NO. 5 - 1985 ROAD DOCKET

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA

IN RE: ALTERATION OF

BOUNDARY LINES OF

WESTMONT AND SOUTHMONT

BOROUGHS

REPORT AND RECOMMENDATION
OF ROAD COMMISSIONERS

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
480 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

Writ of Fi fa $7.50 filing fee
Paid 6/12/86
Receipt #20200

Sheriff's fee paid $7.50 7/9/86

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: ALTERATION OF
BOUNDARY LINES OF WESTMONT
AND SOUTHMONT BOROUGHS

PETITION TO ALTER

BOROUGH BOUNDARY LINES

LAW OFFICES
GLEASON, DI FRANCESCO,
SHAHADE & MARKOVITZ
SUITE 350
PENN TRAFFIC BUILDING
JOHNSTOWN, PENNSYLVANIA 15901

Copies to Pleasant for - atty Barbuscia, Lynette atty Mikesic atty T. L. Locher Chas Slep by Mail

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS

* IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA

* No. 54-1985 /ROAD DOCKET

ORDER

AND NOW this 19th day of June, 1985, upon consideration of the foregoing Petition, it is hereby ordered and directed that ~~Mr.~~ atty Nicholas Mikesic Mr. T. L. Locher, and Mr. Charles E. Slep are appointed as Commissioners to take testimony and are ordered to file a report as provided by 53 P.S. 45503 with this Court concerning the proposals set forth in the Petition. ~~Atty~~ Nicholas Mikesic is appointed Chairman of the Commissioners, and it is hereby ordered and directed that he is to hold a hearing and take testimony on this request, and is to advertise said hearing in the Cambria County Legal Journal and the Johnstown Tribune Democrat ten (10) days prior to the meeting. In addition, he is directed to have the Solicitors of the two Boroughs in question prepare Suggested Findings of Fact and a Suggested Order for the Court's signature as part of the report filed with the Court.

BY THE COURT:

COURT ADMINISTRATOR

McCullough P.J.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
JUN 19 4 04 PM '85

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5, 1985
	:	ROAD DOCKET

PETITION TO ALTER BOROUGH BOUNDARY LINES

AND NOW comes the Borough of Westmont by and through their Solicitor, William Gleason Barbin, Esq., and the Borough of Southmont, by and through their Solicitor, Daniel R. Lovette, Esq. and submit the following Joint Petition for alteration of Borough boundary lines, and in support thereof set forth the following reasons:

1. Authority for this Petition and the the Court acting on it is contained in 1966, February 1, P.L. No. 581, Sec 502 (53 P.S. 45502 (i)).

2. Westmont Borough was incorporated by the Court of Common Pleas on June 13, 1892, as recorded in the Road Docket in the Clerk of Courts Office for Cambria County at R.D. volume 10, page 258 or copy of which containing the metes and bounds is attached hereto and incorporated by reference as Exhibit A.

3. The Borough of Southmont was incorported by the Cambria County Court of Common Pleas on June 2, 1919, as recorded in the Road Docket in the Clerk of Courts Office for Cambria County at R.D. volume 28, page 393.

4. The two Boroughs have an irregular adjoining boundary in the vicinity of Luzerne Street and Stackhouse Park, as shown on the attached portions of tax maps as annexed hereto.

5. The Westmont Volunteer Fire Company has recently purchased property on Luzerne Street for a new fire hall, which would be more centrally located for responding to fire alarms in Westmont Borough and ambulance calls in both Westmont and Southmont Boroughs.

6. The land suggested for the proposed new fire hall is currently located within the Borough of Southmont. The request for change of boundary lines would adjust property lines in the Borough of Westmont so that the fire hall would be located within Westmont Borough. The only other changes are to one property, which is currently located in both Boroughs, and to Diamond Boulevard and Luzerne Street Extension, where they cross through both Boroughs.

7. That the respective Borough Councils have met, negotiated and come up with a mutually agreeable plan for alteration of boundary lines which make minimal changes to accomplish the objectives sought. The changes requested are shown on the attached map and legal description as prepared by Rick Brehm, Borough Engineer for Southmont Borough, attached hereto and made a part hereof as Exhibit B.

WHEREFORE your Petitioners pray the Court to appoint three impartial persons as Commissioners, one of them a surveyor or registered engineer to inquire into the merit of this Petition and to hold a hearing, view the lines and boundaries, prepare a report to the Court containing their opinion as to the same, to be confirmed by the Court upon notice to the parties and such interested persons as the Court may designate. (53 Sec.45503)

Resectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

William Gleason Barbin
Westmont Borough Solicitor

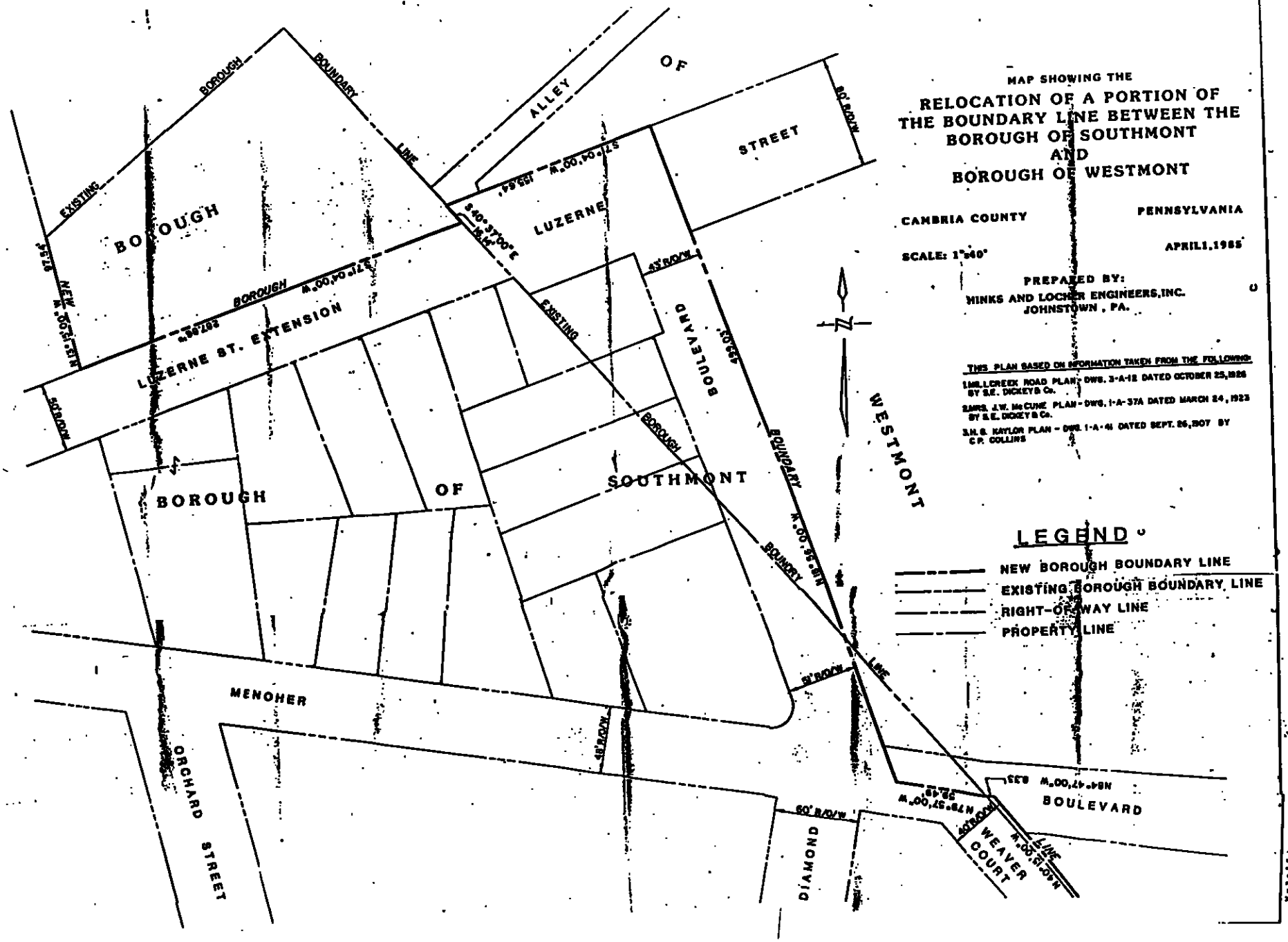
Daniel R. Lovette
Southmont Borough Solicitor

WESTMONT BOROUGH

AND NOW, this 13th day of June A.D.,1892, the Court confirms the judgement of the Grand Jury and decree that the said Village of Westmont be incorporated into a Borough in conformity with the prayer of the petitioners that the corporate style and title thereof shall be "The Borough of Westmont", that the boundaries thereof as per map herewith filed shall be as follows: Beginning at a point on the East side of the public road leading from Mill Creek to Johnstown at or near Baumers Slaughtery being also a point on the line of the City of Johnstown, thence by the line of the City of Johnstown South twelve (12) degrees and six (6) minutes East fifty-four and eighty eight hundredths (54.88) perches to post in the public road aforesaid, thence by land of David Hamilton and others South seventy four (74) degrees and twelve (12) minutes West thirty five and eighty one hundredths (35.81) perches to post formerly chestnut, thence South seven (7) degrees and twenty three (23) minutes West thirty three and twenty one hundredths (33.21) perches to post formerly cucumber, thence South twenty four (24) degrees and forty two (42) minutes East forty eight and sixty six hundredths (48.66) perchesto post in the public road aforesaid, thence by center of said Mill Creek Road South twenty eight (28) degrees and thirty seven (37) minutes West four and ninety three hundredths (4.93) perches North sixty nine (69) degrees and twenty two (22) minutes West four and twenty seven hundredths (4.27) perches North seven (7) degrees and seventeen (17) minutes West sixteen and seventy four hundredths (16.74) perches North forty six (46) degrees and twenty five (25) minutes West eleven and ninety two hundredths (11.92) perches North sixty six (66) degrees and forty one (41) minutes West twenty six and eighty five hundredths (26.85) perches North thirty four (34) degrees and twenty (20) minutes West six and ninety six hundredths (6.96) perches North fourteen (14) degrees and twenty nine (29) minutes East thirteen and forty three hundredths (13.43) perches North three (3) degrees and fifty five (55) minutes East seven and forty six hundredths (7.46) perches North eighteen (18) degrees and five (5) minutes West eight and thirty seven hundredths (8.37) perches North seventy nine (79) degrees and eighteen minutes West four and seventy eight hundredths (4.78) perches South sixty five (65) degrees and ten (10) minutes West nine and twenty four hundredths (9.24) perches South eighty three (83) degrees and nineteen (19) minutes West thirteen and forty eight hundredths (13.48) perches South eighty four (84) degrees and forty five (45) minutes West sixty six and sixty six hundredths (66.66) perches South eighty

Exhibit A

(80) degrees and twenty (20) minutes West twenty eight and seventy eight hundredths (28.78) perches South seventy seven (77) degrees and seven (7) minutes West twenty two and seventy two hundredths (22.72) perches South seventy two (72) degrees and twenty two (22) minutes West fifty five and eighty seven hundredths (55.87) perches North sixty (60) degrees and thirteen (13) minutes West fourteen and thirteen hundredths (14.13) perches North seventy seven (77) degrees and eighteen (18) minutes West eight and forty two hundredths (8.42) perches North eighty five (85) degrees and forty two (42) minutes West thirty five and five tenths (35.5) perches to a post opposite corner of Jonathan Gardner's land, thence leaving Mill Creek Road and by line between Jonathan Gardner and Cambria Iron Company North forty one (41) degrees and sixteen (16) minutes West forty five and fifteen hundredths (45.15) perches to stone, thence South forty nine (49) degrees and fourteen (14) minutes West fourteen and forty two (14.42) perches to post corner of Jonathan Gardner, George Spangler and Cambria Iron Company, thence by land of George Spangler North eleven (11) degrees and sixteen (16) minutes West nine (9) perches to post corner of George Spangler Christian Paliser and Cambria Iron Company, thence crossing Elk Run twice by land of Christian Paliser North thirty seven (37) degrees and thirteen (13) minutes East eighty six and nine tenths (86.9) perches to stones corner of Christian Paliser and Cambria Iron Company on right bank of Elk Run, thence following down the right bank of Elk Run North seventy three (73) degrees and thirty one (31) minutes East twenty nine and forty three hundredths (29.43) perches North sixty three (63) degrees and ten (10) minutes East eighteen and thirty three hundredths (18.33) perches North fifty three (53) degrees and two (2) minutes East fifteen and thirty seven hundredths (15.37) perches North thirty seven (37) degrees and fifty four (54) minutes East forty and forty one hundredths (40.41) perches North ten (10) degrees fifty eight (58) minutes East twenty five and forty nine hundredths (25.49) perches North fifteen (15) degrees and twenty seven (27) minutes East twenty and thirty seven hundredths (20.37) perches North twenty (20) degrees and eighteen (18) minutes West fifty and eighty one hundredths (50.81) perches North thirty six (36) degrees and fifty six (56) minutes West thirty seven and sixty six hundredths (37.66) perches to post on line of Joseph Hupf and Cambria Iron Company, thence by land of Joseph Hupf North sixty four (64) degrees East thirty five and seventy five hundredths (35.75) perches to post North forty one (41) degrees and five minutes West thirteen and ninety three (13.93) perches to post corner of George Habicht,


MAP SHOWING THE
RELOCATION OF A PORTION OF
THE BOUNDARY LINE BETWEEN THE
BOROUGH OF SOUTHMONT
AND
BOROUGH OF WESTMONT
CAMBRIA COUNTY
PENNSYLVANIA
SCALE: 1"=40'
APRIL 1, 1985
PREPARED BY:
HINKS AND LOCHER ENGINEERS, INC.
JOHNSTOWN, PA.
THIS PLAN BASED ON INFORMATION TAKEN FROM THE FOLLOWING:
1. MR. LORECK ROAD PLAN - DWG. 3-A-12 DATED OCTOBER 25, 1926 BY S.E. DICKEY & Co.
2. MRS. J.W. McCUNE PLAN - DWG. 1-A-37A DATED MARCH 24, 1923 BY S.E. DICKEY & Co.
3. H.S. TAYLOR PLAN - DWG. 1-A-41 DATED SEPT. 26, 1907 BY C.R. COLLINS
LEGEND
NEW BOROUGH BOUNDARY LINE
EXISTING BOROUGH BOUNDARY LINE
RIGHT-OF-WAY LINE
PROPERTY LINE
BOROUGH
BOUNDARY
LINE
EXISTING
ALLEY
OF
STREET
LUZERNE
BOULEVARD
BOROUGH
OF
SOUTHMONT
WESTMONT
LUZERNE ST. EXTENSION
MENOHER
ORCHARD
STREET
DIAMOND
WEAVER
COURT
BOULEVARD
N
S40°37'00"E
N79°37'00"W
N84°47'00"W
N00°51'00"W
N00°55'00"W
N00°50'00"E
S37°00'00"E
N18°15'00"W
50' R/O/W
40' R/O/W
60' R/O/W
43' R/O/W
33' R/O/W
33' R/O/W
60' R/O/W
Exhibit "B"

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

ORDER OF COURT ALTERING BOUNDARY LINES BETWEEN WESTMONT AND SOUTHMONT BOROUGHS AND ADOPTING MAP

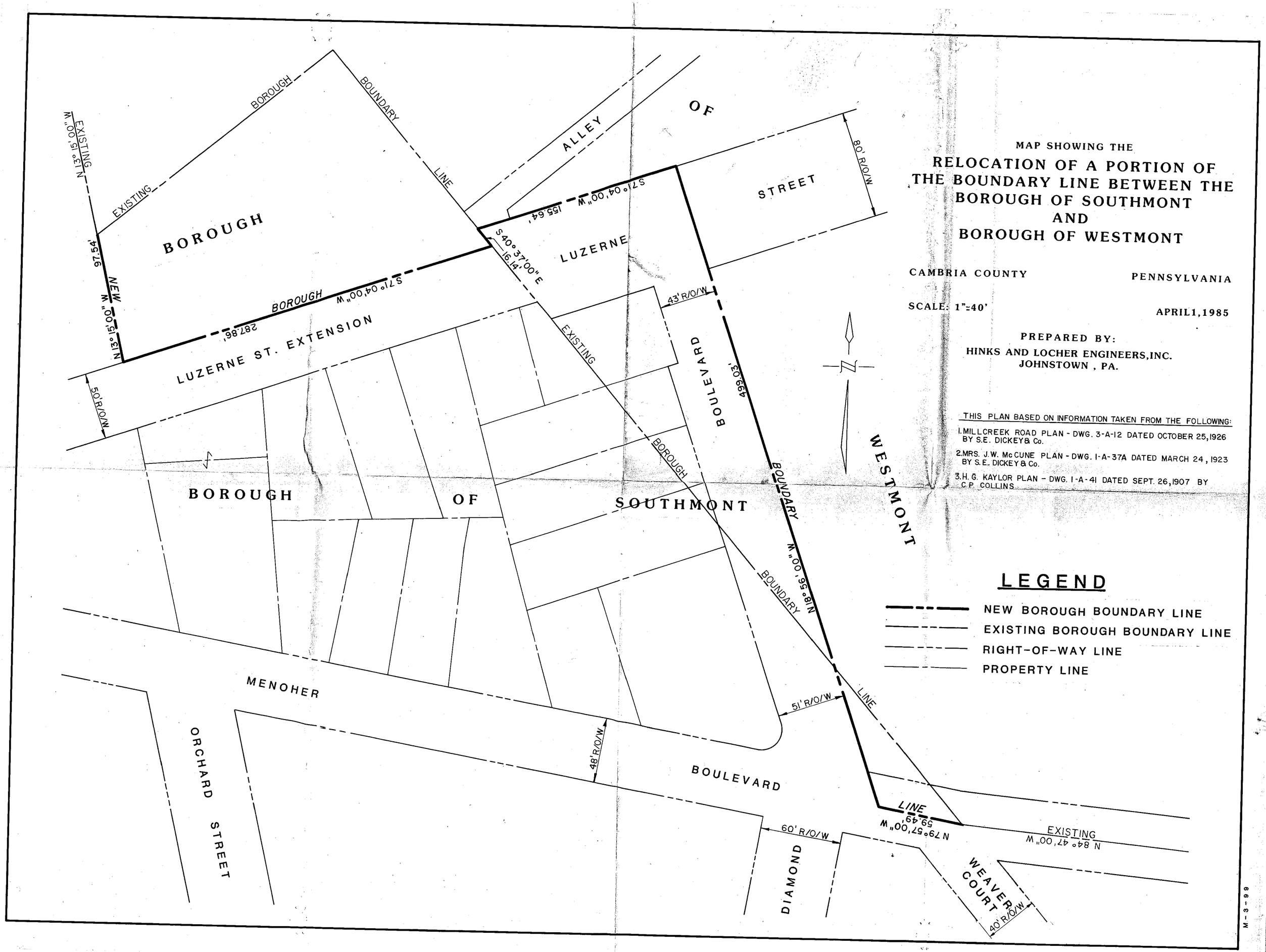
AND NOW, this 2 day of June, 1986, after view by, hearing before and upon recommendation of Commissioners, NICHOLAS J. MIKESIC, Esquire, T.L. LOCHER and CHARLES E. SLEP, the Court finds that a bona fide dispute or disputes exist as to the actual location of the boundary line between Westmont and Southmont Boroughs and that the requirements of Sections 502-506 of the Pennsylvania Borough Code of February 1, 1966, P.L. (1965) ___, No. 581, as amended (53 P.S. §§45502-45506) have been met by the parties and Commissioners; that no exceptions were filed by any person or political subdivision interested within thirty days of the filing of the Commissioners' Report; and it is, therefore,

ORDERED AND DECREED that the Commissioners' Report and Recommendation be and hereby is confirmed absolutely, and that the boundary line between the Borough of Southmont and the Borough of Westmont be and hereby is altered, ascertained and established in accordance with the Map Showing the Relocation of a Portion of the Boundary Line Between the Borough of Southmont and the Borough of Westmont, as prepared on April 1, 1985, by Hinks and Locher, Inc., which Map is incorporated by reference into this Order.

COURT ADMINISTRATOR

McWilliams P. J.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
JUN 2 3 11 PM '86


MAP SHOWING THE
RELOCATION OF A PORTION OF THE BOUNDARY LINE BETWEEN THE BOROUGH OF SOUTHMONT AND BOROUGH OF WESTMONT
CAMBRIA COUNTY
PENNSYLVANIA
SCALE: 1"=40'
APRIL 1, 1985
PREPARED BY:
HINKS AND LOCHER ENGINEERS, INC.
JOHNSTOWN, PA.
THIS PLAN BASED ON INFORMATION TAKEN FROM THE FOLLOWING:
1. MILLCREEK ROAD PLAN - DWG. 3-A-12 DATED OCTOBER 25, 1926 BY S.E. DICKEY & Co.
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LEGEND
NEW BOROUGH BOUNDARY LINE
EXISTING BOROUGH BOUNDARY LINE
RIGHT-OF-WAY LINE
PROPERTY LINE
BOROUGH
BOUNDARY
LINE
EXISTING
NEW
N 13° 15' 00" W
92.54'
S 71° 04' 00" W
287.86'
BOROUGH
LUZERNE ST. EXTENSION
50' R/O/W
ALLEY
OF
LUZERNE
S 71° 04' 00" W
155.64'
S 40° 37' 00" E
16.14'
STREET
80' R/O/W
43' R/O/W
BOULEVARD
N 18° 55' 00" W
499.03'
BOUNDARY
LINE
BOROUGH
OF
SOUTHMONT
WESTMONT
51' R/O/W
MENOHER
48' R/O/W
BOULEVARD
ORCHARD
STREET
N 79° 57' 00" W
59.49'
LINE
EXISTING
N 84° 47' 00" W
60' R/O/W
DIAMOND
WEAVER
COURT
40' R/O/W
M-3-99

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

COMMISSIONERS' NOTICE OF FILING
REPORT AND RECOMMENDATION

TO: DANIEL R. LOVETTE
Attorney at Law
430 Main Street, Fourth Floor
Johnstown, PA 15901
Solicitor for Southmont Borough and
Counsel of Record

THOMAS M. KALINYAK
Attorney at Law
Alma Hall, Main Street
Johnstown, PA 15901
Solicitor for Westmont Borough

WILLIAM GLEASON BARBIN, Esquire
Gleason, DiFrancesco, Shahade and Markovitz
350 Penn Traffic Building
319 Washington Street
Johnstown, PA 15901
Former Solicitor for Westmont Borough and
Counsel of Record

You are hereby notified that on the 27th day of May, 1986, I will file a Report and Recommendation in behalf of the Commissioners in the above captioned proceeding in the Office of the Clerk of Courts for the Court of Common Pleas of Cambria County, Pennsylvania, in which the Commissioners will recommend that the boundary line between Southmont Borough and Westmont Borough be altered, ascertained and established in accordance with the Map Showing the Relocation, etc. Pursuant to Section 504 of the Pennsylvania Borough Code of February 1, 1966, P.L. (1965) ___, No. 581, as amended (53 P.S. §45504), you will have thirty (30) days from said date within which to file exceptions to said report if you so desire.

NICHOLAS J. MIKESIC, Esquire
T.L. LOCHER
CHARLES E. SLEP
Commissioners

By Nicholas J. Mikesic
NICHOLAS J. MIKESIC, Esquire

AND NOW, this 23rd day of May, 1986, I hereby accept service of the within notice and acknowledge receipt of a copy of same.

Daniel R Lovette

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

COMMISSIONERS' NOTICE OF FILING
REPORT AND RECOMMENDATION

TO: DANIEL R. LOVETTE
Attorney at Law
430 Main Street, Fourth Floor
Johnstown, PA 15901
Solicitor for Southmont Borough and
Counsel of Record

THOMAS M. KALINYAK
Attorney at Law
Alma Hall, Main Street
Johnstown, PA 15901
Solicitor for Westmont Borough

WILLIAM GLEASON BARBIN, Esquire
Gleason, DiFrancesco, Shahade and Markovitz
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Johnstown, PA 15901
Former Solicitor for Westmont Borough and
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NICHOLAS J. MIKESIC, Esquire
T.L. LOCHER
CHARLES E. SLEP
Commissioners

By Nicholas J. Mikesic
NICHOLAS J. MIKESIC, Esquire

AND NOW, this 28 day of May, 1986, I hereby accept service of the within notice and acknowledge receipt of a copy of same.

_____

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

COMMISSIONERS' NOTICE OF FILING
REPORT AND RECOMMENDATION

TO: DANIEL R. LOVETTE
Attorney at Law
430 Main Street, Fourth Floor
Johnstown, PA 15901
Solicitor for Southmont Borough and
Counsel of Record

THOMAS M. KALINYAK
Attorney at Law
Alma Hall, Main Street
Johnstown, PA 15901
Solicitor for Westmont Borough

WILLIAM GLEASON BARBIN, Esquire
Gleason, DiFrancesco, Shahade and Markovitz
350 Penn Traffic Building
319 Washington Street
Johnstown, PA 15901
Former Solicitor for Westmont Borough and
Counsel of Record

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NICHOLAS J. MIKESIC, Esquire
T.L. LOCHER
CHARLES E. SLEP
Commissioners

By Nicholas J. Mikesic
NICHOLAS J. MIKESIC, Esquire

AND NOW, this 28 day of May, 1986, I hereby accept service of the within notice and acknowledge receipt of a copy of same.

William Gleason Barbin

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

REPORT AND RECOMMENDATION
OF
ROAD COMMISSIONERS

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

NICHOLAS J. MIKESIC, Esquire, T.L. LOCHER and CHARLES E. SLEP were appointed by Order of June 19, 1985, per H. Clifton McWilliams, President Judge, to hold a hearing and view the lines and boundaries, and make a report to the Court, with regard to the joint Petition to Alter Boundary Lines filed by William Gleason Barbin, Esquire, former Solicitor for Westmont Borough and Daniel R. Lovette, Esquire, Solicitor for Southmont Borough, and in accordance with the requirements of Sections 502-506 of the Pennsylvania Borough Code of February 1, 1966, P.L. (1965) ___, No. 581, as amended (53 P.S. §§45502-45506).

An Amended Petition was filed by the said William Gleason Barbin, Esquire, alleging the existence of a bona fide boundary dispute between the respective Boroughs and, thus, the necessity for adjustment of a portion of the boundary line between said Boroughs.

Pursuant to our appointment, the Commissioners ultimately fixed December 18, 1985, at 5:30 o'clock P.M. at the Westmont Borough Building, 1560 Menoher Boulevard, Johnstown, Pennsylvania 15905, as the date, time and place for hearing on the matter. Notice of hearing was advertised once on December 5, 1985, in each of the Johnstown Tribune-Democrat and the Cambria County Legal Jounral, and copies of said notice were delivered to interested property owners in accordance with the Proofs of Publication and Affidavits of Service attached hereto.

Immediately prior to said hearing, the Commissioners viewed the subject portion of the boundary line in the presence of counsel for both Boroughs. At the hearing of the Commissioners heard testimony from the following in behalf of Southmont Borough and Westmont Borough, respectively:

RICHARD W. BREHM, P.E.,
Southmont Borough Engineer
FREDERICK R. POULEN,
Southmont Borough Zoning Administrator
THOMAS J. DAILEY,
Southmont Borough Manager and Treasurer
JAMES WIDMANN

A letter from ROBERT BEATTY, Westmont Borough Public Works Director, was read into the record without objection.

The cases were presented respectively by Daniel R. Lovette, Esquire, Solicitor for Southmont Borough, and William Gleason Barbin, Esquire, former Solicitor for Westmont Borough.

FINDINGS OF FACT

1. The subject portion of the boundary line between Westmont and Southmont Boroughs was never actually set by a surveyor or engineer.

2. No physical markers were hertofore erected, showing the actual location of said boundary line.

3. Several years ago, a dispute arose as the result of an automobile accident, and the parties were unable to determine the municipality in which the accident occurred.

4. A dispute between the Boroughs involving the Lazankas property specifically resulted in action being taken by the Zoning Hearing Boards of each Borough.

5. Disputes have arisen over the years regarding responsibility for paving roads on and about the disputed boundary line.

6. Disputes have arisen between the Boroughs regarding the cleaning and maintenance of sewer lines and responsibility for fire protection.

7. A drawing was prepared on April 1, 1985, by Hinks and Locher Engineers, Inc., establishing an actual boundary line in the disputed area, and actual markings were affixed to the ground.

CONCLUSIONS OF LAW

1. The said Commissioners have jurisdiction in accordance with the Order of Court of June 19, 1985, and the Pennsylvania Borough Code, supra (53 P.S. §§45502-45506).

2. Notice of hearing was given to all interested parties according to law, and a view and hearing were held and testimony received on December 18, 1985.

3. Bona fide disputes exist and have existed between Southmont and Westmont Borough, necessitating adjustment and fixing of the boundary line under Section 503 of the Borough Code (53 P.S.§45503).

4. The Commissioners adopt and recommend the Map Showing the Relocation of a Portion of the Boundary Line Between the Borough of Southmont and Borough of Westmont, prepared by Hinks and Locher Engineers, Inc., on April 1, 1985, a copy of which is attached hereto.

5. The Commissioners recommend that the Court enter an Order in substantially the form attached, in accordance with Section 504 of the Borough Code (53 P.S. §45504).

Respectfully submitted,

NICHOLAS J. MIKESIC, Esquire
T.L. LOCHER
CHARLES E. SLEP
Commissioners

By Nicholas J. Mikesic
NICHOLAS J. MIKESIC, Esquire

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS

* IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA

* No. 4-1985 /ROAD DOCKET

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
JUN 19 4 04 PM '85

ORDER

AND NOW this 19th day of June, 1985, upon consideration of the foregoing Petition, it is hereby ordered and directed that ~~Mr.~~ atty Nicholas Mikesic Mr. T. L. Locher, and Mr. Charles E. Slep are appointed as Commissioners to take testimony and are ordered to file a report as provided by 53 P.S. 45503 with this Court concerning the proposals set forth in the Petition. ~~Atty~~ Nicholas Mikesic is appointed Chairman of the Commissioners, and it is hereby ordered and directed that he is to hold a hearing and take testimony on this request, and is to advertise said hearing in the Cambria County Legal Journal and the Johnstown Tribune Democrat ten (10) days prior to the meeting. In addition, he is directed to have the Solicitors of the two Boroughs in question prepare Suggested Findings of Fact and a Suggested Order for the Court's signature as part of the report filed with the Court.

BY THE COURT:

COURT ADMINISTRATOR

[illegible] PJ.

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO.
	:	ROAD DOCKET

PETITION TO ALTER BOROUGH BOUNDARY LINES

AND NOW comes the Borough of Westmont by and through their Solicitor, William Gleason Barbin, Esq., and the Borough of Southmont, by and through their Solicitor, Daniel R. Lovette, Esq. and submit the following Joint Petition for alteration of Borough boundary lines, and in support thereof set forth the following reasons:

1. Authority for this Petition and the the Court acting on it is contained in 1966, February 1, P.L. No. 581, Sec 502 (53 P.S. 45502 (i)).

2. Westmont Borough was incorporated by the Court of Common Pleas on June 13, 1892, as recorded in the Road Docket in the Clerk of Courts Office for Cambria County at R.D. volume 10, page 258 or copy of which containing the metes and bounds is attached hereto and incorporated by reference as Exhibit A.

3. The Borough of Southmont was incorported by the Cambria County Court of Common Pleas on June 2, 1919, as recorded in the Road Docket in the Clerk of Courts Office for Cambria County at R.D. volume 28, page 393.

4. The two Boroughs have an irregular adjoining boundary in the vicinity of Luzerne Street and Stackhouse Park, as shown on the attached portions of tax maps as annexed hereto.

5. The Westmont Volunteer Fire Company has recently purchased property on Luzerne Street for a new fire hall, which would be more centrally located for responding to fire alarms in Westmont Borough and ambulance calls in both Westmont and Southmont Boroughs.

6. The land suggested for the proposed new fire hall is currently located within the Borough of Southmont. The request for change of boundary lines would adjust property lines in the Borough of Westmont so that the fire hall would be located within Westmont Borough. The only other changes are to one property, which is currently located in both Boroughs, and to Diamond Boulevard and Luzerne Street Extension, where they cross through both Boroughs.

7. That the respective Borough Councils have met, negotiated and come up with a mutually agreeable plan for alteration of boundary lines which make minimal changes to accomplish the objectives sought. The changes requested are shown on the attached map and legal description as prepared by Rick Brehm, Borough Engineer for Southmont Borough, attached hereto and made a part hereof as Exhibit B.

WHEREFORE your Petitioners pray the Court to appoint three impartial persons as Commissioners, one of them a surveyor or registered engineer to inquire into the merit of this Petition and to hold a hearing, view the lines and boundaries, prepare a report to the Court containing their opinion as to the same, to be confirmed by the Court upon notice to the parties and such interested persons as the Court may designate. (53 Sec.45503)

Resectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

William Gleason Barbin

William Gleason Barbin
Westmont Borough Solicitor

Daniel R. Lovette

Daniel R. Lovette
Southmont Borough Solicitor

WESTMONT BOROUGH

AND NOW, this 13th day of June A.D.,1892, the confirms the judgement of the Grand Jury and decree that the said Village of Westmont be incorporated into a Borough in conformity with the prayer of the petitioners that the corporate style and title thereof shall be "The Borough of Westmont", that the boundaries thereof as per map herewith filed shall be as follows: Beginning at a point on the East side of the public road leading from Mill Creek to Johnstown at or near Baumers Slaughtery being also a point on the line of the City of Johnstown, thence by the line of the City of Johnstown South twelve (12) degrees and six (6) minutes East fifty-four and eighty eight hundredths (54.88) perches to post in the public road aforesaid, thence by land of David Hamilton and others South seventy four (74) degrees and twelve (12) minutes West thirty five and eighty one hundredths (35.81) perches to post formerly chestnut, thence South seven (7) degrees and twenty three (23) minutes West thirty three and twenty one hundredths (33.21) perches to post formerly cucumber, thence South twenty four (24) degrees and forty two (42) minutes East forty eight and sixty six hundredths (48.66) perchesto post in the public road aforesaid, thence by center of said Mill Creek Road South twenty eight (28) degrees and thirty seven (37) minutes West four and ninety three hundredths (4.93) perches North sixty nine (69) degrees and twenty two (22) minutes West four and twenty seven hundredths (4.27) perches North seven (7) degrees and seventeen (17) minutes West sixteen and seventy four hundredths (16.74) perches North forty six (46) degrees and twenty five (25) minutes West eleven and ninety two hundredths (11.92) perches North sixty six (66) degrees and forty one (41) minutes West twenty six and eighty five hundredths (26.85) perches North thirty four (34) degrees and twenty (20) minutes West six and ninety six hundredths (6.96) perches North fourteen (14) degrees and twenty nine (29) minutes East thirteen and forty three hundredths (13.43) perches North three (3) degrees and fifty five (55) minutes East seven and forty six hundredths (7.46) perches North eighteen (18) degrees and five (5) minutes West eight and thirty seven hundredths (8.37) perches North seventy nine (79) degrees and eighteen minutes West four and seventy eight hundredths (4.78) perches South sixty five (65) degrees and ten (10) minutes West nine and twenty four hundredths (9.24) perches South eighty three (83) degrees and nineteen (19) minutes West thirteen and forty eight hundredths (13.48) perches South eighty four (84) degrees and forty five (45) minutes West sixty six and sixty six hundredths (66.66) perches South eighty

Exhibit A

(80) [illegible]ees and twenty (20) minutes West twenty eight [illegible] seventy eight hundredths (28.78) perches South seventy seven (77) degrees and seven (7) minutes West twenty two and seventy two hundredths (22.72) perches South seventy two (72) degrees and twenty two (22) minutes West fifty five and eighty seven hundredths (55.87) perches North sixty (60) degrees and thirteen (13) minutes West fourteen and thirteen hundredths (14.13) perches North seventy seven (77) degrees and eighteen (18) minutes West eight and forty two hundredths (8.42) perches North eighty five (85) degrees and forty two (42) minutes West thirty five and five tenths (35.5) perches to a post opposite corner of Jonathan Gardner's land, thence leaving Mill Creek Road and by line between Jonathan Gardner and Cambria Iron Company North forty one (41) degrees and sixteen (16) minutes West forty five and fifteen hundredths (45.15) perches to stone, thence South forty nine (49) degrees and fourteen (14) minutes West fourteen and forty two (14.42) perches to post corner of Jonathan Gardner ,George Spangler and Cambria Iron Company, thence by land of George Spangler North eleven (11)degrees and sixteen (16) minutes West nine (9) perches to post corner of George Spangler Christian Paliser and Cambria Iron Company, thence crossing Elk Run twice by land of Christian Paliser North thirty seven (37) degrees and thirteen (13) minutes East eighty six and nine tenths (86.9) perches to stones corner of Christian Paliser and Cambria Iron Company on right bank of Elk Run, thence following down the right bank of Elk Run North seventy three (73) degrees and thirty one (31) minutes East twenty nine and forty three hundredths (29.43) perches North sixty three (63) degrees and ten (10) minutes East eighteen and thirty three hundredths (18.33) perches North fifty three (53) degrees and two (2) minutes East fifteen and thirty seven hundredths (15.37) perches North thirty seven (37) degrees and fifty four (54) minutes East forty and forty one hundredths (40.41) perches North ten (10) degrees fifty eight (58) minutes East twenty five and forty nine hundredths (25.49) perches North fifteen (15) degrees and twenty seven (27) minutes East twenty and thirty seven hundredths (20.37) perches North twenty (20) degrees and eighteen (18) minutes West fifty and eighty one hundredths (50.81) perches North thirty six (36) degrees and fifty six (56) minutes West thirty seven and sixty six hundredths (37.66) perches to post on line of Joseph Hupf and Cambria Iron Company, thence by land of Joseph Hupf North sixty four (64) degrees East thirty five and seventy five hundredths (35.75) perches to post North forty one (41) degrees and five minutes West thirteen and ninety three (13.93) perches to post corner of George Habicht,

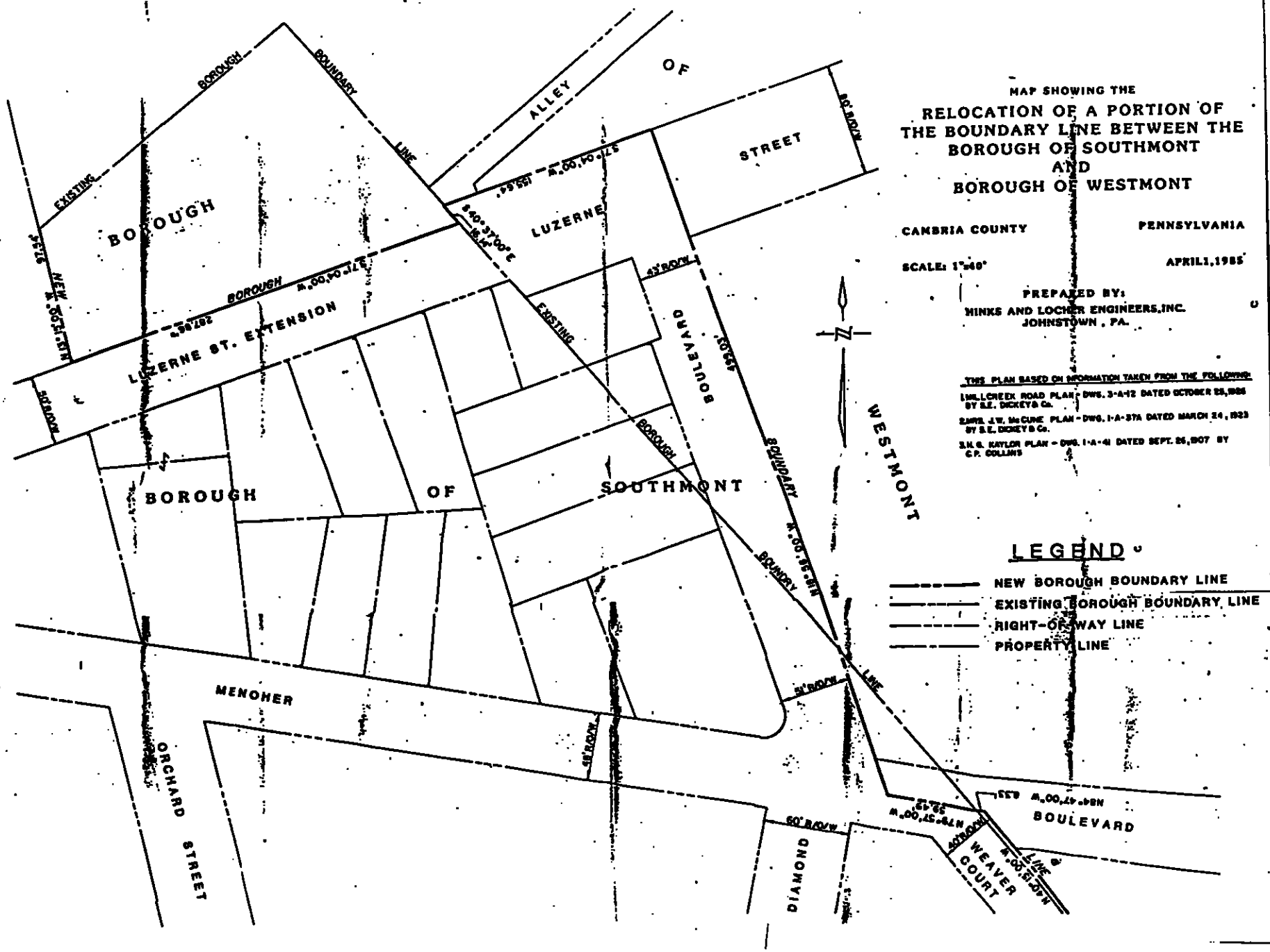
MAP SHOWING THE
RELOCATION OF A PORTION OF
THE BOUNDARY LINE BETWEEN THE
BOROUGH OF SOUTHMONT
AND
BOROUGH OF WESTMONT
CAMBRIA COUNTY
PENNSYLVANIA
SCALE: 1"=40'
APRIL 1, 1985
PREPARED BY:
HINKS AND LOCHER ENGINEERS, INC.
JOHNSTOWN, PA.
THIS PLAN BASED ON INFORMATION TAKEN FROM THE FOLLOWING:
1. MILLCREEK ROAD PLAN - DWG. 3-A-12 DATED OCTOBER 25, 1926 BY S.E. DICKEY & Co.
2. MRS. J.W. McCUNE PLAN - DWG. 1-A-37A DATED MARCH 24, 1923 BY S.E. DICKEY & Co.
3. H.G. TAYLOR PLAN - DWG. 1-A-41 DATED SEPT. 26, 1907 BY C.P. COLLINS
LEGEND
NEW BOROUGH BOUNDARY LINE
EXISTING BOROUGH BOUNDARY LINE
RIGHT-OF-WAY LINE
PROPERTY LINE
BOROUGH
BOUNDARY
LINE
EXISTING
NEW
BOROUGH
BOROUGH OF SOUTHMONT
BOROUGH OF WESTMONT
LUZERNE ST. EXTENSION
LUZERNE
ALLEY
STREET
BOULEVARD
MENOHER
ORCHARD STREET
DIAMOND
WEAVER COURT
BOULEVARD
BOROUGH BOUNDARY LINE
N
S40°37'00"E
N84°47'00"W
N79°37'00"W
N84°47'00"W

Exhibit "B"

GLEASON, DI FRANCESCO,
SHAHADE & MARKOVITZ
JOHNSTOWN, PENNSYLVANIA 15901

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985
	:	ROAD DOCKET

AMENDMENT TO PETITION TO ALTER BOROUGH BOUNDARY LINES

AND NOW comes the Petitioner, Westmont Borough, by and through their Solicitor, William Gleason Barbin, Esq., of the law firm, Gleason, DiFrancesco, Shahade & Markovitz, and makes the following amendment and additional allegation to the Petition to Alter Borough Boundary Lines, the case as docketed above averring:

8. That currently, a dispute exists between the Boroughs of Westmont and Southmont over the exact boundary lines in the area in question. The dispute arises from the fact that there has been no survey of the area for over fifty (50) years and that landmarks and points of reference have changed and has, in the past several years, and currently,manifested itself in the form of disagreements over receipt of tax payments for the Lisanko property, the placement and maintenance of sewer lines servicing Southmont Borough in an area of Diamond Boulevard designated as Westmont Borough, a dispute over zoning responsibilities for properties divided by the Borough Boundary lines, and a dispute in recent law suit concerning responsibility for maintenance of Menoher Boulevard in the vicinity of its intersection with Mill Creek Road.

9. It is expected that there will be disputes in the future over responsibilities for zoning, taxation and contributions to Workmens Compensation Insurance for the Westmont Volunteer Fire Company, should they complete their plans to build on their property, which is now currently located in Southmont Borough. These disputes would be eliminated by actions sought in the original Petition to Alter Borough Boundary Lines.

Respectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

By _____
William Gleason Barbin
Westmont Borough Solicitor

GLEASON, DI FRANCESCO,
SHAHADE & MARKOVITZ
JOHNSTOWN, PENNSYLVANIA 15901

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
	:	R.O. No. 5-1985

PETITION FOR REPLACEMENT OF COMMISSIONERS

O R D E R

NOV. 19 RECD

AND NOW, November 15, 1985, by reason of Attorney William Gleason Barbin's letter attached, hereto, said Petition for replacement of Commissioners is dismissed forthwith.

BY THE COURT:

P.J.

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985
	:	OCT. 1 1 RECD
	:	ROAD DOCKET

PETITION FOR REPLACEMENT OF COMMISSIONERS

AND NOW comes the Borough of Westmont, by and through their Solicitor, William Gleason Barbin, Esq., and respectfully requests the Court to grant the relief prayed for:

1. Westmont Borough filed a Petition with the Court entered to the Road Docket No. 5-1985 for the Court to approve a proposed Alteration of Borough Boundary Lines with the Borough of Southmont on June 19, 1985.

2. That on the same date the Court appointed a Board of Commissioners to sit and take testimony and make recommendations to the Court pursuant to provisions of 53 P.S., Sec. 48503.

3. That since June 19, 1985, the Board of Commissioners has failed to meet, despite repeated communications to the Chairman of that Board.

4. That the matter contained in the original Petition is a matter of concern and urgency to the Borough of Westmont, as the Boundary Line change will allow the Westmont Borough Volunteer Fire Company to direct a new Fire Hall without the complications as to receipt of foreign fire insurance,

insurance premiums and payment of Workmens Compensation by the Borough in which the Volunteer Fire Company is located.

5. That further delays in this matter may tend to increase the construction costs of the Fire Hall and so place the cost beyond the ability of the Westmont Volunteer Fire Company to afford the same.

WHEREFORE, your Petitioner requests the Court an earned Order dismissing the Board of Commissioners and appointing a new Board in their stead with directions to hold a hearing within thirty (30) days from the date of appointment.

Respectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

By William Gleason Barbin
William Gleason Barbin
Westmont Borough Solicitor

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985

ORDER

AND NOW this _____ day of October, 1985, upon consideration of the foregoing Petition it is hereby ORDERED and DIRECTED that the Board of Commissioners previously appointed in this case are hereby dismissed and that Attorney , Mr. and Mr. are appointed as Commissioners to take testimony and are Ordered to file the report as provided by 53 P.S., Sec. 48503 with this Court concerning the proposals set forth in the Petition to Alter Boundary Lines between Westmont and Southmont Boroughs. Attorney is appointed Chairman of the Commissioners, and it is hereby Ordered and Directed that he is to hold a hearing and take testimony on this request, and is to advertise said hearing in the Cambria County Legal Journal in the Johnstown Tribune-Democrat ten (10) days prior to the meeting. In addition, he is Directed to have the Solicitors of the Two Boroughs in question, prepare suggested findings of fact in a suggested Order for the Court's signature as part of the report filed with the Court.

BY THE COURT:

_____, J.

NO. 4 - 1985 ROAD DOCKET

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA

IN RE:

ALTERATION OF

BOUNDARY LINES OF

WESTMONT AND SOUTHMONT

BOROUGHS

PROOFS OF PUBLICATION

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

NOTICE

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA.

NO. 4 ~~1985, R~~OAD DOCKET

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS.

PUBLIC NOTICE

TO ALL INTERESTED PARTIES:

Pursuant to the Order of Court of June 19, 1985, entered to the abovesaid number and year in the Road Docket of said Court, the Commissioners appointed by the Court shall hold a Public Hearing for the purpose of considering the Joint Petition of the Boroughs of Southmont and Westmont to alter their common boundary line in the vicinity of Luzerne Street and Stackhouse Park to accommodate the proposed location of a new fire hall of the Westmont Volunteer Fire Company.

Said Public Hearing shall be held on Wednesday, December 18, 1985, at 5:30 o'clock P.M., at the Westmont Borough Building, 1560 Menoher Boulevard, Johnstown, Pennsylvania 15905, at which place and time all persons having an interest in the proceedings may appear and be heard.

NICHOLAS J. MIKESIC, ESQUIRE,
Chairman, Board of Commissioners,
430 Main Street, Fourth Floor,
Johnstown, PA 15901-1819.

12-5-1t

County of Cambria, State of Pennsylvania. } SS:

D. J. Damin, being by me, the undersigned authority, duly sworn according to law, deposes and says that he is business manager of the Cambria County Legal Journal, established March 5, 1917, a legal newspaper published at Ebensburg, Pennsylvania, and that the notice, exactly as printed and published, a copy of which is hereto attached was published in said Cambria County Legal Journal in the issues of December 5, 1985

that affiant is not interested in the subject matter of said notice or advertising and that all of the matter herein set forth as to the time, place and character of said publication are true.

D. J. Damin

Sworn to and subscribed before me this 5th day of December, 19 85

Angela Damin
Notary Public.

My commission expires January 6, 1989

COMMONWEALTH OF PENNSYLVANIA }
County of Cambria } ss.

NOTICE
IN THE COURT OF
COMMON PLEAS OF
CAMBRIA COUNTY,
PENNSYLVANIA
NO. 4-1985, ROAD DOCKET
IN REA: ALTERATION OF
BOUNDARY LINES OF WESTMONT
AND SOUTHMONT BOROUGHS.
TO ALL INTERESTED PARTIES:
Pursuant to the Order of Court of June 19, 1985, entered to the abovesaid number and year in the Road Docket of said Court, the Commissioners appointed by the Court shall hold a Public Hearing for the purpose of considering the Joint Petition of the Boroughs of Southmont and Westmont to alter their common boundary line in the vicinity of Luzerne Street and Stackhouse Park to accommodate the proposed location of a new fire hall of the Westmont Volunteer Fire Company.
Said Public Hearing shall be held on Wednesday, December 18, 1985, at 5:30 o'clock p.m., at the Westmont Borough Building, 1560 Menoher Boulevard, Johnstown, Pennsylvania 15905, at which place and time all persons having an interest in the proceedings may appear and be heard.
NICHOLAS J. MIKESIC Esquire
Chairman
Board of Commissioners
430 Main Street, Fourth Floor
Johnstown, Pennsylvania 15901-1819

On this 12th day of Dec. A. D. 19 85 before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary J. Dalton, who being duly sworn according to law, deposes and says, that he is the Marketing Director of The Johnstown Tribune-Democrat, a newspaper of general circulation as defined by the "Newspaper Advertising Act", a merger September 8, 1952, of The Johnstown Tribune, established December 7, 1853, and of The Johnstown Democrat, established March 5, 1863, published continuously at Johnstown, Pa. in the County of Cambria, and Commonwealth of Pennsylvania and that the annexed is a true copy of a notice in the above matter published in said publication in the regular issues of The Johnstown Tribune-Democrat on December 5, 19 85 : and that the Affiant is not interested in the subject matter of said notice or advertising and that all of the allegations as to the time, place and character of said publications are true.

Gary J. Dalton

Sworn and subscribed before me this 12th day of December, 19 85

William Stackhouse
(Notary Public)
Johnstown, Cambria County, Pa.
My Commission Expires April 26, 1986

STATEMENT OF ADVERTISING COSTS

Lines @ $

3 3/4 Inches @ $8.88 $ 33.30

To Johnstown Tribune Pub. Co. Dr.

For publishing the notice or publication attached hereto on the above stated dates.

$ 33.30

Probating Same $ 2.00

Total $ 35.30

PUBLISHER'S RECEIPT FOR ADVERTISING COSTS

Karen Sumrada for publisher of The Tribune-Democrat a newspaper of general circulation, hereby acknowledges receipt of the aforesaid notice and publication costs and certifies that the same has been duly paid.

The Tribune Publishing Co.
(Name of Newspaper)

By Karen Sumrada

NO. 4 - 1985 ROAD DOCKET

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA

IN RE:

ALTERATION OF BOUNDARY

LINES OF WESTMONT AND

SOUTHMONT BOROUGHS

AFFIDAVIT OF SERVICE

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
480 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
	§	NO. 5 - 1985 ROAD DOCKET

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA §
§ §§:
COUNTY OF CAMBRIA §

① DANIEL G. MULKEY and ANDREW J. LITVIN SR. ②, being duly sworn according to law, depose and say that they are competent adults; that they served the Notice of Public Hearing in the above matter on the following property owners:

	NAME	ADDRESS WHERE SERVED	DATE	TIME
①	MRS. BARBARA CASSATA	1618 LUZERNE ST. EXT.	2 DEC. 85	1:18 PM
①	AUSTIN GREENLAND	WESTMONT MIDDLE SCHOOL	2 DEC. 85	1:27 PM
①	JAMES PASCO	RAIN BARREL	2 DEC 85	1:31 PM
①	DORAN HURRELL	1042 LUZERNE ST.	2 DEC 85	1:44 PM
①	CHARLES SPRAGUE	1044 MENOHER BLVD.	2 DEC. 85	2:01 PM
①	ROBERT LENGEL	1046 MENOHER BLVD.	2 DEC 85	2:05 PM
①	DEBBIE WICKS	PEOPLES NATURAL GAS 3115 ELTON RD.	4 DEC 85	9:30 AM
②	MRS. ADELAIDE TEMPLIN	1046 LUZERNE ST.	4 DEC 85	5:00 PM
②	EDWIN SPRINGER	826 DIAMOND BLVD.	4 DEC 85	5:30 PM

personally, by handing to each of them a true and correct copy thereof and informing them of its contents at the respective addresses, dates and times.

Deponents further aver that, at the time of said service, each of the said property owners identified him/her self to deponents.

Daniel G. Mulkey

Andrew F. Litwin Sr.

Sworn to and subscribed before me

this 9 day of December, 1985.

Lois J. Smith

NOTARY PUBLIC

LOIS J. SMITH, Notary Public
Southmont Boro., Cambria County, Pa.
My Commission Expires June 8, 1987

NO. 4 - 1985 ROAD DOCKET

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA

IN RE:

ALTERATION OF

BOUNDARY LINES OF

WESTMONT AND SOUTHMONT

BOROUGHS

AFFIDAVIT OF SERVICE
(CERTIFIED MAIL)

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5 - 1985 ROAD DOCKET

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA §
COUNTY OF CAMBRIA §

I, THOMAS J. DAILEY, Borough Manager, hereby certify that a true and correct copy of the Notice of Public Hearing in the above matter was served by United States Certified Mail, Restricted Delivery, Return Receipt Requested on each of the following property owners. The said Notices were sent to the addresses and on the respective dates listed, and received by the person noted. Copies of each of the said Return Receipts are attached hereto as Exhibit "A" through "E".

PROPERTY OWNER AND ADDRESS	DATE RECEIVED	SIGNATURE OF RECIPIENT
CAUFFIEL BROS. REAL ESTATE 616 Main Street Johnstown, PA 15901	December 9, 1985 (SEE EXHIBIT "A")	Clyde Cauffiel
MRS. SALLY PARKINS 91 Schrader Avenue Johnstown, PA 15904	December 7, 1985 (SEE EXHIBIT "B")	Sally Parkins
MR. FRANK CALANDRA 1330 Old Freeport Road Pittsburgh, PA 15238	December 5, 1985 (SEE EXHIBIT "C")	Joe McConnell
MR. DENNIS PETINEZAS 327 Freeman Avenue Johnstown, PA 15904	December 7, 1985 (SEE EXHIBIT "D")	Robin L. Mosteller
MR. JAMES EPSTEIN 1319 Menoher Boulevard Johnstown, PA 15905	December 9, 1985 (SEE EXHIBIT "E")	A. J. Epstein

Thomas J. Dailey
THOMAS J. DAILEY,
Borough Manager

Sworn to and subscribed before me
this 18th day of December, 1985.

Nicholas J. Nikesic
NOTARY PUBLIC

NICHOLAS J. NIKESIC, Notary Public
Johnstown, Cambria County, Pa.
My Commission Expires December 3, 1987

PS Form 3811, July 1983

DOMESTIC RETURN RECEIPT

SENDER: Complete ~~Items~~ 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.

2. [redacted]ricted Delivery.

3. Article Addressed to:

Cauffiel Bros. Real Estate
616 Main Street
Johnstown, PA 15901

4. Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P30 7683215

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X Gayle Cauffiel

7. Date of Delivery

12-9-85

8. Addressee's Address (ONLY if requested and fee paid)

EXHIBIT "A"

PS Form 3811, July 1983

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☒ Restricted Delivery.

3. Article Addressed to:

Mrs. Sally Parkins
91 Schrader Avenue
Johnstown, PA 15904

4. Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number: P30 763216

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X [signature]

6. Signature — Agent
X

7. Date of Delivery
12/7/85

8. Addressee's Address (ONLY if requested and fee paid)

EXHIBIT "B"

PS Form 3811, July 1983

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☒ Restricted Delivery.

3. Article Addressed to:

Mr. Frank Calandra
1330 Old Freeport Road
Pittsburgh, PA 15238

4. Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P30 7683209

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X

6. Signature — Agent

X Joe McConnell

7. Date of Delivery

12-5-85

8. Addressee's Address *(ONLY if requested and fee paid)*

EXHIBIT "C"

PS Form 3811, July 1983

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☒ Restricted Delivery.

3. Article Addressed to:

Mr. Dennis Petinezas
327 Freeman Avenue
Johnstown, PA 15904

4. Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P30 7683217

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee

X Robin R. Mastellar

6. Signature — Agent

X

7. Date of Delivery

12-7-85

8. Addressee's Address *(ONLY if requested and fee paid)*

EXHIBIT "D"

PS Form 3811, July 1983

DOMESTIC RETURN RECEIPT

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☒ Restricted Delivery.

3. Article Addressed to:

Mr. James Epstein
1319 Menoher Boulevard
Johnstown, PA 15905

4. Type of Service:

☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number P30 7683215

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature — Addressee
X

6. Signature — Agent
X

7. Date of Delivery
DEC - 9 [illegible]

8. Addressee's Address *(ONLY if requested and fee paid)*

EXHIBIT "E"

Copies sent to Antoinette (U.S.) & Mikesic (Mill)

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
	:	P.D. No. 5-1985

PETITION FOR REPLACEMENT OF COMMISSIONERS

O R D E R

AND NOW, November 15, 1985, by reason of Attorney William Gleason Barbin's letter attached, hereto, said Petition for replacement of Commissioners is dismissed forthwith.

BY THE COURT:

P.J.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
NOV 15 3 39 PM '85

Get papers
Bob

LAW OFFICES
GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ
SUITE 350, PENN TRAFFIC BUILDING
JOHNSTOWN, PENNSYLVANIA 15901
(814) 535-5561

ANDREW J. GLEASON
ROBERT DAVIS GLEASON
SAMUEL R. DI FRANCESCO, JR.
WILLIAM G. SHAHADE
MYRON I. MARKOVITZ
ANDREW DAVIS GLEASON
WILLIAM GLEASON BARBIN
ANN ELIZABETH REESMAN

PATRICK A. GLEASON
(1934-1982)

November 11, 1985

Robert Allison
Court Administrator
Court House
Ebensburg, PA 15931

Re: Alteration of Boundary Lines of Westmont
and Southmont Boroughs
R.D. No. 5-1985

Dear Mr. Allison:

Since the filing of my Petition on October 10, 1985, I have had an opportunity to speak with both Attorney Lovette and Attorney Mikesic.

Following that discussion, it appears that the purpose of my Petition is unnecessary. Since the Petition has not been acted upon. Please withdraw from consideration of that motion and dispose of it appropriately.

Sincerely,

William Gleason Barbin

William Gleason Barbin

WGB/pas

cc: Daniel R. Lovette, Esq.
Nicholas J. Mikesic, Esq.

NO. 5-1985

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: ALTERATION OF
BOUNDARY LINES OF WESTMONT
AND SOUTHMONT BOROUGHS

PETITION FOR REPLACEMENT

OF COMMISSIONERS

LAW OFFICES
GLEASON, DI FRANCESCO,
SHAHADE & MARKOVITZ
SUITE 350
PENN TRAFFIC BUILDING
JOHNSTOWN, PENNSYLVANIA 15901

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985
	:	ROAD DOCKET

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
OCT 11 2 56 PM '85

PETITION FOR REPLACEMENT OF COMMISSIONERS

AND NOW comes the Borough of Westmont, by and through their Solicitor, William Gleason Barbin, Esq., and respectfully requests the Court to grant the relief prayed for:

1. Westmont Borough filed a Petition with the Court entered to the Road Docket No. 5-1985 for the Court to approve a proposed Alteration of Borough Boundary Lines with the Borough of Southmont on June 19, 1985.

2. That on the same date the Court appointed a Board of Commissioners to sit and take testimony and make recommendations to the Court pursuant to provisions of 53 P.S., Sec. 48503.

3. That since June 19, 1985, the Board of Commissioners has failed to meet, despite repeated communications to the Chairman of that Board.

4. That the matter contained in the original Petition is a matter of concern and urgency to the Borough of Westmont, as the Boundary Line change will allow the Westmont Borough Volunteer Fire Company to direct a new Fire Hall without the complications as to receipt of foreign fire insurance,

insurance premiums and payment of Workmens Compensation by the Borough in which the Volunteer Fire Company is located.

5. That further delays in this matter may tend to increase the construction costs of the Fire Hall and so place the cost beyond the ability of the Westmont Volunteer Fire Company to afford the same.

WHEREFORE, your Petitioner requests the Court an earned Order dismissing the Board of Commissioners and appointing a new Board in their stead with directions to hold a hearing within thirty (30) days from the date of appointment.

Respectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

By William Gleason Barbin
William Gleason Barbin
Westmont Borough Solicitor

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985

ORDER

AND NOW this _____ day of October, 1985, upon consideration of the foregoing Petition it is hereby ORDERED and DIRECTED that the Board of Commissioners previously appointed in this case are hereby dismissed and that Attorney , Mr. and Mr. are appointed as Commissioners to take testimony and are Ordered to file the report as provided by 53 P.S., Sec. 48503 with this Court concerning the proposals set forth in the Petition to Alter Boundary Lines between Westmont and Southmont Boroughs. Attorney is appointed Chairman of the Commissioners, and it is hereby Ordered and Directed that he is to hold a hearing and take testimony on this request, and is to advertise said hearing in the Cambria County Legal Journal in the Johnstown Tribune-Democrat ten (10) days prior to the meeting. In addition, he is Directed to have the Solicitors of the Two Boroughs in question, prepare suggested findings of fact in a suggested Order for the Court's signature as part of the report filed with the Court.

BY THE COURT:

_____,J.

E.D.5, 1985

file Motions when ready

LAW OFFICES
GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ
SUITE 350, PENN TRAFFIC BUILDING
JOHNSTOWN, PENNSYLVANIA 15901
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MYRON I. MARKOVITZ
ANDREW DAVIS GLEASON
WILLIAM GLEASON BARBIN
ANN ELIZABETH REESMAN

PATRICK A. GLEASON
(1934-1982)

October 10, 1985

Robert Allison
Court Administrator
Court House
Ebensburg, PA 15931

RE: Alteration of Boundary Lines of Westmont and Southmont Boroughs
No. 5-1985

Dear Mr. Allison:

Please put this matter before the Court at the next session of Motions Court. I have, by copy of this letter, provided a copy of this Petition to Daniel Lovette, attorney for Southmont Borough, a joint petitioner, and I have also provided a copy of this Petition to Nicholas J. Mikesic, Chairman of the current Board of Commissioners.

I will appear to present this to the Court.

Sincerely,

William Gleason Barbin

WGB/pas
Enclosures

cc: Nicholas J. Mikesic, Esq.
Daniel R. Lovette, Esq.

FILED
CLERK OF COURTS
CAMBRIA CO., PA.
OCT 11 2 56 PM '85

NO. 5-1985

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY
PENNSYLVANIA

IN RE: ALTERATION OF
BOUNDARY LINES OF WESTMONT
AND SOUTHMONT BOROUGHS

AMENDMENT TO PETITION TO
ALTER BOROUGH BOUNDARY LINES

LAW OFFICES
GLEASON, DI FRANCESCO,
SHAHADE & MARKOVITZ
SUITE 350
PENN TRAFFIC BUILDING
JOHNSTOWN, PENNSYLVANIA 15901

Copies given by Att. Barbin to Dist Lovett + Mikesic

IN RE: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	:	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY PENNSYLVANIA
	:	NO. 5-1985
	:	ROAD DOCKET

AMENDMENT TO PETITION TO ALTER BOROUGH BOUNDARY LINES

AND NOW comes the Petitioner, Westmont Borough, by and through their Solicitor, William Gleason Barbin, Esq., of the law firm, Gleason, DiFrancesco, Shahade & Markovitz, and makes the following amendment and additional allegation to the Petition to Alter Borough Boundary Lines, the case as docketed above averring:

8. That currently, a dispute exists between the Boroughs of Westmont and Southmont over the exact boundary lines in the area in question. The dispute arises from the fact that there has been no survey of the area for over fifty (50) years and that landmarks and points of reference have changed and has, in the past several years, and currently,manifested itself in the form of disagreements over receipt of tax payments for the Lisanko property, the placement and maintenance of sewer lines servicing Southmont Borough in an area of Diamond Boulevard designated as Westmont Borough, a dispute over zoning responsibilities for properties divided by the Borough Boundary lines, and a dispute in recent law suit concerning responsibility for maintenance of Menoher Boulevard in the vicinity of its intersection with Mill Creek Road.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
DEC 13 9 36 AM '85

9. It is expected that there will be disputes in the future over responsibilities for zoning, taxation and contributions to Workmens Compensation Insurance for the Westmont Volunteer Fire Company, should they complete their plans to build on their property, which is now currently located in Southmont Borough. These disputes would be eliminated by actions sought in the original Petition to Alter Borough Boundary Lines.

Respectfully submitted,

GLEASON, DI FRANCESCO, SHAHADE & MARKOVITZ

By _____
William Gleason Barbin
Westmont Borough Solicitor

NO. 5 - 1985 ROAD DOCKET

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA

IN RE: ALTERATION OF

BOUNDARY LINES OF

WESTMONT AND SOUTHMONT

BOROUGHS

PETITION FOR COSTS AND FEES

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
430 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

Copy gave to atty Mikesic, T.L. Locher + Charles Slep by mail Westmont Borough + Southmont Borough by mail 7/7/86

NICHOLAS J. MIKESIC
ATTORNEY AT LAW
480 MAIN STREET, FOURTH FLOOR
JOHNSTOWN, PENNSYLVANIA 15901-1819

7/7/86 $658.52 paid by each town

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§	IN THE COURT OF COMMON PLEAS
	§	OF
	§	CAMBRIA COUNTY, PENNSYLVANIA
	§	
	§	NO. 5-1985 ROAD DOCKET

PETITION FOR COSTS AND FEES

NICHOLAS J. MIKESIC, Esquire, in behalf of himself, T.L. LOCHER and CHARLES E. SLEP, all Commissioners in the above captioned case, respectfully represent as follows:

1. Nicholas J. Mikesic, Esquire, T.L. Locher and Charles E. Slep were appointed Commissioners in the above captioned case by Order of June 19, 1985, per H. Clifton McWilliams, President Judge.

2. Nicholas J. Mikesic, Esquire, in his capacity as Commissioner, researched the law, held several meetings with counsel of record, prepared advertisements and Affidavits of Notice, attended a View and Hearing, and prepared a Report and Recommondation, Proposed Order and Notice of Filing in the above captioned case, all of which required the expending of 7.1 hours.

3. T.L. Locher and Charles E. Slep have participated in a View and Hearing and a subsequent conference for the purpose of formulating a Report and Recommendation, during which they expended 4.5 hours.

4. Nicholas J. Mikesic, Esquire, in his capacity as Commissioner, advanced the following costs:

Photocopies	$ 20.00
Cambria County Legal Journal- Advertisement and Proof of Publication	34.25
Johnstown Tribune Publishing Company- Advertisement and Proof of Publication	35.30
Sara Ann Sargent Court Reporting Service	45.00
TOTAL	$134.55

5. Nicholas J. Mikesic, Esquire, charges a fee of $75.00 per hour for similar services, and, T.L. Locher and Charles E. Slep each charge a fee of $50.00 per hour for such servies as they performed, all of which fees are fair and reasonable.

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

PETITION FOR COSTS AND FEES

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TOTAL	$134.55

5. Nicholas J. Mikesic, Esquire, charges a fee of $75.00 per hour for similar services, and, T.L. Locher and Charles E. Slep each charge a fee of $50.00 per hour for such servies as they performed, all of which fees are fair and reasonable.

6. The Boroughs of Westmont and Southmont have agreed to equally divide the costs of the within proceedings as is evidenced by the joinder of and consent to the with Petition by the present Solicitors of the respective Boroughs.

WHEREFORE, petitioners pray your Honorable Court direct the Boroughs of Westmont and Southmont respectively to contribute equally to the following compensation and reimbursement:

NICHOLAS J. MIKESIC, Esquire, Commissioner	Fee:	$ 532.50
NICHOLAS J. MIKESIC, Esquire, Commissioner	Reimbursement:	134.55
T.L. LOCHER, Commissioner	Fee:	225.00
CHARLES E. SLEP, Commissioner	Fee:	225.00
TOTAL		$1,117.05

Respectfully submitted,

Nicholas J. Mikesic
NICHOLAS J. MIKESIC, Commissioner

* * * * * * * * *

WE DO HEREBY consent to and join in the above Petition to direct the Boroughs of Westmont and Southmont to contribute equally to the compensation and reimbursement of the appointed Commissioners.

William Gleason Barbin
Witness — WILLIAM GLEASON BARBIN, Esquire

Barbara A. Halloy
Witness — DANIEL R. LOVETTE, Esquire

Witness — THOMAS M. KALINYAK, Esquire

In re: ALTERATION OF BOUNDARY LINES OF WESTMONT AND SOUTHMONT BOROUGHS	§ § § § §	IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA NO. 5-1985 ROAD DOCKET

ORDER

AND NOW, this 2nd day of June, 1986, upon consideration of the within Petition and upon motion of NICHOLAS J. MIKESIC, Esquire, the Court finds that the fees and costs of the respective Commissioners in the above captioned case are fair and reasonable and that each of the Boroughs of Westmont and Southmont is responsible for an equal portion thereof, and, it is, therefore,

ORDERED AND DECREED that each of the Boroughs of Westmont and Southmont pay the sum of $558.52 into the Office of the Clerk of Courts forthwith and, upon receipt of the total amount due from each of the Boroughs of Westmont and Southmont, the Clerk of Courts shall issue checks to the Commissioners in the following amounts:

NICHOLAS J. MIKESIC, Esquire	$667.05
T.L. LOCHER	$225.00
CHARLES E. SLEP	$225.00

BY THE COURT:

COURT ADMINISTRATOR

McWilliams
P J.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
JUN 2 3 10 PM '86