



Legislation Details (With Text)

**File #:** 53831      **Version:** 1      **Name:** Authorizing the City to file a lawsuit against the Village of McFarland to contest annexing land from the Town of Blooming Grove

**Type:** Resolution      **Status:** Passed

**File created:** 11/14/2018      **In control:** Attorney's Office

**On agenda:** 11/20/2018      **Final action:** 12/4/2018

**Enactment date:** 12/10/2018      **Enactment #:** RES-18-00849

**Title:** Authorizing the City Attorney to File Suit Against the Village of McFarland to Contest the Annexation of Certain Lands from the Town of Blooming Grove.

**Sponsors:** Samba Baldeh, Paul R. Soglin, Michael J. Tierney

**Indexes:**

**Code sections:**

**Attachments:** 1. Locator\_Map.pdf, 2. Letter to Village from Mayor (Final), 3. Storck Rd Annexation

Date	Ver.	Action By	Action	Result
12/4/2018	1	COMMON COUNCIL	Adopt	Pass
12/4/2018	1	FINANCE COMMITTEE	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
12/3/2018	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
11/20/2018	1	PLAN COMMISSION	Refer	
11/20/2018	1	COMMON COUNCIL	Refer	Pass
11/14/2018	1	Attorney's Office	Referred for Introduction	

**Fiscal Note**

No appropriation is required at this time. Litigation activities will be performed by City Attorney's Office staff.

**Title**

Authorizing the City Attorney to File Suit Against the Village of McFarland to Contest the Annexation of Certain Lands from the Town of Blooming Grove.

**Body**

WHEREAS, on October 3, 2006, the State of Wisconsin approved the City of Madison and the Town of Blooming Grove Cooperative Plan entered into pursuant to Wis. Stat. Sec. 66.0307. Under the terms of the Cooperative Plan, the Town will continue to exist through November 1, 2027, but will gradually wind down activities before being absorbed by the City. The City and the Town have been working cooperatively together to responsibly address the present and future needs of the Town's residents, with the Cooperative Plan ensuring the continued viability of the Town through final attachment; and,

WHEREAS, the City and the Village of McFarland formerly had a boundary agreement that generally set Siggelkow Road, east of Marsh Road, as the boundary line between the two municipalities. Under this agreement, the City was not permitted to annex lands south of Siggelkow Road and the Village was not permitted to annex lands north of Siggelkow Road. However, this agreement expired on April 1, 2018; and,

WHEREAS, the Cooperative Plan does not allow for any annexation of lands by the Village north of Siggelkow Road; and,

WHEREAS, on October 9, 2018, Eric, Ianne, and Maurie Peterson, on behalf of Storck Road Farm, LLC and Imp Farm LLC, the owners of the property, along with David and Patricia Gillispie, the two electors residing on the property, filed a revised petition with the Village to annex 147.83 acres of land located at 3341 and 3372 Storck Rd. from the Town of Blooming Grove to the Village of McFarland, land which, being north of Siggelkow Road and east of the interstate, could be attached to the City of Madison at any time under the terms of the Cooperative Plan. These lands are immediately adjacent to the Secret Places at Siggelkow Reserve subdivision and City owned open space; and,

WHEREAS, the City, along with the Town, expressed its concerns to the Village Board about the legality and implications of the Village approving the annexation petition and that annexation would be met by a legal challenge from the City; and,

WHEREAS, on November 12, 2018, the Village approved the annexation petition and enacted an annexation ordinance, annexing the Storck Road Farm and Imp Farm owned lands located north of Siggelkow Road from the Town of Blooming Grove; and,

WHEREAS, it is the City Attorney's opinion that this annexation by the Village was contrary to State law as the property owners and electors lacked the authority to make the annexation petition and the Village lacked the authority to enact the annexation ordinance; and,

WHEREAS, the City has four pending Cooperative Plans with its neighboring Towns (Burke, Blooming Grove, Madison and Middleton) and the protection of the validity and terms of these Cooperative Plans is critical for future planning and infrastructure investments by the City. It is contrary to the interests of the City to allow the Village to proceed with this annexation; and,

WHEREAS, under Sec. 66.0217(11)(a), the City may bring an action in circuit court to contest the validity of the Village of McFarland's annexation on procedural and jurisdictional grounds.

NOW THEREFORE BE IT HEREBY RESOLVED that the City Attorney is authorized to bring suit, on behalf of the City of Madison, against the Village of McFarland, Storck Road Farm, LLC, Imp Farm, LLC, Eric, Ianne and Maurie Peterson, and David and Patricia Gillispie, and any other necessary parties, to contest the validity of the annexation approved by the Village on Nov. 12, 2018, and to pursue any relief afforded by law or equity.