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Office Memorandum

To: Rockville City Council
From: James A. Mogen
Direct Dial: 656-3520
Re: Update on Detachment and Negotiation
Our File: 16642.052
Date: December 3, 2008

UPDATE ON MOTION

On December 2, 2008, the Administrative Law Judge granted the City's motion to amend the boundary of the detached area. Pursuant to this Amended Decision, the City's southern boundary now extends to the center of Grand Lake Rd.. The effect is, where the road runs through the detachment area, the area north of it remains in the City.

As a result, the boundaries are now finalized. It is highly unlikely that any further action will be taken on this matter.

TO NEGOTIATE OR NOT TO NEGOTIATE

Around the same time that the City filed the motion to amend, the Township inquired about negotiating a deal with the City for the maintenance of the roads of the detached area. Because the detachment took effect after August 1, the City gets to levy on the property of the detachment area for rest of 2008 and 2009. However, because the effective date of the detachment was November 5, the Township is responsible for the area, including maintenance of the roads from now until December 31, 2008.

The effect is to make the Township responsible for governing the area, but without additional tax revenues from the area. The Township claims this is unfair, and that the City should assume the costs until 2010, when the Township is able to levy property taxes against this area.

It is my opinion that the City is under no obligation to assume all or even a part of the costs of maintenance of the roads of the former City. The law provides no obligation on the City, simply because it is receiving tax revenues from the area, to provide the services.

The Administrative Law Judge's Decision did not independently address the allocation of tax revenues or costs. It only allocated the debts of the City Hall and Fire Hall. Therefore, the

Judge's Decision does not change the fact that the Township is responsible for the maintenance of the area, and the City is allowed to levy property taxes on the area.

Nevertheless, the City does have the authority, if it is so inclined, to pay all or a portion of the maintenance of roads outside of the new City limits. In other words, if the City wants to, it can negotiate with the Township.

I was asked to briefly provide my opinion as to the potential benefits of negotiating with the Township.

1. To obtain an orderly annexation agreement: An Orderly Annexation Agreement ("OAA") is an agreement between the City and the Township addressing future incorporation of Township land into the City. An OAA can include any number of agreements, and is very flexible. For Rockville, an OAA may help to prevent the detachment of property along the southern border. Furthermore, it could be drafted to address zoning and shoreland management in the adjacent sections.
2. To ensure the area remains with the City's fire protection district: The City's fire protection budget assumes revenue from Maine Prairie. The City's negotiations may include a long-term (up to 10 years) contract with Maine Prairie for fire protection. This would provide that this area, and its related revenue, would not be transferred to Kimball or St. Augusta's districts.
3. Maintain good neighbor relationship: The City is likely to need to work with the Township at some point in the future. Since the Township feels it has been cheated by the Judge's failure to allocate the tax revenue and maintenance costs, the Township may feel the City is being unfair in refusing to negotiate. This may interfere with obtaining cooperation in the future on other issues.

Of course, ultimately, it is up to the City Council to decide if it is worth the costs of maintenance to obtain any of the above benefits. Similarly, the Council may decide that these benefits can be realized regardless of whether the City assumes the costs of the detachment area roads.

None of these potential benefits are so important, in my opinion, that the City should feel obligated to negotiate. Again, the City is under no obligation to do so, and should only agree to take on the costs of the detachment area roads if the City is obtaining a valuable benefit from the deal.

Finally, I understand the Township is now asking the City to agree to assume snow plowing into 2009 (the City has already agreed to assume snow plowing through the end of the year). They have asked this to delay the negotiation until the new City Council is sworn-in. The City is authorized to agree to perform the snow plowing, and can agree to delay the negotiations. However, it is under no obligation to do so. The City does not need to assume the snow plowing or to delay the negotiations. The City should balance the needs of the City, and determine the best option.