

November 20, 2013

City of Fayetteville Tennessee  
Mr. Scott Collins  
City Administrator  
110 Elk Avenue South  
Fayetteville, Tennessee 37334

VIA ELECTRONIC MAIL

Dear Mr. Collins:

As a follow-up to your call on the extension of sewer by Fayetteville Public Utilities (FPU) into Lincoln County, please find enclosed a draft pre-annexation agreement for your consideration and use. This type of agreement – revised as necessary by your city attorney to better match the particulars of your situation – will give you a starting point for the voluntary annexation of the industrial park property owned by Lincoln County if that is an acceptable outcome to address the concerns of the city.

As you aware, the city is currently unable to annex by ordinance property that is used for residential or agricultural purposes while the state studies its annexation laws for potential modification in the 2014 legislative session. So annexing any residential or agricultural property along the sewer line extension is not currently possible unless the owners of said properties voluntarily request annexation.

A couple of caveats regarding the agreement and its use:

- It is known by me how far away the industrial park property is from the corporate limits. The annexation will require that the roadway be annexed from the existing city limits to reach the site. The longer that the roadway annexation is – the more unreasonable the annexation will be seen if challenged. So if it's close – there is less of a problem. If far – more. I have heard that is could be as many at 10 miles away. If so – that will likely be problematic if challenged. But always seek the advice of your attorney.
- I assume that the industrial property is located within your urban growth boundary. The annexation cannot occur otherwise.

As you determine your course going forward, please be sure that you understand the length of the highway corridor that will require annexation and whether that length, and the entire annexation as a whole, will satisfy the basic test of whether it is “reasonable for the overall-being of the communities involved.” While other factors may be considered, the primary test of the reasonableness must be the planned and orderly growth and development of the city, taking into consideration the characteristics of the existing city and those of the area proposed for annexation. Factors to be taken into consideration in testing the reasonableness of any annexation ordinance would include:

Mr. Scott Collins  
November 20, 2013  
Page 2

- (1) The necessity for, or use of, municipal services;
- (2) The present ability and intent of the municipality to render municipal services when and as needed; and
- (3) Whether the annexation is for the sole purpose of increasing municipal revenue without the ability and intent to benefit the annexed area by rendering municipal services.

So with all that as a backdrop – best of luck on this. Hopefully all parties will see the value of the sewer extension and annexation and will be advocates for a win-win-win outcome.

Please let me know if you have any questions or require any additional assistance on this or any matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Jeffrey J. Broughton  
Municipal Management Consultant