

Courtney Nicholls

From: Courtney Nicholls
Sent: Tuesday, September 27, 2011 12:16 PM
To: 'burtond2@michigan.gov'
Cc: Shawn Keough (skeough@wadetrim.com); 'O'Brien, Kevin M (LARA)'; 'Elworth, George (AG)'
Subject: Village of Dexter Incorporation Petition

Good morning Mr. Hilfinger,

On Thursday, September 15, 2011 the State Boundary Commission adopted Findings of Fact relative to the Village of Dexter's incorporation petition. This document has been forwarded to your office for your signature. Prior to your signature we would like the opportunity present our side of the story on what has transpired over the past several months.

The Village has been working through the process of Cityhood since 2006. Our first petition was filed with the Boundary Commission in 2009. This petition was determined to be insufficient due to technical errors with the Boundary Map. At this meeting the Boundary Commissioners also raised the idea of contiguity. The current boundary of the Village includes three separate areas. Though not the reason for the legal insufficiency, the Commissioners and Boundary Commission staff made it clear that the new city boundary would need to be contiguous before it received final approval. The goal of the Village throughout the process has been to incorporate with our existing boundaries, however, to be responsive to this concern, the map was updated to show a contiguous boundary. To do this without leaving "islands" in Webster Township, required drawing in additional land in Webster Township that included a non-taxable historical property and part of a commercial business.

A new petition reflecting these changes was submitted in December 2010. At the June 16, 2011 meeting with the Boundary Commission Webster Township protested the inclusion of the additional land because it is covered under an Act 425 agreement. This is true of virtually all the land proposed to be drawn in to the boundary from Webster Township, however the issue was not raised during the first submittal process in 2009. The 425 agreement clearly states that if the Village becomes a City it is responsible for paying taxes to the Township for 12 years, which clearly shows that the idea of cityhood was discussed as the agreement was crafted. Though the Boundary Commission staff stated that they had spoken with the Attorney General and confirmed that including the areas was not a violation of Act 425, the Boundary Commissioners decided to postpone action on the petition until it received clarification in writing.

At the August 18, 2011 meeting the Boundary Commission received a letter from the Attorney General stating that the area could be included. Despite this letter and the advice of their staff, the Commission decided to find the petition legally insufficient. The actual wording of the motion made by Commissioner Priebe, from the transcript of the meeting, is as follows:

If you are ready to move in that direction I would move that we find legal insufficiency, contrary to the advice, I guess, of the attorney general's office and I'm not sure if I'm allowed to do that as an agent of the state.

Likely because it seems to me that a deal is a deal and if they made a deal on some properties 10 years ago or so those deals oughta be held in place going forward.

There is some language or confusion in my mind when you incorporate and you change your boundaries, which apparently, which is occurring, that creates another issue and may change the laws, not really having reviewed the laws as closely as perhaps I should have.

Finally it appears that if we don't find legal insufficiency and send you back to amend your boundaries you're going to end up in circuit court which is probably not in anybody's best interest.

So for that reason I make that motion.

This action has left us with very limited remedies. Though the Boundary Commission asked for and received clarification of the issue of the inclusion of the 425 areas, they did not choose to follow it. This decision has left us in limbo as to our next steps. It is our hope that you will examine these issues to determine whether further adjudicative effort is necessary before the Findings of Fact are signed.

Please feel free to give me a call if you need additional information.

Thank you for your time.

Courtney Nicholls
Assistant Village Manager