

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #02-AP-5

**The proposed annexation of territory
in Brockway Township to the City of Yale**

SUMMARY OF PROCEEDINGS
FINDINGS OF FACT AND CONCLUSIONS OF LAW

- A. On September 23, 2002, Yale Development L.L.C. filed a petition asking for the annexation of territory in Brockway Township to the City of Yale. The territory petitioned for annexation is described in Attachment A.
- B. On December 12, 2002, the State Boundary Commission held an adjudicative meeting to determine the legal sufficiency of the petition. The Commission declared the petition to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended.
- C. On February 19, 2003, the State Boundary Commission held a public hearing in Brockway Township to receive testimony given pursuant to Public Act 191 of 1968, as amended.
- D. On May 15, 2003, at an adjudicative meeting, State Boundary Commissioners VerBurg, Ishbia and Walker, and St. Clair County Boundary Commissioners Louis Petho and William Arnold voted to recommend that the Director of the Department of Labor & Economic Growth Services approve the annexation as petitioned, and described in Attachment A.
- E. On June 19, 2003, at an adjudicative meeting, Boundary Commissioners VerBurg, Walker, Ishbia voted to approve the draft Findings of Fact and Conclusions of Law and recommend that the Director of the Department of Labor & Economic Growth sign the Order approving the annexation.
- F. On September 25, 2003, at an adjudicative meeting the Commission reconsidered the annexation at the request of the Director of the Labor & Economic Growth. State Commissioners VerBurg, Walker and Ishbia voted to recommend approval of the annexation, but with a reduced area. The area approved by the Commission is described in Attachment B.

- G. On November 18, 2003, at an adjudicative meeting the Commission adopted the draft Findings of Fact and Conclusions of Law (as amended), and recommended that the Director of Department of Labor & Economic Growth sign the Order.

FINDINGS OF FACT

1. The area proposed for annexation is approximately 47.5 acres. It includes one residence occupied by four people residing on the property; also on the property are a barn, and several out buildings. The land is currently being farmed.
2. The property is zoned residential, which allows one single-family home per acre as a permitted use.
3. The area north of the petitioned property is a single-family subdivision in the City of Yale.
4. The City of Yale has a policy of not providing water and sanitary sewer service outside the city. The City water line is within 102 feet of the property. A sewer main is approximately 450 feet north of the property. The City is willing to provide all the necessary services for the development of a residential subdivision if the property is annexed.
5. Brockway Township initiated a Growth Management Committee between the Township and the City. The committee stopped meeting before coming to any agreement as to how and where the City of Yale would expand.
6. The City and Township discussed entering into a contract regarding the petitioned area, with revenue sharing provisions pursuant to Act 425 of 1984, but were unable to reach agreement.
7. The Township Supervisor stated that the Township should be compensated for the development because the residents of the proposed development will use some township facilities, such as roads and parks. The Supervisor testified that the City has refused to negotiate an Act 425 agreement and that if the City and the developer want to develop this property, they must come to the Township to negotiate. He asserted that the Township has been willing to negotiate but that the City has refused to do so.
8. The City officials stated that the City has not refused to negotiate, but has refused to agree to the conditions the Township proposed. The City officials maintain that they had discussions, but were unable to agree to the Township demands.
9. The Township Supervisor stated that the City did not negotiate. He mentioned that the City told the Township, "This is our offer, take it or leave it." The parties met a second time and the Township

brought another proposal, but the City said "No."

10. The City Manager stated that the Township and City each took positions that neither was willing to accept.
11. Brockway Township opposes the annexation because they do not want the farmland to be developed as a large subdivision with more than one dwelling unit per acre. Township residents near the property, who operate farms, are concerned about how an urban subdivision will affect their livelihood and animals.
12. Brockway Township opposes the annexation because it would create a protrusion into the township with an erratic boundary. A residential property north of the Township Hall and a vacant parcel to the south, are not part of the area proposed for annexation. These parcels would be bounded by the city on three sides if the annexation were approved. Brockway Township's new 40-acre park is directly across the road from the petitioned area.
13. The petitioner wants to develop the property with municipal services so the land area used by the development will provide more housing units. Although the current Township zoning would allow 47 units, septic field land-area requirements would not support that many homes. With municipal sewer services, the land area could support three to four dwelling units per acre. This density is within the guidelines of the St. Clair County Master Plan Recommendations. Developing the land at a higher density will make the homes more affordable.
14. The St. Clair County Master Plan includes this area in The Urban and General Services District. The Plan states "the District has more than sufficient land area to accommodate all the residential, commercial and industrial growth expected within St. Clair County between 2000 and 2020. By directing growth toward this district, we can preserve the rural character and quality agricultural land that exists in the northwest part of the county.
15. The petitioned area includes an easement approximately 30 feet wide and 112 feet extending south of the bulk of the property to Sales Road.

THE COMMISSION FINDS THAT

1. The city has the capacity and capability to provide the desired municipal services.
2. The area proposed for annexation receives some governmental services, but the township is not able to provide water and sewer services.
3. The proposed annexation reflects the best of the available alternatives in providing municipal

services to the area, given the fact that the City and Township have not been able to reach agreement.

4. Development of the area proposed for annexation under the jurisdiction of the City is not inconsistent with present adjacent or nearby land use patterns.
5. Residential development with municipal services will require less land area to house the projected population growth, and provide more affordable housing.
6. The proposed annexation will result in an increase of taxes for the affected parcels, but the increase is relatively consistent with the services that the parcels and occupants will receive.
7. Although the petitioner included an easement in the petition, annexing the easement would create a more irregular city/township boundary.
8. The relationship of the location of the area proposed for annexation to the Township Hall was addressed in the record. The Commission did not find testimony in the record describing why this would be a sufficient reason to deny the annexation. The Township did not present any additional evidence for the record, or at the meeting on September 25, 2003.

CONCLUSIONS OF LAW

The record of this docket, in accordance with the criteria under Section 9 of the Public Act 191 of 1968, as amended, supports the Commission's recommendation that the Director of the Department of Labor & Economic Growth sign the attached Order approving the annexation as reduced, and adopting the Summary of Proceedings, Findings of Fact and Conclusions of Law.

Kenneth VerBurg, Chairperson
State Boundary Commission

Signed January 15, 2004
Date

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FINAL ORDER

IT IS ORDERED THAT these Findings of Fact, Conclusions of Law and Order **approving the annexation of territory in Brockway Township, described in Attachment B**, to the City of Yale shall be effective thirty days after the date the Director of the Department of Labor & Economic Growth signs the Order.

IT IS FURTHER ORDERED THAT the Manager of the State Boundary Commission shall transmit a certified copy of this Order and the attached Summary of Proceedings and Findings of Fact and Conclusions of Law to the Brockway Township Clerk, the City of Yale Clerk, the St. Clair County Clerk, and the Secretary of State.

David C. Hollister, Director
Michigan Department of Labor & Economic Growth

Signed January 30, 2004