



# Memorandum

To: City Council  
From: Krysti J. Barksdale-Noble, Community Development Director  
CC: Bart Olson, City Administrator  
Date: October 15, 2019  
Subject: **Public Hearing** – City of Plano Boundary Agreement Update and Extension

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## Summary

Per the recently completed Comprehensive Plan Update, a short-term goal of the City is to pursue new and extend existing boundary agreements with neighboring communities in an effort to promote and implement effective growth management practices. The proposed boundary agreement extension with the City of Plano, which expired on June 24, 2019, would now expire in the year 2039 and is the second of several existing agreements that are up for renewal and will be presented to the City Council for reconsideration. The City approved a similar boundary agreement extension between Yorkville and Sugar Grove in 2016.

## Background

Illinois statute allows municipalities with adopted official plans (comprehensive plans) to enter into a boundary agreement when unincorporated territory is within 1½ miles of the boundaries of two or more corporate authorities. The United City of Yorkville has current boundary agreements with Montgomery, Oswego, Plano, Plainfield and Sugar Grove (refer to attached map).

Other municipalities currently overlapping 1½ mile jurisdiction with Yorkville with whom the City does not have boundary agreements with include Millbrook and Newark. Municipalities that are beyond the contiguous 1½ mile jurisdiction with Yorkville, but likely to encroach this jurisdiction based on their current future planning areas, include Joliet, Lisbon, Millington and Plattville.

The intent of the boundary agreement is to delineate a line which shall mark the boundaries of the respective jurisdiction and agree not to annex any unincorporated land which lies within the jurisdiction of the other municipality as established by such line. Further, Illinois statute requires boundary agreements to:

- Consider the natural flow of storm water drainage of the area;
- Include the entire area of a single tract having common ownership within one jurisdiction, when practical.
- Not exceed a term of 20 years, however, following the expiration of the term it may be extended, renewed, or revised as the parties agree.

## Advantages and Disadvantages

Boundary agreements create the opportunity for meaningful future land planning and establish proposed locations of different types of land uses. In addition, boundary agreements can specify infrastructure needs and responsibilities between corporate authorities so that development within the area between each municipality is orderly and efficient. However, there are other advantages and disadvantages to be considered.

*The advantages of entering into boundary agreements include:*

- Eliminating the risk of developers/property owners' ability to obtain concessions from a municipality by pitting neighboring communities against one another;
- Allowing for better land use and infrastructure planning for the area. A determined boundary prevents a municipality from over or undersizing water and sewer lines, for example;
- Reducing negative aspects of 'competing' with neighboring municipalities for territory;
- Allowing for proactive versus reactive planning. While annexation and incorporation put communities in a reactive mode (reacting to a petition from a developer/property owner), cooperative boundary agreements enable communities to proactively guide their future.

*Potential disadvantages to Boundary Agreements include:*

- Agreement obligates future City Council officials to abide by the terms set forth in the boundary agreement for a period of up to twenty (20) years. As witnessed in this region, many changes have occurred over the last 20 years with population growth in the late 1990's early 2000's and then the economic/housing crisis in the mid 2000's, both of which could not have been foreseen by city leaders during either time period.
- Limitation and restriction of property owner's choices as a result of boundary agreements. As stated above, one of the main purposes of entering into an agreement is to prevent property owners from 'pitting' municipalities against one another, however, this also means determining in the agreement what jurisdiction the territory will ultimately be annexed to – thus eliminating the property owners' choice of community.
- Level of compromise. Some concessions may need to be given in order to 'compromise' with a neighboring community in a boundary agreement.

### **Original City of Plano Boundary Agreement**

The original boundary agreement between the United City of Yorkville and the City of Plano, was executed on June 24, 1999 (recorded in April 2001) and amended in 2005, established the following considerations for future development for the unincorporated area between the two communities:

- **The agreed upon boundary between Yorkville and Plano would be Eldamain Road (see attached map).**
  - o The boundary basically runs north/south beginning on the east side of Ashe Road continuing down along Eldamain Road and terminating at IL Route 71 (Stagecoach Road).
  - o This approximately nine (9) mile boundary has primarily agriculture/farm land with some scattered residential homes on both the Plano and Yorkville sides of the boundary. A large industrial user (Menards Distribution Center) is located on the Plano side of the boundary and several large parcels on the Yorkville side of the boundary is zoned for industrial/manufacturing land uses.

- **The agreement does not limit or adversely affect either municipality from filing a statutory objection to a proposed rezoning within one and one-half mile (1½) of its corporate boundary.**
  - o Since this agreement's execution, staff is aware of only one (1) statutory objections filed by Yorkville in August 2016 regarding Jet's Towing and Services located at 790 Eldamain Road for a requested rezoning and variance. The requested rezoning was from the county's A-1 Agricultural District to the M-1 Limited Manufacturing District to operate a towing and truck storage area on an approximately 8.8-acre parcel located about one (1) mile north of Corneils Road and just south of Galena Road in Bristol Township.
  
- **In the event that the City of Plano or the City of Yorkville is better able to provide municipal water or sewer service to a particular parcel or land lying outside its City limits, and annexed or to be annexed to the other City, the municipality better able to provide service shall not refuse service simply because the parcel is not within its City limits and shall not require annexation, but shall, subject to availability and capacity, allow connection to and service from its utility system, subject at all times to the ordinances, fees and charges (uniformly applied) applicable to the providing of services to lands outside of the municipality.**
  - o Neither the City of Yorkville nor the City of Plano have utilized this option.
  
- **Both municipalities shall adopt appropriate Ordinances for the protection of well sites and ground water.**
  - o Yorkville has adopted numerous ordinances related to the protection of well sites and ground water since the adoption of the boundary agreement in 2000. Those have included:
    - Community Well Protection Ordinance (Ord. 2001-6)
    - Soil Erosion and Sediment Control Ordinance (Ord. 2003-19)
    - Wetland Protection Regulations for Water Quality and Stormwater Management (Ord. 2008-01)
    - Ordinance Prohibiting the Use of Groundwater within the Corporate Limits by the Installation or Drilling of Wells (Ord. 2008-78)
    - Fox River Watershed Ordinance (2009-48)
    - Ordinance Regulating the Illicit Discharge and Connections to the Municipal Separate Storm Sewer System (Ord. 2010-05)
    - Stormwater Management Program Plan (Ord. 2010-13)
    - Blackberry Creek Watershed Ordinance (Res. 2012-17)
    - Stormwater Management Ordinance (Res. 2012-30)
  
- **Expansion and Improvements of Eldamain Road.**
  - o Language within the boundary agreement stated the City of Plano previously spent approximately \$3,400,000 for the improvement of Eldamain Road, north of Route 34. Therefore, the City of Yorkville was obligated to the further improvement of Eldamain Road south of Route 34 and north of that portion of Eldamain previously improved by Plano to equal the \$3,400,000 spent by Plano.

- The agreement also stated should the City of Plano have an owner or developer west of Eldamain Road seeking Eldamain Roadway improvements prior to the City of Yorkville making funds available for their portion of the roadway improvements, the municipalities may enter into an intergovernmental agreement providing for the recapture or repayment of said expenses.
- Each municipality agreed that no further expansion to or improvements of Eldamain Road, north or south of US 34 (Veterans Parkway) would be made without consulting the other municipality concerning the nature, scope and financing of said improvements.
- Major repairs or maintenance of Eldamain Road to which both municipalities are contiguous are the time of repair would be on a 50/50% cost sharing basis. Additionally, Local costs for signalization on said roads shall be allocated based upon the number of intersection quadrants located in each municipality.
  - The City of Yorkville has not undertaken any major repairs or expansion to Eldamain Road. In 2006, Kendall County took jurisdiction over all of Eldamain Road to forward its transportation plan to reconstruct, reconfigure and extend Eldamain Road from US 34 south to Walker Road; making Eldamain Road a major north/south collector roadway in Kendall County.
  - Subsequently in February 2011, the City of Yorkville, the City of Plano and the County of Kendall entered into an intergovernmental agreement in which allowed the County to move forward with the extension and reconstruction of Eldamain Road and stipulated the City of Yorkville could repay its share of road reconstruction cost (\$2.1 million) through the collection of recapture payments from future annexed properties located along the corridor on a per lineal foot fee.

### **Proposed New Plano Boundary Agreement**

The proposed updated boundary agreement between the City of Yorkville and the City of Plano would be extended for another twenty (20) year term, or until 2039, and continue most of the same provisions of the exiting agreement. The following are revisions to the current boundary agreement that have been made under the proposed new agreement:

- Paragraph #4D of Original Agreement – Proposed revision states in Paragraph 5 that the boundary agreement does not preclude either municipality from filing a statutory objection to any land use change (such as Special Uses), not just rezoning requests, within one and one-half (1½) miles of its corporate boundaries.
- Paragraph #5 of Original Agreement– Proposed revision removes this section in its entirety, as the corporate boundaries of both municipalities have expanded significantly since 1999. Additionally, there would be no parcels identified where the transfer of Subdivision Control Standards would apply.
- Paragraph #6 of Original Agreement – Proposed revision removes this section in its entirety, as both municipalities have adopted appropriate well sites and groundwater protection ordinances.
- Paragraph #7 of Original Agreement – Proposed revision reflects in Paragraph 6 the February 2011 Intergovernmental Agreement between the United City of Yorkville, the City of Plano and the County of Kendall.

- Paragraph #12 of Original Agreement – Proposed revision removes this section in its entirety, as it no longer applies since the well has been sold to the City of Plano years ago.
- Paragraph #13 of Original Agreement - Removal of this section in its entirety is proposed, as the previously referenced February 2011 Intergovernmental Agreement would apply.

### **Staff Comments & Recommendation**

Staff **recommends adoption** of the proposed Plano Boundary Agreement extension for a period of twenty (20) years, or until 2039. This is consistent with the goals of the Comprehensive Plan Update and sound planning practices.

Per the Illinois Statutes, both corporate authorities are required to provide a public notice of the proposed boundary agreement for no less than 15 days at the location where notices are posted for any village board or city council meetings as well as publication within the local newspaper. Staff published a notice in the **October 4th** edition of the Beacon News.