

NOTICE OF STIPULATION AND STIPULATION

PLEASE TAKE NOTICE that the Town of East Troy and the Village of Mukwonago have entered into a stipulation pursuant to Sections 66.0225 and 66.0301, Stats. The stipulation is as follows:

MUNICIPAL BOUNDARY AGREEMENT BETWEEN THE VILLAGE OF MUKWONAGO AND THE TOWN OF EAST TROY

WHEREAS, the Village of Mukwonago has annexed certain properties which are the subject of challenge by the Town of East Troy in lawsuits filed in Walworth County Circuit Court, with the following case numbers, 00-CV-00645, 00-CV-00646, 00-CV-00647, and 00-CV-00648; and

WHEREAS, The Town of East Troy and the Village of East Troy have filed a petition to Consolidate as a Village or Fourth Class City in Case No. 00 CV 0304 and the Village of Mukwonago has intervened in that proceeding; and

WHEREAS, the Village of Mukwonago and the Town of East Troy are desirous of establishing the ultimate exterior boundaries of the municipalities within the territory of the present Town of East Troy, so as to provide for adequate and logical growth as between the Town of East Troy and the Village of Mukwonago, so that they might properly plan for their current and future municipal needs; and

WHEREAS, Section 66.0225 of the Wisconsin Statutes provides, in part:

Any 2 municipalities whose boundaries are immediately adjacent at any point and who are parties to an action, proceeding or appeal in court for the purpose of testing the validity or invalidity of an annexation...may enter into a written stipulation, compromising and settling the litigation and determining the common boundary line between the municipalities. The court having jurisdiction of the litigation, whether the circuit court,

the court of appeals or the supreme court, may enter a final judgment incorporating the provisions of the stipulation and fixing the common boundary line between the municipalities involved. A stipulation changing boundaries of municipalities shall be approved by the governing bodies of the detaching and annexing municipalities and s. 66.0327 (9) and (11) shall apply. A change of municipal boundaries under this section is subject to a referendum of the electors residing within the territory annexed or detached, if within 30 days after the publication of the stipulation to change boundaries in a newspaper of general circulation in the area proposed to be annexed or detached a petition for a referendum conforming to the requirements of s. 8.40 signed by at least 20% of the electors of the area to be annexed or detached, is filed with the clerk of the municipality from which the area is proposed to be detached and is filed as provided in s. 8.37. The referendum shall be conducted, as are annexation referenda. If the referendum election is opposed to detachment from the municipality, all proceedings under this section are void....”

NOW, THEREFORE, the Town of East Troy and the Village of Mukwonago agree as follows:

I. AGREEMENT REGARDING ANNEXATION AND CONSOLIDATION LAWSUITS.

- A. The Town of East Troy will dismiss with prejudice its four lawsuits against the Village of Mukwonago, with case numbers 00-CV-00645, 00-CV-00646, 00-CV-00647, and 00-CV-00648. The land, as described in the attached Exhibit “A,” will remain annexed to the Village of Mukwonago.
- B. The Village will detach and the Town will attach the land, as described in the attached Exhibit “B” .
- C. The Village of Mukwonago will withdraw as intervenor in the Consolidation Petition of the Town of East Troy and Village of East Troy, case number 00-CV-0304 and the

Village of Mukwonago will not directly or indirectly oppose the consolidation petition of the Town and Village of East Troy nor will the Village of Mukwonago financially or otherwise support any person, organization, or other entity opposing such Consolidation petition.

II. AGREEMENT AS TO COMMON BORDERS

- A. The Boundary Detachment Area is defined as those lands as described in the attached Exhibit "C".
- B. The Town of East Troy consents to detach any of the property located in the Boundary Detachment area upon the occurrence of any of the following:
 - 1. Written request on the part of the owner(s) of each individual parcel to be attached to the Village;
 - 2. A request by a property owner for land division of any parcel, whether by certified survey map, subdivision plat, or otherwise.
 - 3. Written request on the part of the owner(s) of any parcel(s) for extension of Village services.
- C. The Village of Mukwonago shall consider attaching any parcel in the Boundary Detachment area upon the occurrence of the following:
 - 1. If the parcel owner(s) is desirous of attaching to the Village, dividing a parcel or parcels, or receiving Village

services, then the parcel owner(s) shall file a Petition for Detachment with the Clerk for the Town of East Troy and a Petition for Attachment with the Clerk for the Village of Mukwonago.

2. Within 45 days of receipt of such a Petition, the Town of East Troy shall adopt an ordinance detaching the subject property conditioned upon the Village of Mukwonago's adopting an ordinance attaching the subject property.

3. Within 45 days after adoption of the Town Detachment ordinance, the Village of Mukwonago may adopt an ordinance attaching the subject property to the village.

D. In order to be eligible for attachment to the Village of Mukwonago, the property must be contiguous to the Village of Mukwonago.

E. The Town of East Troy agrees that it will not directly or indirectly oppose any annexation, detachment or attachment of properties in the "Boundary Detachment Area", nor will it financially or otherwise support any person, organization, or other entity opposing such annexation, attachment or detachment.

III. RESTRICTIONS ON DEVELOPMENT WITHIN THE BOUNDARY DETACHMENT AREA.

A. The Town of East Troy agrees that it will not grant any request for land division of an individual parcel, whether by

certified survey map, subdivision plat, or otherwise, except in the event that the owner of land zoned as Agricultural petitions to divide property for the sole purpose of transferring one residential building site to an immediate family member.

- B. The Town of East Troy agrees that it will deny all other requests for land division.
- C. A property owner within the boundary detachment area, (other than one who meets the exception in A above), who desires to divide his or her property by certified survey map, subdivision plat, or otherwise, shall petition for attachment to the Village of Mukwonago and detachment from the Town of East Troy.
- D. Any property owner within the Boundary Detachment Area that desires to have Village of Mukwonago utilities provided to their property shall petition for Attachment to the Village of Mukwonago and detachment from the Town of East Troy.
- E. The Village of Mukwonago and the Town of East Troy agree that the Village of Mukwonago is not obligated to provide sewer or water services to any property not within its municipal boundaries.

IV. Permanent Boundaries

The Town of East Troy and the Village of Mukwonago understand and agree that this Agreement shall ultimately result in permanent boundaries by and between their respective municipalities.

V. AGREEMENT PERTAINING TO ANNEXATION PETITIONS OR ORDINANCES OF PROPERTY OUTSIDE THE BOUNDARY DETACHMENT AREA.

The Village and the Town of East Troy agree that no land outside of the Boundary Detachment Area shall be annexed into the Village of Mukwonago unless detachment is approved by Resolution of the Town of East Troy Town Board.

VI. COURT AND PUBLIC APPROVAL OF MUNICIPAL BOUNDARY AGREEMENT

The Village of Mukwonago and the Town of East Troy recognize that one of the statutory underpinnings of this agreement is to settle litigation pursuant to the provisions of Section 66.027, Stats. It is the intent of the parties that this agreement be reflected in the Judgment of the Court in settlement of Walworth County Circuit Court case numbers 00-CV-00645, 00-CV-00646, 00-CV-00647, and 00-CV-00648. In the event the court fails or refuses to enter judgment incorporating the terms of this municipal boundary agreement, this agreement shall be null and void and of no further force or effect.

VII. EFFECTIVE DATE.

After thirty days but no later than 60 days following the publication of this Agreement, unless a Petition for Referendum is filed in accordance with Section 66.027, Stats., the following shall occur:

- A. The Town of East Troy shall dismiss with prejudice Walworth County Circuit Court case numbers 00-CV-00645, 00-CV-00646, 00-CV-00647, and 00-CV-00648
- B. The Village of Mukwonago shall withdraw as intervenor in Walworth County Circuit Court Case No. 00 CV 0304.

VII PRE-EXISTING RIGHT AND LIABILITY

In the event that the Village of East Troy and the Town of East Troy consolidate after the signing date of this agreement, this agreement shall be considered a “pre-existing right or liability” on the part of the Village of Mukwonago and the Town of East Troy and shall be enforceable as such under the provisions of Section 66.0229, Stats.

VIII COMPLETE AGREEMENT

This Agreement is the complete agreement of the parties with respect to matters covered by this Agreement, and shall supersede any and all prior Agreements, municipal policies, resolutions, ordinances or plans to the contrary. No agreement, promises or representations made during or in connection with the negotiations for or approval of these agreements shall be binding or effective unless they are included herein. This Agreement shall be filed with the Register of Deeds of Walworth County and Waukesha County. This Agreement may be introduced into evidence by the Village of

Mukwonago or the Town of East Troy without objection in any action to enforce the terms of this Agreement.

IX SEVERABILITY.

The provisions of this Agreement are severable. If any provision of this Agreement is invalid, or if the application of this Agreement to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application.

Dated this _____ day of March, 2003.

VILLAGE OF MUKWONAGO

James O. Wagner, Village President

ATTEST:

Bernard W. Kahl, Village Clerk

TOWN OF EAST TROY

Clayton Montez, Town Chairperson

ATTEST:

Joann Wargin, Town Clerk