

**ANNEXATION COMMITTEE MEETING
FEBRUARY 28, 2013**

President Niksch called the meeting to order at 7:07 PM. The Pledge of Allegiance was recited. Recording Secretary Gena Knapp took Roll Call. Members answering the roll call were Doug Niksch, Randy Hall, Michael Mears, Edgar Corns, and David Shilling. Richard Kelley was not present. Also present were Building Administrator Tom Trulley, Planning Consultant Jim Mandon, one press and one citizen.

APPROVAL OF MINUTES

Michael Mears made a motion to approve the January 24th, 2013 regular meeting minutes, seconded by Mr. Shilling and carried by voice vote.

OLD BUSINESS

Jim Mandon – Update and Discussion on Status of the Zoning Ordinance, Land use Map, Annexation Plan, and Agricultural Advisory Committee – Mr. Mandon stated at the last meeting he handed out a schedule for the Zoning Ordinance, Land Use Map, and Annexation Plan, and currently we have met those dates with the Zoning Ordinance and are on track. He stated the Zoning Ordinance did have a favorable recommendation from the Plan Commission to the Town Council at their meeting in February, and at the Town Council meeting, the Council referred it to their attorney to write up an Ordinance to vote on. There will be two readings to pass the Ordinance, which can be done in the same meeting especially since the Plan Commission has already had the public hearing on it. The next step in that process is to re-do the zoning map so that it matches the new zoning codes. Not only have some of the names of the zones changed, but there are some changes in uses in those zones as well. It helps to have a land use plan, which has just been completed, so that you can compare some of the new recommendations of zoning classifications so that we do not create a lot of non-conforming uses. The actual zoning map should only take about six weeks to complete, and it will then go to the Plan Commission for recommendation to the Council, who will then adopt it. Mr. Niksch asked if a current piece of property does not match up with its new zoning, would that be grandfathered in. Mr. Mandon stated there is no such thing as grandfathered in when you talk about zoning, but in the case of a conflicting land use, there is an opportunity for the homeowner to come to the meeting and object. We are trying to avoid any of those issues, but if there is a land use out there that we are trying to avoid, the Plan Commission will have the choice of moving forward with the change or to fit the use into the zone it will be. He stated those decisions are made on a case-by-case basis, and most properties will fit the new zoning classification. Mr. Niksch asked if someone is going to be affected by the change, does the Town notify them, or is it their responsibility to find out if they are affected. Mr. Mandon stated it depends on the Plan Commission and Town Council. Some communities rely on an ad in the newspaper and make it the homeowner's responsibility to check, while others contact each individual homeowner. If it does not get caught and the property is changed, that is the end of it. It ultimately is

the responsibility of the homeowner once they know that the zoning map is changing to see if they are affected, especially if they own multiple properties. Mr. Niksch asked if the chances of this happening are thin. Mr. Mandon stated there are only a few areas where it might affect the homeowner, and it is up to the Plan Commission and Town Council how they want to handle it and go forward.

Mr. Mandon stated the land use map is completed and the staff will digitize it so we can make multiple copies and have it available. It is important to have this digitized so that we can use it with the annexation plan as well to see how current parcels are zoned. The next step on the schedule is to determine the potential annexation property zones to see what parcels can come in as one chunk due to natural boundaries such as creeks or even railroad tracks. We will be collecting data on all of those zones and the due date on that is March 22nd. He explained what data will be collected and where they will be getting it. Mr. Mandon stated after the data is collected, we will score the parcels to help us decide where to go first. Later there will be public hearings, but the actual draft narrative has a due date of April 22nd. We will present the report to the Annexation Committee and the Town Council, either separately or collectively, by April 25th. The projected public hearing date will be May 23rd. This will permit some time needed to go over the draft and suggest any changes, and then hopefully by June it will be an adopted plan. Mr. Niksch stated to keep in mind that all of this is a guideline. Mr. Mandon stated this plan will not tell you how often to annex. That depends on a lot of unknown criteria. This provides good information in helping you decide where to move and in what sequence. This also helps to show you how much of what property type you have and what you may be lacking in.

Mr. Mandon stated as far as the agricultural advisory committee, we have tried to remove some of the barriers and their ideas of the annexation process. Mr. Mandon went through some of the farmers original fears of annexation such as coming in as residential, certain activities that are not allowed in Town, wanting the Town to uphold the Right-To-Farm Act, and changing some of the fee structures on accessory buildings to mirror the County. He stated some things that were not fully addressed were open burning and the discharge of firearms. The open burning has State laws, and the firearm discharge is something that would be a police matter. Mr. Mandon stated there is no planned meeting until after the Ordinance is adopted. Mr. Corns stated another thing that was covered is their drainage rights and for their tiles to be protected. Mr. Niksch asked when the Zoning Ordinance was going to the Council. Mr. Mandon stated right now it is in the hands of the attorney who is creating the Ordinance.

NEW BUSINESS

Review updated Town of Lowell Annexation Map – Updated map discussion, Status of Pocket Annexation Process – Tom Trulley, and Status of items in progress – Mr. Trulley handed out a copy of the annexation map. Mr. Niksch stated this map is an updated version of the Town of Lowell, and the six pocket annexations that are completed are shown in here as being a part of the Town. Mr. Trulley stated two of the pockets are coming back, and we have sent a letter to Mr. Novak. Mr. Niksch handed out a hand

drawn map that shows ten parcels that were on the pocket annexation list. He stated areas three and four had fiscal studies done, but they were too expensive for the Town to proceed. Area four is north and south of the VFW and area three is a small subdivision of houses across from Heritage Falls. Area six, which is Mr. Novak's property, has been postponed, and areas nine and ten are another two that have been postponed. Mr. Hall asked what the area south of 173rd Avenue was. Mr. Trulley stated it is a pocket subdivision that we did try to annex, but the entire subdivision was against it. They are currently on septic and well and the County takes care of their roads, so it is their jurisdiction. Mr. Hall stated that he was surprised at that because he has seen local police officers in that area.

Mr. Niksch stated fifteen years ago these pocket annexations started because there was a donut hole in Town. The people in Town were paying for services that people out of town were using. He stated we were not able to move on areas three and four because the Town did not have an infrastructure in place there. Mr. Mears asked if area three was just a small row of houses. Mr. Trulley stated that was correct. Mr. Niksch stated he pulled out this map because in the past fifteen years that he has been on and off of the Annexation Committee, there have been fiscal plans done and those fiscal plans never seemed to move. When they finally started moving, we noticed there were still pockets that needed to be looked at. We have a chance to review this map and study it to see if there are any other areas that need to be taken care of. He stated currently the pockets are done except the two that are in potential litigation, Mr. Novak's place, and areas three and four that currently have fiscal plans out on them. Mr. Trulley stated the attorney has sent a letter to Mr. Novak about the annexation.

Mr. Niksch asked for the status on the 80 acres on Austin and Route 2. Mr. Trulley stated there have been letters sent to the owner about a possible friendly annexation from our attorney, and when the attorney hears back from the owner, it will go in front of the Council for a decision. Mr. Niksch explained the difference between the two types of annexation and that the owner of the 80 acres originally wanted to come in friendly, but for some reason that never happened. He also explained the potential of the 80 acres and the possibility of annexing the landfill to the west, which has a fiscal plan currently in draft form. Mr. Niksch stated the area in blue, which includes our sewer plant, also has a fiscal draft done. Mr. Shilling asked if the area in green, which includes our water plant, had a draft as well. Mr. Niksch stated that it does have one. He stated the area in blue would allow us to get down to our sewer plant, and also inherit our new middle school and the area that is adjacent to the CSX Railroad. The Annexation Committee is the one who recommended a fiscal study be done on this area. Mr. Niksch stated he was surprised to learn that the area in blue is about 46% of our current Town boundaries. If we were able to annex this area along with the green area to get to our water plant, we would double in size. The green property leads down to our Town wells. Part of the reason we are looking at that is because it leads us down the CSX Railroad as well. The key reason for doing these two annexations is to get our Town utilities because currently every time we do work at those facilities, we are paying the County. Mr. Shilling asked about the proposal that was down state that would allow us to incorporate our Town utilities without having to annex everything in between. Mr. Corns stated it has gone

through the House, and is now in the Senate. Currently at the water and sewer plant, we have spent over \$165,000 on permits that the Town could have used. Mr. Trulley stated Bloomington is in the same situation. Mr. Corns stated so is Winfield.

Mr. Niksch stated we need to look at these areas and prioritize where we need to go first. When you look at the fiscal plans, you will see the expenses that are involved in these annexations. He stated the difference between these annexations and the pocket annexations is that in the pockets, we are already providing most of the services as far as police, fire, and snow plows. These outside areas are different because most of the areas in blue have the sewer and water in place due to the pipeline that we had to run to the middle school. All of this is a scale we will have to weigh when we decide if the Town has the available funds to annex. In these areas we have the potential for light industry that can use the CSX Railroad. Currently we have lost a number of industrial businesses because we weren't ready. He stated there has been conversation with most of the property owners on the east side of the CSX Railroad in the green area about annexing. We did have to use the 1/8 formula to see how much it would take to get to our Town wells. Mr. Hall asked about the three to one ratio. Mr. Mandon stated that is used when you are moving linear. It will still give you the 1/8 contiguous rule. Mr. Shilling stated that is so you cannot annex a small strip just to get somewhere else. Mr. Mandon stated that was correct. Mr. Niksch stated every one of these parcels has had complete or partial fiscal plans done, which will be e-mailed to you this week.

Mr. Corns stated the attorney is sending out letters for friendly annexation on the 80 acres and the landfill to the west. He stated he believes there will be a split vote on the Council about annexing the landfill, but he thinks it will be passed. He stated a Councilman and himself met with someone at the Newton County landfill, and no one is getting host fees off of this landfill except the Solid Waste District. We have the landfill, but we have no control over it. If we annex it, we would get host fees and have control over it. Mr. Corns stated currently with the land they have, there is twelve years worth of use. If the Town annexes this property, they are going to ask us to move the ditch that is there over and they would then have another parcel, which would have another twelve years of use. Once they run out of land, or decide not to have the landfill, it will be sealed off and donated to the Town of Lowell. He stated we are going to have to start generating our own funds in Town, whether we like it or not, because money is tight. The State has pointed out that if the car manufacturers raise the estimated gas mileage one mile, it costs the State \$22 million. That is the money that is used to pave our roads. If you talk to people around Town, they will tell you to annex the landfill because it is our "golden apple". Mr. Corns stated that Mr. Niksch had talked to them a number of years ago, and they had offered to extend the Lowell sewer line to the railroad tracks so that they could put their water in to the line. There is a possibility to make money from that aspect as well. Also, if we annex further to the west and the Illiana goes in, there could be potential for development in the area of 168th and Route 41. He stated the Council members he is working with would like to use the 80 acres as an industrial area for a buffer between the Route 41 and the Town. Mr. Niksch stated getting to Route 41 and Route 2 has always been a priority especially with the Illiana toll road coming in. This

annexation would also take us to the Norfolk Southern Railroad, which is also asset based friendly.

Mr. Nicksch stated we need to start looking at the direction we would like to go and utilize the information Mr. Mandon has given us to decide that. The Town Council is looking at setting up a work session with the Plan Commission, Redevelopment Commission, and Annexation Committee for ideas on the direction to go. Mr. Nicksch pulled out a map that was created showing a five-phase plan to get to I-65 and Route 41. He stated if we accomplish this, the Town would have to become a city because of its size. The area at I-65 is just begging for development, and that will happen with or without Lowell. Mr. Nicksch stated for those of you who were not at the Redevelopment meeting, we will be having a work session to discuss our goals and plans for this year, and then we will all have the group session and move forward from there.

OTHER BUSINESS

None.

PUBLIC COMMENTS

Scott Kiechle, 19910 Colfax St, stated there has been a lot more though put in to this process then in the past. He stated when there was a question on areas three, four, and two not being annexed; the cost to the Town would have outweighed the benefit. He stated it would have been a loss of around \$100,000 a year to the Town. Mr. Kiechle stated that he looks forward to the bill being passed so that the Town can incorporate their water and sewer plants without including the adjoining parcels, unless they deem appropriate. It may be to the Town's benefit to move more toward Route 41, I-55, or I-65 since the Illiana toll road will be coming in. It may be a better choice to move in one of those directions because of the possible revenue.

Mr. Corns stated when the Agricultural Advisory Committee first met; a lot of the talk was that they did not want to give up their land. He stated his point to them was, you never know what divorce or a death in the family will do to farms. The property value will change when it is part of a Town rather than in the County. Mr. Nicksch stated they had held meetings with the residential property owners in the green area of the map, and a lot of them said the same thing until about the third meeting when they finally realized the potential of worth for their land. A discussion followed of examples of property owners who ended up selling their land for larger profits. Mr. Nicksch stated he agreed with Mr. Kiechle, and part of their job is to set those priorities. Mr. Keichle stated his interest is seeing that the viable viewpoints are brought forth and that points are considered.

Mr. Trulley asked the Committee if March 14th at 7:00 PM would work for a joint work session. A discussion followed and the Committee decided on that date for the joint work session.

ADJOURNMENT

With no further questions or comments, Mr. Mears made a motion to adjourn the meeting at 8:14 P.M., seconded by Mr. Hall and carried by voice vote.

Doug Nicksch, Chairman

Randy Hall, Secretary

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

Gena Knapp – Recording Secretary