STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #97-AP-4

The annexation of
territory in Bingham Township
to the City of St. Johns
_____/

SUMMARY OF PROCEEDINGS, FINDINGS OF FACT AND ORDER

This matter of the proposed annexation of the following territory in Bingham Township to the City of St. Johns which is described as follows:

The North 60 acres of the West 1/2 of the Northeast 1/4 of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, also described as follows:

Commencing at the North 1/4 corner of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, as defined in a survey by L.L.S. #19003; thence N 89°36'37" E along the North line of Section 21, a distance of 1320.36 feet to a point on the East 1/8 line of Section 21, said point being the North 1/8 corner of the Northeast 1/4 of Section 21; thence S 01°06'57" E along the East 1/8 line of Section 21, a distance of 1980.64 feet; thence S 89°36'37" W 1319.00 feet to a point on the North-South 1/4 line of Section 21; thence N 01°09'18" W along said North-South 1/4 line of Section 21, a distance of 1980.66 feet to the point of beginning.

Together with:

The North 60 acres of the East 1/2 of the Northwest 1/4 of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, which is also described as:

Commencing at the North 1/4 corner of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, as defined in a survey by L.L.S. #19003, thence S 01°09'18" E along the North-South 1/4 line of Section 21, a distance of 1974.34 feet; thence S 89°17'14" W 1322.67 feet to a point on the West 1/8 line of Section 21 to a point on the North line of Section 21; thence N 0113'19" W along the West 1/8 line of Section 21 to a point on the North line of Section 21; thence N 89°17'14" E. along the North line of Section 21 to the point of beginning.

This matter came before State Boundary Commissioners VerBurg, Rutledge and Walker and Clinton County Commissioners Huard and Ostrowski for final adjudication in Lansing on **December 11, 1997.** The Commission, being fully advised as to the positions of the respective parties, made its findings on said date.

SUMMARY OF PROCEEDINGS

A. On **February 18, 1997** a petition was filed by Robert J. Nurenberg and Germaine R. Nurenberg, property owners, asking for the annexation of 120 acres in Bingham Township to the City of St. Johns.

B. On **May 22, 1997,** the State Boundary Commission held an adjudicative meeting in Lansing to determine the legal sufficiency of the petition. The petition was declared to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended. The area proposed for annexation was expanded to include a 40 acre area west of the area proposed for annexation and east of the City limits.

C. On **September 4, 1997,** a public hearing was held in Bingham Township to receive testimony given pursuant to Public Act 191 of 1968, as amended.

D. On **December 11, 1997,** the State Boundary Commission held an adjudicative meeting in Lansing and voted to recommmend annexation of an area including the property in the original petition and the area expanded by the Commmission. **The total area recommended for annexation is described as follows:**

Commencing at the North 1/4 corner of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan; thence S 01°09'18" E 1980.66 feet along the North and South 1/4 line of Section 21 to the South line of the North 60 acres of the West 1/2 of the Northeast 1/4 of Section 21; Thence N 89°36'37" E along the South line of the North 60 acres of the West 1/2 of the Northeast 1/4 and its extension to the East line of Section 21; Thence Northerly along the East line of Section 21 to the Northeast corner of Section 21; Thence S 89°36'37" W along the North line of Section 21 to the North 1/4 corner of Section 21 and the Point of Beginning. Except all that part currently within the City of St. Johns.

Together with:

The North 60 acres of the East 1/2 of the Northwest 1/4 of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, which is also described as:

Commencing at the North 1/4 corner of Section 21, T7N, R2W, Bingham Township, Clinton County, Michigan, as defined in a survey by L.L.S. #19003, thence S 01°09'18" E along the North-South 1/4 line of Section 21, a distance of 1974.34 feet; thence S 89°17'14" W 1322.67 feet to a point on the West 1/8 line of Section 21 to a point on the North line of Section 21; thence N 89°17'14" E. along the North line of Section 21 to the point of beginning.

INFORMATION TO BE NOTICED

The Petitioners testified:

1. After 40 years of operating their dairy farm, the petitioners wanted to cease farming, develop their property into an office park and various types of residential dwellings, and retire within the residential portion of the new development.

2. The Petitioners believed the City could provide sewer service in the most economical and reasonable manner; City sewer service and adequate capacity are available now while the Township would need to build a new sewage treatment plant and a collection system that would duplicate an already available City system.

3. The City has public water available to the area proposed for annexation with adequate capacity and a 12-inch water main available to the area along Townsend Road. City fire, police and parks and recreation services are greatly preferred to those provided through the Township.

4. Annexation would allow the proposed development to go forward and provide housing, new businesses, and the additional jobs and revenue associated with these developments.

5. The area proposed for annexation has been identified for many years in the County Comprehensive Development Plan as property suited for development as a mixed-use commercial/residential development and is zoned mixed use/development under the County Zoning Ordinance.

6. The Township Board decided not to pursue an Act 425 Agreement proposed by the Petitioner and the City. Therefore, Petitioners petitioned the State Boundary Commission to annex the area in question.

Representatives of the City testified:

1. The developments planned for the area proposed for annexation relate to the City's land use plan.

2. The City has the capacity to provide all city services to the area proposed for annexation including water, sewer, police, and fire. Water and sewer lines are adjacent to the property proposed for annexation.

3. Development of the area proposed for annexation appears likely and can best be served by being part of a full service community. Property owners will pay an appropriate share of the cost of those services that new residents and businesses will require.

Representatives of the Township testified:

1. The Township prefers to contract with the City for water and additional sewer services but the City does not concur.

2. The Township supports the development of this property for commercial and residential use and believes it can be developed without annexation as has been done elsewhere in the state.

3. The Township believes that this petition is just a small piece of the total properties the Township stands to lose from potential annexations. They note that the Boundary Commission has been approached about a large area to the east of the site in question.

4. The Township surrounds the City of St. Johns with the result that annexations are not divided among several townships. Only Bingham Township loses property to St. Johns; the Township has already lost six square miles.

5. Township officials strongly oppose the annexation because they view the area proposed for annexation as critical to the Township's long range plans for land use.

6. The Township needs to retain the property proposed for annexation because these kinds of developments provide the tax base and the critical mass of users needed to support the Township's infrastructure. Properties lost to annexation will lessen the Township's ability to generate revenue to support development in developing parts of the Township.

7. The Township can currently provide sewer, police, and fire services to the area and can provide potable water within 12 months. A wastewater treatment facility to supplement existing capacity is anticipated to be completed in May of 1999.

8. The Township has, in conjunction with the County, a comprehensive zoning plan for all Township property that serves as the cornerstone for the development of the Township's infrastructure. Annexing the area proposed for annexation to the City would significantly harm the Township's ability to finance its infrastructure systems.

THE COMMISSION FINDS THAT

1. The City and the Township agree that the property proposed for annexation should be developed.

2. The primary reason the area proposed for annexation is ripe for development is the proximity of the City's water and sewer lines.

3. The City has water and sewer lines adjacent to the property proposed for annexation and sufficient capacity to serve development of the area.

4. Use of the City's water and sewer lines is the most economical and environmentally beneficial way to provide utility service to the area proposed for annexation.

5. If urban development of the area is to occur, it is better to have it take place adjacent to the city rather than have development sprawl throughout the Township in a manner that consumes excessive farm lands that are difficult to serve with utilities.

6. The Township has not demonstrated that it will be able to finance utilities to the area proposed for annexation. If the Township were to construct a waste water disposal system, existing and new development in the Township would probably have to subsidize the Township's utility projects through special assessments or a general tax levy.

Commissioner Rutledge offered the following comments in dissent:

1. The Township is being forced to provide water and sewer services in order to retain prime development property while, at the same time, the annexation of prime development property makes the provision of Township water and sewer services more difficult to finance.

2. Recommending annexation of this property implies that the City of St. Johns should be the provider of water and sewer services for development occurring in the area. Once prime development property is taken away from the Township, the Township's resources for provision of water and sewer services are diminished, making it even more difficult to fight future annexation petitions.

3. The City's sewer system would not have existed if the Township had not participated in the original application for the grant that created the City's wastewater treatment facilities.

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 1968, as amended.

2. **On December 11, 1997**, the State Boundary Commission held an adjudicative meeting in Lansing to reach a decision based on the information received. State Commissioners VerBurg and Walker and Clinton County Boundary Commissioners Huard and Ostrowski voted to recommend annexation and State Commissioner Rutledge voted against recommending annexation.

3. On **February 4, 1998** at an adjudicative meeting held in Lansing, State Boundary Commissioners VerBurg, Walker and Rutledge and Clinton County Boundary Commissioners Huard and Nobis voted to approve the Draft Summary of Proceedings, Findings of Fact and Order. State Boundary Commissioners VerBurg, and Walker and Clinton County Boundary Commissioners Huard and Nobis voted to recommend that the Director of the Department of Consumer and Industry Services sign the Order. State Commissioner Rutledge voted against recommending that the Director sign the Order.

ORDER
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IT IS ORDERED THAT this order approving the petition for annexation of certain territory in Bingham Township into the Home Rule City of St. Johns shall be final and effective on the date signed by the Director of the Department of Consumer & Industry Services.

IT IS FURTHER ORDERED THAT the Executive Director shall forthwith transmit a certified copy of these Findings of Fact and Order to the petitioner and to the clerks of the City of St. Johns, Bingham Township, and Clinton County.

Kathleen M. Wilbur

Kathleen M. Wilbur, Director
Michigan Department of Consumer & Industry Services

2/25/98
Date