



City of Miami Springs, Florida

The Miami Springs City Council held a **WORKSHOP MEETING** in the Council Chambers at City Hall on Tuesday, January 18, 2005, at 7:30 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Billy Bain
Vice Mayor Rob Youngs
Councilman Jim Caudle
Councilman Peter Pacheco

Absent:

Councilman Eric Elza

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police H. Randall Dilling
Police Captain Peter G. Baan
Finance Director William Alonso
City Planner Richard E. Ventura
City Clerk Magalí Valls

2. Invocation: Mayor Bain offered the invocation.

Salute to the Flag: The audience participated.

3. Discussion Regarding Annexation

City Manager James R. Borgmann stated that Council should have the Annexation Notebook that was assembled in November 2004, and that additional questions were raised since it was published. He said that responses were given to legitimate questions in order to make sure that Council has the absolute best information.

City Manager Borgmann reviewed the Background Information Regarding Annexation report (attached for the record). The first section includes a map of the current annexation application showing the different areas that are under consideration for annexation by the City of Miami Springs, Doral, Medley, and Virginia Gardens. He said that Area "B" is the only section that is not being contested by any other municipality, which is the area south of the Embassy Suites, east of Le Jeune Road. The City Manager explained that the map shows Sections 15, 14, 23, 26A, 26B, 35A, and 35B, and given the parameters under which the cities are working with the County, Miami Springs will not be assigned all of the land.

Vice Mayor Youngs stated that Doral became a city within the last two years, leaving enclaves of unincorporated areas of land in between Miami Springs, Doral, Medley, and Virginia Gardens. The County encourages neighboring cities to annex enclaves so that the County avoids having to provide services to these areas. He explained that this is a one-time opportunity for the City of Miami Springs to consider annexation of these enclaves, or else the other cities will acquire the land.

City Manager Borgmann read the County's Executive Summary of Annexation and Incorporation Report policy recommendations regarding enclaves.

The City Manager explained the formula that was used to determine the revenue that would be available to the City of Miami Springs from the tax dollars generated by the proposed annexation areas. He stated that the County wants annexation to be revenue neutral, and this is the reason they will charge a mitigation fee to the city that acquires the land. Mr. Borgmann said that the County can afford to lose the land, the revenue, and the expenses for the particular areas, but they cannot afford to lose the surplus.

Vice Mayor Youngs stated that the County is losing money on Area "B" at the current tax level of 2.447, and if Miami Springs were to annex that area, the tax rate would increase to the same level as the rest of the City. The County said that the gross revenue for one-half of Area "B" is \$468,000 per year, and if the City were to increase the millage rate to 5.0 it would double the amount of revenue and generate a tax surplus.

City Manager Borgmann said that annexation of land should be pursued as long as the result is revenue positive for the City of Miami Springs.

Vice Mayor Youngs stated that Section 23 is contested between Miami Springs and Virginia Gardens. He said that this is the land that lies north of N. W. 36th Street, and it is more valuable to Miami Springs than it is to Virginia Gardens. Section 15 is immediately west of the Palmetto, north of 58th Street and south of 74th Street with \$400 million of taxable value, which was identified as one of the prime annexation areas.

Vice Mayor Youngs pointed out that Section 35A has many office buildings so it has a high taxable value of \$172 million and a low police service requirement. Even at the 2.447 County millage rate, this section generates a significant surplus, and this area is sought by both Miami Springs and Virginia Gardens, but the compromise proposal was for Virginia Gardens to annex 35A, and Miami Springs to annex north of 25th Street.

Vice Mayor Youngs stated that the current proposal is for Miami Springs to annex Sections 15, 14 and 23, while Virginia Gardens would annex 26A, 26B, 35A and 35B. This would increase the size of Virginia Gardens by five times and increase the size of Miami Springs by 45%. He explained that if this proposal is rejected because the City of Doral and Medley want to share in the annexation of Section 15, a compromise proposal is for Miami Springs to annex Sections 14, 23, and 26A. The difference between the two proposals is \$135 million of taxable land that the City would give up and not receive the revenue.

City Manager Borgmann mentioned that part of Section 15 is already within the Medley municipal boundaries, and the analysis shows a conservative amount of \$300 million in taxable value in Section 15, versus \$266 million in 26A.

City Attorney Jan K. Seiden said that Virginia Gardens does not believe that there is a lot of room for growth in Section 23 for further expansion of the tax revenue base, and it begs the question of why they really want this section. The northern boundary of Section 23 extends west to 58th Street and there has been a lot of speculation about the Sections that Miami Springs gave up.

City Manager Borgmann referred to the chart showing the millage rate for Miami Springs since 1991 when it was 5.95 mills. He said that the rate has since grown to 8.144, which is the 11th highest of the 34 municipalities in Miami-Dade County. Because Miami Springs is predominantly a residential area, the tax burden falls directly upon the homeowners.

Vice Mayor Youngs said that if the City were to annex a significant portion of land, the annexation would benefit the business owners of the land that is annexed as well.

The City Manager informed Council that if the City assumed all of the available land in the City's application, that the total assessed value of all the property would be \$1,757,901,793 billion. He emphasized that the figures are very conservative on the revenue side, and the expenditures are estimated on the high side.

City Manager Borgmann continued his review of the net revenue surplus projections and the estimated new expenses created as a result of the Annexation of Areas "B" and "C".

Mayor Bain asked what responsibilities would the City have related to roadways and storm drainage.

Mr. Borgmann responded that the City currently maintains the storm drains in the roads and the material that is removed is disposed of in the appropriate manner.

City Attorney Seiden stated that because the County has made bonded improvements in the proposed annexation areas, there is a good chance that the County will continue to maintain that portion, which would be part of the Interlocal negotiations.

Vice Mayor Youngs said that the September 15, 2004 legal opinion from Bilzin Sumberg, question number 13 addresses the liability for cleanup of contaminants on private land within its boundaries, which states:

“There are no recognized theories of liability of case law, which would make the City directly liable for cleanup of contamination on private property within its municipal boundaries”.

Vice Mayor Youngs added that question number 14 asks if it is prudent legal opinion that the City does a Phase II Environmental Assessment on all relevant properties under consideration for annexation, and the legal response was:

“It is advisable to do appropriate environmental due diligence (either through Transaction-Screen Process Reports or other similar assessments) on all properties which the City intends to acquire fee simple ownership, or undertake direction, operation and control of such property. This answer should not be construed to also include road rights-of-way or similar types of property.”

City Attorney Seiden said that when purchasing a house or building, the buyer acquires ownership by a deed. The only process that the City would go through if it were to annex property would be that the legal description of the City that is included within the City Charter would be amended to include the additional area, and the municipal boundary would be expanded and the County boundary would be reduced.

(Council recessed for five-minutes at 9:10 p.m.)

City Manager Borgmann concluded his review of the annexation notebook. He said that the City Attorney or Staff would answer any of Council’s questions.

Mayor Bain suggested addressing the citizen’s written requests first.

The City Manager explained that one written response questioned the entire situation regarding the concept of contiguity and how the City of Miami Springs is linked physically to the land in question. He said that Area “B” is adjacent to a formerly annexed area, and there is no question of contiguity. The County has said that Miami Springs has contiguity with the area, and as long as the County is satisfied, then there is no argument. The City Manager felt that the contiguity issue would work against Virginia Gardens the most, and Miami Springs wishes to have some of the land that Virginia Gardens is holding onto, but the agreement with the County is to make sure that both cities get a fair share.

City Attorney Seiden stated that there was a Charter provision dealing with annexation, but there was no definition of contiguity until Ordinance No. 906-2003, was enacted on September 22, 2003, which added a definition to Code Section 150-002 that defines contiguous lands as:

“the reference to contiguous lands set forth in Charter Section 2.02 and elsewhere in the Charter and the Code of Ordinances shall mean lands in close proximity, near, neighboring, adjoining, though not necessarily in actual contact or specifically bordering or touching”.

Attorney Seiden added that what really matters is what the County says because they would not allow annexation by any city if the land is not contiguous. The County reviewed the City’s surveys and they believe that Miami Springs is contiguous in the far northwest corner of the City, as well as the Florida East Coast Railroad (FEC) property.

Attorney Seiden said that in an abundance of caution, the FEC property is included in the City’s application in case some issue comes up later. Some questions received from the citizens were related to including the FEC property, and even though the City does not govern the railroad, the reason why both Miami Springs and Virginia Gardens want to annex the land is that there is a possibility that in the future there may be some real estate development by the FEC in that area, and they would become taxable properties that would create revenue for the incorporating area. This is an issue that eventually the County Commission will address.

Attorney Seiden stated that the FEC attorneys have addressed the City Council objecting to annexation because they would like to deal with only the County and avoid problems. The reality is that nobody knows what the future holds for that property and the FEC is possibly subject to annexation. One of the arguments that FEC made from the beginning was that they felt that the County would designate them as an area of countywide significance. He said that an ordinance is pending that defines areas of countywide significance, and there is no mention of the FEC property. Attorney Seiden said that the City has the ability to exclude the FEC property, if at some point the County feels that the City needs to do so.

In response to the letter that was received from Owen Gay, Attorney Seiden reiterated that Miami Springs was determined to be contiguous to Area “C” by the surveyors and the County Staff that makes the decisions. He explained that if Miami Springs were not contiguous, the County would not be permitting the application to be part of the process.

Mayor Bain asked if the City would still be considered contiguous with or without the FEC Railroad property and Attorney Seiden replied that the County only said that Miami Springs is contiguous, and that there is contiguity at the northwest corner by 74th Street also.

Vice Mayor Youngs stated that if the County decided to require the City to take the FEC Railroad property out of the annexation application, there would still be a small contiguous area at the top of the property where the properties actually touch, and the County would still grant the City contiguity status for purposes of annexation.

City Manager Borgmann said that part of the FEC Railroad property lies in Miami Springs between the pavement and the canal along Ludlam Drive. He explained that access to the annexation area would be the same whether or not the railroad property is included because there will be no policing on the FEC Railroad property. He said that the access would be through N. W. 36th Street or N.W. 74th Street, and the bridge entering the property on Melrose Drive would be of no purpose.

The City Manager stated that another written request that was received included six questions, some of which have already been answered regarding Code Enforcement, contiguity, and responsibility for hazardous waste sites.

To answer the Mayor's question, Attorney Seiden clarified that even if the City annexed an area that is a "Super Fund" site, the Federal Environmental Protection Agency (EPA) would continue to maintain it, and the only change by annexing the land is that the City would be extending its boundaries.

Mr. Borgmann stated that one of the six questions was related to a \$1,200 per month expense to rent a building to house City offices for Police, Public Works, etc. He felt that this expense would be insignificant when considering the City would be receiving revenues of \$3.2 million. Mr. Borgmann clarified that there is no proposal to purchase or build a building, and the City could simply rent space.

City Manager Borgmann referred to Question No. 5 which states:

"Currently there is approximately \$100 million worth of capital improvements for Area "C". If that area is annexed, what will happen to those projects, and who will pay for them?"

Mr. Borgmann said that he understands that the projects would remain under the County jurisdiction if the bonds have already been issued, and that a new city would share in the responsibility, but it is unknown how it applies to annexation. He said that this issue would definitely be researched to find an answer.

City Attorney Seiden was of the opinion that if funding for a project was already committed either by a grant or bonds, it would not affect the project, it would continue, and the Interlocal Agreement would take this into account.

Mayor Bain asked if the City would assume the liability for completing the projects. He said that it is important to address this matter because there could be a cost involved.

City Manager Borgmann explained that each project would have to be examined to see how it was funded.

City Attorney Seiden did not feel that the City would be obligated to pick up funding for any project, and if the County asks the City to do so, this would be a negotiating point for the Interlocal Agreement.

Vice Mayor Youngs stated that Public Services Director Denise Yoezle was asked to look into the particular County funded projects. He said that if a project is funded by bond money, the County would keep the revenue for the project, and the City needs to make sure that it is not responsible for any project for which it does not receive funding. Also, the City must make sure that the County will not abandon an improvement project.

To answer the question about notification to the landowners and businesses in the areas to be annexed, City Attorney Seiden confirmed that as part of the public hearing process, the property owners were notified.

Attorney Seiden said that as part of the Interlocal Agreement, the stated position of the City has been that it would agree to maintain the current zoning and Comprehensive Plan designations in the annexation area for as long as they are viable, or they could negotiate a specific time period.

Vice Mayor Youngs inquired about the status of the annexation brochures.

City Manager Borgmann clarified that the purchase order for the stuffing and mailing of the brochures was issued today, and each envelope will include information in English and Spanish.

Councilman Caudle pointed out that the City has been involved in the annexation process for two years, and it would be better for Miami Springs to have control over the property instead of another city that cares nothing about Miami Springs.

Councilman Pacheco stated that the biggest issues that have been raised about annexation over the last three years are about polluted sites, quality of life, and increased density in the City. To date, he has not been able to determine how the quality of life or density in Miami Springs would be impacted. He felt that annexation is the perfect solution to the tax base because the property is in an area that will not impact the residents with pollution or traffic.

Councilman Pacheco said that the City is missing the commercial tax base and annexation would give the City the part of the tax base that is missing. He promised to carefully evaluate annexation before making a decision, and to see whether or not it makes economic sense.

Vice Mayor Youngs reiterated that his primary concern about annexation is that in order to preserve the current quality of life in Miami Springs there must be financial resources available. He said that the City was faced with financial threats over the past two years, and annexation offers the opportunity to increase revenue and provide available funds.

Vice Mayor Youngs said that if the City is forced to cut back on police officers or recreation programs, this would negatively impact the quality of life in the City, and annexation could provide an additional \$2 million per year after providing municipal services, in addition to lowering the tax rate.

Vice Mayor Youngs added that this is a one-time opportunity for the City to annex land, and the City will be subject to future financial impacts, such as the proposal to approve a Constitutional amendment to increase the homestead exemption. If approved, the City would have to make up for the lost revenue. He emphasized the annexation opportunity is a means of securing financial resources for the City forever.

City Manager Borgmann stated that he has served as Council member and City Manager, and the City's annual budgets have always been so lean that they did not include the funds for many improvements that should have been done over time. If the City had the additional revenue when the gymnasium began deteriorating ten years ago, it would have been fixed, and a myriad of programs that have taken many years could have been done at one time, which would improve the quality of life in Miami Springs.

Mr. Borgmann said that the City would be able to lower the millage rate to 7.0 mills, and still have an additional \$3 million every year, and this amount would continue to increase as the assessed values go up. He added that it would be possible to pass a bond issue that would generate \$12 million that could be used to build a first-class gymnasium, swimming pool and tennis courts. The City Hall building is 40 years old, and the gymnasium was completed in 1956, and the people had the foresight back then to deliver these facilities for the future of the residents, kids and senior citizens. The field house at Prince Field was never supposed to be a Senior Center, and it has been used as such for many years.

City Manager Borgmann said that the City has always tried to maintain the millage rate and expenses as low as possible, even to the detriment of the sewer system, which was not maintained and it ended up costing more for improvements and repairs. He emphasized that this is a one-time opportunity, and the City could benefit from surplus revenue and take control of the land, which is important for the needs of the community.

Councilman Pacheco thanked Vice Mayor Youngs and the annexation working group for providing the financial figures. He said that he looks at annexation as a way to ensure that the quality of life that the residents enjoy today, will be enjoyed ten, fifteen, thirty or fifty years from now.

Vice Mayor Youngs stated that as the cost of providing municipal services keeps going up, the tax rate continues to go up as well. When the millage rate gets close to the ten-mill cap there will be more pressure to increase density inside the City limits to convert existing residential properties to multi-family in order to increase the tax revenue, and the future elected officials might be more inclined to re-zone and allow higher density projects.

Vice Mayor Youngs reiterated that annexation would increase the tax revenue, and relieve the pressure to increase density in Miami Springs. If another city annexes the land, they could decide to convert the small warehouse and business use to a higher density use, which could gridlock two of the three major entrances into the City. The only way to protect the quality of life in Miami Springs from the surrounding areas is to annex the surrounding area, which would give the City control to make sure that the use is not of a nature that is detrimental to the residential areas of Miami Springs.

Mayor Bain thanked the City Manager and Staff for the presentation and for answering the questions from the audience. He said that he liked the straight-forward style, and that annexation should be based on the merit of the proposal, considering the sections of land that could possibly be annexed. The Mayor said that the facts must be evaluated and Council will wait to see where the lines are drawn.

4. Adjourn.

There being no further business to be discussed the meeting was adjourned at 10:03 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 2/14/2005

Transcription assistance provided by S. Hitaffer

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.