

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Monday, February 8, 1999

7:00 PM

Council Committee Rooms

Development Committee

Sherie James-Arnold, Chairman

Karen J. Angelou

Thomas R. Kneeland

Robert W. Kelley, ex officio

ADDITIONAL ATTENDEES:

President of Council Kelley, Mayor McGregor, City Attorney Weber, Director of Parks and Recreation Mitchell, Director of Development White, Glen Dugger, Press,

PENDING LEGISLATION**990030**

TO ACCEPT 41.997+/- ACRES FROM JEFFERSON TOWNSHIP TO THE CITY OF GAHANNA, OHIO, REQUESTED BY SHIRLEY A. WAGNER, TRUSTEE, ET AL.

Recommended for Adoption, Consent to Regular Agenda (Duplicate)

Amendment to 121.05 re Annexation Rights of Way

Weber noted talking with Randy Ayers; there are certain estate issues that are convoluted; one of the heirs has disappeared; has power of attorney for another; estate attorney is taking the view that since granting us an easement or right of way is not for fee he can't go ahead on power of sale in the will; don't agree with that; we have some serious problems with getting all of the right of way issues involved; have talked to Peg and have submitted a proposed change to 121.05; requires a floor motion to waive the immediate donation; wanted to have a way out in situations where there may be a temporary reason not to get the right of way; way code reads now we must have before the annexation is accepted; need to put this type of clause in there so in certain circumstances where it is deemed appropriate we can accept the annexation without having the right of way; the code section doesn't always work and it is onerous; considered 120 days leeway but want the latitude and flexibility needed; expectation is that it will be given at some point.

Dugger noted that while the litigation was pending the property was zoned and preliminary platted in the township; one of the conditions of that approved preliminary plat is that the right of way be dedicated; M/I Schottenstein has an option on this land; will be filing a zoning application this week so it beats the acceptance date; will have the zoning application in under the wire; did suggest that we can provide a deed from M/I, undated, and that could be accepted once we notify you that the property has been transferred.

McGregor stated that no preliminary plat would be approved without the dedication of the right of way; will have the zoning process and the preliminary plat process that could provide for the dedication. Weber stated that this solution covers this situation as well as future ones.

Discussion continued that noted it would be the cleanest to dedicate at time of preliminary plat; go through acceptance at that time; only thing at risk is if for whatever reason we would not move forward with the preliminary plat; have done the environmental and everything we're required to do; no worse situation than we face now.

Discussion then centered on the floor motion that would be needed to waive the requirements of the code; if we fight an annexation need to have an ordinance that specifies how we do it; need to be on strong legal ground; what conditions and time frame need to be established; suggested at time of approval of preliminary plat or on or before filing of a preliminary plat. In response to question, Dugger stated that if M/I would choose not to plat for 5 years instead of moving forward, that condition would still remain; would also remain if the property was sold to someone else; the City's risk is that if the road widening needed done before the right of way was dedicated, we would not have the right of way in place. Dugger continued that M/I can agree to it; City pursued appeal and owners didn't do anything; feel that condition on preliminary

plat is still the best assurance;

Angelou questioned if this would set a precedent for any other annexations not giving us the right of way at the time of annexation. Weber stated that each would stand on its own merits; follow state statutes on annexations; state law says you can accept or not; doesn't say you can accept with conditions.

Dugger stated he did not want to make this difficult to do; is not uncommon where an underlying property owner has signed for an annexation but it is really being done for a contract purchaser; find out later they have to compel the seller to convey the right of way; that land owner can make it difficult to impossible to accomplish; suggest possibly boosting the standard to say "impracticable, difficult or impossible"; it is a quirky legal problem where an owner can't be found or doesn't have the legal capacity; don't want to make it easy for the guy who just doesn't want to give the right of way.

RECOMMENDATION: 1st reading, with waiver of second, as emergency, consent agenda.

RECOMMENDATION: Floor motion, waiving right of way requirement until the property is preliminary platted. City Attorney to provide wording for floor motion.

NEW MATTERS:

Members Absent: Sherie James-Arnold

Members Present: Karen J. Angelou and Thomas R. Kneeland

Planning Commission Request - Seminar Funding

Clerk noted Planning Commission request for funding for one member to attend the American Planning Association conference in April; will include in the budgeting process in the future; noted preliminary program and several sessions of interest plus the Planning Commissioner's track; would also request waiver of second reading as the next cut off date before cost rises is 3/3. Angelou, Kelley and Kneeland noted this request being similar to their attendance at National League of Cities. Council members requested that Clerk contact all Planning Commission members to see who wishes to attend and prepare supplemental for first reading with waiver for \$2,500 times the number of commission members who can attend. Clerk to provide memo in Friday packet as to who will be attending.

RECOMMENDATION: 1st reading, consent agenda, with waiver of second reading.

ISSUES

Parkland and Technical Assessment - Taylor Road

Clerk reminded Council that they have not had a parkland dedication process in a couple of years; Zoning Administrator makes a recommendation and requests a recommendation from the Parks and Recreation Director, Parks Board, and Council per Section 1109.08 of the code; does come to us at the zoning stage with an AR zoning; applicant is proposing to give the City a wetlands area; is larger than he is required to give. Parks Board is saying they do not want the land but the fees in lieu of. Kneeland stated he felt this needed to be discussed in committee of the whole. In response to question, McGregor stated the wetlands area has expanded in the last couple of years; some people blame Jefferson Meadows drainage as changing the flow; noted that

restricting the use was the administration's idea not the applicants. Mitchell stated that the applicant will be required to preserve those wetlands; why would we accept as parkland when city needs parks and we would assume the preservation of those wetlands. In response to question, White stated the applicant can contribute to wetlands fund and get rid of the wetlands or buy another wetlands somewhere and mitigate these. mitigation would run about 2-1/2 for 1. Mitchell reiterated that wetlands would have to be cared for anyway; would not be an area like Gahanna Woods where you can go into; situation where this would just be sitting there; will provide beautiful open space for the residents of the apartments. In response to question, Mitchell stated that if there was 4 acres of usable land available for donation they would take it but don't feel there is; in that instance would then prefer the fees in lieu of. Request this be referred to Committee of the Whole in 2 weeks.

Refer to Committee of the Whole

MONITOR

Sandburr Proposal (Action - 2nd Council Meeting in March)

Kneeland noted this was set for discussion in March; is a monitor item.

DEVELOPMENT DIRECTOR

White noted that Chair requested a discussion of an official name for the downtown revitalization program.

Kelley noted White's request for 10 minutes at next Council meeting for a presentation; asked for that to be postponed until the following meeting due to the Executive Session to be held.

Discussion held on the joint CIC appointment noted in White's report. Angelou stated that only trustees need confirmed; general members need no confirmation. White stated she was only following procedure used in the past.

RECOMMENDATION: Floor motion, consent agenda, accepting Mr. Roger Madison with IBM as a general member.

ISOBEL L. SHERWOOD, CMC/AAE, Deputy Clerk of Council Reporting