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VBH BOT ePacket Planning FYI

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Judge tells COD, Glen Ellyn to talk with mediator
By Christopher Placek Daily Herald
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A DuPage County judge Tuesday ordered Glen Ellyn and the College of DuPage to sit down with a mediator to discuss the college's plan to disconnect its 273-acre campus from the village.

The two sides have been locked in a long-running dispute over who has jurisdiction on campus and last month the college's board of trustees voted to endorse deannexation.

Judge Terence Sheen said mediation with fellow Judge Hollis Webster would be the best course of action for taxpayers of both governmental units, which have each spent thousands of dollars in legal fees on the case since June 2010. He ordered each party to have a representative at the mediation table — perhaps the college and village presidents — and to negotiate in good faith.

"If they like to lead, they could find a solution that doesn't spend a lot of taxpayer money," Sheen told both the village and college attorneys. "Encourage your leaders to lead. That should be the main thing happening in this case."

Webster presided over mediation with the two parties during the summer of 2010 to try to resolve their jurisdictional dispute. College attorney Steve Ruffalo said COD officials requested a new round of mediation to discuss deannexation and he believes Webster was successful last time at getting the two "intractable parties to sit down and talk."

"We can dance, but if one partner doesn't wanna come out on the dance floor, we can't dance alone," Ruffalo told Sheen.

Village attorney Stewart Diamond said in court that mediation was tried previously and ultimately was not successful. He said talks were so contentious that Webster "couldn't keep the college's president (Robert Breuder) in her chamber" — a charge flatly denied in court by Ruffalo and fellow college attorney Ken Florey.

Sheen said he found both parties to be "very reasonable" last summer when they negotiated out of court to open four newly constructed college buildings on time. The village had sought to prevent occupancy of the buildings in the absence of proper certifications.

After court, Diamond said the village is willing to sit down and talk. However, he has still requested that Sheen resolve the remaining questions over jurisdiction and apply a so-called "three-part" legal

test to determine which village ordinances apply to the college.

In November, Sheen issued a 20-page ruling that suggested the college may be subject to village building inspections, permitting and approvals. But after village inspectors began issuing citations and stop work orders for ongoing college projects in December, Sheen told village officials they were "jumping the gun" by not waiting for him to apply the three-part test he says is required by a previous appellate court ruling.

The village filed a motion last month that includes a list of village ordinances officials believe apply to COD. Sheen said Tuesday he has begun his research on the matter, though he indicated that when he issues an opinion it could just be advisory should the college have deannexed already.

The college has submitted a deannexation map to the village — the first step in the voluntary disconnection process. If the two sides can't agree, COD could take the matter to court.

The first mediation with Judge Webster is scheduled for Feb. 7.

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