

JULY 19, 2022
BOARD OF ALDERMEN MINUTES
7:00 P.M.

Mayor Slinker called the regular meeting to order at 7:00 p.m. on July 19, 2022 at 101 West Broadway.

Mayor Slinker led in the pledge of allegiance.

Mayor Slinker called the roll:

Ward One: Nathan Volkart-here, Bryan Bradford-here
Ward Two: Melissa Old-here, Stephanie Bell-here
Ward Three: Rick Lewis-here, David Wilson -here

Staff Present: Darla Sapp, City Clerk, Kyle Michel, City Administrator, Darin Ratermann, Community Development Director, Nathan Nickolaus, City Attorney and James Creel, Public Works Director.

Mayor Slinker presented the minutes of the special meeting June 29, 2022 and July 5, 2022 meeting for consideration. Alderman Bradford made motion to approve the minutes as presented. Alderman Wilson seconded the motion. Mayor Slinker called for the vote. Motion carried.

Mayor Slinker presented the agenda for approval or adjustment. Alderman Bradford made motion and seconded by Alderman Lewis to approve the agenda as presented. Mayor Slinker called for the vote. Motion carried.

Mayor Slinker presented the appointment of Loren Plank to the Board of Adjustments. Alderman Bradford made motion and seconded by Alderwoman Old to approve the appointment of Loren Plank to the Board of Adjustments. Mayor Slinker called for the vote. Motion carried.

Mayor Slinker stated there were no scheduled public comments. Mayor Slinker stated just as a reminder a written request must be received on Wednesday before the date of the meeting.

Mayor Slinker called the Public Hearing to order on the proposed annexation of 19.70 acres located on Route M for Barbara Welch. Kyle Michel, City Administrator informed the Board there was a findings memo in the packet. He informed them the proposed annexation to be contiguous with the existing boundaries and is necessary and responsible development of the city. He stated the City is positioned to provide utility services to this property.

Mayor Slinker called for Public comments. Jeff Sapp, 407 west Broadway stated this was brought to the Planning and Zoning Commission as a different size tract and the pending litigation relating to the reduced lot size. He stated this is inviting the City into legal proceedings and highly recommends the Board not take action tonight.

Caleb Colbert from the Law Office of Haden & Colbert stated he was representing Mel & Charlotte Smarr. He stated they feel this annexation is premature. He stated there is a property line dispute and carving out a wedge where the tree line leaves a wedge in the county and he did not feel this was a good idea. Mr. Colbert felt this should be debated as one package with the annexation, rezoning and preliminary plat.

Steve Jefferies, representative for Lura White stated they have property to the west. He stated their property has been surveyed by Gene Basinger. He stated the legal description does not match what was presented to the Planning and Zoning Commission. He stated to vote to accept the annexation you would be voting on property that does not belong to them according to their survey. Kyle Michel asked to be able to make a

copy of their survey. Mr. Jefferies questioned what degree of surveying was used? He stated if the Board votes to annex with this legal description he would challenge it.

Nathan Nickolaus, City Attorney stated Mr. Jeffries previously stated he did not have a problem with the annexation. Mr. Jefferies stated the legal description on the western border has changes as presented in the new survey.

Jay Gebhardt Civil Engineer, stated the west side land survey was good. Kyle Michel, City Administrator reported the dispute on the other side, (fence line) and adverse possession. He stated there is 18 feet to 12 feet to the end of the property that was cut out on the new legal description. He stated the Welch's tried to sit down and work through this with the Smarr's. Jay Gerhardt stated they want to work this out and asked this be tabled until it can resolved. He stated they have not received a response and that is why they attended at the meeting.

Nathan Nickolaus, City Attorney, stated there are many people saying the survey is incorrect. He questioned why the surveyor would put their license on the line. He stated it seems the facts keep changing and he did not know how we could as a body do anything but agree what the license surveyor has presented. He stated it's hard to give advice on this.

Alderwoman Old questioned who the surveyor was and why he was not in attendance. Brian Welch stated he could not be in attendance. Darin Ratermann, Community Development Director, stated it was Nathan Cole.

Nathan Nicholaus, City Attorney, stated it is his understanding the east side of property was resurveyed and the new legal description written is being disputed. He stated they excluded the part of the property in dispute. He stated the west legal description is not going to change. He stated the legal description should be the same minus what the Smarr's are disputing. He suggested they reach out and try to get this resolved. Brian Welch stated they received a letter from the Smarr's on other items. Mr. Welch stated they wanted to make this happen as much as they can. He stated they felt this development would benefit the City.

Alderman Lewis stated he felt regardless of the subdivision we are going to end up with a strip of land that is county property not city property. He stated that is strange. He questioned if this was annexed with the Smarr property in 1997. Alderman Lewis stated the annexation should not be brought to this board until that what was resolved. He stated he was not in favor of this annexation until this is resolved.

Alderman Lewis stated he felt they should meet and get this resolved. Brian Welch stated the property line dispute is not the only thing in the demand letter they received. Alderman Lewis stated we should not move forward until this is resolved.

Alderwoman Old stated this is not for vote tonight it is only the public hearing.

Alderman Lewis stated he is against the annexation if land dispute is not worked out.

Brian Welch stated his family has been open with working with the Smarr's and hopes they can come to an agreement. He stated it is ridiculous to feud over land.

Alderman Lewis questioned if the Welch family thought the fence line was the property line. Brian Welch stated it was always farmland and he could not answer what his mother thought.

Nathan Nickolaus, City Attorney questioned if the Welch's discussed just giving this portion to the Smarr's.

Alderman Lewis suggested they sit down and work out the issues. He stated he was not opposed to the annexation or development but felt the annexation is premature.

Mayor Slinker called the comments for the public hearing.

Mayor's Report:

Mayor Slinker questioned if we have heard anything from NextSite. Kyle Michel, City Administrator, stated he has not but would follow up on this. He reported the fireworks show would be September 10 after the concert for the fall festival on the YMCA property. Mayor Slinker stated it seems Socket is doing a good job cleaning up after they work in an area. He informed the Board and citizens with the heat way the YMCA is a cooling area.

City Administrator Report:

Kyle Michel, City Administrator, updated the Board on the land use management code. He stated they would reconvene in two weeks and discuss the comments to have incorporated in the draft. He reported the codification of the other ordinances is in process and then we would need to incorporate the land use code into the new codification. Kyle Michel stated they are working with Tyler Tech on implementation of the software program and plan to have this up and running to go live in January.

City Attorney's Report:

Nathan Nickolaus updated the Board on two pieces of legislation. One being prohibiting sleeping on public property and house bill 1606 on homelessness.

Public Works Supervisor Monthly Report.

James Creel gave an update on the Perry Avenue design and is underway with anticipated design completion by end of July. He stated due to environmental review requirements MoDot has advised that construction will likely not be able to start until December due to nesting bats in the trees in this area. He informed them Billy Joe Sapp stormwater repair is currently underway but are needing several utilities relocated. He stated Allstate is currently finishing the design work on Oak Street stormwater improvements. He stated this is split into two phases due to the cost. He stated that Caspian preliminary engineering report is nearly finished and the project is anticipated to be completed in the FY24. James Creel reported the park restroom has been ordered and other work in scope of the project is to be completed throughout summer. He stated due to illegal dumping the dumpster has been removed from the park and has been placed at their shop where it is locked after hours. James Creel gave an update of electric issue at the park pond fountain.

He stated he could not say enough about the progress the Boone County Regional Sewer District is doing addressing issues within the sewer system and making repairs/improvements. He stated early numbers indicate that there may be more capacity available in our system than previously thought. He stated the facility plan with Bartlett & West is underway. He stated the operation and maintenance report and lab numbers are in the packet. He informed them the skid loader is down and he is unsure of repair costs or if a replacement would be needed.

Community Development Director monthly Report:

Darin Ratermann, stated Scooters Coffee construction is progressing. He stated an old gas line was hit during construction. He stated Lakeside is progressing and the second floor deck has been installed but they are having a delay of the roofer and material and labor issues. He stated they are digging a well to pump water to irrigate the site. Darin Ratermann stated Amazon is up and running with prime vans and they also have flex drivers. He gave an update on the middle school construction and flooring being put down and they are working on the outer issues to get wrapped up. He stated the site work is being done for Ranken. He stated a site plan is currently under review for Lot 1 East Ashland Plaza where a proposed Taco Bell to be built. He updated the Board on Yummy Yo's getting a building permit for remodel work is in progress.

Board of Aldermen's Reports:

Alderman Bradford informed the Board he attended the ribbon cutting for the Hair Studio and Andy's Nutrition last Friday and attended the ice cream social behind City Hall.

Alderman Volkart relayed information from facebook post on the annexation. He stated they expressed concern of traffic and school overcrowding with development of more residential subdivisions.

Mayor Slinker called for additional comments from the public.

Mayor Slinker called for the vote to adjourn the meeting. Alderman Bradford made motion and seconded by Alderman Wilson to adjourn the meeting. Mayor Slinker called for the vote. Motion carried.

Darla Sapp, City Clerk

Dorise Slinker, Mayor