

October 10, 2016

VIA EMAIL  
jjones@stanleyboyd.k12.wi.us

Dr. Jim Jones, District Administrator  
Stanley-Boyd Area Schools  
507 East First Avenue  
Stanley WI 54768

Re: **Annexation of One-Half of a Road Right-of-Way**

Dear Dr. Jones:

As I believe you are aware, Jim Ward referred to my attention the ongoing “friendly” dispute between the City of Stanley and Town of Thorp regarding how to deal with the south one-half of the right-of-way of the Town highway adjoining the School District property that was annexed into the City of Stanley this past year. If you will recall, in the Annexation Petition that was ultimately accepted by the Common Council, it was limited solely to the description of the School District’s real estate. In this case, what this means is that the School District property extended to the legally surveyed line of Section 30 and not beyond, even though a Town highway straddles that line, which Town highway is presumed to be 66’ in width and thus, 33’ of the same being within the confines of the description of the School District property.

My understanding is that the Town of Thorp and City of Stanley do not appear to be at loggerheads regarding who shall maintain the road in question but, rather, how to accomplish this objective legally. I suggested to Jim Ward that one means of approach would be for the Town and City to enter into a highway maintenance and repair agreement, pursuant to which (presumably) the City would take over full responsibility for maintenance and repair of the road. However, for some reason the Town Board is disinclined to accept this proposition. On the other hand, it seems not to harbor an objection to the 33’ of the highway left in the Town being annexed to the City.

The question was raised of me through Jim Ward as to whether we could simply redo the existing Annexation Ordinance. Unfortunately, that is not legally possible. The property that the School District annexed to the City is part of the City, and hence, re-annexing it (or somehow detaching it and then annexing it again) presents quite a set of legal problems. The other problem, however, that may or may not be raised with regard to the School District seeking to annex the 33’ adjacent to its property line is that the School District does not technically own that property. Instead, the persons who own property on the opposite side of the highway probably own it, given the fact that most town highways are created by prescriptive easement or road order, as opposed to by means of a deed transferring the fee title to the right-of-way to the highway authority.

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Having stated this, I am prepared to draft an Annexation Petition subject to the understanding that some objection might be raised because the School District does not technically own the land in question. As such, I would ask the following of you. Do you perceive whether there would be any objection on the part of the parties on the other side of the highway to having the right-of-way annexed to the City? If not, perhaps we could have them join in the Petition. On the other hand, if this is a delicate matter or one which you believe is likely to result in failure, perhaps the approach would be, as I have thought about it, to have the School District execute the Annexation Petition but have the Petition indicate that the Petition is solely for the purpose of including the entirety of the right-of-way of the highway within the City limits for highway maintenance and repair purposes. In this manner, perhaps any objection to the process might be diffused. Then again, I don't know if anyone will object.

Would you also confirm that the road in question is on the south side of your property. Unfortunately, the map that the School District presented to the City to attach to the Annexation Petition is not very clear on this point, and I just need to confirm it for purposes of finalizing my legal description.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

**WELD RILEY, S.C.**



William G. Thiel

WGT/db

cc: Jim Ward  
Ketty Clow  
Garrett Nix

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