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Memorandum

DATE: February 7, 2005

TO: Bruce Walden

FROM: Jack Waaler

RE: Agreement with Edge Scott Fire Protection District

BACKGROUND:

On the dates indicated with respect to each of the ordinances listed below, the city annexed the following parcels, all of which were within the jurisdiction of the Edge Scott Fire Protection District:

Ordinance No. 2000-07-077 – an unplatted portion of Beringer Commons (8/7/00)

Ordinance No. 2000-08-095 – Lots 901 and 902 Beringer Commons (8/21/00)

Ordinance No. 2000-08-096 – A part of unplatted Beringer Commons (8/21/00)

Ordinance No. 2000-07-076 – Wheatley residence, 710 Dodson (8/7/00)

Ordinance No. 2000-07-085 – Baker's Lane (8/7/00)

By statute, upon annexation by the city of a parcel located within a fire protection district, such parcel is automatically taken out of the fire protection district unless the fire protection district files an objection in court to such action within 60 days. Note, even if the Fire Protection District files such objection, it has no effect on the annexation to the City—the filing of an objection merely keeps the parcel in the Fire Protection District too.

In the case of the above annexations, the Edge Scott Fire Protection District did file such objection October 16, 2000 as Case #00MC3. To defeat the objection and allow the property to be taken out of the fire protection district over their objection, the city would have to prove 2 things as follows:

1. That such action--taking the subject parcel out of the fire protection district—would not cause any “split” in the remaining fire protection district territory, making two parts of the Fire Protection District “non-contiguous”; and

2. That the city would also have to show that the loss of the tax revenue would not materially impair the ability of the fire protection district to protect the remaining property in the territory.

THE PROPOSED AGREEMENT:

With respect to these annexations, there is no point in spending time and effort on the second point because each of the parcels annexed would cause a “split”. So the city negotiated an agreement to “de-annex” the whole of one parcel (Wheatley) and “de-annex” two strips of land to restore contiguity (Baker’s Lane and the 5-foot Beringer Commons strip). Mr. and Mrs. Wheatley asked to be “de-annexed”, and this was done April 16, 2001.

To conclude the matter, the city would have to first approve the agreement, then enact the proper “de-annexation” ordinances. Once the ordinances are enacted, the case will be dismissed in court.

RECOMMENDATION:

Approval is strongly recommended because until the matter is resolved, the parcels annexed, while they have always been in the city since they were annexed, they also will remain in the Edge Scott Fire Protection District for fire protection services, while at the same time, the city is responsible for fire protection district services. This situation could cause confusion in an actual fire. The parcels also remain taxable by the Edge Scott Fire Protection District until the case is resolved and they are wholly taken out of the fire protection district.

ORDINANCE NO. 2005-02-022

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH EDGE-SCOTT
FIRE PROTECTION DISTRICT

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That An Agreement Between The City of Urbana, Illinois and Edge-Scott Fire Protection District, in substantially the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____, 2005.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2005.

Tod Satterthwaite, Mayor

**AN AGREEMENT BETWEEN THE CITY OF URBANA, ILLINOIS
and EDGE-SCOTT FIRE PROTECTION DISTRICT**

Now come the parties to this agreement, the Edge-Scott Fire Protection District, an Illinois special district (sometimes called "Edge-Scott" in this agreement), and the City of Urbana, Illinois, a municipal corporation (sometimes called "Urbana" in this agreement), and through their legally-constituted corporate agents, they hereby stipulate, represent, and agree as follows:

A. That Edge-Scott on October 4, 2000, filed a "Petition to Prevent Automatic Disconnection of Property" against the City of Urbana, as case number 00 MC 3, which case is now pending in the Circuit Court of Champaign County, Illinois; and

B. The parties wish to provide for the settlement of this lawsuit in a manner which does not result in a portion of the annexed property included in the Edge-Scott Fire Protection District from being disconnected from the Edge-Scott Fire Protection District, and which does not result in property within the Fire Protection District from being non-contiguous with other property included in the Edge-Scott Fire Protection District; and

C. The City of Urbana has agreed to enact such ordinances as are useful or necessary to disconnect certain territory that was the subject of the lawsuit from the City of Urbana, which ordinances shall be based on the representations and statements of fact set out in this agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties, the parties stipulate and agree as follows:

I. **SPECIFIC TERMS OF THE AGREEMENT:**

1. **Regarding Beringer Commons:**

A. The City on August 10, 2000, enacted a certain ordinance annexing certain territory within "Beringer Commons" into the City of Urbana, Illinois.

B. From this tract previously annexed, Urbana will promptly disconnect from the City of Urbana, that area encompassed in what is designated as "Outlot 500C" in the proposed plat of subdivision known as "Beringer Commons Subdivision No. 5", as is more fully shown on the map, which is attached to this agreement as "Exhibit A", and incorporated herein by reference.

C. This disconnection of this five foot strip of even width along the generally northern boundary of "Beringer Commons Subdivision No. 5" will make the territory of Edge-Scott on the east connected with the Edge-Scott territory on the west.

D. The area generally north of "Outlot 500C" is a part of the territory of the Edge-Scott Fire Protection District, to the center line of I-74.

E. The territory of the City of Urbana south of the south boundary of "Outlot 500C" extends across High Cross Road, and includes the right-of-way to the east of High Cross Road. The territory of the City of Urbana does not include that portion of High Cross Road between the north and south boundaries of "Outlot 500C" extended.

F. The five foot strip of even width described as "Outlot 500C" touches the Edge-Scott Fire Protection District at both its east and west boundaries. The disconnection of the five foot strip known as "Outlot 500C" also disconnects the adjacent right-of-way.

G. The west line of "Outlot 500C" of "Beringer Commons Subdivision Number 5" is contiguous to the east line of Edgewood Ninth Subdivision. The east line of "Outlot 500C" is contiguous to the west Right-of-Way line of High Cross Road. Therefore, "Outlot 500C" serves as a connection, without any gap, between the Edgewood Subdivisions on the west and the Edge Scott territory adjoining High Cross Road Right-of-Way on the east.

2. Regarding Baker's Lane:

A. The City on August 10, 2000, enacted a certain ordinance annexing this territory into the City of Urbana, Illinois.

B. From this tract previously annexed, Urbana will promptly disconnect from the City of Urbana, a "gap" in "Baker's Lane" which "gap" is described as follows:

A part of the Northwest Quarter of Section 15, Township 19 North, Range 9 East of the Third Principal Meridian, Urbana, Champaign County, Illinois, being more particularly described as follows:

Beginning at the intersection of the north Right-of-Way line of Illinois Street, with the west line of Scottswood Fourth Subdivision, as shown on a plat recorded in Plat Book "O", at page 11, in the Office of the Recorder, Champaign County, Illinois, said point also being the southwest corner of Lot 148 of said Scottswood Fourth Subdivision; thence, westerly, along the westerly extension of said north Right-of-Way line, a distance of 33.00 feet, to the west line of the East One Rod of the West Half of said Northwest Quarter of Section 15; thence, southerly, along said west line of the East One Rod of the West Half of said Northwest Quarter of Section 15, a distance of 60.00 feet, to the westerly extension of the south Right-of-Way line of said Illinois Street; thence, easterly, along the westerly extension of said south Right-of-Way line, a distance of

33.00 feet, to the west line of said Scottswood Fourth Subdivision, said point also being the northwest corner of Lot 149 of said Scottswood Fourth Subdivision; thence, northerly, along said west line, 60.00 feet, to the Point of Beginning, the above described tract containing 1,980 Square Feet, more or less.

3. Regarding The "Wheatley Residence" (710 Dodson Drive East)

The City on August 10, 2000, enacted a certain ordinance annexing this territory into the City of Urbana, Illinois. This property has later been de-annexed, and returned to the Edge-Scott Fire Protection District by action of the City Council of Urbana, Illinois.

4. Regarding All Three Parcels:

A. Each of these tracts is situated in Champaign County, Illinois.

B. Each of these tracts which the City attempted to disconnect from the fire district as described above is, and shall be, a part of the Edge-Scott Fire Protection District, in the same manner as if the action taken by the City of Urbana to annex these tracts had never taken place.

II. CORPORATE UNDERTAKINGS:

1. Upon the City of Urbana enacting such ordinances as are useful or necessary to disconnect the territories described above, and such ordinance being recorded with the Recorder of Champaign County, the attached stipulation for Dismissal shall be presented to the Champaign County Circuit Court for the Court to enter an order dismissing the action entitled "Edge-Scott Fire Protection District, a municipal corporation, Petitioner, vs. City of Urbana, a municipal corporation, Respondent", cause 00 MC 3, filed in Champaign County Circuit Court on October 4, 2000.

2. The undersigned Edge-Scott Fire Protection District and the City of Urbana, Illinois have adopted this agreement by action of the corporate authorities of the fire district and the city. By signing, each person certifies that he or she has been authorized to sign this document and to bind the municipal corporation represented by that person.

Dated at Urbana, Illinois, on _____, 2003.

City of Urbana, Illinois

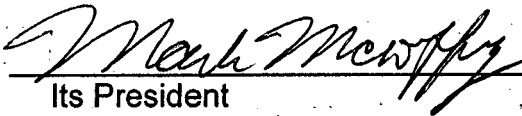
By: _____
Its mayor

Attest:


Its City Clerk

Dated at Urbana, Illinois, on Dec 14TH, 2003⁴.

Edge-Scott Fire Protection District

By: 
Its President

Attest


Its Secretary

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9/22/03
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