 8-9 (Response to Township Memorandum)**

14. Blue Chip Machining Co. representatives stated at the State Boundary Commission Public Hearing in Caseville, that they would look at all their options if the proposed parcels were annexed. Since that hearing the City has agreed to not seek annexation of the southern parcel that was originally in the Township. Blue Chip Machining Co. representatives have relayed that their opposition to the annexation would cease if the southern parcel was taken out of the annexation request.

### **Criteria 10-14 (Response to Township Memorandum)**

15. The City provided water and sewer services as well as storm drainage, surrounding road maintenance and snow removal could be curtailed if the parcels are not in the City so the failure to annex the parcels could create a need for additional services.

16. Blue Chip Machining Co. receives water and sewer services from the City, as the factory was in the Village, when those services were initially provided. The Supreme Court opinion cited (*Royal Oak Township v City of Ferndale*) does not confer the right of Blue Chip Machining Co. to continue to receive sewer service from the City of Caseville as stated by the Township. The Michigan Court of Appeals case *Charter Township of Haring v. City of Cadillac (2010)* decision states that a municipality has the ability to afford sewer services beyond its border, however, there is nothing in Michigan law that requires the municipality to do so.

17. The City provides the fire services to all areas of the City and is currently contracted with the Caseville Area Fire Protection Association for the service. The fire hall is located in the City a short distance from the proposed annexation parcels. The factory building has always been afforded police protection from the Village/City police department. In the past few years several complaints have been dealt with by the Village/City police officers. A recent break-in that occurred in the area of the factory in the southern parcel that was in the Township was handled by the Township police officer as it was in his jurisdiction. The City has never declined police services requests to the annexation area and the City Police department and City Hall is across the street from the proposed annexation area.

18. The City already provides water, sewer, storm drainage, road maintenance and all the other City services provided to City parcels. The Township provides no services, as stated in the Township brief, to the proposed annexation parcels. Blue Chip Machining Co. knew the taxes assessed by the City before it improved and enlarged its operations. The company also asked and was granted a City tax abatement for the parcels that are proposed to be annexed.

19. The taxes that would be received by the City if the annexation occurred would be the amounts that the company and City planned on with the tax abatement issue. The Blue Chip Machining Co. owner stated at the State Boundary Public Hearing that if the annexation took place he would have to explore his options. Since that hearing, the company has told the City that they would not oppose the annexation if the southern parcel was taken out of the annexation, which the City has requested. The other taxing units would not realize any loss as the first tax to be paid with the new factory personal property increase will be on the 2011-12 winter tax as they have not collected any increased tax up to now. The factory was unused and vacant for years up until 2010 when Blue Chip Machining bought it and is currently in the process up upgrading and converting it for their uses.

20. Blue Chip Machining Co. receives its public water service from the City of Caseville and pays the City of Caseville a quarterly bill for water and sewer services provided. The Township purchases water from the City of Caseville which provides water to approximately 900 customers in certain water district in the Township of which the proposed annexation area is not

in. The Township water distribution system is owned by the Township and maintained by the City of Caseville under a maintenance agreement.

21. Commercial garbage accounts, such as Blue Chip Machining Co. contract with the private garbage services for dumpster pickup.

24. The City has granted a 12 –year Industrial Facility Tax Exemption to the proposed annexation area as it was in the Village/City when requested. The Township has granted the same exemption to the southern parcel that is in the Township.

25. Blue Chip Machining could continue to receive all the City services currently provides in the proposed annexation parcels.

**Criterion 15.**

26. The City taxes that Blue Chip Machining Co. would pay in the parcels in the proposed annexation would pay for the many City services that are provided.

27. The City incorporation provided the City taxpayers to be able to benefit from the taxes paid to the City. While a Village, taxpayers paid taxes to the Township that were never used in the Village. The total tax bill from the City is identical to the total tax paid prior to City incorporation that was paid to the Township and Village combined.

**Criterion 16 (Response to Township Memorandum).**

28. The City will continue to provide the City services for the proposed annexation parcels.

**Criterion 17 (Response to Township Memorandum).**

29. The approval of the annexation will allow both the Township and City to operate as has been in the past. The continuation of the historical boundary will see both the Township and Village realizing an increase in tax revenue from the factory going from unused to active, with the majority of the tax being personal property tax. The company has provided detailed diagrams that show the majority of the equipment that will be subject to the tax will be located in the southern parcel that has been in the Township, so the largest tax percentage increase will be realized by the Township.

- a. The owners of Blue Chip Machining Co. never testified at the State Boundary Commission Hearing in Caseville, that they would relocate. They did say they would look at their financial considerations and they further related to the City that they would not oppose the annexation of the original historical City parcel when the City dropped its request to annex the southern parcel in the Township. The City has informed the State Boundary Commission of this intent.
- b. The Township would be deprived of nothing with the proposed annexation as the parcels in the proposed annexation area historically were planned by the City.

- c. The Township would not be deprived of any tax that has been collected in previous years. The increase in personal property in the factory has occurred in 2011 with the refurbishment of the facility. The tax base in the parcels historically in the Village/City was never developed with Township guidance as it was not in their jurisdiction.

30. As can be seen by the constant erroneous insistence by the Township that taxes increased with City incorporation the detachment movement is a devise conjured up by the Township. The detachment petitions submitted to the County Commissioners show 36 City voters and 103 Township voters signing the petition. These signatures were collected from July 2011 so plenty of time was available for many signatures and only 36 signed. A more revealing statistic is that there was a majority of the voters both in 1898 to incorporate as a Village and in 2010 to incorporate Caseville as a Home Rule City. There is a part of the Home Rule City Act (117.9b) that restricts detachment if the areas have not been previously annexed (the detachment areas were never annexed after city incorporation) and water and sewer service is provided (all the areas targeted for detachment have City water and sewer service) so it is the City's opinion that detachment would violate the statute.

The Township cannot be awaiting a date for a detachment election as the Huron County Corporate Council has not approved the petitions or the legality of the detachment attempt and an election might not occur.

**Criterion 18 (Response to Township Memorandum).**

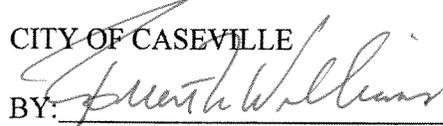
31. Both the City Master Plan and Zoning ordinance has the area proposed for annexation included. The area is planned and zoned by the City for industrial purposes.

**Relief**

The City of Caseville respectfully requests that the State Boundary Commission grant the Petition for Annexation based upon the historic boundaries of the Village of Caseville, the public utilities which have been extended to the annexed property, and the other municipal services which have been provided to the proposed annexed property.

Respectfully submitted,

CITY OF CASEVILLE

BY: 

Forrest Williams

ITS: City Clerk

Date: Nov. 16, 2011