

**Petition for Annexation of 139.3981 Acres
Hiram Township to the Hiram Village**
Portage County Administration Building Room #111
Thursday, November 18, 2010
Hearing Convened at 2:00 PM

Deborah Mazanec, Commissioners' Clerk, Portage County Board of Commissioners called the public hearing to order at 2:00 PM. Ms. Mazanec asked that all in attendance sign the attendance sheet at the door as this will become part of the permanent record.

The Clerk stated that this public hearing has been set to determine the matter that has been captioned as the "Petition for Annexation of 139.3981 Acres of land from Hiram Township to Hiram Village".

The Clerk introduced the agents for the Petitioner: Douglas K. Paul, Attorney at Law, Christley, Herington & Pierce and Thomas V. Chema, Hiram College.

The Clerk noted that all hearings on this matter will be recorded via audio tape by the Commissioners' Clerk. The Court Reporter is Laura E. Pavlick.

The Clerk made the following introductions: Portage County Commissioners Maureen T. Frederick, who will serve as Presiding Officer and Christopher Smeiles; County Prosecutor's Representative - Assistant County Prosecutor Christopher Meduri; Agents for the Petitioners: Attorney Douglas K. Paul and Thomas V. Chema, Hiram College; Petitioners: Hiram College and Village Builders of Hiram, Inc.; Representative for Hiram Village Attorney of Record Thomas R. Reitz; Representatives for Hiram Township Attorney of Record Alfred E. Schrader, Kathy Schulda, Steve Pancost, Tom Bosma, Douglas Brewer, Fiscal Officer.

The Clerk continued, stating that, at the present time, the Board of Commissioners is unable to establish a majority of its members to participate in and determine the actual merits of this petition. Thus, the Presiding Officer of the board on this day will direct this matter be continued until January of 2011.

The Clerk asked the Commissioners how the Board of Commissioners wishes to proceed.

Commissioner Frederick stated that, at this time, as Presiding Officer, she hereby directs that this hearing be continued until January 24, 2011, at 8:00 AM in the Portage County Administration Building in a room yet to be determined, at which time it is hoped a majority of that board's members will be present and able to participate in and determine this petition on the merits of this case.

The Clerk continued: when this hearing resumes on January 24, 2011, the following will consist of the general order of proceedings at that time.

When resumed on January 24, 2011, the hearing will be held in accordance with Ohio Revised Code Chapter 709. Further, the Board of Commissioners also has previously adopted the following Resolutions for annexation proceedings: a) General Order – Resolution No. 03-0035, dated January 14, 2003; b) Deposit and Fee Resolution - Resolution No. 03-0034, amended on November 4, 2010 by Resolution No. 10-1027; and c) Resolution assigning certain responsibilities to the Clerk – Resolution No. 03-0035 dated January 14, 2003.

When this hearing resumes on January 24, 2011:

- a) All witnesses will be sworn in as determined by the Board of Commissioners.
- b) All witnesses will be subject to cross-examination by the necessary parties.
- c) The Board of Commissioners may ask the witnesses question at any time.
- d) Each necessary party will be given the opportunity to:
 - 1) Present evidence.
 - 2) Examine and cross-examine witnesses.
 - 3) Comment on all evidence.

When resumed, this hearing will proceed in the following order:

1. Opening statements.
2. Challenges to validity of petition signatures.
3. Determination of the validity of the petition.
4. Disposition of procedural matters.
5. Presentation of the case by the parties.
 - a. Agent for the Petitioner
 - b. Municipality
 - c. Township
6. After the completion of the parties' presentations, the board at that time will make part of the record any affidavits that have been submitted in compliance with Chapter 709 and the necessary parties will be given opportunity to comment on the affidavits.
7. Those in attendance who want to testify for or against the petition will also be heard at that time. Such testimony will be under oath and subject to cross examination by the necessary parties.
8. At the conclusion of all testimony, the necessary parties will be given the opportunity to present closing arguments in accordance with Chapter 709.
9. At the conclusion of closing argument, this board may offer the parties the opportunity to file post hearing briefs by a certain date, with such briefs containing proposed findings of fact on each condition for annexation, including reference to hearing testimony and exhibits which support each parties proposed findings of fact. Such briefs may also include recommendations as to the decision of the board.
10. The board will at that time adjourn the hearings. At that adjournment, the board will advise the parties as to how they will be notified of the board's decision.

By direction of the Board of Commissioners, this hearing is hereby continued until January 24, 2011 at 8:00 AM. The hearing shall be resumed in a room yet to be determined in the Portage County Administration Building located at 449 South Meridian Street in Ravenna.

Attorney Meduri recommended that the parties be allowed time to make comments for the record.

Agent for the Petitioner Attorney Paul stated that the Petitioner acknowledges that the Board has determined that there is a conflict and has decided not to hear evidence on the merits. The Petitioner will

be prepared to move forward in January. Attorney Paul asked a question regarding a procedural issue about the Proof of Publication. The Petition was filed in a timely manner and the statute requires the acknowledgement of the public notice at the beginning of the hearing. Because the publication was done and received within 10 days of this hearing, Attorney Paul requested that the Board acknowledge the receipt of the publication, which he presented and the Clerk marked Exhibit 1.

Attorney for the Township Schrader noted that he may have some objections but will hold those objections until January before the Board that will hear the annexation matter. He requested a copy of Exhibit 1, which he received, and any other Exhibits which may be presented by the Petitioner.

Attorney for the Village Reitz noted that the Village is disappointed that the hearing is not moving forward but appreciates the Board's efforts and diligence in determining whether a conflict exists. He is most concerned that the law be followed and that the proceedings that take place are enforceable under the law. The Village will be ready to move forward in January.

Attorney Schrader commended the Commissioners who determined that there might be a conflict in this case and noted how difficult it is to make that decision. The Attorney noted that the Township will be ready in January and looks forward to a fair and impartial hearing.

Hiram Township Trustee Kathleen Schulda asked if the residents would have the opportunity to get affidavits to the Board of Commissioners 15 days prior to the January 24th hearing date. Attorney Meduri responded yes and advised that the affidavits must be to the Board of Commissioners 15 days prior to the hearing to allow the Clerk time to serve notice to the parties. She asked if all of the affidavits already sent will be forwarded to the new Commissioner for her to review. The Clerk responded that the new Commissioner will have access to the entire file.

Attorney Paul objected to the renewing of the 15 day period in which the Board of Commissioners will accept affidavits, noting that today is the hearing. Attorney Reitz stating that the Village has the same position. Attorney Schroeder notes that the Township does not object.

Attorney Schrader asked if the dates agreed upon by the attorneys for the January hearing still stand. The Clerk responded that the Board of Commissioners would be available to continue the hearing on Tuesday (January 25th) at 9:00 AM. Attorney Meduri noted that the attorneys had a conference call and determined that their calendars would allow a 9:00 AM start time on Wednesday [January 26th] from 10AM - 2PM to avoid scheduling conflicts. The hearing could resume on Thursday at 9:00 AM until the end of the day and then start on Friday and continue until adjourned.

The Clerk recessed the public hearing until January 24, 2011 at 8:00 AM.

ABSENT

Charles W. Keiper II, President

Maureen T. Frederick, Board Member

Christopher Smeiles, Vice President

Deborah Mazanec, Clerk

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