

STATE OF INDIANA ) IN THE MONROE CIRCUIT COURT  
 )  
COUNTY OF MONROE ) CAUSE NO. 53C06-2203-PL-000509

COUNTY RESIDENTS AGAINST ANNEXATION, INC.,  
an Indiana not for profit corporation, *et al.*

Remonstrators/Appellants/Petitioners,

v.

THE COMMON COUNCIL of the City of Bloomington,  
Monroe County, Indiana, *et al.*  
Respondents.

**BLOOMINGTON’S RESPONSE TO PETITIONERS’  
FIRST SET OF INTERROGATORIES**

The City of Bloomington and the Common Council of the City of Bloomington, Indiana (collectively “the City” or “Bloomington”), by counsel, respond to the petitioners’ Interrogatories as follows:

**INTERROGATORIES**

1. State the name of each and every person who has participated in providing answers to the Interrogatories on behalf of the City of Bloomington or the Common Council of the City of Bloomington.

**ANSWER:** These Interrogatories were answered with the assistance of the City’s counsel. The City’s legal department, including Corporation Counsel Beth Cate and City Attorney Mike Rouker, also assisted in responding to these interrogatories.

2. Identify all witnesses the City of Bloomington will call to testify or provide an affidavit at any hearing or trial in this cause.

**ANSWER:** Bloomington objects to this interrogatory to the extent it is premature. The decision as to which witnesses will be called to testify during any hearing or trial has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such witnesses will come from the witness lists or discovery responses of any party to this matter (including as identified in documents produced by the parties) and refers petitioners to its list of trial witness, as due under any amended case management order. Bloomington further states, without waiving any work product or attorney-client privileges, that it reasonably anticipates

calling at least Mayor John Hamilton, Philippa Guthrie, Michael Diekhoff, Jason Moore, Meghan Blair, Max Stier, Vic Kelson, Adam Wason, Eric Reedy, Catherine Smith, and one or more expert witnesses. Where applicable, Bloomington may also call successors to Bloomington officials or employees. Bloomington reserves the right to call other witnesses identified on any party’s witness list and reserves the right not to call any of the forgoing witnesses.

3. Did the City of Bloomington conduct a public outreach program<sup>1</sup> in relation to the annexation of the Annexation Territory which complied with Indiana Code § 36-4-3-1.7? If the answer is in the affirmative, please provide the following information regarding each public information meetings:

- a. The number of public information meetings the City of Bloomington conducted regarding the proposed annexation of the Annexation Territory;
- b. Date, time, and location of each public information meeting regarding the proposed annexation of the Annexation Territory the City of Bloomington conducted;
- c. The date the City of Bloomington published notice of each public information meeting; and
- d. How the City of Bloomington published notice of each public information meeting

**ANSWER:** Yes. The information requested by this interrogatory’s subparts may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators’ document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the notices and related information produced by Bloomington. Public outreach meetings were conducted on the following:

<b>DATES</b>	<b>TIME</b>	<b>LOCATION</b>
March 20, 2017 (Mon.)	6:00 p.m. – 8:00 p.m.	City Hall, 401 North Morton St., Bloomington, IN 47404
March 21, 2017 (Tues.)	6:00 p.m. – 8:00 p.m.	
March 22, 2017 (Wed.)	11:00 a.m. – 1:00 p.m.	
March 23, 2017 (Thurs.)	11:00 a.m. – 1:00 p.m.	
March 24, 2017 (Fri.)	6:00 p.m. – 8:00 p.m.	
March 25, 2017 (Sat.)	11:00 a.m. – 1:00 p.m.	

Notice of the outreach meetings was published in the Bloomington Herald-Times on February 17, 2017, and was also published online.

4. Did the City of Bloomington send the notice required by Indiana Code § 36-4-3-1.7(c) via certified mail to each owner of land within the Annexation Territory not later than thirty (30) days before the date of the first public information meeting conducted by the City of Bloomington? If the answer is in the affirmative, please provide the following information:

- a. The date on which said notices were sent;

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<sup>1</sup> For the purposes of this request, “public outreach program” has the meaning conveyed and intended by Indiana Code § 36-4-3-1.7.

- b. The identity of the party or individual who sent said notices;
- c. How the City of Bloomington determined which owners of land to send said notices to; and
- d. The identity of any documents the City of Bloomington relied upon to determine which owners of land to send notices to

**ANSWER:** Yes. The information requested by this interrogatory's subparts may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the notices, the mailing lists, and related information produced by Bloomington. Notices were sent to everyone required by Indiana Code § 36-4-3-1.7(c) on February 16, 2017. Notice lists were created from the Monroe County property owner records and verified through the City's GIS department, Reedy Financial Group, and the City's legal department. The City utilized the Jackson Group (of RR Donnelley) for printing and certified mailing of notice packets through coordinating with the City's legal counsel.

5. Did the City of Bloomington comply with Indiana Code § 36-4-3-2.1 in relation to the annexation of the Annexation Territory? If the answer is in the affirmative, please provide the following:

- a. The date the public hearing was held concerning the proposed annexation of the Annexation Territory;
- b. The date the notice of said public hearing was published;
- c. Method of publication for the notice of public hearing; and
- d. Whether the notice of public hearing satisfied the requirements of Indiana Code § 5-3-1-0.2 *et. seq.*

**ANSWER:** Yes. The information requested by this interrogatory's subparts may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the notices and related information produced by Bloomington. Public hearings were held before the Common Council beginning on August 4, 2021, and then extended to allow for additional public hearing on August 11, 2021. Notice of the public hearings was published in the Bloomington Herald-Times on June 5, 2021, and was also published online. The City also notes that public hearings before the Common Council were originally scheduled to be held on May 31, 2017, with notices of public hearings published in the Bloomington Herald-Times on March 30, 2017, and also published online, before the annexation process was illegally stopped by the Indiana General Assembly. *See Holcomb v. City of Bloomington*, 158 N.E.3d 1250 (Ind. 2020).

6. Did the City of Bloomington send notice of any public hearing held regarding annexation of the Annexation Territory via certified mail to each owner of real property in the Annexation Territory as shown on the county auditor's tax list at least 60 days before the public hearing regarding the proposed annexation of the Annexation Territory? If the answer is in the affirmative, please provide the following information:

- a. The date on which said notices were sent;

- b. The identity of the party or individual who sent said notices;
- c. Identify the auditor's tax list the City of Bloomington relied upon;
- d. How the City of Bloomington determined which owners of land to send said notices to; and
- e. The identity of any documents the City of Bloomington relied upon to determine which owners of land to send notices to

**ANSWER:** Yes. The information requested by this interrogatory's subparts may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the notices, the mailing lists, and related information produced by Bloomington. Notices were sent to everyone required by Indiana Code § 36-4-3-2.2 on June 1, 2021. Notice lists were created from the Monroe County property owner records and verified through the City's GIS department, Reedy Financial Group, and the City's legal department. The City also notes that notices of public hearings were mailed for public hearings in 2017 on March 30, 2017, before the annexation process was illegally stopped by the Indiana General Assembly. *See Holcomb v. City of Bloomington*, 158 N.E.3d 1250 (Ind. 2020). The City utilized the Jackson Group (of RR Donnelley) for printing and certified mailing of notice packets through coordinating with the City's legal counsel.

7. Were the Ordinances Nos. 17-09 and 17-10 adopted not earlier than thirty (30) and not later than sixty (60) after the public hearing was held?

**ANSWER:** Yes.

8. Did the City of Bloomington adopt a fiscal plan in relation to the proposed annexation of the Annexation Territory in compliance with Indiana Code § 36-4-3-13(d)? If the answer is in the affirmative, please provide the following information:
- a. The date on which said fiscal plan was originally adopted;
  - b. The sources of information used to prepare said fiscal plan;
  - c. Whether said fiscal plan was amended, updated or supplemented since the date it was first adopted;
  - d. The source of information used to prepare any such amendment, update, or supplementation of said fiscal plan;
  - e. The date on which said fiscal plan was amended, updated, or supplemented;
  - f. The reason said fiscal plan was amended, updated, or supplemented; and
  - g. Whether there were earlier drafts of fiscal plans which were not adopted by the City of Bloomington in relation to the proposed annexation of the Annexation Territory.

**ANSWER:** Bloomington objects to subpart (f) of this interrogatory because as written, it invades the legislative privilege. Annexation is a legislative function that is not to be micromanaged by the courts. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 214 (Ind. 2002). Courts and parties cannot inquire into the motives or reasons of a local legislative body when it acts in a legislative capacity. *Town of Schererville v. Vavrus*, 389 N.E.2d 346, 351 (Ind. Ct. App. 1979). Subject to those objections, Bloomington answers as follows: Yes; the fiscal plans were

generally updated as more, updated, or new information became available. With respect to subparts (a) through (e) and (g), the requested information may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including all versions of the fiscal plan and information in the files of Reedy Financial Group, P.C. produced by Bloomington.

9. Did the Common Council of the City of Bloomington, in relation to the proposed annexation of the Annexation Territory, establish a definite policy by resolution that meets the requirements of Indiana Code § 36-4-3-13? If the answer is in the affirmative, please provide the following information:

- a. The date on which said resolution was adopted;
- b. The author of said resolution;
- c. Whether said resolution has been amended, updated, or supplemented since its adoption;
- d. Whether any policy adopted by the Common Council of the City of Bloomington has been amended, updated, or supplemented since its adoption;
- e. The reason for any amendment, update or supplementation of said policy;
- f. The reason for any amendment, update or supplementation of said resolution; and
- g. The sources of information used to prepare any such resolution adopted by the Common Council of the City of Bloomington

**ANSWER:** Bloomington objects to subparts (e) and (f) of this interrogatory because as written, they invade the legislative privilege. Annexation is a legislative function that is not to be micromanaged by the courts. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 214 (Ind. 2002). Courts and parties cannot inquire into the motives or reasons of a local legislative body when it acts in a legislative capacity. *Town of Schererville v. Vavrus*, 389 N.E.2d 346, 351 (Ind. Ct. App. 1979). Subject to those objections, Bloomington answers as follows: Yes; the fiscal plans were generally updated as more, updated, or new information became available. With respect to subparts (a) through (d) and (g), the requested information may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the Annexation Ordinances and the fiscal plan.

10. Did the City of Bloomington publish Ordinance Nos. 17-09 and 17-10? If yes, please provide the following information:

- a. Date such notice was published;
- b. Method of publication for the notice; and
- c. Whether such notice satisfied the requirements of Indiana Code § 5-3-1-0.2 *et. seq.*

**ANSWER:** Yes. With respect to the information sought by this interrogatory's subparts, the requested information may be derived or ascertained from the records Bloomington is

producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the information with respect to the publication of the ordinances produced by Bloomington. Notices of adoption of the ordinances were published in the Bloomington Herald-Times on October 8, 2021, and were also published online.

11. Does the City of Bloomington contend Ordinance Nos. 17-09 and 17-10 include terms and conditions fairly calculated to make the proposed annexation of the Annexation Territory equitable to the property owners and residents of the City of Bloomington and the Annexation Territory? If the answer is in the affirmative, please provide the following information:

- a. Identify each term or condition which the City of Bloomington contends is fairly calculated to make the proposed annexation of the Annexation Territory equitable;
- b. The basis for the City's contention that any such term or condition is fairly calculated to make the proposed annexation of the Annexation Territory equitable;
- c. Name, title, address, and telephone number of each witness the City of Bloomington will call to testify at trial to support such contention; and
- d. The identification and location of each document the City of Bloomington will introduce at trial to support such contention.

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This interrogatory exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to that objection, Bloomington states that yes, it complied with Section 8 of the Annexation Statute. Equitable terms and conditions sought by subparts (a) and (b) may be found in the annexation ordinances and fiscal plans, including, for example, delayed effective dates, impoundment funds, and the provision of City services. To the extent this issue is relevant in a remonstrance trial, the witnesses who may testify concerning these matters include Mayor Hamilton, Philippa Guthrie, City Department Heads, Eric Reedy, and one or more expert witnesses. The documents include at least the ordinances and the fiscal plans, themselves.

12. Explain the methodology for determining the boundaries of proposed annexation areas 1A and 1B and provide the following information:

- a. Did the City of Bloomington ever consider proposal of the boundaries of proposed annexation areas 1A and 1B which differ from their current boundaries;
- b. The reason the City of Bloomington created the boundaries of the proposed annexation areas 1A and 1B;
- c. Whether any geographic areas surrounding the boundaries of the proposed annexation areas 1A and 1B were deliberately excluded from the proposed annexation areas 1A and 1B; and
- d. The reason any such geographic areas were excluded from the proposed annexation areas 1A and 1B

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This interrogatory exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Bloomington further objects to this interrogatory because as written, it invades the legislative privilege. Annexation is a legislative function that is not to be micromanaged by the courts. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 214 (Ind. 2002). Courts and parties cannot inquire into the motives or reasons of a local legislative body when it acts in a legislative capacity. *Town of Schererville v. Vavrus*, 389 N.E.2d 346, 351 (Ind. Ct. App. 1979). Subject to and without waiving these objections and answering only as to non-privileged information, Bloomington states that the boundaries were developed by Bloomington, which then had the legal descriptions prepared by a surveyor. Bloomington considered numerous factors, including but not limited to the need to right-size the City's boundaries, the fact that these areas were urbanized, the provision of City services, and the fact that a majority of the landowners in Areas 1A and 1B had signed agreements to be annexed in exchange for sewer service (an agreement which only Bloomington has performed).

13. Did the City of Bloomington send notice of the applicability of the remonstrance process to the Monroe County Circuit Court Clerk and to the owners of real property as shown on the county auditor's tax list whose real property is located in Annexation Territory on the same date it published the notice of adoption of the annexation ordinance? If the answer is in the affirmative, please provide the following information:

- a. The date on which said notice was sent;
- b. The name, address, and phone number of the person who sent said notice; and
- c. Identify the county auditor's tax listed relied upon by the City of Bloomington to send notice to the owners of land whose real property was located in the Annexation Territory

**ANSWER:** Yes. The information requested by this interrogatory's subparts may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the notices and the mailing lists. Notices were sent to everyone required by Indiana Code § 36-4-3-11.1 on October 8, 2021. Notice lists were created from the Monroe County property owner records and verified through the City's GIS department, Reedy Financial Group, and the City's legal department. The City utilized the Jackson Group (of RR Donnelley) for printing and certified mailing of notice packets through coordinating with the City's legal counsel.

14. Did the City of Bloomington provide at least one location in the office of the City of Bloomington where a person may sign a remonstrance petition opposing annexation of the Annexation Territory during regular business hours? If so, please provide the address of said location.

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This interrogatory exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to that objection, Bloomington answers, yes. Remonstrance petitions could be signed at a minimum at the following locations and times provided by the City:

Location	Dates	Time
Bloomington City Hall 401 N. Morton Street Bloomington, IN 47404	Weekdays (excluding holidays) October 7, 2021 to January 5, 2022	Regular Business Hours 8:00 a.m. – 5:00 p.m.
City of Bloomington Utilities Headquarters 600 E. Miller Drive Bloomington, IN 47401	Monday, October 18, 2021 to Friday, October 22, 2021	5:00 p.m. – 9:00 p.m.

15. In relation to the annexation of the Annexation Territory, did the City of Bloomington provide at least one additional location that was available for at least five (5) days, where a person could sign a remonstrance petition that was in a public building owned or leased by the City of Bloomington, that was located within the boundaries of the City of Bloomington, that was open on a weekday at a minimum from 5 pm to 9 pm, and was open on a weekend for at least four (4) hours during the period of 9 am to 5 pm? If so, please provide the address of said location and the dates and times said location was open.

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This interrogatory exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to that objection, Bloomington answers, yes. See response to interrogatory 14.

16. Was a person present at each location provided by the City of Bloomington to witness the signing of remonstrance petitions and who swore or affirmed before a notary public that the person witnessed each person sign the remonstrance petition in relation to the annexation of the Annexation Territory? If the answer is in the affirmative, please provide the following:

- a. The name, address, and phone number of each such person; and
- b. The dates, times, and locations at which each such person was present

**ANSWER:** Bloomington objects to this interrogatory to the extent it misstates Indiana Code § 34-4-3-11.1(e). Subject to this objection, Bloomington answers, yes. One or more of the following was present at all times during normal operations of the Bloomington City Hall to witness signatures:



- Michael Rouker, City Attorney
- Larry Allen, Assistant City Attorney
- Heather Whitlow, Paralegal
- Andrew Krebbs, Communications Director
- Nikki Farrell, Administrative Assistant
- Nicole DeCriscio Bowe, Administrative Assistant
- Melissa Hirtzel, Customer Relations Representative

The following were present as noted at the City of Bloomington Utilities Headquarters:

Monday, October 18	Mary Catherine Carmichael & Andrew Krebbs
Tuesday, October 19	Marty Catherine Carmichael & Elizabeth Karon
Wednesday, October 20	Larry Allen
Thursday, October 21	Larry Allen
Friday, October 22	Mike Rouker

17. Did the Common Council of the City of Bloomington provide documentation to the Monroe County Auditor regarding any valid waiver of the right of remonstrance that exists on the property within the Annexation Territory within fifteen (15) days after the Common Council of the City of Bloomington received a copy of a remonstrance petition from the Monroe County Auditor? If the answer is in the affirmative, please provide the following:

- a. The dates on which documentation regarding any valid waiver of the right of remonstrate that exists on a property within the annexation territory was provided by the Common Council of the City of Bloomington to the Monroe County Auditor;
- b. The name, phone number, and address for each individual who was responsible for sending documentation to the Monroe County Auditor regarding any valid waiver of the right of remonstrate that exists on a property within the annexation territory;
- c. Identify the documentation the Common Council of the City of Bloomington provided to the Monroe County Auditor regarding any valid waiver of the right of remonstrate that exists on a property within the annexation territory;
- d. Identify each note, spreadsheet, computer file, etc. which may contain information regarding any documentation the Common Council of the City of Bloomington or the City of Bloomington has regarding any valid waiver of the right of remonstrance that exists on the property within the Annexation Territory;
- e. Whether the Common Council of the City of Bloomington sent documentation to the Monroe County Auditor regarding any valid waiver of the right of remonstrate that exists on a property within the annexation territory later than fifteen (15) days after it had received a copy of a remonstrance petition from the Monroe County Auditor.

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This interrogatory exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Bloomington further objects to subpart (d) because it is overly broad and creates an undue burden on Bloomington without regard for its proportion to any claim or defense asserted in the case. Each “note, spreadsheet, computer file, etc.” Bloomington has concerning any waiver goes well beyond what is relevant, necessary, or appropriate. The waivers, which have been produced, are unambiguous and speak for themselves. Subject to these objections, Bloomington answers, yes. The information requested by this interrogatory’s subparts (a) through (c) and (e) may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators’ document requests, including the waivers. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including the information the City sent to the Auditor.

18. Please provide the resident population density of proposed annexation Area 1A in the following years:

- a. 2017;
- b. 2018;
- c. 2019;
- d. 2020;
- e. 2021;
- f. 2022; and
- g. 2023

**ANSWER:** Bloomington does not regularly track population density for particular areas each year. However, Bloomington has calculated the residential population density of Area 1A using population data from the 2020 census. A spreadsheet showing the City’s calculations is included in the records Bloomington is producing in response to Remonstrators’ document requests. Remonstrators are referred to that spreadsheet.

19. Please provide the resident population density of proposed annexation Area 1B in the following years:

- a. 2017;
- b. 2018;
- c. 2019;
- d. 2020;
- e. 2021;
- f. 2022; and
- g. 2023

**ANSWER:** Bloomington does not regularly track population density for particular areas each year. However, Bloomington has calculated the residential population density of Area 1B

using population data from the 2020 census. A spreadsheet showing the City’s calculations is included in the records Bloomington is producing in response to Remonstrators’ document requests. Remonstrators are referred to that spreadsheet.

20. Please provide the number of firefighters the City of Bloomington employed during the following years:

- a. 2017;
- b. 2018;
- c. 2019;
- d. 2020;
- e. 2021;
- f. 2022; and
- g. 2023

**ANSWER:** The total number of firefighters authorized by the City Council each year was as follows:

<b>YEAR</b>	<b>FIREFIGHTERS</b>
2017	108
2018	108
2019	109
2020	109
2021	109
2022	110
2023	110

21. Please provide the number of sworn police officers the City of Bloomington employed during the following years:

- a. 2017;
- b. 2018;
- c. 2019;
- d. 2020;
- e. 2021;
- f. 2022; and
- g. 2023

**ANSWER:** The total number of police officers authorized by the City Council each year was as follows:

<b>YEAR</b>	<b>POLICE OFFICERS</b>
2017	100
2018	102
2019	103
2020	105
2021	100
2022	105
2023	105

22. Does the City of Bloomington contend annexation of the Annexation Territory will not have a significant financial impact on the residents or owners of the land in the Annexation Territory? If the answer is in the affirmative, please provide the following:
- a. The factual basis for this contention;
  - b. The name, title, address, and telephone number of each witness the City of Bloomington will call to testify at trial to support such contention; and
  - c. The identification and location of each document the City of Bloomington will introduce at trial to support such contention.

**ANSWER:** Bloomington objects to this interrogatory to the extent it reverses the burden of proof in the statute. The landowners must prove that the annexation will have a significant financial impact on the residents or owners of land, without consideration of the personal or business finances of a resident or owner of land. Ind. Code § 36-4-3-13(e)(2)(B). Bloomington further objects to this interrogatory to the extent it is premature. The decision as to how Bloomington will defeat the landowners' claim in this regard and to show the lack of significant financial impact has not yet been made. Bloomington further objects to the degree that the question of significant financial impact is a legal conclusion for the court to reach based on the evidence presented at the trial. Bloomington also objects to the extent the interrogatory calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington answers that information demonstrating the lack of significant financial impact is set forth in the fiscal plan. Other evidence will come from the landowners and residents of the annexation area. Bloomington reasonably anticipates that Eric Reedy will testify to this issue, in addition to one or more potential expert witnesses.

23. Does the City of Bloomington contend annexation of the Annexation Territory is in the best interest of the owners of land in the Annexation Territory? If the answer is in the affirmative, please provide the following:

- a. The factual basis for this contention;
- b. The name, title, address, and telephone number of each witness the City of Bloomington will call to testify at trial to support such contention; and
- c. The identification and location of each document the City of Bloomington will introduce at trial to support such contention.

**ANSWER:** Bloomington objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Bloomington also objects to this interrogatory to the extent it is premature. The decision as to how to establish at trial that the annexation is in the land owners' best interests has not yet been made. Bloomington also objects to the extent the interrogatory calls for a narrative response more appropriate for a deposition. Subject to these objections, Bloomington answers that, generally speaking, the annexation is in the best interests of the land owners because the City's ability to right-size its boundaries allows the City to continue providing services at an efficient level, which includes providing those services to those landowners in the urbanized annexation area. Bloomington is the economic center of the region and the ability for Bloomington to right-size its boundaries allows that to continue, which directly benefits the landowners in the urbanized annexation area. It is not in the land owner's best interest to be separated from Bloomington and its services. Further evidence of the landowners' best interests is set forth in the fiscal plan. Witnesses to address this issue include Mayor Hamilton, City department heads, Eric Reedy, and potentially one or more expert witnesses. The documents to support any of the forgoing testimony will come from the records that have been produced by the parties or nonparties and may include expert reports and related documents.

24. Did the City of Bloomington enter into any agreements or contracts in lieu of annexation pursuant to Indiana Code § 36-4-3-21? If the answer is in the affirmative, please provide the following:

- a. The date on which any such agreement or contract was entered into;
- b. The name, phone number, and address of any entity or person with whom the agreement or contract was entered;
- c. The terms of any such agreement or contract;
- d. The amount of payments the City of Bloomington receives under the terms of any such agreement or contract;
- e. The date of expiration of any such agreement or contract;
- f. The reason the City of Bloomington entered into any such agreement or contract;
- g. Whether any such agreement or contract has been renewed or extended; and
- h. The date of any renewals or extensions of any such agreement or contract

**ANSWER:** Bloomington objects to subpart (f) of this interrogatory because as written, it invades the legislative privilege. Annexation is a legislative function that is not to be micromanaged by the courts. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 214 (Ind. 2002). Courts and parties cannot inquire into the motives or reasons of a local legislative body when it acts in a legislative capacity. *Town of Schererville v. Vavrus*, 389 N.E.2d 346, 351 (Ind. Ct. App.

1979). Bloomington further objects to this interrogatory because it is not limited in scope or time. As written, it seeks information beyond Areas 1(A) and 1(B) for all time. Such a request is unreasonable, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to that objection, Bloomington answers as follows: Yes. The information requested by this interrogatory's subparts (a) through (e) and (g) through (h) may be derived or ascertained from the records Bloomington is producing in response to the Remonstrators' document requests. The burden of ascertaining the answer is substantially the same for the Remonstrators as it is for Bloomington. Remonstrators are therefore directed to those records, including any agreements or contracts in lieu of annexation produced by Bloomington.

25. Identify each and every expert witness you plan to call to give opinion evidence at the trial of this cause. With respect to each expert, give the following information:
- a. The name, address and telephone number of each expert witness;
  - b. The expert's occupation and relevant qualifications;
  - c. The subject matter on which each expert witness is expected to testify;
  - d. The substance of all facts, opinions and conclusions held by each expert and with respect to which the expert is expected to testify and the grounds for each such opinion;
  - e. The name, address and telephone number of each person with whom said expert has discussed his/her opinion or any other matter related to this case;
  - f. The evidentiary facts upon which those opinions and conclusions are based;
  - g. The date each expert was hired or retained; and
  - h. The identity of any documents related to this litigation which each such expert witness has reviewed or may sponsor during his testimony;

**ANSWER:** Bloomington objects to this interrogatory because it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) limits expert discovery by stating what the expert's report must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its identification of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

26. Have any reports, whether written or memorialized by any means, been prepared in connection with this litigation by any expert witness? If so, for each such report, please state the following
- a. The date on which it was prepared;
  - b. The name or title of the document;
  - c. Whether it is written or recorded by any means;
  - d. A general description of its content;
  - e. The identity of the person, firm or organization who or which prepared each such report;
  - f. A general description of the findings or conclusions set forth therein;
  - g. The identity of the person who presently has possession, custody or control of it; and
  - h. A copy of any and all reports prepared in connection with this litigation by any expert witness.

**ANSWER:** See the objection and answer to Interrogatory No. 26.

VERIFICATION

Beth Cate states that she is the Corporation Counsel of the City of Bloomington, and as such, she is authorized to sign this document; that she verifies the foregoing Answers to Petitioner's First Set of Interrogatories, for and on behalf of the City of Bloomington, Indiana and the Common Council for the City of Bloomington, Indiana (collectively, "Bloomington"); that some matters stated herein are not within her personal knowledge; that some of the facts stated herein have been assembled by employees and counsel for Bloomington, and she has been informed that the facts stated herein are true.

City of Bloomington, Indiana & Common Council of  
the City of Bloomington, Indiana

By: Beth Cate  
Title: CORPORATION COUNSEL  
Date: 12/15/23



Respectfully submitted and as to objections,

/s/ Andrew M. McNeil

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*Attorneys for Bloomington Respondents*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served upon the following via electronic mail this 15<sup>th</sup> day of December, 2023:

William J. Beggs	<a href="mailto:wjbeggs@lawbr.com">wjbeggs@lawbr.com</a>
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*/s/ Andrew M. McNeil*

\_\_\_\_\_  
Andrew M. McNeil

STATE OF INDIANA ) IN THE MONROE CIRCUIT COURT  
 )  
COUNTY OF MONROE ) CAUSE NO. 53C06-2203-PL-000509

COUNTY RESIDENTS AGAINST ANNEXATION, INC.,  
an Indiana not for profit corporation, *et al.*

Remonstrators/Appellants/Petitioners,

v.

THE COMMON COUNCIL of the City of Bloomington,  
Monroe County, Indiana, *et al.*  
Respondents.

**FIRST SUPPLEMENT TO BLOOMINGTON’S RESPONSE  
TO PETITIONERS’ FIRST SET OF INTERROGATORIES**

The City of Bloomington and the Common Council of the City of Bloomington, Indiana (collectively “the City” or “Bloomington”), by counsel, respectfully submit this First Supplement to their responses to the petitioners’ Interrogatories:

**INTERROGATORIES**

1. Identify all witnesses the City of Bloomington will call to testify or provide an affidavit at any hearing or trial in this cause.

**ANSWER:** Bloomington objects to this interrogatory to the extent it is premature. The decision as to which witnesses will be called to testify during any hearing or trial has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such witnesses will come from the witness lists or discovery responses of any party to this matter (including as identified in documents produced by the parties) and refers petitioners to its list of trial witness, as due under any amended case management order. Bloomington further states, without waiving any work product or attorney-client privileges, that it reasonably anticipates calling at least Mayor John Hamilton, Philippa Guthrie, Michael Diekhoff, Jason Moore, Meghan Blair, Max Stier, Vic Kelson, Adam Wason, Eric Reedy, Catherine Smith, and one or more expert witnesses. Where applicable, Bloomington may also call successors to Bloomington officials or employees. Bloomington reserves the right to call other witnesses identified on any party’s witness list and reserves the right not to call any of the forgoing witnesses. **Bloomington supplements its response to note that, while it is still premature to determine its final witness list, it may also call Mayor Kerry Thomson, Michael Rouker (as to I.C. 36-4-3-13(i) and public meetings held), and John Langley (Interim Utilities Director).**

**VERIFICATION**

Margie Rice states that she is the Corporation Counsel of the City of Bloomington, and as such, she is authorized to sign this document; that she verifies the foregoing supplemental Answers to Petitioner's First Set of Interrogatories, for and on behalf of the City of Bloomington, Indiana and the Common Council for the City of Bloomington, Indiana (collectively, "Bloomington"); that some matters stated herein are not within her personal knowledge; that some of the facts stated herein have been assembled by employees and counsel for Bloomington, and she has been informed that the facts stated herein are true.

City of Bloomington, Indiana & Common Council of  
the City of Bloomington, Indiana

By: Margie Rice  
Title: Corporation Counsel  
Date: 1-16-2024

Respectfully submitted as to objections,

/s/ Andrew M. McNeil  
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*Attorneys for Bloomington Respondents*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served upon the following persons electronically via the Indiana E-Filing system (IEFS) this 16<sup>th</sup> day of January, 2024:

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*/s/ Andrew M. McNeil* \_\_\_\_\_  
Andrew M. McNeil