

REDEVELOPMENT COMMISSION MEETING
JULY 24, 2012
6:00 PM

The meeting was called to order by President Nicksch at 6:00 PM. The Pledge of Allegiance was recited. Roll Call was taken by Secretary Gena Knapp. Members answering the roll call were Doug Nicksch, Craig Earley, Phillip Kuiper, and Jim Langen. Anthony Muscari and School Rep Douglas Ward were not in attendance. Also present were Building Administrator Tom Trulley, Planning Consultant Jim Mandon, and Recording Secretary Gena Knapp. Also present were 9 citizens and 2 media.

Approval of Minutes:

Mr. Kuiper made a motion to approve the June 26, 2012 meeting minutes, seconded by Mr. Earley and carried by voice vote.

Old Business:

1. Greg Sobkowski:

a) Business Improvement District:

- Example ordinances from local communities
- Copy of Statue

b) Barriers for Lowell Annexation due to Apple Valley Utilities Expansion

President Nicksch stated that our attorney was supposed to get us information on the Business Improvement District, and he pulled out some ordinances from Portage as an example of how they put theirs together. Our attorney also got us copies of the statue. Mr. Nicksch proceeded to pass copies out to everyone. Mr. Nicksch stated that in the meeting they had with the people from the downtown district, the business owners presented a list of things they would like to see for the downtown district that fell in to the economic improvement district. This is where we are going with that list. Mr. Nicksch wanted everyone's opinion on how they would like to proceed with this. He stated that a lot of this sounds like organizations we currently have in town and that we can continue with the process of those organizations, or creating new ones. He asked if we want to call another town meeting and get the town folks from the downtown district in here to share this with them. He stated that the items in here pretty much define a major portion of the items that the business owners had listed. Mr. Nicksch stated that Craig Earley had taken it upon himself and got some other issues corrected with the police department. Mr. Earley stated as far as making a decision tonight, he would like to take a look at the information first. Mr. Nicksch stat that no decision needed to be made tonight, just read over the material and come up with how to proceed with bi-laws and getting it in the hands of the downtown people. Mr. Kuiper asked if we are limiting this to just the downtown area. Mr. Nicksch stated that would be part of the discussion. Mr. Kuiper stated that there are a lot of other businesses that could be included. Mr. Nicksch stated that in the economic improvement districts, the town council has to define the area. He stated that it would be similar to our economic development district but that would mean who would be the participants. He stated that it also includes that you have to have

a majority of the individuals who own or operate that business wanting to be involved. He stated that it sounds simple, but he just doesn't want it to die out. Mr. Niksch asked everyone to review the information and come back next month with a recommendation. Mr. Langen stated that he is on the same side as Mr. Kuiper. You can't just hold it to one block, if you offer it, you have to be far and wide, but it could just fall in to the current district. Mr. Kuiper stated that it could if that's what you wanted it to do. Mr. Early asked if there is a chance we could make more than one of these districts. The two we have currently could have different wants and needs. Mr. Niksch stated that if we reviewed the checklist that the merchants put together, he's sure you would find that most of what's on the checklists would not apply. Mr. Early stated that it might take care of itself because if you offer this and they don't want to be a part of it, we don't have a majority to move forward. If they exempt themselves, they wouldn't be a part of it. Mr. Kuiper stated that we need to wait until next month so we can read it over. Mr. Niksch stated that when Apple Valley extended their district area, our past town attorney made a statement that it could hinder Lowell if we ever wanted to annex out to that area. Mr. Niksch stated that he had conversation with the town attorney, Greg Sobkowski, and what he came up with is when we perform annexation we have two financial criteria. First are non-capital items. We have one year to provide police protection, fire, EMS, etc. Second is capital where we have three years to provide water and sewage. Mr. Niksch stated that if we annexed in to that area we would have to have some sort of agreement to provide the services of water, and that's pretty much all Mr. Sobkowski had said. Mr. Niksch stated Mr. Sobkowski would have given an explanation, but he was not able to attend tonight. This is basically his opinion. Mr. Niksch asked if there were any questions on that.

2. Continuation of dialog from 6/21/2012 Meeting:

a) Utilization of Assets, i.e.: I-65, Rt. 41, Rt. 2, Illiana highway, CSX and NS Railroads, and Landfill.

Mr. Niksch stated that the discussion that they had last month was about potential utilization of our assets and if and where we wanted to look at different areas to perform annexation. Mr. Niksch stated that he wasn't certain if they had completed their discussion on assets that the town has. After reviewing, he felt that they did have a full discussion, but asked if there is anything else to talk about. Mr. Early asked if these were the potential assets. Mr. Niksch stated that these are assets available to the town. Mr. Early stated that we have a lot on the table and we need to focus on a certain direction to make progress on. The Illiana highway could be an influence on where we annex first. Mr. Early then asked if anyone has any comments on picking a direction, or if we are following through on all of these. Mr. Niksch stated that he doesn't want to close door on anything and that we are going to continue to proceed with the projects on the table. Mr. Early asked for an update on the CSX project. Mr. Niksch stated that they still are interested and that they had the money to spend at the beginning of the year, but we were not ready for it. He stated that they are still interested in both of the properties. Mr. Niksch stated that the eighty acres is the same scenario. He stated that they are also laying out I-65 to be a benchmark for economic development. Mr. Niksch stated that in his mind we should pursue every direction that has potential and if something comes up quicker, then we address that issue. Mr. Langen asked what we are supposed to do,

meaning the Redevelopment Commission. He asked if we are supposed to look to the future and not be happy with the way things currently are. Mr. Niksch stated that by definition, it is to increase the value of particular areas. He stated that a lot of other towns have defined it as blighted areas, which we are not yet. Mr. Langen stated that if we don't think that this road will have an impact, we might as well stick our heads in the sand. Mr. Kuiper asked if he was referring to the Illiana toll road. Mr. Langen stated that yes he was and asked if we want to attach our future to that. He stated that he's not trying to be devil's advocate, but the mission should be to look for areas for improvement or expansion. He stated that redevelopment means rebirth. Mr. Niksch stated that when we first started, two major items that popped up were revenue and jobs. He stated that we decided yes we need to grow and we started with the assets listed as things that the town had, which are not all of the assets but some. Mr. Niksch stated that everything led to expanding to receive additional revenue. He stated that last month we had firms come in here with some ideas and plans and one even laid out what type of revenue that would bring down the road. He stated that takes notice to a lot of people. Mr. Earley stated that we can talk about all of these things on the agenda, but we need to pick one responsibly and that be the first one we choose to go after. He stated that he's not trying to disregard other areas, but some seem to be more favorable. Mr. Earley stated that we need to decide that, not just talk about all of them. He stated that he would like to hear what everyone has to say as well. Mr. Earley stated that he understood you have brought people to us, but he doesn't want to get involved in one thing, and then find out we need to move in a different direction. Mr. Langen asked Mr. Earley what his favorite was. Mr. Early stated that he was not sure, but he was leaning in a certain direction where things might work. Mr. Kuiper stated that they're all a little bit different, but our pot of gold at the end of the rainbow is I-65 but it's also the furthest. Mr. Kuiper also stated that he talked to the attorney and the concern is the timetable of annexation to get to I-65. He stated that even if everyone wanted to be annexed, it takes time and he's not sure how quickly we can get there. Mr. Kuiper stated that the concern is signing on and getting them sewer and water, but not getting them annexed. Mr. Langen asked what about the fears of annexing. Mr. Kuiper stated that they are always going to be there whether they want to be or not. He then stated that you'll get their input one way or another. Mr. Langen asked about a consensus. Mr. Kuiper stated that I-65 is so inviting, but there is a lot in between that is not ours and it would be a long haul to get that property. He then stated that it won't be easy.

New Business:

1. Jim Mandon - Process Explanation

a) Exploratory Example: Annexation to I-65.

B) Explanation of Fiscal Responsibility: Holm Property (80 acres).

Mr. Mandon stated that we really need to have a plan of where we want to grow. He stated that during the process, you have public meetings about the plan and find out what people think of becoming a part of the town. There is reasoning that has to be behind annexing. Annexation has to make financial and political sense to the town. The idea that it is harder to annex property that has resistance is true. It is much easier to annex

property that is vacant. In addition you don't have property now being developed according to county standards and not town standards that are much more rigorous. You then you end up with property with a structure that is sub-standard. One of the prime reasons to annex property is that you are out or nearly out of property to develop. It is not necessarily to include developed property for that sole purpose. In addition to that there are reasons to annex such as the idea that the facilities that serve the community, like the water area, storm water districts and parts of your water and waste water system, should be within your municipality. It sounds like that is what you are struggling to produce is a plan and sequence of annexation. Mr. Mandon stated that you have to set your ground rules as to why you are annexing property in the first place and then close in on areas that satisfy those goals soonest. If you try to get to I-65 there are two ways to do it. He continued to say that the only two rules you have to maintain from a physical standpoint are at least 150 feet of property that is currently town boundary has to be contiguous to what you are annexing. In addition you end up with a situation with annexation where you can maximize the size of parcels by fully utilizing the depth you have north of Route 2 on your east boundary, which is about 2600 feet in depth. If you maximize that, and that is in fact your 1/8, which is the second physical rule 1/8 has to be contiguous and you cannot take less than a swaff of 150 feet. He stated that you could go three to one ratios, three distances in length to every distance in width, if you want 1/8 contiguous. If you went with a minimum of 150 feet in depth on the north side of Route 2, then you're looking at moving only 450 feet at a time for each annexation. He stated to get passed I-65 to the east boundary of the currently developing property, it would take you 56 annexations and you would involve 87 acres and 43 parcels. Mr. Mandon stated that you're minimizing the amount of property you're assuming and you're minimizing the amount of service you have to render. You are making it easier to patrol from a police and fire standpoint with no subdivision streets or development to concern yourself with. He stated that you are also minimizing your commitment from the standpoint of both capital and non-capital commitments, but it takes you forever. Mr. Niksch stated unless you have friendly annexations. Mr. Mandon stated that it is still 56 annexations either way. Mr. Kuiper stated to keep in mind, on a friendly annexation, it does not make the next property contiguous. Mr. Mandon stated that it is still an annexation process to get to the next one, but it is quicker. Mr. Niksch asked if you can do those a day after each other. Mr. Mandon stated that physically it is difficult with the documentation you have to show. He stated that you still have to have a reason for annexation, you just can't annex because you want to get to a future point. That is what a fiscal plan is for. If you don't show your plan and your challenged, then you lose. You have to show that you need that property for a legitimate purpose. If you were to take the full depth of 2595 feet off of the highway, now you can move at a rate of 7800 feet at a time. That takes about four annexations, however you would have to have a fifth to take the south side of I-65, which you would want. He followed up by stating that this is 154 parcels and 1500 acres. This is a half of a mile off the highway with subdivision lots, and some are developed and some undeveloped. Mr. Mandon stated that what is developed is by the county standard not town standards. He stated that those are your two extremes; it could be 56 annexation steps or five. Mr. Mandon went on to say that the other issue of annexation is when you are worried about someone getting it first; this is a bad reason for annexing. If you plan your annexation this way, you haven't thought of the utility

implications and the assumption of property, which would be difficult to support. He stated that when you write a plan, that is a legal commitment that the municipality has to honor. When looking at the property at I-65, it seems difficult for someone else to challenge that property or to get there first. You need an annexation plan so that you think all of these things out in advance. Mr. Mandon stated that there is a down side to an annexation plan; it permits the opposition to know what your strategy is because it's public. The benefits far outweigh the fact that you are publicly announcing what you would like to do in the future and what direction you're going in. It helps to get the public's opinion both for and against annexation. During the plan process there is a lot of public participation and people go away with much more accurate information. He stated that it makes sense to pursue the certain annexations that you have moving along and others that you have agreed to. You may not have the boundaries and steps set out, but it makes sense. Mr. Kuiper agreed with Mr. Mandon by stating that to his point we have always wanted our utilities in town. Mr. Mandon stated that is the obvious benefit of moving south since your facilities are most available and the capacities are located there instead of putting in trunk lines to bypass areas to service others. This will make your costs lower. He then stated that a plan would let developers know which way you are planning on going as well. Typically good developers don't want to come in to a community and fight, they would rather bring in petitions that comply with documents you have decided on. This way you get better development and people that understand what you want. Mr. Niksch stated to Mr. Earley that maybe there were some answers to his questions and that whole scenario is on the agenda for the annexation committee. Mr. Niksch stated that we should follow a guideline, but there are things that will pop up and will re-excite different areas. Mr. Earley stated that he understood, but that hasn't happened and we have a lot on the table. He stated that we need to pick a direction and stick to that. A discussion followed about picking a direction and sticking to it. Mr. Niksch stated that hopefully our next meeting we will start the process to decide a direction. Mr. Earley stated that he would like a recommendation from the annexation commission. Mr. Niksch stated that if he remembered, they made that recommendation over a year ago when they developed a five-phase plan. He stated that we started that plan and things happened. Mr. Earley asked what happened. Mr. Niksch stated that other processes came involved. We could have had a nice business on that 80 acres had it been ready. Mr. Earley stated that he didn't want to talk about what has happened; we need to figure out where to go from here. Mr. Niksch stated that hopefully that is what we will do in the next meeting, but things do change. Right now we are going in several directions. We are going south and west. Mr. Earley stated that he understood and is not saying stop, just let's pick a direction. We have a lot on the table. He asked what we are going to propose to the annexation committee next, is that for the committee to bring to us? Mr. Niksch stated yes.

Mr. Mandon stated that the state statute says you have to show a legitimate reason to add property to your municipality. It is usually because you are out of or close to being out of property to use to develop. He stated that you also want to annex property that makes sense financially for the town. It is most beneficial to annex property before anyone lives there. You already have ordinances in place that once utilities are made available to the property they have to be extended in to the property by the people enjoying the benefits

of that development. Mr. Mandon stated that you don't have to service every block that is in these 80 acres. That responsibility is on the developer. All you have to do is make sure that the utilities are set up to be available to the property. If no one lives there you do not have to supply any immediate utilities on the property just to the property. He stated that it is also easier to drive by with the police and fire since there are no structures. This fiscal plan is very simplistic. Most are not this simplistic if there is property that has been developed. Mr. Mandon stated that the fiscal plan does a good job of stating why you need this property. It states that you are out of or close to being out of property to be developed. It is also much more beneficial to annex property prior to it being developed by county standards. In addition, since it's agricultural, there would not be any immediate impact on the property owners from a tax standpoint. It's really the ideal situation that you find yourself in when you have adjacent property that's ready and can be developed with little investment on your part. He stated that he didn't understand why the township rate changes, it's slightly lower, but he thought it would stay the same. Mr. Kuiper asked if he was referring to the taxes. Mr. Mandon stated yes, and that he is not sure why they are lower. Mr. Kuiper stated that he asked about that too and found out they could go up minimally because of the township change. Mr. Mandon stated that's what he doesn't understand; the township should remain the same rate. Mr. Kuiper stated that the township is the same, but he thinks it is West Creek in town, but that he is still not sure why there is a difference. Mr. Mandon stated that it amounts to a very minor amount of the tax rate. The taxes on this property won't change a bit in terms of the initial. It is important from a land use standpoint to have the annexation plan and the land use plan work together. You have to have a general idea of how you want to use the property. Mr. Kuiper questioned that the tax rate on the 80 acres would not change. Mr. Mandon stated not if there is an agricultural deferment from the rate. Mr. Kuiper stated that the county said there would be a slight increase since you are changing from out of town to in town, but he did not know if that is true. Mr. Niksch stated that according to the fiscal plan, it lowers. Mr. Kuiper stated that they quoted me just the opposite. Mr. Niksch stated that this is the fiscal plan that our financial advisor put together. In any case it will be close. Mr. Langen stated that the main resistance of being annexed is that taxes will go up, and he does not think that is the case according to this. Mr. Mandon stated that even on property where there are structures, if they were at the 1% tax cap rate their taxes would not change. He stated that it is different now that there is a tax cap. When the tax cap wasn't in place, it was a different story with annexation. That doesn't help the cities and towns that much, but it does make annexation much easier. Mr. Langen stated that if you have a piece of land and someone wants to run a water and sewer line on the easement, in my mind your property is worth more and your taxes don't go up. The only reason to fight annexation is the taxes going up. It's just a misconception. Mr. Mandon stated that is why having an open discussion to come up with a plan is so important. Mr. Kuiper asked if you were not at the 1% tax cap, will it go up to the town rate? Mr. Mandon stated yes, but it cannot go over 1%. The important thing is to have a good reason to annex property. You want to be slightly in front of the development plan. It does increase the value of property prior to development. He stated that in some municipalities if someone wants to extend utilities to a certain parcel, they should be required to annex that property. If there is a contiguous issue with someone not wanting to be annexed, but the next 80 acres someone wants to develop and they

want the town's utilities, there is a way to extend the utilities and to have a legal obligation established so that when that area is annexed, the current property owner and future property owner can not resist or fight the annexation. That way municipalities aren't annexing properties too soon or out of sequence. Mr. Langen asked if you could go back and forth across the street. Mr. Mandon stated yes, you just have to stick with the 1/8 rule. Mr. Niksch stated that was one of the reasons they have that rule so that you don't follow a road or railroad track. Mr. Mandon stated that most of the resistance is not the issue of increased taxes, it is if it's too far in advance that they want to develop the property and they continue to farm it, you end up with conflicts between agricultural use and residential use. The town has more ordinances than the county does that would interfere with the property owners using their property the way that they want. That may be part of the resistance in farming units that they may have more rules than what they do right now. Mr. Niksch stated that before when you were annexed you went to an R-1 zone, but now we have an agricultural zone and all of the fiscal plans that we've had in the past couple of years, the increase or decrease in taxes is very minimal. Mr. Niksch asked if there were any more questions.

Other Business:

President Niksch stated that he will now open the floor up to the public for statements and questions.

Scott Kiechle at 19910 Colfax stated that his concerns for annexation were the fact that right now he pays less for water and sewer through his well and septic than he would in town. Also, there are fewer rules when you live outside of town. He chose to live rural due to how he can utilize his property. Mr. Kuiper thanked him for his statement. Mr. Langen stated that when annexed, water and sewage would be available, but you do not have to hook up right away. Mr. Kuiper stated that the ordinances are much different, though. President Niksch stated that if the property hooks up right away to the water and sewage, they may get a better rate that way rather than if they wait. Mr. Kuiper asked if we could add in new ordinances. Mr. Langen stated the example of putting up a pole barn, which is not allowed in town. President Niksch stated that might fall under the agricultural zoning rather than residential. Mr. Mandon stated that if you change ordinances, you run the risk of certain buildings being built and activities being done that you do not want to allow in town. He stated that the best idea is to annex the vacant property. Mr. Niksch asked if there were any further questions. Mr. Niksch then stated that right now how the meetings are set up, our attorney cannot attend the 4th Tuesday of every month. He suggested that the meetings be moved to the 4th Thursday of every month instead. The board agreed.

Adjournment:

Mr. Kuiper made a motion to adjourn at 7:10 PM, which was seconded by Mr. Langen and carried by voice vote.

Doug Nicksch, Chairman

Phillip Kuiper, Secretary

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

Gena Knapp - Recording Secretary