

# **TASK FORCE ON LOCAL GOVERNMENT ANNEXATION**

## **Minutes of the 2nd Meeting of the 2023 Interim**

**August 25, 2023**

### **Call to Order and Roll Call**

The 2nd meeting of the Task Force on Local Government Annexation was held on Friday, August 25, 2023, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Robby Mills, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representative Jonathan Dixon, Co-Chair; Senators Michael J. Nemes, and David Yates; Representatives Randy Bridges, Michael Meredith, and Michael Sarge Pollock.

Guests: Todd Mansfield, County Judge/Executive of Todd County; Mark McKenzie County Judge/Executive of Johnson County; Amy Milliken, County Attorney of Warren County; Jeff Gregory, Mayor of the City of Elizabethtown; Ken Howard, City Attorney of the City of Elizabethtown; Ed Pope, City Administrator for the City of Elizabethtown; Troy Ethington, Mayor of the City of Shelbyville; Bruce Fraley, Mayor of the City of Berea; Alan Keck, Mayor of the City of Somerset; and Robert Blythe, Mayor of the City of Richmond.

LRC Staff: Mark Mitchell, Christopher Jacovitch, and Logan Schaaf.

### **Discussion of Challenges faced by Cities and Counties regarding Annexation**

Amy Milliken, County Attorney for Warren County, stated that she planned to discuss annexation issues for counties with populations of over 30,000, which would include Warren County. It is important to the counties that the cities within those counties continue to grow and thrive, and that they should work together.

The concern of counties with a population over 30,000 is that cities may benefit at the expense of the counties. This number includes about 25 counties in Kentucky. Warren County has experienced a large amount of growth and by 2045 is projected to be the third largest county. The issue with annexation is not about relationships between the mayors and judge/executives, but a problem with the current law. Because the population is more than 30,000, when a city annexes territory the county loses the ability to collect any occupational tax in that territory. These laws were written in the 1980s and the rationale was unclear to County Attorney Milliken.

Smith's Grove, a city of about 750 people, can annex territory at the expense of the county. Buc-ee's originally planned to locate in unincorporated territory in Warren County, but Smith's Grove subsequently annexed the area, and will collect all occupational tax from the Buc-ee's location, while Warren County will receive nothing. This is despite Warren County's population being more than 120,000 in comparison. County Attorney Milliken does not fault the Mayor of Smith's Grove for taking those actions.

County Attorney Milliken stated that Boone and Scott Counties, which also have populations of more than 30,000, are treated differently by laws related to annexation due to things that occurred in the past. Warren County was not a beneficiary of these past legislative changes.

Counties are mandated to provide certain services by the state, and provide those to everyone within their territory at great expense. Cities can provide added services to the businesses and citizens within their territory. Counties want cities to grow and prosper, but not at the expense of county governments.

Todd Mansfield, Judge/Executive of Todd County, explained that Todd County is a booming rural county in Western Kentucky, that borders the fast-growing Clarksville/Montgomery County, Tennessee. Todd County has three incorporated cities, Elkton, Trenton, and Guthrie.

Todd County is in a much different situation than counties with populations of more than 30,000, because it does not lose payroll tax when annexation occurs. As a result, the county was able to partner with the City of Guthrie to land a project from the aluminum manufacturing company Novelis. The company made a \$365 million investment and employs 150 people. This project would not have been possible without the city and county working together and using payroll taxes as part of financial incentive package.

Concerning insurance premium taxes, annexation has not been a problem for Todd County. The insurance premium tax must be offset for those policies within a city. If the city imposes a higher rate, the county could not impose any tax within the city. The city can raise rates to match the county, which would not affect taxpayers, but would essentially take money from the county's budget.

Mark McKenzie, Judge/Executive of Johnson County, served on the city council for Paintsville prior to serving as Judge/Executive of Johnson County, which is a rural county with a population of around 23,000. Expanding city boundaries via annexation can also affect counties from non-monetary perspectives.

Counties are concerned with maintaining adequate public safety. Maps demonstrate that annexations can occur in long strings far away from the city proper. These are often

called corridor or shoe string annexations. This can affect coverage, availability, and responsiveness of public services, such as fire and police. Annexations can occur that are subsequently never utilized, but then subsequently be used for further annexations.

Judge McKenzie emphasized the good working relationship between the county and the city of Paintsville, but he hopes for a more level playing field where everyone in the community can benefit.

In response to a question from Representative Bridges, County Attorney Milliken stated that in "islands" within a city that are unincorporated, the city would not provide services but the county would provide those services. This may create problems, but it is difficult to say the affects. Some of these areas have requested not to be annexed by cities.

In response to a question from Senator Mills, County Attorney Milliken stated that the \$12 million figure for Scott County referenced previously was an annual figure. In response to another question from Senator Mills, Judge/Executive McKenzie stated that the vote on the Marathon annexation referenced previously had been close.

Troy Ethington, Mayor of the City of Shelbyville, stated that Shelbyville has a population of about 17,000 and the county has a population of about 48,000. Shelbyville and Shelby County have had a successful relationship due to an interlocal agreement between them. The interlocal agreement outlines the terms and conditions under which the city and county cooperate and collaborate on specific projects. The interlocal agreement offers benefits in relation to annexation. Where disputes may arise, cities and counties could pursue an interlocal agreement.

As a result of an interlocal agreement, a county may have cost savings in relation to the provision of services. Services such as law enforcement, road maintenance, and fire protection, can be shifted to cities through the interlocal agreement. The agreement could also lead to infrastructure in the entire county, such as roads and utilities. Revenue sharing can also be pursued, and the economic development benefits can flow to the county as well. These agreements also allow for more regional coordination on issues such as transportation and environmental responses.

Cities can receive increased revenue due to annexation, and sharing those revenues with the county may be seen as a fair compromise. The development of annexed areas helps to foster economic growth, increased property values, and better wages. The city is required to provide municipal services in newly incorporated areas such as water and sewage, and an interlocal agreement can allow a smooth transition of service provision.

The most recent interlocal agreement between Shelbyville and Shelby County commenced in 2019, and contained a 50/50 split of occupational and net profits tax revenue. Shelby County is the fourth fastest growing county in the state. The city and

county have a great relationship and are no longer forced to compete over new businesses or argue over service provision. Policies which promote cooperation can have beneficial effects on this issue, but a one size fits all approach would not be beneficial due to the diversity of local governments within the state.

A voluntary approach on this issue would promote flexibility, tailoring the agreements to their own needs. This also promotes local autonomy and allows local governments to make decisions in their resident's best interests. Voluntary agreements promote good working relationships and would be less burdensome than a requirement. Mandates may cause resistance from local governments.

Jeff Gregory, Mayor of the City of Elizabethtown, reiterated that his city worked well with the county government. Hardin County, which is the site of a \$6 billion economic development project, will be stretched thin by the changes that will result. The city currently has a population of 33,000, but is projected to increase by 20,000 or 25,000 in the next 3 to 5 years. This will have a large impact on service provision in the city. Hardin County does not impose an occupational or insurance premium tax. Developers have been coming in recently to create residential developments due to economic development, and desire annexation, so that sewer services can be provided, which in turn allows for additional density. Elizabethtown needs at least 6,000 and 10,000 new housing units on a short time scale. When property is annexed, the property value will tend to increase which will allow the county to also collect additional revenue as a result.

Ed Pope, City Administrator for the City of Elizabethtown, stated that he spoke with county officials on weekly or daily basis and assisted each other concerning long-term planning. For the previous twenty years, the only annexations that have been made by Elizabethtown have been by property owner consent. The county's long-range plan identifies areas that may be subject to future annexation. Annexations are requested because the city provides sanitary sewer, which aids developments. Annexations have ranged from an acre for some small businesses to 400 hundred acres for mixed use future developments. About two square miles are added by the city each decade. This has been a controlled effort, coordinated by the city and county. Elizabethtown has resisted undertaking corridor annexations because of issues related to service provision.

Ken Howard, City Attorney of the City of Elizabethtown, previously served as the Hardin County Attorney for 17 years. He stated that the situations for each local government are different. There had been only one annexation in his time with both the city and county that had caused any issues, and it was several decades ago and related to alcohol. Because Hardin County does not impose occupational or insurance premium taxes, the revenue issues don't exist due to annexation, and all parties benefit due to increased property values. In some counties there are no issues related to annexation. The rights of the property owners seeking annexation should also be respected.

In response to a question from Representative Bridges, Mayor Ethington stated that he would not be in favor of requiring an interlocal agreement before annexations could occur. The interlocal agreement works well for his community, but may not be necessary for every community. It should be an option that communities consider. The interlocal agreement also contains provisions related to service coverage and fire districts.

Representative Bridges commented that the Shelby County-Shelbyville interlocal agreement was seen as a model during the creation of the taskforce.

In response to a question from Senator Mills, Mayor Ethington stated that the interlocal agreement has a term of twenty years and that previous agreements were in effect as far back as 2004. The original interlocal agreement took care of some of the problems that have been discussed during this meeting.

In response to a question from Senator Mills, Mayor Gregory stated that city services cannot be extended beyond city boundaries as a result of a city ordinance. Hardin County's revenue comes only from property taxes.

Bruce Fraley, Mayor of the City of Berea, stated that the city had acquired 87 acres of property during the preceding decades for an industrial park expansion.

Cities are the engine of economic development, and many projects take a long time and significant planning. Annexation and development increases property values and local government revenue, brings jobs to communities, and improves quality of life. State law should not make cities subordinate to county government, and broadly limiting annexation would have negative impacts on all parties. The city and county have worked together along with surrounding counties to develop more proposals to receive project development initiative funds. Incentivizing counties and cities to partner on economic development is a way to avoid revenue shortfalls, which are the primary issue that might be caused by annexation.

Alan Keck, Mayor of the City of Somerset, stated that more people in Kentucky live in cities now than in counties, but that all city residents do pay taxes to their county governments. City residents contribute to jails, 911 services, and other county services. Somerset has grown at 3 times the state average over the last ten years, and the county has also grown more than a state average, which is due to a cooperative relationship and an interlocal agreement. Whatever solution the task force comes up with should be focused on growth. The state has many challenges and has seen very low population growth over the last decade. Local governments would benefit from more revenue options.

Representative Meredith commented that the presentations during the meeting demonstrated the difficulty of this issue, and that the issue was not annexation itself but the revenue that is divided due to annexations. Three parties are important: counties, cities,

and property owners. Consensual annexation allows for property owners to choose whether they want enhanced services or not, and is working as intended. Each community has different needs. The revenue issue is the most critical. Representative Meredith mentioned that insurance premium rates are increasing significantly and that setting insurance premium tax rates will be important so that insurance is not priced out of the state. While the situation for counties with populations of more than 30,000 is unfair, remedying the unfairness may result in tax increases in those counties.

In response to a question from Senator Nemes, Mayor Fraley stated that the land discussed during his testimony had been both purchased and annexed by the City of Berea over 22 years. In response to another question from Senator Nemes, County Attorney Milliken stated that the \$12 million figure discussed during her testimony was the amount that Scott County receives from their occupational tax that they would not receive if they were in the same position as Warren County.

In response to a question from Representative Bridges, Mayor Keck discussed a previously failed attempt at annexation. Mayor Keck had attempted to unilateral annexation to increase the population of Somerset and bring in additional development. County residents were not pleased with this, and Mayor Keck listened and stopped the attempted annexation. Every subsequent annexation has been consensual.

Representative Bridges commented that companies would not want to invest in communities where the city and county were not getting along. Mayor Keck commented that could only occur through electing leaders willing to do so, and could not be forced.

During a break between presenters, Senator Mills moved that the minutes from the previous meeting be approved, and they were approved.

In response to a question from Senator Mills, Mayor Fraley stated that Buc-ee's in Madison County was in Richmond and not Berea. Senator Mills requested information regarding Buc-ee's, and Robert Blythe, Mayor of Richmond discussed the circumstances regarding Buc-ee's locating in Madison County. Richmond has a "tail" that goes down the interstate, and had the foresight to install utilities around the area where Buc-ee's eventually located.

In response to a question from Representative Meredith, Mayor Blythe stated that the city had invested in the area where Buc-ee's located. The land had been privately owned, and annexed by Richmond many years before Buc-ee's decided to locate in that area.

In response to a question from Senator Mills, Mayor Fraley stated that the product development initiative funding was a good way to encourage cooperation between local governments, and that supplemental funding for infrastructure also helped in that regard.

In response to a question from Senator Mills, Mayor Keck stated that the city was not prohibited from extending utilities outside the city limits, but would not do so unless it was paid for by the property owner. Mayor Blythe stated that the City of Richmond would occasionally do so, but again only if paid for. Mayor Fraley stated that the city would require annexation before running utilities to any larger users.

In response to a question from Representative Dixon, Judge/Executive Mansfield stated that Todd County had an interlocal agreement with the City of Guthrie and that the agreement promoted a good working relationship.

Representative Pollock commented regarding the various models that had been discussed during the meeting, and stressed the importance of communication between local governments.

Senator Mills announced that the next meeting of the Task Force would be on September 29, 2023. There being no further business, the meeting was adjourned at 2:25 p.m.