

LOWELL ANNEXATION COMMITTEE MEETING
MARCH 15, 2012
6:30 PM

The meeting was called to order by President Niksch at 6:30 PM. The Pledge of Allegiance was recited. Roll Call was taken. Members answering the roll call were Doug Niksch, Don Huseman, Mike Walters, Rich Kelley and David Shilling. Absent was Marcia Carlson. Also present were Attorney Greg Sobkowski and Recording Secretary Chris Marbach.

Approval of Minutes:

Mr. Huseman made a motion to approve the February 9, 2012 meeting minutes, seconded by Mr. Kelley and carried by voice vote.

Discussion:

President Niksch stated he would like to add Pocket Annexation to the agenda ahead of the Review of Phase 5 plans.

1. Greg Sobkowski:

- a. Explanation of Concepts and Procedures for Annexation.**
- b. Tax Implications for Property Owners within Annexation.**

Attorney Sobkowski stated he was asked to talk about the procedures for annexation, the tax implications for property owners within annexation and the obligations of the residents in the annexed territory to hook up to the Town's services. He explained that there were two separate procedures for annexation; First, the voluntary procedure where, you receive a petition from 100% of the owners in the area and upon receipt of that petition, by statute, a notice of a public hearing needs to be published at least twenty days before the date of the hearing and the public hearing is to be held no later than thirty days after the petition is received. The fiscal plan for the area and the annexation ordinance can be adopted no earlier than fourteen days after the public hearing then it needs to be published and it would take effect thirty days after adoption. The Ordinance would be recorded assuming there is no appeal. Second, the involuntary process would be initiated by the Town in the absence of a petition from 100% of the landowners. An annexation ordinance would be introduced along with a fiscal plan and then a notice of a public hearing would be published at least sixty days before the hearing on the annexation proposal. Unlike to voluntary annexation of a twenty day notice, this would require a sixty day notice. In addition to publishing the notice in the newspaper a certified mail notice of the public hearing must be sent to each owner of the real estate within the territory to be annexed and that needs to be sent at least sixty days before the hearing. After the hearing, the annexation ordinance can be adopted no sooner than thirty days after the date of the public hearing. Once the ordinance is adopted, it will be published as an involuntary annexation and doesn't take effect until ninety days after it's recorded and that is only in the absence of a challenging appeal. President Niksch explained the

voluntary annexation used to be called “friendly annexation”. Attorney Sobkowski stated the tax implication should be presented by the town financial advisor because it could be explained better than he can. He further stated the financial implications to the property owners are less significant than it used to be. If the residents in the area to be annexed or are already paying taxes at the cap of 1% for residential property, there would be no impact, it would be a different distribution of those taxes. If the property owner is not at the 1% tax cap then they could experience an increase in their taxes as a result of being annexed because now they are going to have in addition to the county and township taxes, the additional layer of the town tax so if they’re not at the 1% cap their rate could go up until they get to that 1% tax cap. The 1% tax cap would limit the impact that the property owners will receive. He stated, per the Town’s Ordinance there is a requirement that property owners connect to the Town’s sewer system, if the sewer is located three hundred feet from their property within ninety days. There is no obligation in town to use the Town’s water, so that people who are annexed could request to use the Town’s water system. As part of the Annexation Ordinance, the Town Council could set the time limit for residence to connect to the sewer. Mr. Huseman asked how could the people in the annexed areas get the information on the procedures for the voluntary and involuntary annexations. President Niksch stated the information is available in the Town Hall and they can get copies of it there. Attorney Sobkowski stated a Fiscal Plan has to be adopted and you have to have one whether it’s a voluntary or involuntary annexation on non capital services such as Police, Fire, and EMS have to be provided within one year after the effective date of the annexation. The capital services such as construction, streets, sewers (within three years).

President Niksch explained to the public that this in an Annexation Committee and have no authority other than to suggest to the Town Council what their recommendations are. He announced that the annexations meetings would be held the third Thursday of every month at 6:30 PM. He stated that at the end of the meeting he would ask for any input that the audience might have.

2. Pocket Annexations.

President Niksch explained this has been on the books for the last ten to fifteen years and he did not how many times these ten parcels has had a fiscal plan performed. The Town Council has asked the Annexation Committee to take another look at this. He reviewed all the fiscal plans for these ten areas and found that the town has been providing these areas with Police, Fire and EMC services and there is sewer and water available to them, with the exception of Areas 3 and 4, which will require sewer and water. He stated a recommendation should be sent to the Town Council to annex these pockets including area 3 & 4. Once they are annexed they don’t have to connect to the water unless they need it, but they do have to connect to the sewer if it is available to them. He stated that by adding these pockets in town there would be no increase in Police or EMC services. Mr. Huseman asked if they were going to annex the area around the VFW, because the VFW is on sewer and water already. President Niksch stated the Town has entered into an agreement with the VFW and cannot annex them. Mr. Huseman asked about area 6, which is on Holtz Rd next to the Speedway gas station, would it be annexed as a

business. President Niksch stated this was included and would be annexed at the same zone they are currently had and this will also be a recommendation to the Town Council that the property annexed will enter under that same zone. Mr. Huseman made a motion to send a recommendation to the Town Council to annex the ten pockets, to set the time limit for residence to connect to the sewer and the property annexed will enter under that same zone, seconded by Mr. Walters and carried by voice vote. A discussion regarding water and sewer charges and water and sewer around the VFW followed. A women from the audience requested a copy of the map to be passed out so that the audience could see what the committee was looking and talking about.

3. Review of previous Committee recommendation of the Phase 5 Plans.

President Niksch explained what areas were included in Phase 5 and what they would want to send to the Town Council. He further stated they could only annex parcels that area contiguous to the town. Attorney Sobkowski stated each area they are looking to annex has to meet the continuity requirements. President Niksch stated if a parcel comes in as “friendly annexation” it cannot be used as contiguous to the town. The parcels that they would talk about that adds up to 119 acres are: 100-007 (35 acres), 100-008 (45 acres), 100-002 (27 acres), 100-001 (the 2 acre homestead) and 100-003 (10 acres). By annexing these parcels, it give the town the opportunity to extend the commercial area and extend Oakley Ave to the property owned by the construction landfill. Mr. Huseman stated there was sewer and water available on the south side of Commercial, which would have to be a pump station because it would not be deep enough for gravity and water could be extended without a booster station. Mr. Huseman stated one of the property owners has said in the past that they were against annexation. President Niksch stated they have the right to remonstrate and explained that to be in the process of remonstrating, you need 65% of the owners of the properties or 75% of the assessed value and in this case they are talking about four property owners. Mr. Huseman made a motion to send a favorable recommendation to the Town Council to annex all 119 acres, seconded by Mr. Kelley and carried by voice vote.

President Niksch stated the next item to discuss would be five hundred plus acres on the south side of the old Rieter property and the area on the west side of Nichols to include the new middle school going south to Belshaw Rd. and then to the railroad tracks and south of Belshaw to include the Town Utilities, the Sewer and Water Plants. He would like to send this to the Town Council to do a feasibility study and also have the Plan Commission look at this too because he has received a lot of inquiries for these sites and wants to be ready for any projects that want to come in. Mr. Huseman asked how many property owners were involved in this area. President Niksch stated there was only one family who owns the majority of the property. He further stated the reason they would like to have the town utilities annexed is so we do not have to go to the County to get purchase permits when work needs to be done on our buildings. Mr. Walters made a motion to send a recommendation to the Town Council to do a feasibility study of this area, seconded by Mr. Kelley and carried by voice vote.

President Nicksch stated the next parcel is an area going across Belshaw following the RR tracks east to include the Town Wells. The residents were omitted in this area, so they could get to the town wells and be contiguous. The west side of the proposed annexed area would be the railroad tracks. A plan to make Belshaw Rd a truck route has also been on the books for a while and is also proposed. President Nicksch stated he has personally had conversations with everyone in that area and they weren't all for or against the annexation. Mr. Huseman made a motion to send a recommendation to the Town Council to do a feasibility study of this area, seconded by Mr. Walters and carried by voice vote. Mr. Huseman wanted to know if Cedar Creek Estates and Southmeadow subdivisions were in this area. President Nicksch stated it was not because they have to go around these subdivisions to match the formula to be contiguous to include the town wells.

President Nicksch **opened the public hearing.** Herb Quill, 9306 ½ and 9308 181st St stated he owns two businesses and does not want the town's overpriced water or sewer and felt the town was driving businesses away because all you see is empty storefronts in the downtown area. He also stated he did not want the high property taxes that would come with annexation. Linda Savage, Lowell Concrete 9312 W. 181st Ave, stated they cannot use Lowell water to make concrete, they have to use well water and they do not want to be annexed. Dana Llewellyn, 6808 Belshaw suggested the town go north first before Crown Point or Cedar Lake starts to annex towards Lowell. Mr. Shilling explained there was no implication at this time to make anyone connect to the Town water system. Ms Savage stated they did not want higher property taxes either. Mr. Quill stated the reason for the empty storefronts was because no one wants to deal with this Town Council. He pointed out there is a resale store that just opened on Rt. 2 near Rt. 41. Scott Keithley, 19910 Colfax wanted a clarification of a statement made regarding that there were many people benefiting from the services of EMS and Fire that the Town was paying for, the majority of that is paid for by the Township through taxes that they pay already. President Nicksch stated the Town is already spending money to provide services for those pocket areas and the Town is paying 100% of the Police along with partially paying for EMS and Fire. Mr. Keithley asked if the proposed annexed areas zoning and use would be preserved and could a recommendation be made to the Town Council as part of the annexation. Mr. Keithley asked what would happen if a piece of property came in with a private gun range or hunt club on it where it is illegal to discharge a fire arm in town limits, would they be grand fathered? President Nicksch stated the Town Council would have to review this and make that decision. He further stated the original reason for preserving the zoning was because until recently there was no zoning for farmland and now there is an agricultural zoning. He stated the ordinance right now states that when a property is annexed it will automatically come in as an R-1, the committee will ask the Town Council to look at so that farmland can come in as agriculture. Mr. Keithley suggested they look at the proposed interchanges for the Illiana Expressway at Rt. 41 and Rt. 55 and pursuing along Rt. 2 to Rt. 41 and Rt. 2 to I-65 so that they will be natural corridors for residential, commercial and industrial to provide for the Town's needs. Ralph Frampton, 18087 Wicker Ave, stated they also do not want Lowell water and feels that it is not drinkable because everyone he knows buys bottle water. President Nicksch **closed the public hearing.**

President Niksch stated he has been on the Illiana committee since it started and said as soon as the Governor of Illinois and the Governor of Indiana sign that paper the road will come. The committee was adamant to keep the expressway away from bus routes and town wells. There will be an entrance/exit on Rt. 41 and an entrance/exit on Rt. 55 which may be less assured than the one on Rt. 41. If the entrance/exit comes to Rt. 41, the benefit to the town would be to annex all the way to Rt. 41.

President Niksch adjourned the meeting at 8:05 P.M.

Doug Niksch, Chairman

Marcia Carlson, Secretary

Note: The above-proposed minutes are submitted for review and approval as the official minutes by the Annexation Committee.

Christine Marbach – Recording Secretary