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1. TOWNSHIP ZONING RESOLUTION—PROPOSED AMENDMENT TO—PETITION DEMANDING ELECTION THEREON—SECTION 519.12, RC—MUST CONTAIN NAMES OF ELECTORS RESIDING IN AREA IN EXISTING ZONING PLAN—EQUAL TO NOT LESS THAN EIGHT PERCENT OF TOTAL VOTE CAST IN AREA FOR ALL CANDIDATES FOR GOVERNOR—LAST PRECEDING GENERAL ELECTION AT WHICH A GOVERNOR WAS ELECTED.
2. ELECTORS — PURSUANT TO SECTION 519.12 RC — ALL ELECTORS IN UNINCORPORATED AREA OF TOWNSHIP INCLUDED IN ORIGINAL ZONING REGULATION ENTITLED TO VOTE.

SYLLABUS:

1. A petition filed pursuant to Section 519.12 of the Revised Code, demanding an election on a proposed amendment to a township zoning resolution, must contain the names of electors residing in the area then included in the existing zoning plan, equal to not less than eight percent of the total vote cast for all candidates for governor by electors residing in such area at the last preceding general election at which a governor was elected.

2. At an election held pursuant to the provisions of Section 519.12 Revised Code, all the electors residing in the unincorporated area of the township which was included in the original zoning regulation are entitled to vote on the issue presented.

Columbus, Ohio, June 11, 1956

Hon. William A. Ambrose, Prosecuting Attorney
Mahoning County, Youngstown, Ohio

Dear Sir :

I have before me your communication, requesting my opinion and reading in part as follows :

“After due process of procedure, the Board of Township Trustees of Poland Township approved an application for an amendment to the township zoning ordinance for a change from residential to industrial of some 212 acres of land within the township, all of the unincorporated territory of the township having been previously zoned into districts.

“Within thirty days after the adoption of such amendment by the trustees there was presented to the trustees a petition signed by a number of qualified voters residing in the unincorporated area of the township, but none of whom resided in the area included in the zoning plan, to-wit, 212 acres, requesting the Board of County Commissioners to submit such amendment to the electors for approval or rejection.

“As a result of the foregoing, the following questions have arisen, and your opinion is herein respectfully requested :

“1. Must such a petition be signed by qualified electors residing in the area included in the proposed change from residence to industrial, or may it be signed by any elector residing in the unincorporated territory of the township?

“2. If the county commissioners should cause the question to be submitted to the electors for their approval or rejection at the next primary or general election, or a special election, would all of the electors residing in the unincorporated area of the township be entitled to vote on such issue or would only the electors residing in the area included, to-wit, the 212 acres, be entitled to vote?”

In your letter you speak of the 212 acre tract as constituting the “area included in the zoning plan,” but since you state that the original zoned area included “all of the unincorporated territory of the township,” I am bound to assume that the 212 acres merely constituted the area affected by the amendment.

Section 519.02, Revised Code, provides that the board of township trustees may by resolution pass certain regulations regarding the use of lands in the township. This section concludes with the following provision:

* * * "and for such purposes may divide all or any part of the unincorporated territory of the township into districts or zones of such number, shape, and area as the board determines. All such regulations shall be uniform for each class or kind of building or other structure, or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones."

It will be noted in the first place that the jurisdiction of the trustees in the matter is limited to the unincorporated territory of the township. It is also to be observed that in exercising their power they may divide *all or any part* of such territory into districts or zones. According to your statements, the territory which was originally zoned embraces *all* of the unincorporated territory of the township. That, therefore, becomes the "zoned area" of the township or the "area * * * included in the zoning plan."

Section 519.12, Revised Code, reads as follows:

"Amendments or supplements to the zoning resolution may be made as provided by Sections 519.02 to 519.11, inclusive, of the Revised Code, except that they may be made without submitting them to a vote of the electors, unless within thirty days after the adoption of the amendment or supplement there is presented to the board of township trustees a petition signed by a number of qualified *voters residing in the unincorporated area of the township or part thereof included in the zoning plan* and affected by the amendment or supplement equal to not less than eight per cent of the total vote cast for all candidates for governor *in such area* at the last preceding general election at which a governor was elected, requesting the board of county commissioners to submit the amendment or supplement to the *electors of such area* for approval or rejection at the next primary or general election." * * * (Emphasis added.)

Accordingly, pursuant to Section 519.12 supra, we find it provided that amendments to the zoning resolution theretofore adopted by the township trustees will become effective without submitting them to a vote of the electors unless within thirty days after the adoption of the amendment or supplement there is presented to the board of township trustees a petition signed by a number of qualified voters residing in the unin-

corporated *area of the township* or part thereof *included in the zoning plan* and affected by the amendment * * * equal to not less than eight percent of the total vote cast * * * in *such area* * * * at the last general election, requesting the board of county commissioners to submit the amendment * * * to the electors of *such area* for approval or rejection.”
* * *

Keeping in mind that the zoned area included in the zoning plan in the case you present was the entire unincorporated portion of the township, there can be no question that this petition must be signed by at least eight percent of the total number of electors residing in that zoned area. There is nothing in the statutes that would suggest that this petition would be sufficient if signed by the required percentage of the electors residing in the particular part which by amendment is to have its allowable uses changed. It could easily be that the proposed change in a portion of the zoned area would embrace only territory therein which has not yet been occupied by residences. Plainly the electors residing in the area which has been included in the zoning plan theretofore adopted, might have a very vital interest in a change such as suggested by your letter. They are the people who would have a right to register their approval or disapproval.

Accordingly, in specific answer to your questions it is my opinion :

1. A petition filed pursuant to Section 519.12 of the Revised Code, demanding an election on a proposed amendment to a township zoning resolution, must contain the names of electors residing in the area then included in the existing zoning plan, equal to not less than eight percent of the total vote cast for all candidates for governor by electors residing in such area at the last preceding general election at which a governor was elected.

2. At an election held pursuant to the provisions of Section 519.12 Revised Code, all the electors residing in the unincorporated area of the township which was included in the original zoning regulation are entitled to vote on the issue presented.

Respectfully,

C. WILLIAM O'NEILL
Attorney General