

AOC-060
Rev. 4-95

Commonwealth Of Kentucky
Court Of Justice



CERTIFICATION
OF COURT RECORDS

Case No: 97-CI-00553

Court: CIRCUIT

County: HENDERSON

I, WILLIAM T "SONNY" BURTON Clerk of the HENDERSON Court, do certify that the following are true and correct copy(s) of the OPINION, FINDINGS OF FACT, CONCLUSION OF LAW AND JUDGMENT. IN RE: TEH CITY OF ROBARDS, HENDERSON COUNTY, KENTUCKY as recorded in the Office of the Circuit Clerk of HENDERSON County.

In TESTIMONY WHEREOF witness my hand as Clerk aforesaid, this the 25 day of NOVEMBER 1997.

WILLIAM T "SONNY" BURTON, Clerk

By: Susan H. [Signature] D. C.

Seal

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SECRETARY OF STATE
COMMONWEALTH OF KY

COMMONWEALTH OF KENTUCKY
HENDERSON CIRCUIT COURT
CIVIL ACTION NO. 97-CI-00553

IN RE: CITY OF ROBARDS,
HENDERSON COUNTY, KENTUCKY

OPINION, FINDINGS OF FACT,
CONCLUSION OF LAW AND
JUDGMENT

This matter is before the Court on the Petition of the Petitioners to incorporate an unincorporated area as a sixth class city in Henderson County, Kentucky, to be known as "Robards."

After the Petition was filed with this Court on July 21, 1997, this Court set the matter for hearing on September 8, 1997. Legal notice of this hearing was published in the Henderson Gleaner, the newspaper of greatest circulation in the affected area, on August 23, 1997, and again on August 29, 1997, as specified in KRS Chapter 424.

On August 8, 1997, Hon. Carl Boyd entered his appearance representing persons in opposition (hereinafter "Opponents") to the incorporation of Robards. On September 3, 1997, the Opponents filed a Motion to Dismiss or Alternatively, to Modify the Petition. On September 5, 1997, the Court held a hearing on the issues raised in that Motion. At that time, the Court ruled that the Petition circulated for signatures was in compliance with KRS 81.050.

On September 9, 1997, a hearing was held on the matter of the Petition filed for Incorporation of the City of Robards.

The Petitioners presented three witnesses, and introduced a number of exhibits, including a map of the area, the notices from the newspaper, the petition for incorporation, the proposed

expenses for the city, and a list of proposed candidates for mayor and commissioners.

On October 8, 1997, the Court sustained the Motion to Modify the petition, and Ordered that a non-contiguous area of the proposed City of Robards be stricken from the petition. On November 5, 1997, the Petitioners submitted a new metes and bounds description of the proposed City of Robards conforming to that Order.

The Court having considered the petition, its supporting and opposing exhibits, various memoranda, the affidavits filed in support of the application for judgment, and the testimony of all interested parties, including Opponents, and being otherwise sufficiently advised, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court finds that as a matter of fact that the following standards have been met:

1. The Petitioners constitute more than two-thirds (2/3) of the registered voters in the area proposed for incorporation.
2. Attached to the Petition and incorporated herein is a statement of the proposed boundaries of the City of Robards. The Court finds the boundaries of the proposed City of Robards are so established.
3. The number of registered voters inhabiting the proposed City of Robards is 387.

4. The Court finds that the map attached to the Petition filed with this Court on November 5, 1997, accurately reflects the boundaries of the City of Robards such that all residents were put on notice of the area proposed for incorporation.

5. The Petitioners seek to incorporate the proposed City in order to provide certain services for the area through the medium of a city government. The Court heard testimony regarding the residents' need of services such as general cleanliness, street lighting, street maintenance, snow removal and garbage removal, and finds that these services could best be provided by the proposed city government.

The Petitioners desire to incorporate in order to form their own governmental unit so that they may preserve the cohesive neighborhood character of a unique community, provide a public forum for the use of the residents and enact ordinances for the common good. This Court finds that such interests are best provided by the proposed City of Robards.

6. The following facilities and services are currently provided within the territory:

a. Police protection is provided by the Henderson County Sheriff's Department and the Kentucky State Police.

b. Fire protection is provided by the Robards Volunteer Fire Department.

c. Road maintenance is provided by Henderson County.

d. Garbage removal is provided by Henderson County.

e. Sanitary sewers are unavailable.

f. Water is provided by Henderson County Water District.

g. Electricity is furnished by Kentucky Utilities or Henderson Rural Electric Cooperative Corporation.

h. Telephone service is furnished by Bell South.

i. Cable television is furnished by Century Cable Company or Rapid Cable Company.

j. Natural gas service is furnished by Western Kentucky Gas Company to a portion of the proposed City.

7. The proposed City of Robards shall operate under the commission plan form of government as describe by KRS 83A.140. The Court heard testimony regarding the form of government and received in evidence a preliminary city budget.

8. The following persons, all residents of the proposed City are 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 & ADDRESS</u>	<u>OFFICE</u>
Marion Lee Eakins 8073 Hwy. 416, West Robards, KY 42452	Mayor
Denver Merritt, Jr. 6640 Hwy. 416, West Robards, KY 42452	City Commissioner
Hugh W. Sellers 8125 Hwy. 416, West Robards, KY 42452	City Commissioner
Gregg Bland 4031 Easy St. Robards, KY 42452	City Commissioner

Lawrence Dale Cates
14110 Hwy 41, South
Robards, KY 42452

City Commissioner

9. The Petition was filed on July 21, 1997, and the first hearing in this matter was set for September 8, 1997. Accordingly, the Court finds that the Petition was docketed for hearing not less than 20 days from the date of filing of the Petition. Notice of the filing of the Petition and of its object was given by publication pursuant to KRS Chapter 424 by means of publication in the Henderson Gleaner, which is the newspaper published in Henderson County, Kentucky, meeting the qualifications of KRS 424.120. The publication occurred on August 23, 1997, and again on August 29, 1997, which is not less than 7 nor more than 20 days prior to the hearing date of September 9, 1997.

10. The Court finds that approximately 660 people reside in the territory sought to be incorporated.

11. The Court finds as a fact that incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services. The Court has considered testimony regarding fire protection, garbage services and street maintenance, snow removal, street lighting, sidewalk maintenance, storm sewers, road beautification, and recreational opportunities; and the Court finds that there is no reasonable way of providing certain these public services.

12. The territory is contiguous.

13. The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation based on the proposed city budget. Police protection and road maintenance can be furnished within a reasonable time. The city will be able to fund its services through revenue from an insurance tax, MRA, LGEA, and ad valorem taxes. In addition, the city will be eligible for funding from Community Development Block Grants and Kentucky Infrastructure Authority low interest loans.

14. The interests of other areas and adjacent local governments are not unreasonably prejudiced by the incorporation.

15. The character of the territory is rural, but is in transition towards urban.

16. No existing city, county or district has the ability of providing needed services, such as street lighting, sidewalks, adequate storm sewers, regular garbage services, or regular snow removal.

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

18. The territory needs street lighting; street maintenance, such as paving and patching; regular snow removal and garbage removal; as well as other city services which will be best provided by the incorporation of the City of Robards.

19. Incorporation of the territory is consistent with the development scheme of applicable land use plans.

20. The area and topography of the region is consistent with incorporation of the territory.

21. The incorporation of the territory should have an advantageous effect upon population growth and the assessed valuation of the real property.

CONCLUSIONS OF LAW

The Court concludes as a matter of law, that all standards and conditions for incorporation of the proposed City of Robards, Henderson County, Kentucky, as set forth in KRS 81.050 and KRS 81.060 have been met, and further concludes that the publication requirements of KRS Chapter 424 have likewise been complied with.

JUDGMENT

WHEREFORE, IT IS CONSIDERED ORDERED AND ADJUDGED AS FOLLOWS:

1. There is hereby incorporated and established in Henderson County, Kentucky, the City of Robards.
2. The metes and bounds description of the City of Robards is as follows:

Beginning at a point located 25 feet east of the centerline intersection of Kentucky Highway 283 and Kentucky Highway 416; thence running parallel to and 25 feet east of the centerline of said Kentucky Highway 283 and with the west line of the Lee Eakins property identified as parcel number 71A-37 at the Henderson County Property Valuation Office, an approximate bearing of SOUTH 09 DEGREES 39 MINUTES 36 SECONDS WEST, a distance of 237.89 feet more or less to a point located in the north line of the James Vincent property identified as parcel number 71-39; thence with the north line of said Vincent property, an approximate bearing of SOUTH 82 DEGREES 48 MINUTES 08 SECONDS EAST, a distance of 1930.39 feet more or less to a point located at the northeast corner of said Vincent property; thence continuing with the south line of said Eakins property and crossing the Coal Mine Road the following two (2) calls;

- 1) an approximate bearing of SOUTH 41 DEGREES 11 MINUTES 09 SECONDS EAST, a distance of 531.51 feet more or less to a point located at a corner of said Eakins property;
- 2) an approximate bearing of NORTH 68 DEGREES 39 MINUTES 47 SECONDS EAST, a distance of 368.60 feet more or less to a point located on the east side of said Coal Mine Road, said point being located 25 feet east of the centerline of said Coal Mine Road;

thence running parallel to and 25 feet east of the centerline of said Coal Mine Road and with the west line of the Paul Thompson property identified as parcel number 71-32 and the Bobby Bickwermert property identified as parcel number 71-33, an approximate bearing of SOUTH 17 DEGREES 30 MINUTES 31 SECONDS EAST, a distance of 2528.97 feet more or less to a point located at a bend in said Coal Mine Road; thence running parallel to and 25 feet north of the centerline of said Coal Mine Road, an approximate bearing of SOUTH 81 DEGREES 07 MINUTES 10 SECONDS EAST, a distance of 463.41 feet more or less to a point located in the centerline of the C.S.X. railroad; thence with the centerline of said railroad, an approximate bearing of SOUTH 06 DEGREES 33 MINUTES 53 SECONDS EAST, a distance of 1294.25 feet more or less to a point located in an extension of the north line of the James Clary property identified as parcel number 72-20; thence with the north line of said Clary property the following four (4) calls:

- 1) an approximate bearing of SOUTH 82 DEGREES 08 MINUTES 02 SECONDS EAST, a distance of 767.22 feet more or less to a point located at the southwest corner of the Robert Knight property identified as parcel number 71-18;
- 2) an approximate bearing of NORTH 06 DEGREES 32 MINUTES 03 SECONDS EAST, a distance of 1142.42 feet more or less to a point located at the southwest corner of the Joyce Degraffenreid property identified as parcel number 71-16;
- 3) an approximate bearing of SOUTH 86 DEGREES 42 MINUTES 58 SECONDS EAST, a distance of 1222.01 feet more or less to a point located in the west line of the Bernard Busby property identified as parcel number 81-71;
- 4) an approximate bearing SOUTH 04 DEGREES 40 MINUTES 58 SECONDS WEST of a distance of 1469.91 feet more or less to a point located at the southwest corner of the Presbyterian Church property identified as parcel number 72-21;

thence with the south line of said church property, an approximate bearing of SOUTH 87 DEGREES 02 MINUTES 21 SECONDS EAST, a distance of 1451.94 feet more

or less to a point located at the southeast corner of said church property; thence with the east line of said church property and the east line of said Busby property, an approximate bearing of NORTH 07 DEGREES 15 MINUTES 12 SECONDS EAST, a distance of 1663.31 feet more or less to a point located at the northwest corner of the E.B. Griffin property identified as parcel number 81-12; thence with the north line of said Griffin property, an approximate bearing of NORTH 89 DEGREES 09 MINUTES 56 SECONDS EAST, a distance of 1030.11 feet more or less to a point located at the southeast corner of the Lee Eakins property identified as parcel number 81-6; thence with the east line of said Eakins property, an approximate bearing of NORTH 06 DEGREES 54 MINUTES 40 SECONDS EAST, a distance of 1163.45 feet more or less to a point located at the northwest corner of the Richard and Dennis Branson property identified as parcel number 81-11; thence with the north line of said Branson property, an approximate bearing of SOUTH 85 DEGREES 02 MINUTES 59 SECONDS EAST, a distance of 1274.75 feet more or less to a point located in the west line of the Alcan Aluminum property identified as parcel number 81-1; thence with the west line of said Alcan property and crossing the Rockhouse Road, an approximate bearing of NORTH 08 DEGREES 19 MINUTES 32 SECONDS EAST, a distance of 1268.21 feet more or less to a point located 25 feet north of the centerline of said Rockhouse Road; thence running parallel to and 25 feet north of the centerline of said Rockhouse Road, an approximate bearing of SOUTH 87 DEGREES 03 MINUTES 52 SECONDS EAST, a distance of 1170.25 feet more or less to a point located in the east line of the Artie Eakins property identified as parcel number 81-22; thence with the east line of said Eakins property, an approximate bearing of NORTH 05 DEGREES 22 MINUTES 54 SECONDS EAST, a distance of 1361.09 feet more or less to a point located in the south line of the Jay Beard property identified as parcel number 80-45; thence with the south line of said Beard property, an approximate bearing of SOUTH 82 DEGREES 41 MINUTES 16 SECONDS EAST, a distance of 1038.47 feet more or less to a point located in the east right-of-way line of the Pennyryle Parkway; thence with said right-of-way line, an approximate bearing of NORTH 00 DEGREES 06 MINUTES 48 SECONDS EAST, a distance of 2555.62 feet more or less to a point located at the southeast corner of the James Moore property identified as parcel number 80-59; thence with the south line of said Moore property the following three (3) calls:

- 1) an approximate bearing of NORTH 66 DEGREES 30 MINUTES 05 SECONDS WEST, a distance of 768.85 feet more or less to a point located at a corner of said Moore property;
- 2) an approximate bearing of NORTH 25 DEGREES 29 MINUTES 21 SECONDS EAST, a distance of 476.37 feet more or less to a point located at a corner of said Moore property;
- 3) an approximate bearing of NORTH 87 DEGREES 54 MINUTES 35 SECONDS WEST, a distance of 685.46 feet more or less to a point located in the east line of the Bethel Henderson property identified as parcel number 80-50;

thence with the east line of said Henderson property, an approximate bearing of NORTH 09 DEGREES 27 MINUTES 44 SECONDS EAST, a distance of 182.48 feet more or less to a point located at the southeast corner of the P.H. Wells property identified as parcel number 80-58; thence with the south line of said Wells property, an approximate bearing of SOUTH 82 DEGREES 52 MINUTES 30 SECONDS WEST a distance of 161.25 feet more or less to a point located at the southeast corner of the Lindsey Hale property identified as parcel number 80-52; thence with the east line of said Hale property, an approximate bearing of NORTH 01 DEGREES 41 MINUTES 05 SECONDS EAST, a distance of 170.07 feet more or less to a point located in the south line of the Harold Wilson property identified as parcel number 80-53; thence with the south line of said Wilson property and

crossing U.S. Highway 41, an approximate bearing of NORTH 66 DEGREES 48 MINUTES 05 SECONDS WEST, a distance of 1511.98 feet more or less to a point located in the west right-of-way line of said U.S. Highway 41; thence with the west right-of-way line of said U.S. Highway 41, an approximate bearing of NORTH 09 DEGREES 11 MINUTES 37 SECONDS EAST, a distance of 3234.79 feet more or less to a point located in the centerline of the Old Knoblick Road; thence with the centerline of said Old Knoblick Road the following two (2) calls:

- 1) an approximate bearing of SOUTH 31 DEGREES 22 MINUTES 23 SECONDS WEST, a distance of 455.42 feet more or less to a point located at a bend in the centerline of said Old Knoblick Road;
- 2) an approximate bearing of SOUTH 15 DEGREES 46 MINUTES 51 SECONDS WEST, a distance of 478.02 feet more or less to a point located at the southeast corner of the Lillian Overfield Estate property identified as parcel number 80-122;

thence with the south line of said Overfield property and the south line of the E.M. Cobb property identified as parcel number 80-4, an approximate bearing of NORTH 54 DEGREES 52 MINUTES 18 SECONDS WEST, a distance of 2928.35 feet more or less to a point located at the northeast corner of the Charles Greenwald property identified as parcel number 80-14; thence with the east line of said Greenwald property, an approximate bearing of SOUTH 07 DEGREES 22 MINUTES 05 SECONDS WEST, a distance of 2339.32 feet more or less to a point located in the north line of the Ishmal Miller property identified as parcel number 80-15; thence with the north line of said Miller property and the north line of the Dorris Keach property identified as parcel number 71-9, an approximate bearing of NORTH 58 DEGREES 24 MINUTES 31 SECONDS WEST, a distance of 1173.98 feet more or less to a point located in the east line of the Frank Skaggs property identified as parcel number 70-51; thence with the east line of said Skaggs property, an approximate bearing of SOUTH 13 DEGREES 40 MINUTES 17 SECONDS WEST, a distance of 1713.55 feet more or less to a point located at the northeast corner of the Hugh Sellers property identified as parcel number 71-8; thence with the north line of said Sellers property, an approximate bearing of NORTH 54 DEGREES 24 MINUTES 29 SECONDS WEST, a distance of 1838.46 feet more or less to a point located at the northeast corner of the Leo King Heirs property identified as parcel numbers 71-1 and 70-5; thence with the east line of said King Heirs property, an approximate bearing of SOUTH 23 DEGREES 16 MINUTES 04 SECONDS WEST, a distance of 3265.59 feet more or less to a point located in the north line of the Gail King property identified as parcel number 71-2; thence with the north line of said Gail King property, an approximate bearing of SOUTH 82 DEGREES 59 MINUTES 01 SECONDS EAST, a distance of 982.36 feet more or less to a point located at the northwest corner of the Dorris Keach property identified as parcel number 71-6; thence with the west line of said Keach property, an approximate bearing of SOUTH 08 DEGREES 41 MINUTES 11 SECONDS WEST, a distance of 364.18 feet more or less to a point located at the northeast corner of the Greg Crowder property identified as parcel number 71-4; thence with the east line of said Crowder property, an approximate bearing of SOUTH 35 DEGREES 17 MINUTES 50 SECONDS WEST, a distance of 1384.52 feet more or less to a point located at the northeast corner of the Paul Hungate property identified as parcel number 71-5; thence with the north and east lines of said Hungate property the following three (3) calls:

- 1) an approximate bearing of NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, a distance of 70.71 feet more or less to a point located at a corner of said Hungate property;
- 2) an approximate bearing of SOUTH 78 DEGREES 41 MINUTES 24 SECONDS WEST, a distance of 203.96 feet more or less to a point located at the northwest corner of said Hungate property;

- 3) an approximate bearing of SOUTH 14 DEGREES 28 MINUTES 13 SECONDS WEST a distance of 320.16 feet more or less to a point located in the north right-of-way line of Vine Street, said point being located 25 feet north of the centerline of said Vine Street;

thence running parallel to and 25 feet north of the centerline of said Vine Street and crossing the Busby Station Road, an approximate bearing of SOUTH 75 DEGREES 04 MINUTES 07 SECONDS WEST, a distance of 310.48 feet more or less to a point located in the centerline of the C.S.X. Railroad; thence with the centerline of said railroad, an approximate bearing of NORTH 18 DEGREES 53 MINUTES 54 SECONDS WEST, a distance of 586.62 feet more or less to a point located at the southeast corner of the Delanoe Brock property identified as parcel number 71-38; thence with the south line of said Brock property the following six (6) calls:

- 1) an approximate bearing of SOUTH 66 DEGREES 09 MINUTES 41 SECONDS WEST, a distance of 235.05 feet more or less to a point located at a corner of said Brock property;
- 2) an approximate bearing of SOUTH 05 DEGREES 06 MINUTES 08 SECONDS WEST, a distance of 281.11 feet more or less to a point located at a corner of said Brock property;
- 3) an approximate bearing of SOUTH 61 DEGREES 04 MINUTES 25 SECONDS WEST, a distance of 217.08 feet more or less to a point located at a corner of said Brock property;
- 4) an approximate bearing of NORTH 23 DEGREES 57 MINUTES 45 SECONDS WEST, a distance of 98.49 feet more or less to a point located at a corner of said Brock property;
- 5) an approximate bearing of SOUTH 72 DEGREES 15 MINUTES 19 SECONDS WEST, a distance of 524.98 feet more or less to a point located at a corner of said Brock property;
- 6) an approximate bearing of SOUTH 81 DEGREES 44 MINUTES 26 SECONDS WEST, a distance of 626.50 feet more or less to a point located in the east line of the Margaret Galloway property identified as parcel number 71-52;

thence with the east line of said Galloway property, an approximate bearing of NORTH 02 DEGREES 02 MINUTES 28 SECONDS EAST, a distance of 2386.51 feet more or less to a point located in the south line of said Leo King Heirs property; thence with the south line of said King Heirs property, an approximate bearing of NORTH 86 DEGREES 39 MINUTES 58 SECONDS WEST, a distance of 490.82 feet more or less to a point located 25 feet east of the centerline of said Kentucky Highway 283; thence running parallel to and 25 feet east of the centerline of said Kentucky Highway 283, an approximate bearing of SOUTH 06 DEGREES 59 MINUTES 17 SECONDS WEST, a distance of 3372.21 feet more or less to the point of beginning, 1946.8721 acres more or less.

This description was prepared from coordinates scaled and plotted on the U.S.G.S. 7.5 minute series Robards, Ky. quadrangle map by Bruce K. Bailey, KY RLS #2939 of Branson Surveys, inc. on November 3, 1997.

3. The population contained in the City of Robards is 660 and by reason of its population, the City of Robards shall be and is hereby assigned to the sixth class of cities.

4. The City of Robards shall operate under the commission plan form of government as described by KRS 83A.140, and the following persons 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:

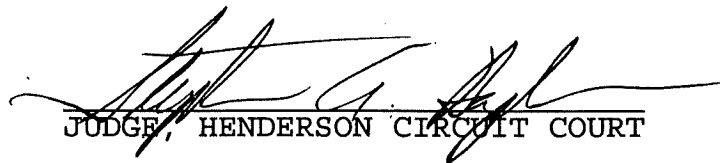
<u>NAME & ADDRESS</u>	<u>OFFICE</u>
Marion Lee Eakins 8073 Hwy. 416, West Robards, KY 42452	Mayor
Denver Merritt, Jr. 6640 Hwy. 416, West Robards, KY 42452	City Commissioner
Hugh W. Sellers 8125 Hwy. 416, West Robards, KY 42452	City Commissioner
Gregg Bland 4031 Easy St. Robards, KY 42452	City Commissioner
Lawrence Dale Cates 14110 Hwy 41, South Robards, KY 42452	City Commissioner

5. The Clerk of the Henderson 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

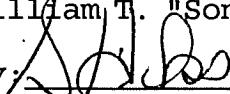
and file this Judgment as a permanent record in that office, in accordance with KRS 81.060(5).

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

ENTERED this the 25th day of November, 1997.


JUDGE, HENDERSON CIRCUIT COURT

I hereby certify that the foregoing order was this day served upon the parties of record by mailing true copies thereof to the following persons at their post office addresses: 1) Hon. Carl Boyd, Jr., 300 First Street, Henderson, KY 42420; 2) Hon. Logan B. Askew, P.O. Box 2, Hopkinsville, KY 42241, all postage prepaid this the 25 day of November, 1997.

William T. "Sonny" Burton, Clerk
By:  D.C.