



## **TOWN OF BARGERSVILLE**

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September 15, 2009

**Mayor Charles Henderson  
c/o Gregory A. Neibarger  
BINGHAM MCHALE LLP  
2700 Market Tower  
10 West Market Street  
Indianapolis, Indiana 46204**

Dear Mayor Henderson,

The Bargersville Town Council has elected to proceed with discussions of settling the lawsuit which you filed on Bargersville's SR135 annexation by communicating directly with you. We hope that Greenwood and Bargersville can resolve this matter through respectful discussions between two duly elected units of local government.

In the lawsuit Greenwood filed, you used the term "choice" on multiple occasions, most notably stating that "Landowners in the Territory are entitled to a choice between Bargersville and Greenwood." We assumed that your assertion was genuine, and Bargersville took you at your word. Therefore, using your assertion as a basis for avoiding a dispute with you, Bargersville invested significant effort in determining whether your words were true and, if given their choice, whether the landowners which were not receiving services from Bargersville in the annexation area would, in fact, choose Greenwood.

Some of those landowners did choose Greenwood. The Bargersville Town Council deleted 43 parcels from our annexation area because those landowners chose Greenwood, as your lawsuit asserted. We did not leave them in our annexation as future bargaining chips. We are compelled to note that Greenwood responded by filing a "contempt of court" motion in an attempt to punish us for respecting those landowners' wishes. (The Judge then disposed your contempt of court action.)

The Bargersville Town Council also respected the choice of the landowners in the annexation area which had chosen Bargersville by annexing those landowners who petitioned for annexation by Bargersville. Despite our compliance with your assertion that people deserved to choose for themselves, your lawsuit continued.

On August 24, 2009, your attorneys called to say that a "settlement" offer was forthcoming. Shortly thereafter, we received a pencil-sketched "map" with a handwritten note stating that

certain parcels were to be surrendered by Bargersville, in settlement of your lawsuit. There were no written documents explaining details of the settlement offer, and the map, itself, was defective on several levels. The pencil-shaded map showed the boundaries of Greenwood's own annexation, and hand-shaded areas appearing to consist of parcels that were hand-noted as "hatched areas are the parcels mayor wants Bargersville to give up." Furthermore, the map contained no designation of any parcels which Greenwood was offering to surrender.

The map's defects were made evident in a second map from your lawyers, which we received on August 25, 2009. In that second map, styled as a "revised" settlement exhibit, you changed the parcels that you wanted Bargersville to surrender and also designated three parcels at Whiteland Road that Greenwood was to surrender. This second map left the Bargersville Town Council with two maps that conflicted in the explicit content that formed your purported "settlement."

The most troubling aspect of your two maps was that neither "settlement" map demonstrated any respect, whatsoever, for the expressed opinions of the landowners which had made the "choice" to be annexed by Bargersville, nor did those maps show any respect for the actions which Bargersville took to respectfully exclude the parcels whose owners had stated a preference for annexation by Greenwood.

In addition to the two maps, during this period your attorneys verbally agreed that the settlement included a promise not to pursue or finance legal action against either the 90 percent voluntary or the 100 percent voluntary annexations of southern White River Township by Greenwood, or the merger committee (where Greenwood holds an automatic majority of the appointments).

We are now in receipt of a letter from your attorneys dated September 4, 2009 that simply reiterated Greenwood's earlier position. This posturing continues to fail to respect Bargersville's deletion of parcels that had "chosen" Greenwood, and does not respect the landowners who had "chosen" Bargersville by signing petitions for annexation. It also conflicts with the prior understandings regarding the 90 percent voluntary and 100 percent voluntary annexations. Although Bargersville went to great length to craft a counterproposal that made sense for all parties and respected the wishes of the landowners, your attorneys' September 4, 2009 letter leaves Bargersville to understand that you had no real intention to negotiate a settlement or respect the wishes of the landowners.

There are no lawyers on the Bargersville Town Council. We are simply elected citizens trying to do the right thing. In that regard, we are compelled to remind you that it was you who made the statement in your lawsuit that, if given the choice, the landowners would "choose Greenwood." We took your written statement to the court in good faith, and the Bargersville Town Council proceeded to offer those landowners the direct opportunity to 'choose,' exactly as you had asserted to the court. In taking this action, the Bargersville Town Council publicly demonstrated its respect for basic principles of democracy, respect for the decisions of the landowners, and we also demonstrated our respect for you by giving your "choice" assertion a fair and honest voice.

We continue to have petitions from the landowners of parcels that your "settlement" demands be surrendered by Bargersville, regardless of the choice that those people made. Frankly, we

respectfully note that we find your logic to be defective. We cannot simply surrender people who have fairly chosen Bargersville.

In its most simple and honest terms, Mr. Mayor, we now request that Greenwood demonstrate the same respect for Bargersville and the landowners in the amended annexation area that Bargersville has shown to you.

The sum of the matter is this. You told the court that the landowners would choose Greenwood if they were given the chance. Bargersville then gave the landowners precisely the opportunity that your attorneys had demanded in the original lawsuit, and the landowners made their choice, which Bargersville respected, even if we did not like their decision.

We respectfully ask that you end this legal action by Greenwood. Local government cannot always solicit and honor the opinions of individuals, but this time the Bargersville Town Council has done so. We are therefore now compelled to ask you to stand by the original assertion that Greenwood had set before the court, and to respect the decisions made by those individual landowners, as Bargersville has done. If you cannot end this lawsuit out of respect for Bargersville and the affected landowners, then we ask that you do so out of respect for the fundamental principles of democracy.

Furthermore, and equally importantly, your representatives have repeatedly threatened lawsuits against the citizens of southern White River Township, demanding that those landowners be merged with Greenwood, regardless of their personal wishes. We therefore ask that you respect the preferences of the landowners in Southwest and Southeast White River Township which have overwhelming (and almost unanimously) stated a preference to become part of Bargersville through two, separate voluntary annexations.

Inasmuch as the response to this letter is simple, we ask for a response within two days of our delivery of this letter through our counsel. Mr. Mayor, it is time to end this, and it is entirely within your power to do so.

Most sincerely,

The Bargersville Town Council

By: Steve Welch  
Steve Welch, Town Council President