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COMMONWEALTH OF KENTUCKY

JEFFERSON CIRCUIT COURT

NO. 82 CI 07756

THIRD DIVISION

IN RE: CITY OF OLD PETERSBURG,
JEFFERSON COUNTY, KENTUCKY

EX PARTE

FINDINGS OF FACTS,
CONCLUSIONS OF LAW AND JUDGMENT

* * * * *

This matter coming before the Court October 28, 1982, on the Petition of Petitioners to incorporate an unincorporated area in Jefferson County, Kentucky, as a fourth class city known as "Old Petersburg, Jefferson County, Kentucky".

The Court having considered the Petition, the supporting and opposing exhibits, testimony of objectors and Affidavit and testimony of Mr. Roosevelt Jones, Jr., a Petitioner filed in support of the application and the testimony of all interested parties including objectors, the following is the Findings of Fact and Conclusions of Law of the Court.

The Court has jurisdiction of the parties and the subject matter.

The Objectors, some of whom are not residents or property owners of the area, generally object to the incorporation because of the possibility of taxes being increased and state that they can provide for themselves everything they need to maintain their own businesses and individual interests in the area.

The Court finds that the crime rate in the area is high and that the waste removal and sanitation maintenance and other services in the area are inadequate.

The Court further finds as a matter of law that:

1. More than 300 persons, approximately 5,768 persons, reside in the territory sought to be incorporated.

2. Incorporation constitutes a reasonable way of providing the public services sought by the voters and property owners of the territory and there is no other reasonable way of providing the services.

3. The area is contiguous and urban in character and nature.

4. The territory is able to provide the necessary city services to its residents within a reasonable period of time after its incorporation.

5. The interest of other areas and adjacent local government is not unreasonably prejudiced by the incorporation.

6. No existing city, county or district has the ability of providing needed services within a reasonable period of time.

7. The territory is not interdependent or part of one community with any existing city.

8. The territory needs street lighting, sanitation services, additional police protection, improved street maintenance, such as paving, snow removal, stripping and zone enforcement as well as other city services which will be provided by the incorporation of the territory.

9. The development scheme of applicable land-use plan is

consistent with incorporation of the territory.

10. The incorporation of the territory should have no significant effect on the population growth and assessed valuation of the real property in the territory.

11. The Petitioners constitute more than two-thirds of the registered voters of the proposed city, as indicated by the exhibits filed herein.

12. The number of residents within the proposed area is 5,768.

13. There is an accurate map of the proposed city attached to the Petition and it is incorporated herein.

14. The Petitioners seek to incorporate the proposed city in order to provide services for the area through the media of a city government. These services include lighting, sanitation services, street maintenance, police protection and zoning enforcement.

15. Further, that the Petitioners desire to incorporate so that they may form their own governmental unit instead of subjecting themselves to the risk of absorption by neighboring municipalities and so that they may preserve the cohesiveness and neighborhood character of the community and enact ordinances for the common good for all in the area.

The Court further finds that at the present time the following facilities exist within the proposed city:

- (1) Petersburg Park
- (2) Newburg Middle School
- (3) Newburg Community Center

- (4) Sarah J. Price Elementary School and
- (5) Thomas Jefferson Middle School.

The Court further finds that the following services currently exist within the territory:

(a) Fire protection is provided by voluntary fire departments such as the Black Mud Volunteer Fire Department and the Beuchel Volunteer Fire Department.

(b) Garbage removal is available only through private contractors on an individual fee basis.

(c) Road maintenance is provided by Jefferson County for some of the roads.

(d) The Jefferson County Police Department presently provides police protection.

(e) Storm and sanitation sewers are provided by the Metropolitan Sewer District.

(f) Water is provided by the Louisville Water Company.

(g) Gas and electricity are furnished by the Louisville Gas & Electric Co.

(h) Telephone service is furnished by South Central Bell Telephone Co.

The Court further finds that the Petitioners intend that the city, if incorporated, shall operate under the mayor-council form of government.

The Court further finds that the Petitioner's request for the appointment of the following persons, all residents of the proposed city, to hold the following offices until the next regular election at which city officers may be elected, at which time officers shall be elected by residents of the city is appropriate and they are:

<u>NAME:</u>	<u>ADDRESS:</u>	<u>OFFICE:</u>
Ruby Jones	4401 Bridgeman Court Louisville, Kentucky 40218	Council Member

Sylvester Monroe	4015 St. Francis Louisville, Ky. 40218	Council Member
Darryl Smith	5306 Mansfield Court Louisville, Ky. 40218	Council Member
Alice Payne	4940 Garden Green Way Louisville, Ky. 40218	Council Member
Frank Robinson	5222 Delaware Drive Louisville, Ky. 40218	Council Member
Jeffrey Tinker	5320 Rookwood Avenue Louisville, Ky. 40218	Council Member
Anna Turner	5001 Lively Court Louisville, Ky. 40218	Council Member
George Lee	4410 Indian Trail Louisville, Ky. 40218	Council Member
Earl Clayton	4402 Silver Leaf Drive Louisville, Ky. 40218	Council Member

The Court further finds that the Petition was docketed for hearing not less than twenty days from date of the filing of the Petition, and notice of the filing of the Petition and of its objection was given by publication pursuant to KRS 424 by means of publication in the Louisville Times, which is the newspaper published in Jefferson County, Kentucky, meeting the qualification of KRS 424.120 on October 14, 1982, such date being not less than seven nor more than twenty-one days prior to the last date to file objections to the Petition October 22, 1982, and to the hearing date of October 28, 1982.

It is clear from the evidence that individuals and businesses in an urban area cannot properly maintain themselves in the best interest of the whole unified community. Consequently, the Court finds that the objectors have not presented sufficient evidence of a probative value

to warrant a denial of the Petition to incorporate. City of Louisville vs Kraft, 297 SW 2d 39.

Now, therefore, the Court concludes as a matter of law that all standards and conditions for incorporation of the proposed city of Old Petersburg, Jefferson County, Kentucky, as a fourth-class city pursuant to KRS 81.050 through 81.060, both inclusive, have been met and the Court further concludes that the publication requirements of KRS 424 have been complied with and met.

JUDGMENT

AND NOW, THEREFORE, THE PREMISES CONSIDERED, IT IS ADJUDGED, ORDERED AND DECREED, as follows:

1. There is hereby incorporated and established in Jefferson County, Kentucky, the City of Old Petersburg.
2. The metes and bounds description of the boundaries of the City of Old Petersburg is as follows:

Beginning at the intersection of the northerly right-of-way line of Rangeland Road, with the northeasterly right-of-way line of Poplar Level Road; thence with said right-of-way line of Poplar Level Road, in a northwesterly direction, 4,197+ feet, to the P.C. of a curve to the left, having a radius of 1,482 feet; thence with said curve, 501+ feet, to the P.T. of said curve; thence continuing with said right-of-way line of Poplar Level Road, in a northwesterly direction 501+ feet, to the intersection of said right-of-way line of Poplar Level Road, with the southerly right-of-way line of Produce Road; thence with said right-of-way line of Produce Road, in a northeasterly direction, 3,021+ feet to the P.C. of a curve to the left, having a radius of 245 feet; thence with said curve 372+ feet to the P.T. of said curve, said point being located on the northeasterly

right-of-way line of Jennings Lane; thence with said right-of-way line of Jennings Lane, 2,119+ feet to the P.C. of a curve to the right, having a radius of 769 feet; thence with said curve, 289+ feet, to its intersection with the southerly right-of-way line of Southern Railroad (33 feet south of the centerline main tracks); thence with said right-of-way line of Southern Railroad, in an easterly direction, 3,078+ feet to the P.C. of a curve to the left, having a radius of 2,898 feet; thence with said curve, 860+ feet to the P.T. of said curve; thence continuing with said right-of-way line of Southern Railroad, 150+ feet to a point at the intersection of said right-of-way line of Southern Railroad with the westerly right-of-way line, if extended, of Petersburg Road as presently established; thence, along said right-of-way line extension in a southerly direction to a point at the intersection of aforesaid westerly right-of-way line of Petersburg Road with the southerly right-of-way line of Produce Road; thence along said right-of-way line of Produce Road in a westerly direction 26 more or less feet to a P.C. of a curve; thence along said curve to the left having a radius of 769+ feet, 338+ feet to the P.T. of the curve; thence continuing with said south right-of-way line of Produce Road in a westerly direction, 740+ feet to a point at the northwest corner of tract 1-D of U.R. Project no R-69, Section 1 as recorded in Plat Book 30 Page 79, in the Office of the Jefferson County Court Clerk; thence along the westerly line of said tract 1-D in a southerly direction 834+ feet to the northerly line of Abernathy Road; thence along said northerly line of Abernathy Road, 757+ feet to the P.C. of a curve to the left having a radius of 1430+ feet; thence along said curve the chord of which is 193.9 feet to the P.T.; thence continuing along said northerly line of Abernathy Road, 240+ feet to the aforesaid westerly right-of-way line of Petersburg Road; thence in a line parallel with the northerly line of Abernathy Road, if extended, in an easterly direction crossing Petersburg Road and Newburg Road, 500+ feet to its intersection with the easterly right-of-way line of Newburg Road; thence along the easterly right-of-way of Newburg Road and its extension in a northerly direction, 500+ feet to its intersection with the aforesaid southerly right-of-way line of Southern Railroad; thence along said right-of-way line of Southern Railroad in an easterly direction 3150+ feet, to the existing centerline of Old Shepherdsville Road; thence, in a southerly direction with said centerline of Old Shepherdsville Road, and the southerly right-of-way line of Southern Railroad, 73.5+ feet, to a point, (100 feet south of centerline main tracks); thence with said right-of-way line of Southern Railroad, and leaving said centerline of Old Shepherdsville Road, 731+ feet, to the P.C. of a curve to the right, having a radius of 719 feet; thence with said curve, 1,056+ feet, to the P.T. of said curve; thence with said right-of-way line of Southern Railroad, in a southerly direction, 586+ feet, to a P.I.; thence with said right-of-way line of Southern Railroad, in a southerly direction, 1,595+ feet, to another P.I.; thence, with said right-of-way line of Southern Railroad, in a southerly direction, 711+ feet, to the P.C.

of the curve to the left, having a radius of 1,004 feet, (50 feet west of centerline main tracks); thence with said curve, 657+ feet, to the P.T. of said curve; thence, with said right-of-way line of Southern Railroad in a southerly direction, 36+ feet, to the P.C. of a curve to the right, having a radius of 905 feet; thence with said curve, 411+ feet, to a point; thence continuing with said right-of-way line of Southern Railroad, in a northwesterly direction, 70+ feet, to a point, said point being the northeasterly corner of a tract of land conveyed to Falls City Coop. Milk Prod., in Deed Book 3493, Page 501, as recorded in the County Clerk's Office of Jefferson County; thence, with the easterly line of said Falls City Coop. Milk Prod. Tract, in a southerly direction, 380+ feet, to the northerly right-of-way line of Buechel Bank Road; thence with said right-of-way line, of Buechel Bank Road, in a westerly direction, 900+ feet, to the P.C. of the curve to the right, having a radius of 1,372 feet; thence with said curve, 376+ feet, to the P.T. of said curve; thence continuing with said right-of-way line of Buechel Bank Road, in a westerly direction, 133+ feet, to the P.C. of a curve to the right, having a radius of 656 feet; thence with said curve, 88+ feet, to the westerly right-of-way line of Old Shepherdsville Road; thence with said right-of-way line of Old Shepherdsville Road, in a southerly direction, 2,774+ feet, to the northerly right-of-way line of Rural Way; thence with said right-of-way line of Rural Way, in a westerly direction, 560+ feet, to the westerly right-of-way line of Red Leaf Drive; thence with said right-of-way line of Red Leaf Drive, in a northerly direction, 455+ feet to a point, said point being located on the northerly line of Rangeland Subdivision, Section One, as recorded in Plat Book 12, Page 86, in the County Clerk's Office of Jefferson County; thence leaving said right-of-way line of Red Leaf Drive, and along the northerly line of said Section One of Rangeland Subdivision, in a westerly direction, 3442+ feet to a point; thence with the westerly line of said Section One, of Rangeland Subdivision, in a southerly direction, 183+ feet to a point on the northerly line of Range Wood Subdivision, Section 2, as recorded in Plat Book 19, Page 60, in the County Clerk's Office of Jefferson County; thence with the northerly line of said Section 2, of Range Wood Subdivision, and Sections 3 and 1, as recorded respectively in Plat Book 19, Page 61, and Plat Book 18, Page 94, in said County Clerk's Office, in a westerly direction, 1,094+ feet to a point; thence with the westerly line of said Section One, of Range Wood Subdivision, in a southerly direction, 1,793+ feet to a point, said point being the southeasterly corner of a tract of land, conveyed to the Board of Education in Deed Book 3735, Page 1, as recorded in the County Clerk's Office of Jefferson County; thence with a southerly line of said Board of Education Tract, in a westerly direction, 471+ feet to a point; thence, with an easterly line of said Board

of Education Tract, in a southerly direction 269+ feet, to the northerly right-of-way line of Rangeland Road, (22 feet north of centerline); thence with said right-of-way line of Rangeland Road, in a westerly direction 406+ feet to a P.I.; thence, with said right-of-way line of Rangeland Road, in a westerly direction, 171+ feet to another P.I. (36 feet north of centerline); thence in a westerly direction, 90+ feet, to the point of beginning, containing 1,310+ acres.

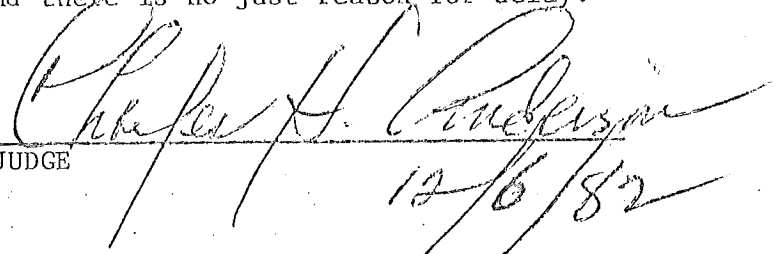
3. The population contained in the City of Old Petersburg is 5,768 and by reason of its population the City of Old Petersburg shall be and is hereby assigned to the fourth class of cities.

4. The City of Old Petersburg shall operate under the Mayor-Council form of government, and the following persons be, and they are hereby appointed to hold the following offices, until the next regular election at which City officers may be elected, at which time officers shall be elected by residents of the City:

<u>Name</u>	<u>Address</u>	<u>Office</u>
Rudy Jones	4401 Bridgeman Court Louisville, KY 40218	Mayor
Sylvester Monroe	4015 St. Francis Louisville, KY 40218	Council Member
Larryl Smith	5306 Mansfield Court Louisville, KY 40218	Council Member
Alice Payne	4940 Garden Green Way Louisville, KY 40218	Council Member
Frank Robinson	5222 Delaware Drive Louisville, KY 40218	Council Member
Jeffrey Tinker	5320 Rookwood Avenue Louisville, KY 40218	Council Member
Anna Turner	5001 Lively Court Louisville, KY 40218	Council Member
George Lee	4410 Indian Trail Louisville, KY 40218	Council Member
Earl Clayton	4402 Silver Leaf Drive Louisville, Kentucky 40218	Council Member

5. The Clerk of Jefferson Circuit Court is hereby ORDERED, within ten days from the date of entry of this Judgment, to certify a copy of this Judgment to the Secretary of State of the Commonwealth of Kentucky, whose duty it shall be to properly index and file this Judgment as a permanent record in his office, all in accordance with KRS 81.060(5).

This is a final judgment, and there is no just reason for delay.



JUDGE

DATE

CC to: Mr. Charles S. Musson
Mr. Charles H. Zimmerman, Jr.
Mr. Schuyler J. Olt
Mr. Charles F. Wood
Mr. Bill V. Seiller
Mr. Jon W. Ackerson
Mr. Timothy J. Salansky
Mr. Bert T. Combs
Mr. Joseph B. Helm
Mr. Shrader R. Miller
Mrs. Frances Jones Mills
Secretary of State