

1 STATE OF INDIANA)
) SS:
2 COUNTY OF MONROE)
3

4 IN THE CIRCUIT COURT OF MONROE COUNTY

5 CAUSE NO. 53C06-2203-PL-000509

6 COUNTY RESIDENTS AGAINST ANNEXATION,)
7 INC., an Indiana not for profit)
8 corporation, et al.)

9 Remonstrators/Appellants/Petitioners,)

10 -vs-)

11 THE COMMON COUNCIL of the City of)
12 Bloomington, Monroe County, Indiana,)
13 et al.)

14 Respondents.)

15 DEPOSITION OF DON CREEK

16
17 The deposition upon oral examination of DON
18 CREEK, a witness produced and sworn before me,
19 Colleen Brady, Notary Public in and for the County
20 of Monroe, State of Indiana, taken on behalf of the
21 Respondents, at the offices of Bloomington City
22 Hall, 401 North Morton Street, Room 225,
23 Bloomington, Monroe County, Indiana, on the
24 27th day of February 2024, at 12:38 p.m., pursuant
25 to the Indiana Rules of Trial Procedure with
written notice as to time and place thereof.

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APPEARANCES

FOR THE PETITIONERS:

William J. Beggs
BUNGER & ROBERTSON
211 South College Avenue
Bloomington, IN 47404
812.332.9295
wjbeggs@lawbr.com

FOR THE RESPONDENTS:

Andrew M. McNeil
BOSE MCKINNEY & EVANS LLP
111 Monument Circle
Suite 2700
Indianapolis, IN 46204
317.684.5000
amcneil@boselaw.com

ALSO PRESENT:

Margaret Clements

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Answers of County Residents
Against Annexation Inc. to City
of Bloomington's
Interrogatories

1 (Time noted: 12:38 p.m.)

2 DON CREEK,
3 having been duly sworn to tell the truth, the whole
4 truth, and nothing but the truth relating to said
5 matter, was examined and testified as follows:

6

7 DIRECT EXAMINATION,

8 QUESTIONS BY ANDREW M. MCNEIL:

9 Q State your name for the record please?

10 A Don Creek.

11 Q Mr. Creek, we just met before we started. My
12 name is Andrew McNeil. I'm one of the attorneys
13 for the City of Bloomington in this annexation
14 remonstrance case.

15 Have you ever had a chance to give a
16 deposition before?

17 A No.

18 Q So you're under oath, and I am going to ask you
19 series of questions. Your job is to answer them
20 as completely and truthfully as you can.

21 Do you understand that?

22 A Yes.

23 Q If you don't understand my question or need me
24 to rephrase it, will you let me know?

25 A Certainly.

1 Q The goal is to get you out of here in about 45
2 minutes. But if for whatever reason you need to
3 take a break, use the restroom, have a coughing
4 fit or whatever, just let us know and we can go
5 off the record. Okay?

6 A Okay.

7 Q What is your home address?

8 A 4212 West Woodlyn Drive, 47403.

9 Q Is that in Annexation Area 1A?

10 A Yes, it is.

11 Q How long have you lived there?

12 A 25 years. Something in that area.

13 Q Who lives there with you, if anyone?

14 A My wife.

15 Q What's her name?

16 A Sandra.

17 Q Did either you or your wife sign a remonstrance
18 petition back in 2012?

19 A Yes, we did.

20 Q Did you or your wife sign it?

21 A I signed it.

22 Q Do you own any other property or real estate in
23 Annexation Area 1A or 1B?

24 A No.

25 Q Do you have any plans to sell your house or

1 move?

2 A No.

3 Q Do you work or retired?

4 A Retired.

5 Q When did you retire?

6 A I don't know if I can remember that far back. I
7 helped out with Area 10, driving their little
8 buses. I got a CDL license. So I was
9 semiretired. God, even at that, it's been 7, 8,
10 10 years.

11 Q Before driving for Area 10, what was your
12 full-time job before you retired?

13 A The last thing was probably with the Red Cross.
14 When I started with them, I was the area person
15 soliciting blood drives. Did that for about
16 four years. Then they asked me to help out with
17 the local Red Cross office with the local
18 chapter. So then I took over some programs from
19 the local Red Cross until they shut down.

20 Q When you refer to the local Red Cross, are you
21 talking about in Bloomington?

22 A Yes, the local chapter.

23 Q Where was the local chapter located?

24 A Is that East 7th Street? Just a couple of
25 blocks off of the square over there. I don't

1 recall now. I know originally that building had
2 been given to the Red Cross for local use, but
3 then when the big shots at the Red Cross
4 changed, the whole program, it got sold.

5 Q It was within the city limits --

6 A Yes.

7 Q -- of Bloomington itself?

8 A Yes.

9 Q Does your wife work? Or is she retired as well?

10 A She's retired.

11 Q Did she have a job before?

12 A She worked at the IU Bookstore.

13 Q At the university?

14 A Yes.

15 Q Do you ever go out to eat at restaurants within
16 the City of Bloomington proper?

17 A No.

18 Q Do you ever drive through the City of
19 Bloomington? Like crossing into the city limits
20 itself?

21 A About once a month, maybe, we'll drive through
22 to see where the newest apartment building has
23 gone up. Tourist trip.

24 Q Where do you shop for groceries?

25 A Kroger and Walmart on the west side.

1 Q Do you ever buy gas in the City of Bloomington?

2 A No, Sam's Club.

3 Q Do you ever go to the city parks?

4 A No.

5 Q Do you have any children or grandchildren that
6 live in Bloomington?

7 A No longer. They've moved.

8 Q Do you attend any events at Indiana University,
9 basketball or football games, anything like
10 that?

11 A Several years ago when they were first starting
12 up the baseball program, we may have gone to one
13 game. I think we thought about two. But one
14 ended up being the limit.

15 Q So nothing recently at the -- you haven't
16 attended anything recently at IU?

17 A No.

18 Q If you had to call the fire department, say,
19 your house is on fire, or a kitchen fire or
20 something --

21 A Right.

22 Q -- do you know which fire department would be
23 the primary responder?

24 A Well, there's the one right out there behind the
25 trustee office. I'm out there on the west side,

1 south Curry. So it's right there. And I know
2 they're the ones that are called upon to help
3 out on anything on the interstate or whatever.
4 I believe the city does have a department there
5 on West 3rd near the McDonald's down there
6 somewhere.

7 Q So the fire station near your property is the
8 Monroe County Fire District?

9 A Right.

10 MR. BEGGS: Objection. Monroe Fire
11 Protection District.

12 MR. MCNEIL: Yeah, thank you. I knew that
13 wasn't right when it came out of my mouth.

14 Q Are you on the city sewer and water service?

15 A Yes.

16 Q Has that been true the whole time you've lived
17 at your place on Woodlyn Drive?

18 A Yes.

19 Q Would you be agreeable to disconnecting from the
20 city water service if annexation does not go
21 forward?

22 A Well, it fails me periodically anyhow. I don't
23 know exactly what the options would be, but we'd
24 just explore them.

25 Q When you say it fails you periodically, what do

1 you mean?

2 A Well, when the sewer system is overpowered with
3 a thunderstorm or a sustained period of water,
4 it gets backed up to where we have no effluence.
5 So if there's no place for the water to get out
6 of the house, then, you don't bring it in. You
7 don't turn the tap on. You're shut down.

8 Q How often does that occur?

9 A That's up to the weathermen. Like I said, if
10 it's a thunderstorm or -- last year or the year
11 before, we had a period where it seemed like it
12 rained every day for a week or whatever. That
13 had the same effect.

14 Q Have you ever looked into replacing the City of
15 Bloomington's utility services?

16 A No.

17 Q Do you believe it's in your best interest to
18 continue receiving sewer and water service from
19 the City of Bloomington?

20 A I guess everything would have to be explored. I
21 haven't looked at the alternatives.

22 Q Are you familiar with the organization County
23 Residents Against Annexation?

24 A Yes.

25 Q What is your understanding of that organization?

1 A That it's -- well, it's a nonprofit group that
2 thinks the annexation could have been handled
3 better and that we could go back to square one.
4 If there's going to be annexation, it needs to
5 be approached differently.

6 Q Are you involved with that organization in any
7 way?

8 A I have attended some of their meetings. I'm not
9 a member of the board or whatever. Just when
10 I've heard about a meeting, I've slipped in and
11 caught some of them just to kind of see what's
12 going on.

13 Q When was the last time you think you were at a
14 meeting?

15 A Well, I understand they are -- well, I know
16 they're held monthly whether I was there at the
17 last month's meeting, I don't know. I was
18 either there at the last one or the one before
19 that I believe.

20 Q Have you ever donated money to County Residents
21 Against Annexation?

22 A Yes, I have.

23 Q Did you donate in 2023?

24 A Yes.

25 Q How much?

1 A I don't know. Probably just a couple of hundred
2 dollars.

3 Q Did you donate to CRAA in 2022 as well?

4 A Well, I'm a kindly old man with a less than
5 perfect memory. That couple hundred dollars,
6 maybe that was '22 instead '23. Somewhere in
7 the past. It's been a while. I probably ought
8 to be writing another check.

9 Q Have you ever had written email -- let me start
10 over.

11 Have you communicated with other people
12 about the annexation by email or text message?

13 A I may have texted the -- I don't know -- the
14 trustee out there in Van Buren. Give me your
15 question again please.

16 Q Have you ever texted or emailed -- let me start
17 over.

18 Have you communicated by text or email with
19 other people about the annexation?

20 A Directly about the annexation?

21 Q Yes.

22 A Probably.

23 Q Have you in the last six month or so, looked
24 for, tried to find copies of any electronic
25 communications about the annexation?

1 A Yes. I bought new computers this year when I
2 found out my old ones had an operating system
3 that was six updates behind and it could not
4 function. So I -- it didn't take long to come
5 up with the answer that, no, I don't have
6 anything like that because it all disappeared
7 with old computers.

8 Q When did you get the new computer, do you think,
9 roughly?

10 A November, December.

11 Q So the city adopted its annexation ordinances in
12 the late summer or fall or '21, and then there
13 was a 90-day remonstrance period. Do you
14 remember that?

15 A Yes.

16 Q Did you sign a remonstrance petition?

17 A Yes.

18 Q I asked you that.

19 A Yes.

20 Q You did sign it?

21 A Yes.

22 Q And when you signed it, were you signifying your
23 opposition to the annexation?

24 A Yes.

25 Q Are you still opposed to annexation today?

1 A Yes, I am.

2 Q Why?

3 A Well, I guess one of my primary concerns would
4 be the understaffed police department. I see
5 them having to take on thousands of acres and
6 thousands of new people that they have not had
7 direct contact with in the past. Which
8 neighborhoods might have a less than pleasant
9 person located down in there that might even be
10 running a meth lab, they wouldn't have direct
11 knowledge of that.

12 Like I say, they are already understaffed.
13 I've had good service from the sheriff's
14 department. Very happen with them, and the
15 thought of an already understaffed police
16 department having to take on all the extra, not
17 comfortable with that.

18 On the dollar side, it's not just the funds
19 for the real estate tax, but it's going back and
20 reorganizing where the moneys go. I see the
21 county coming up millions of dollars short, and
22 they run the justice system and the jails and
23 bridges -- even the ones inside the city -- and
24 the roads. Again, my faulty memory. I'm sure
25 they do a lot more than that. But they are

1 coming up millions of dollars short.

2 The school systems -- actually, both of
3 them -- primarily MCCSC; original studies, I
4 think they were looking at close to a half a
5 million dollars shortfall. And they have
6 already been through two recent referendums; the
7 last one passing by, I believe, like a hundred
8 votes. If they have to come back for another
9 half million dollars, I don't know it's going to
10 happen. So now we have a physically scrapped
11 county government, physically scrapped school
12 system. Even RBBSC was going to lose a small
13 amount. I think it was 30,000 or something in
14 the original data. Public library, 125,000 or
15 something, I think, was the original numbers.

16 We're already in a system were, my
17 understanding, Bloomington is the -- the housing
18 in Bloomington is the highest priced in the
19 entire state. That doesn't happen by accident.
20 People, this time, have a chance to perhaps buy
21 into county and build a future for less than
22 they can rent in the city.

23 I knocked a few doors to try and gather
24 some signature on remonstrations, and I met
25 people -- well, widows, that, quite frankly,

1 weren't sure they would be able to remain in
2 those homes. Even in my neighborhood, those
3 buildings went in in the 1970s. So had a couple
4 of widows living out there that were not looking
5 forward to annexation and the increase taxes and
6 so forth.

7 One family in particular, they were
8 renting. A brother and sister scrambling,
9 living together to try and keep things going.
10 They volunteered that if there was any increase
11 in their rent, that they were gone.

12 Tying back into that public safety idea
13 with the police, it's just my impression, but I
14 have the feeling that the sense that Bloomington
15 is turning into a miniature Indianapolis with
16 the crime and drugs. I guess that's one reason
17 I'm in the Bloomington city limits about once a
18 month, I assume. I'm quite happy out in the
19 county.

20 Other issues, I don't know all the details
21 on zoning and those types of things, but I have
22 a neighbor that the daughter is involved in 4-H,
23 and I'm not sure her rooster would be allowed to
24 continue to crow.

25 Q I'm sorry, you said that's a neighbor?

1 A Neighbor in the neighborhood. Little things.
2 My term would be harassment. Okay. You can't
3 have a rooster anymore. I believe there's a
4 neighbor that has one of those little a
5 miniature hot house or plant thingies. Little
6 plastic thing.

7 Q Greenhouse?

8 A Little greenhouse, yeah. Little bitty thing I
9 think. But I think she occasionally raises a
10 few plants back there and sells them out of her
11 front yard. And I'm sure there are a few people
12 who are aware of that and come by. I'm not sure
13 they would be able to continue that without a
14 business license of some type. Maybe they have
15 one now. I don't know.

16 I don't know about yard sales. If they
17 could spare a policeman to go through the
18 neighborhood out there, whether they would have
19 a problem with someone having yard sales too
20 often or whatever.

21 The latest impact I think in my
22 neighborhood, what I call, on the city side of
23 South Curry -- the west side is county, the east
24 side is city -- they put in what I call a little
25 sidewalk to nowhere. To accomplish that, they

1 filled in part of a sinkhole that's up there on
2 the high end. And now when -- again, when we
3 have any sort of substantial rainfall, that
4 sinkhole will flood. It floods across South
5 Curry. We start seeing the cars north and south
6 taking turns edging across that section that's
7 right cross from Woodlyn Drive, my street. And
8 the sinkhole is just on the east side of that.
9 And so the traffic there -- and that is a major
10 connector with all the shopping and new
11 businesses going up there and what was Baxter,
12 now there's a new business going in the old Otis
13 building and people getting to Ivy Tech and the
14 shopping. I mean, it's like all the southwest
15 traffic coming in 45, they have a chance to
16 split and go north without coming on 2nd Street
17 all the way into the city. Anyhow, that floods
18 and then once it's impaired the traffic there,
19 it just comes right on down the street and helps
20 fill it in, in the west end there, which is also
21 the tailwater of Sinking Creek that catches
22 overflow and everything from Highland Village to
23 the north.

24 Right now if I -- if I'm unhappy with the
25 price or day of the week or service in any way

1 shape, or form on the trash pickup, I can go
2 shopping and find somebody else to give my money
3 to. I would lose that right if I was on the
4 city system. I'm sure I could think of another
5 objection or two, but like I said, I'm a kindly
6 old man with a faulty memory.

7 Q That's pretty good list. Pretty good memory
8 there. I'll give you that.

9 I want to go back through some of this. If
10 you think of anything else as we go back through
11 this, let me know. But I want to follow up on
12 some of the things you said.

13 A Okay.

14 Q Understaffed police department, on what
15 information are you drawing upon to conclude
16 that the police department is understaffed?

17 A That's been well publicized. I still take the
18 newspaper.

19 Q The City of Bloomington, 2021 or 2022, had a
20 consulting firm do an analysis of the police
21 staffing levels. Have you ever reviewed that?

22 A I'm not positive. If it got any sort of a broad
23 publishing, I probably caught up on it. Either
24 the Bloomingtonian or the Herald-Times.
25 Sometimes even the radio.

1 Q If I say the name the Novak Group, does that
2 ring a bell with you in terms of --

3 A That wouldn't have clicked. I wouldn't have
4 noticed that at the time. I'd would have been
5 looking for numbers not the names.

6 Q To your knowledge, sitting here today, have you
7 ever looked at the conclusions or read reports
8 about the conclusions of the Novak Group's study
9 of police department staffing?

10 A I have no idea. My latest information seemed
11 like that they were 20-some-odd folks, knocking
12 on two dozen, short of fully staffed.

13 Q You started talking about the dollar side. You
14 went through sort of reorganizing where the
15 money goes. You mentioned jails, bridges,
16 roads, the justice system, the schools, the
17 library. Probably a few other things.

18 What are you basing -- then you had some
19 numbers on that. Millions short or half million
20 dollar shortfall for the schools. What are you
21 basing that information?

22 A That goes way back some of the early published
23 materials. Well, there were two reports. There
24 was the one that -- well, there was what the
25 city put out and then there was a -- another

1 group did a follow-up study to challenge some of
2 those numbers or to review them and see what
3 they came up with.

4 Q If I say Baker Tilly, does that ring a bell?

5 A That sounds good.

6 Q Sounds good, in the context of you can
7 associate --

8 A The names are ringing a little bell, yeah.

9 Q And then Riti Financial, does that name ring a
10 bell?

11 A If that was subsequent, it was probably, again,
12 one of those situations where I would just jump
13 right to the numbers rather than who provided
14 them.

15 Q But for context, Riti Financial did the City of
16 Bloomington's fiscal plan --

17 A The original one?

18 Q -- for the annexation. And I understand Baker
19 Tilly did some analysis of that.

20 A Okay. I can go along with that.

21 Q Do you have any knowledge or information about
22 how the tax funds would be sort of reorganized
23 if the annexation occurs other than -- like this
24 Baker Tilly report or Riti Financial report?

25 A No. Well, my own -- taking those numbers and

1 working with them and saying -- well, for the
2 sake of round numbers, let's say my property
3 taxes were going to go up \$1,000.

4 Let's back up and take that 2 1/2-
5 3 million from the loss by the county; the 1/2
6 million for the fire district; 1/2 million for
7 the school; 125,000 for library, you start
8 looking at that. Again, as I recall, I think
9 the last thing I saw was the city's estimate was
10 that the first year, their revenues would
11 increase by about \$10 million. So I'm looking
12 at about 4 million of that, roughly, being
13 shifted from other units.

14 So that means that my property taxes go up
15 \$1,000. There's 40 percent -- \$400 then that is
16 going to have to be replaced by what's going to
17 the county and the school system and the
18 libraries and all that. So they're going to
19 have to turn right around with school having new
20 school referendum. County's going to have to
21 money for some of those items I mentioned
22 earlier. So even if my direct real estate tax
23 increase was 1,000, I'm probably looking at
24 \$1,400. And with the passage of time here and
25 the number of annexation -- not annexation but

1 assessment letters I've had from the county, I'm
2 looking at not \$1,000. I'm looking at \$1,400.
3 And then with the passage of time, very quickly,
4 I'm looking at \$2,000 a year of cash outflow as
5 a result of the annexation.

6 Q Is it your understanding that -- say the
7 annexation occurs in 2023 and the financial
8 reorganization that you're talking about starts
9 in 2024, but the annexation started in 2021 --
10 restarted in 2021 when the ordinance was
11 adopted. Is it your understanding that the
12 total assessed value upon which property taxes
13 are applied in 2024 in the county would be less
14 than the total assessed value that was assessed
15 to the county's real estate in 2021?

16 A No. I don't see -- if it happened, it would be
17 an annual blip. Something happened somewhere in
18 the market place and it shifted. But over a
19 period of time, no. The values are just going
20 to go up.

21 I would assume that just because it was
22 labeled a city property that that, in itself,
23 would be something that would allow people to
24 ask for a higher value on that property, which
25 means a higher assessment, which means higher

1 taxes.

2 Q You say that is an assumption that you're
3 making?

4 A Yeah.

5 Q Based on common sense?

6 A I'm just a common sense retired old man.

7 Q With faulty memory?

8 A To some extent.

9 Q Are you saying or is it your understanding that
10 the county, the schools, the townships would
11 have a budget deficit because of annexation?

12 A Absolutely.

13 Q So they would have less money than they had
14 three years before because of the annexation?

15 A Well, on a relative basis, yeah.

16 Q If the assessed values keep going up, the amount
17 of money available to the county goes up as
18 well; right?

19 A Yes, that's true. That would be some little
20 offset for the \$2 1/2, \$3 million that they
21 would lose immediately.

22 Q That's ultimately my question. Have you done
23 any analysis or have you seen any analysis that
24 quantifies the net impact to these other taxing
25 authorities, like, the county or the schools as

1 a result of the offsets from the increase in
2 assessed value?

3 A It all goes back to those original two studies.

4 Q So those two studies are your source, plus lived
5 experience and common sense?

6 A Yeah.

7 Q Have you ever looked at whether a homeowner
8 being annexed could have a rooster if they were
9 in the city limits?

10 A A what?

11 Q A rooster.

12 A No.

13 Q Your 4-H acquaintance?

14 A No. Like I said. Just my questions on just
15 looking in my neighborhood on --

16 Q Got you. So like the greenhouse example and
17 yard sale examples, those are things you wonder
18 about but haven't specifically looked into. Is
19 that fair?

20 A Yeah. Lower on my list, yes.

21 Q And the sinkhole in the sidewalk on Curry, is
22 that the city that built the sidewalk?

23 A Yeah, city property, yeah. It's that stretch
24 that -- well, northern.

25 All of Curry, the part that was county

1 controlled, was widened to four lanes years ago.
2 The part that the city controls is that little
3 bottle neck two lane portion in there.

4 Q That's where the sinkhole is?

5 A Yeah. The sinkhole is on the city side of South
6 Curry.

7 Q Do you remember the names of the widows you
8 spoke to who were concerned about potential tax
9 impact from the annexation?

10 A No, that was years ago when I was first knocking
11 some doors here in my little neighborhood and a
12 few other neighborhoods.

13 Q Do you remember the names of the brother and
14 sister you encountered?

15 A No, but I could take you to the house. I
16 remember that one.

17 Q Do they still live there?

18 A I don't know. It's right across the street from
19 that huge housing project that's going on, on
20 West 3rd. They were the corner house, north
21 side of the street. Right were all that housing
22 area is tapping into the sewer. So all the
23 street, that was a concern of their's. That
24 whole street was going to be restricted with all
25 that water and sewage was going to be provided

1 to that huge housing project right across the
2 street.

3 Q Have you ever done any analysis on the property
4 impacts to your property if the annexation were
5 to go forward?

6 A Nothing other than the letter I received
7 initially that the city sent out.

8 Q Are those notes? What are you holding in your
9 hand there?

10 A Yeah.

11 Q Can I see those?

12 A Yeah. Those are some of the things we have
13 shared here. I mentioned my faulty memory.
14 What I was looking at was, sometimes when I go
15 to lay my head down at night, a couple of things
16 would pop to mind that I had forgotten. So I
17 had to go back and edit.

18 Q When did you make these notes?

19 A Over the last week or so. I guess when I was
20 notified that I was going to be giving a
21 deposition.

22 Q And you've got handwriting on both sides;
23 correct?

24 A Yes.

25 Q Do you mind if we make these a part of the

1 deposition record by making them an exhibit?

2 A No.

3 Q I'm going to label it as Exhibit 40.

4 (Exhibit 40 marked.)

5 A Let me see if there's anything on there that I
6 would --

7 Q I think Bill would like to see it too.

8 A Just a couple of little things that popped and
9 one of them, in the car on the way here, I
10 stopped before I wrote it down even though my
11 handwriting doesn't show that. That just meant
12 back to my feeling that we weren't asked if we
13 were interested in being annexed. In
14 discussions with my son -- not in this area
15 but -- just pointing out that his experience
16 was, typically, annexation was something where
17 an area came to a city asking to be annexed for
18 whatever reason rather than being told that you
19 are going to be annexed and we're going to use a
20 system that only exists in two or three, four
21 states. That's not even a system that is
22 allowed in other areas of the country.

23 Q Where does your son live?

24 A Georgia.

25 Q Is he a lawyer by chance?

1 A Absolutely not.

2 Q Emphatically.

3 A He could be. He's that sharp. His love is IT.

4 Q Mr. Creek, you have Exhibit 41 in front of you?

5 (Exhibit 41 marked.)

6 A Yes, sir, I do.

7 Q Is that your house that's shown on the first
8 page?

9 A Yes. I have been told there are a few others
10 with that same design in the area but that one
11 looks like mine.

12 Q If you turn to -- let's see. In the bottom
13 right-hand corner, there's page numbers. If you
14 turn to the one that ends in 961. Do you see
15 the table there that says "Valuation Record," at
16 the top of the page?

17 A Yes.

18 Q And then valuation -- sorry, the assessment date
19 for April of 2022.

20 Do you see that row?

21 A Yes.

22 Q And the total valuation as of April 2022 is
23 \$161,800.

24 Do you see that?

25 A Yes.

1 Q Do you see the assessment for 2018, with the
2 total valuation of \$121,800?

3 A Yes.

4 Q Do you understand -- well, let me show you this
5 first. I'm going to also give you Exhibit 42.
6 Mr. Creek, do you have Exhibit 42 in front of
7 you?

8 (Exhibit 42 marked.)

9 A Yes.

10 Q Again, on the first page, is that a picture of
11 your house?

12 A Yes, sir, it is.

13 Q That property information table shows no
14 mortgage company. Is that accurate?

15 A Yes.

16 Q You have the homestead credit filed?

17 A Yes.

18 Q What is your understanding of how that impacts
19 your property taxes?

20 A It reduces it.

21 Q It says "Over 65 Circuit Breaker?" It says
22 "No." Do you see that?

23 A Over 65.

24 Q It's below the homestead credit on the right
25 side of the property information section.

1 A Homestead credited? Yes. Over 65 credit? No.

2 Q Are you over 65?

3 A Well beyond 65, yes.

4 Q Do you know what the over 65 circuit breaker is?

5 A I could guess but, no.

6 Q Don't need you to guess. That's fine. If you
7 look on the page --

8 A Should I apply for that?

9 Q I'm not your lawyer. You may call the county
10 and see.

11 If you look at page on Exhibit 42 that ends
12 955.

13 A Yes, sir.

14 Q There's a tax history at the bottom of that
15 page.

16 A Okay.

17 Q Do you see that?

18 A Yes, sir.

19 Q 2019 tax year, you had two installment of
20 \$378.22 a piece; right?

21 A Looks like it.

22 Q Does that sound right to you?

23 A Yes, sir.

24 Q 2023, so last year, you had two installments of
25 \$586.63 a piece.

1 Do you see that? You have to say "Yes."

2 A Yes, sir.

3 Q Do you understand that your taxes, your assessed
4 one year and then pay the taxes the next year?

5 A Right.

6 Q So assessed in '22. Pay in '23.

7 A Right.

8 Q Or assessed in '18 and pay in '19; right?

9 A Yes.

10 Q Do you recognize that the increase in property
11 taxes from 2019 to 2023 is about 55 percent?

12 A Yes. Go along with that.

13 Q And you have been able to pay your property
14 taxes every year?

15 A Yes.

16 Q Do you understand how the property tax caps work
17 in Indiana? The 1 percent residential cap on
18 your property tax liability?

19 A I see articles or something on it every once in
20 a while in the paper. That's about the limit of
21 my understanding.

22 Q If someone asked you -- I will ask you. Can you
23 explain, to your understanding, what the
24 property tax cap is and how it would apply to
25 your property?

1 A I don't know that it would apply to mine yet.
2 But it's something that puts some sort of a
3 limit on an increase or -- that's about it.
4 Anything else would be random.

5 Q If I said it was 1 percent -- capped at
6 1 percent of the assessed valued subject to some
7 potential exceptions, does that sound familiar
8 at all?

9 A Yeah, that sounds right.

10 Q So, for example, if your property were assessed
11 at \$161,800, if there was a 1 percent cap on
12 that, the most you could pay is \$1,618; right?

13 A At this time, yep. Looks right.

14 Q Do you know what an agreement in lieu of
15 annexation is? Have you ever heard of that?

16 A I would not be able to discuss that with anyone,
17 no.

18 (Exhibit 28 previously marked.)

19 Q If you look at Exhibit 28, it's one that was
20 already on the table. It's the "Amended and
21 Supplemented Answers of County Residents Against
22 Annexation to City of Bloomington's
23 Interrogatories." I think it's number --
24 Question Number 5, which is on page 5 of
25 Exhibit 28.

1 The question there is "Identify and list
2 all facts and documents supporting your
3 contention in the petition and that the
4 Ordinance Nos. 17-9 and 17-10 fail to include
5 equitable terms and conditions as required by
6 Indiana Code."

7 Do you see that?

8 A Yes, sir.

9 Q Turn the page to page 6. If you count in the
10 supplement answer, if you count down four
11 paragraphs, it says "Thomas McGhie, John Byers,
12 Deborah Reed, Don Creek, and Rhonda Grey are
13 anticipated to testify they were not offered an
14 in-lieu-of agreement despite the fact that other
15 property owners in Areas 1A and 1B were offered
16 such an agreement."

17 Do you see that?

18 A Yes.

19 Q Is there any additional information you can
20 provide about in-lieu agreements as it applies
21 to your property?

22 A No, sir.

23 Q If you would look at Exhibit 27, which is there
24 in front of you. You see the title "Answer of
25 County Residents Against Annexation to City of

1 Bloomington's First Requests for Admissions"?

2 (Exhibit 27 previously marked.)

3 A Yes, sir.

4 (Exhibit 43 marked.)

5 Q I'm going to give you Exhibit 43. And,
6 Mr. Creek, Exhibit 43 the title is "Answers of
7 Don Creek to City of Bloomington's First
8 Requests for Admissions."

9 Do you see that?

10 A Yes, sir.

11 Q And that's you; correct?

12 A Yes.

13 Q If you look on page 3 and 4 of Exhibit 43, you
14 see there are five requests for admissions, the
15 answer to which for all them is "See response of
16 County Residents Against Annexation served on or
17 about August 4, 2023."

18 A Yes.

19 Q Go back to Exhibit 27, pages 3 and 4. Do you
20 see there in Exhibit 27 the same five requests
21 for admissions that were in Exhibit 43?

22 A I'll take your word for it.

23 Q It's fine to take my word for it. You can also
24 confirm it with Exhibit 43 if you need to.

25 A Right.

1 Q Request Number 2, "Admit that Bloomington has
2 developed and adopted a written fiscal plan and
3 established a definite policy for each
4 annexation territory by resolution as set forth
5 in the Indiana Code," and the answer here in
6 response is "Deny."

7 Do you see that?

8 A Yes, sir.

9 Q Do you have any information to provide with
10 respect to whether Bloomington has developed and
11 adopted a written fiscal plan and established a
12 definite policy as required by the Indiana Code?

13 A No.

14 Q And turn to page 4, Request Number 3. It says
15 "Admit that the plan complies with the Indiana
16 Code section for each annexation territory."
17 And the answer is "Deny."

18 Do you see that?

19 A Was that four or which one was that?

20 Q Number 3 on page 4.

21 A "Admit that the plan complies with Indiana
22 Code."

23 Q Right. That one. And the answer is "Deny."

24 A Deny.

25 Q Do you have any information concerning whether

1 the city's fiscal plan complies with the Indiana
2 Code?

3 A No, sir.

4 Q I know we talked about names I gave you: Riti
5 Financial and Baker Tilly. Have you reviewed
6 the city's fiscal plan version 5.0 that was
7 adopted in 2021?

8 A I don't know.

9 Q Do you have any info -- this is a long question.

10 Do you have any information to suggest that
11 the fiscal plan does not represent a credible
12 commitment by the City of Bloomington to provide
13 noncapital services -- like sidewalks,
14 streetlights, police services -- to Areas 1A or
15 1B to in a manner equivalent in standard and
16 scope to those same services provided within the
17 corporate boundaries within one year of the
18 effective date of the annexation?

19 MR. BEGGS: Objection to form. Foundation.
20 You can answer.

21 A Please, like you said, it was lengthy. Make
22 sure the beginning and the end tie together.

23 Q Do you have any information to suggest that the
24 fiscal plan from the city does not represent a
25 credible commitment by the city to provide

1 noncapital services -- like sidewalks,
2 streetlights, police services -- in Areas 1A and
3 1B in the same manner equivalent to the standard
4 and scope of those services being provided
5 within the city boundaries within a year of
6 effective date of the annexation?

7 MR. BEGGS: Object to form. Foundation.

8 A My thoughts on that is -- would be along the
9 line of there were promises made at the last
10 annexation that still have not been met in areas
11 that were annexed at that time.

12 Q What annexation is that referring to?

13 A The last annexation of Bloomington taking in
14 territory from the county.

15 Q Back in 2004?

16 A I've heard it said, but I did not get all the
17 details on it.

18 Q So that's relaying something somebody else said
19 that you heard?

20 A Yes, yes.

21 Q Who said that?

22 A I have no idea.

23 Q When did you hear it?

24 A I don't know. That -- goodness, could that go
25 all the way back to the public notice that

1 happened out the --

2 Q Fairgrounds?

3 A -- fairgrounds way, way, back when.

4 Q Sometime between then and now, you've heard that
5 said?

6 A Yes.

7 Q But you can't remember --

8 A No.

9 Q Same question sort of with respect to capital
10 services, streets and roads. Do you have any
11 information to suggest that the city's fiscal
12 plan is not a credible commitment to providing
13 the same capital services in Areas 1A and 1B in
14 the same manner and scope that is provides
15 within the city limits within three of the
16 effective date of the annexation?

17 MR. BEGGS: Objection. Form. Foundation.

18 A I have no information on that.

19 Q Do you have any information on the population
20 density of persons per acre in Areas 1A or 1B?

21 A Again, may have overheard a conversation. May
22 have been a conversation that I was in the
23 vicinity of that was on that topic. But I'm --
24 just that it might have been a bone of
25 contention of whether that was met in some areas

1 or another. But I have -- that's the extent of
2 my knowledge.

3 Q So just to close that out. Have you done or
4 commissioned any studies of population density
5 on a persons per acre basis --

6 A Absolutely not.

7 Q Didn't think so. Do you have any information
8 with respect to the percentage of Areas 1A or 1B
9 are subdivided?

10 A No, sir, no direct knowledge. I certainly
11 wouldn't be able to bring it to the floor if I
12 did.

13 Q If you look back at Exhibit 28, which was the
14 interrogatory answers. If you go to page 12,
15 Question 13. The question says "Identify and
16 list all facts and documents supporting your
17 contention in the petition that the annexation
18 is not in the best interest of the owners of
19 land in the annexation territory." And it goes
20 on to identify witnesses and documents -- or
21 identify each witness.

22 Do you see that?

23 A Yes, sir.

24 Q If you turn the page to page 13, there's a
25 heading. Says "Supplemental Answer: See

1 Supplemental Answer Number 5. In addition if
2 called to testify, the following would be asked
3 to testify about the impact on them and upon
4 their businesses," and do you see where your
5 name is the second one listed?

6 A Yes.

7 Q You testified already about the materials that
8 were on your note in Exhibit 40 and whatever
9 else was within your knowledge base.

10 Is there anything else you would add at
11 that point to support any testimony that
12 annexation is not in the best interest of the
13 landowners or yourself personally?

14 A Well, I see one of the other folks that you will
15 be talking to that, actually, I had gotten his
16 signature on the remonstrations. He's in my
17 general neighborhood there. He owns several
18 rental properties.

19 Q Who's that?

20 MR. BEGGS: Someone is knocking at the
21 door.

22 Q Whose name are you looking at there?

23 A John Byers.

24 Q And he owns rental properties to your
25 understanding in one of the annexation areas?

1 A At least in 1A. I didn't discuss other areas
2 with him. And I know I messed it up. I didn't
3 understand at the time that he had outright
4 ownership of some of those properties, but
5 others were in an LLC. And then when I got his
6 signature, I just had him sign, and I didn't get
7 the other type of required signature. So we
8 lost ...

9 Q So you've heard there were some remonstrance
10 signatures invalidated based on that issue?

11 A That those properties and he, as the owner of
12 them, controller of them, were not allowed in
13 the account -- the accounting of how many
14 signatures did you get. I blew that one.

15 Q Do you know how many properties that was? If it
16 was one or two or five?

17 A I would probably guess closer to five anyhow.

18 Q We can ask Mr. Byers. Anythings else that you
19 would say in the category of the annexation not
20 being in the best interest of the landowner
21 other than what you described so far?

22 A Well, just looking back at Bloomington and the
23 changes that have happened over the last decade
24 or so, just -- you asked about city parks. I
25 would be concerned that the city limits could

1 reach out close to Karst Farm Park and that
2 would be a handy place to dump some homeless
3 folks and get them out of the middle of town.

4 Q Have you heard a plan to do that? Or that's
5 just a concern?

6 A That's just me looking at Bloomington and the
7 changes over the period of time. And looking
8 more at the number of apartment buildings and
9 that expanding out into the county and changing
10 the nature out there. Changing the nature of
11 the neighborhoods or just seeing neighborhoods
12 disappear, or a home being turned into an
13 apartment building.

14 Like I said, I mentioned the monthly trip
15 into Bloomington, that's -- typically that would
16 revolve around my wife and I just being tourists
17 and looking at the changes of the apartment
18 buildings going up and some with some class and
19 some really just ugly, in our opinion.

20 Q Anything else you would identify as -- testimony
21 you would offer to say that the annexation is
22 not in the best interest of the landowners
23 beyond all of the things you mentioned so far?

24 A I ran you down the list. I'm sure as soon as I
25 walk out of here, I will think of something

1 else.

2 Q Well, you will get a chance to read your
3 transcript. If you think of something else, you
4 will have a chance to add it to the transcript.

5 Sitting here right now, is there anything
6 else you can think of?

7 A No, no.

8 MR. MCNEIL: Mr. Creek, those are all the
9 questions I have for you. Thank you for your
10 time.

11 MR. BEGGS: No questions. Thank you very
12 much.

13 (Time noted: 1:34 p.m.)

14 AND FURTHER THE DEPONENT SAITH NOT.

15

16

17

18 DON CREEK

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25

1 STATE OF INDIANA)
) SS:
2 COUNTY OF MONROE)

3 I, Colleen Brady, a Notary Public in and for
4 the County of Monroe, State of Indiana at large, do
5 hereby certify that DON CREEK, the deponent herein,
6 was by me first duly sworn to tell the truth, the
7 whole truth, and nothing but the truth in the
8 aforementioned matter;

9 That the foregoing deposition was taken on
10 behalf of the Respondents, at the offices of
11 Bloomington City Hall, 401 North Morton Street,
12 Room 225, Bloomington, Monroe County, Indiana, on
13 the 27th day of February 2024, commencing at the
14 hour of 12:38 p.m., pursuant to the Indiana Rules
15 of Trial Procedure;

16 That said deposition was taken down
17 stenographically and transcribed under my
18 direction, and that the typewritten transcript is a
19 true record of the testimony given by the said
20 deponent; and thereafter presented to said deponent
21 for his signature;

22 That the parties were represented by their
23 counsel as aforementioned.

24 I do further certify that I am a disinterested
25 person in this cause of action; that I am not a

1 relative or attorney of any party, or otherwise
2 interested in the event of this action, and am not
3 in the employ of the attorneys for any party.

4 IN WITNESS WHEREOF, I have hereunto set my
5 hand and affixed my notarial seal on this 15th
6 day of March 2024.

7
8 *Colleen Brady*
9

Colleen Brady

10
11
12 Seal, Notary Public
State of Indiana

My Commission Expires:
March 8, 2029

13
14 Colleen Brady
Commission No. NP0732235

County of Residence:
Monroe

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Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

March 15, 2024

To: Mr. Beggs

Case Name: County Residents Against Annexation Et Al v. The Common
Council of the City Of Bloomington Et Al

Veritext Reference Number: 6465804

Witness: Don Creek Deposition Date: 2/27/2024

Dear Sir/Madam:

The deposition transcript taken in the above-referenced
matter, with the reading and signing having not been
expressly waived, has been completed and is available
for review and signature. Please call our office to
make arrangements for a convenient location to
accomplish this or if you prefer a certified transcript
can be purchased.

If the errata is not returned within thirty days of your
receipt of this letter, the reading and signing will be
deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6465804

CASE NAME: County Residents Against Annexation Et Al v. The
Common Council of the City Of Bloomington Et Al

DATE OF DEPOSITION: 2/27/2024

WITNESS' NAME: Don Creek

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Don Creek

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 6465804

CASE NAME: County Residents Against Annexation Et Al v. The
Common Council of the City Of Bloomington Et Al

DATE OF DEPOSITION: 2/27/2024

WITNESS' NAME: Don Creek

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have listed my changes on the attached
Errata Sheet, listing page and line numbers as
well as the reason(s) for the change(s).

I request that these changes be entered
as part of the record of my testimony.

I have executed the Errata Sheet, as well
as this Certificate, and request and authorize
that both be appended to the transcript of my
testimony and be incorporated therein.

Date Don Creek

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections
in the appended Errata Sheet;
- They signed the foregoing Sworn
Statement; and
- Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

ERRATA SHEET

VERITEXT LEGAL SOLUTIONS MIDWEST

ASSIGNMENT NO: 2/27/2024

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_____ Don Creek

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20_____ .

Notary Public

Commission Expiration Date

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Indiana Rules of Trial Procedure
Depositions Upon Oral Examination

Rule 30

(e) Submission to witness--Changes--Signing.

(1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for reading and signing and shall be read to or by him, unless such reading and signing have been waived by the witness and by each party. "Submitted to the witness" as used in this subsection shall mean (a) mailing of written notification by registered or certified mail to the witness and each attorney attending the deposition that the deposition can be read and examined in the office of the officer before whom the deposition was taken, or (b), mailing the original deposition, by registered or certified mail, to the witness at an address designated by the witness or his attorney, if requested to do so by the witness, his attorney, or the party taking the deposition.

(2) If the witness desires to change any answer in the deposition submitted to him, each change, with a statement of the reason therefor, shall be made

by the witness on a separate form provided by the officer, shall be signed by the witness and affixed to the original deposition by the officer. A copy of such changes shall be furnished by the officer to each party.

(3) If the reading and signing have not been waived by the witness and by each party the deposition shall be signed by the witness and returned by him to the officer within thirty (30) days after it is submitted to the witness. If the deposition has been returned to the officer and has not been signed by the witness, the officer shall execute a certificate of that fact, attach it to the original deposition and deliver it to the party taking it. In such event, the deposition may be used by any party with the same force and effect as though it had been signed by the witness.

(4) In the event the deposition is not returned to the officer within thirty (30) days after it has been submitted to the witness, the reporter shall execute a certificate of that fact and cause the certificate to be delivered to the party taking it. In such event, any party may use a copy of the

deposition with the same force and effect as though
the original had been signed by the witness.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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