



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, AICP, Director, Community Development Director

**DATE:** February 7, 2008

**SUBJECT:** Resolution supporting State legislation providing geographical limits on annexation agreements

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### **Introduction**

The purpose of the attached resolution is to support an amendment to the Illinois Municipal Code which would provide geographical limits on annexation agreements for Champaign County municipalities. This resolution would also be forwarded to the Champaign County Board as the City's official position on the matter. Other Champaign County municipalities are now reviewing or have approved this resolution, including Champaign, Savoy, and St. Joseph.

### **Discussion**

State law does not provide distance limits on annexation agreements. Cities can approve annexation agreements for properties which are contiguous or 20 miles away. Until a recent Illinois Supreme Court case this did not have a significant impact on municipalities because those properties remained under County jurisdiction. Once the property became contiguous through expansion of corporate limits, the property would be annexed and be brought under a city's jurisdiction. This has now changed through Illinois case law.

In a September 2005 decision in the case *Village of Chatham v. Sangamon County* ("Chatham decision"), the Illinois Supreme Court essentially ruled that properties with an annexation agreement fall under a municipality's jurisdiction rather than the county, even though the property remains unincorporated. This jurisdiction clearly includes zoning, subdivision, and building codes, but the Court left open the possibility for other codes and permits such as nuisance codes, animal control, business licenses, and liquor licenses. The limits are unclear except that municipalities certainly would not receive property taxes from properties with annexation agreements. (See attached State's Attorney opinion from Joel Fletcher, Jan. 11, 2006)

The Chatham court decision should be of concern to municipalities for two primary reasons:

(1) Municipal services outside City limits. Municipalities with annexation agreements are now responsible for providing certain services to properties located (sometimes remotely) beyond their boundaries. On a practical basis, if a neighbor complains about a dilapidated shed or a stray animal on the property, are cities now responsible for providing code enforcement and animal control services? Staff for municipalities and Champaign County have been working cooperatively to answer such questions, but at a minimum, municipalities are now responsible for all development-related issues.

It is important to note that the Chatham decision affects both existing and future annexation agreements. Fortunately, the City of Urbana has only a limited number of annexation agreements for properties outside the City, and most of those are for properties which are either contiguous or nearby. (See attached map.) Urbana is not in the same position as other municipalities which may have annexation agreements for isolated properties a mile or more away from their boundaries.

(2) Possible misuse. The Chatham decision not only places additional responsibilities on municipalities but could potentially be misused. Development of a property turned down by an adjoining municipality can be approved by another municipality, even one located miles away, through an annexation agreement. (See attached *Rockford Register Star* article) Locally, the issue was raised when Illinois American Water signed an annexation agreement with the City of Champaign for property two miles from the City. This was controversial in that the company proposed to construct a water treatment plant on the property, neighboring property owners opposing it believed that the County's zoning jurisdiction was circumvented by the annexation agreement.

### **Proposed solution**

Ultimately it is hoped that the Illinois legislature will pass legislation to provide a comprehensive solution. Doing so does not appear likely in the foreseeable future. As an interim measure, discussion has taken place about geographically limiting annexation agreements in the county. The Champaign County Board in 2007 proposed a resolution calling for intergovernmental agreements as a solution. The Champaign County Regional Planning Commission and the Champaign County Farm Bureau hosted an informative forum on the issue in October 2007 which was attended by representatives from a number of jurisdictions, including Mayor Prussing.

In response to the County's draft resolution, legal staff from Champaign, Urbana, Savoy, and Rantoul have proposed a legislative solution and drafted an alternative resolution which is the item now under your consideration. Through state legislation, eight counties in the Chicago metropolitan area have already limited the impact of annexation agreements so that properties beyond 1.5 miles can remain under the County's jurisdiction. The larger Champaign County municipalities are seeking to amend the Illinois Municipal Code to include Champaign County among these counties. The Urbana City Council is requested to approve the attached Resolution supporting this legislation, the specific wording for which is provided Attachment 1 of the Resolution.

The Champaign City Council is currently reviewing the attached Resolution of support, and the Champaign County Board is expected to consider approval this month. The Villages of Savoy and St. Joseph have already approved the Resolution.

Meanwhile, the County and its constituent municipalities are operating under the State 's Attorney's 2006 guidelines on the Chatham decision. Even with the proposed interim legislative solution to limit the impacts, however, more cooperative efforts will be needed locally to agree on which city/county laws apply to annexation agreement properties.

## **Recommendation**

City staff recommends that the Committee of the Whole review the attached Resolution and forward it to the City Council for approval.

Prepared by:

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Robert Myers, AICP  
Planning Manager

cc:

Pius Weibel, Chair, Champaign County Board  
Trisha Crowley, Champaign Deputy City Attorney

Attachments:

Resolution Concerning the Geographical Limitations of Annexation Agreements  
State's Attorney opinion from Joel Fletcher, Jan. 11, 2006  
*Rockford Register Star* article  
Urbana Annexation Agreement Map

**Resolution No. 2008-02-003R**

**A RESOLUTION CONCERNING THE GEOGRAPHICAL LIMITATIONS OF  
ANNEXATION AGREEMENTS**

(Chatham Illinois Supreme Court Decision)

WHEREAS, development in the urban fringes of the cities, towns and villages of Champaign County is of significant public interest because it impacts the present and future residents in such fringe areas as well as municipalities adjacent to the fringe areas; and

WHEREAS, currently unincorporated land subject to an annexation agreement with a municipality is subject to the jurisdiction and control of the municipality which is a party to the annexation agreement without regard to the proximity of the municipality to such land; and

WHEREAS, the Urbana City Council finds that development on the fringe of the City of Urbana should be regulated in a manner that will positively contribute to the health, safety and welfare of the citizens of the City and wider community; and

WHEREAS the best way to address those issues begins with the adoption by the Illinois legislature of legislation which adds Champaign County to the list of developing Illinois counties with geographic restrictions on annexation agreements; and

WHEREAS, the County Board of Champaign County has requested input from the municipalities in the County concerning annexation agreements and intergovernmental agreements between

the County and such municipalities for the purpose of limiting annexation authority.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA as follows:

Section 1. That the City of Urbana supports legislation limiting the geographic jurisdiction of annexation agreements in the form attached hereto as Attachment 1 and shall make all reasonable efforts towards the passage of such legislation by the Illinois Legislature and shall cooperate with other Champaign County governmental bodies to that effect.

Section 2. That the City Clerk shall forward this Resolution to the Champaign County Board Chair Pius Weibel, and Environment and Land Use Chair Barbara Wysocki, 1776 East Washington Street, Urbana, IL 61801.

PASSED by the Urbana Corporate Authorities this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Laurel Lunt Prussing, Mayor

**ATTACHMENT 1**

Proposed 65 ILCS 5/11-15.1-2.1). [Proposed additions **in bold.**]

§ 11-15.1-2.1. Annexation agreement; municipal jurisdiction.

(a) Except as provided in subsections (b) and (c), property that is the subject of an annexation agreement adopted under this Division is subject to the ordinances, control, and jurisdiction of the annexing municipality in all respects the same as property that lies within the annexing municipality's corporate limits.

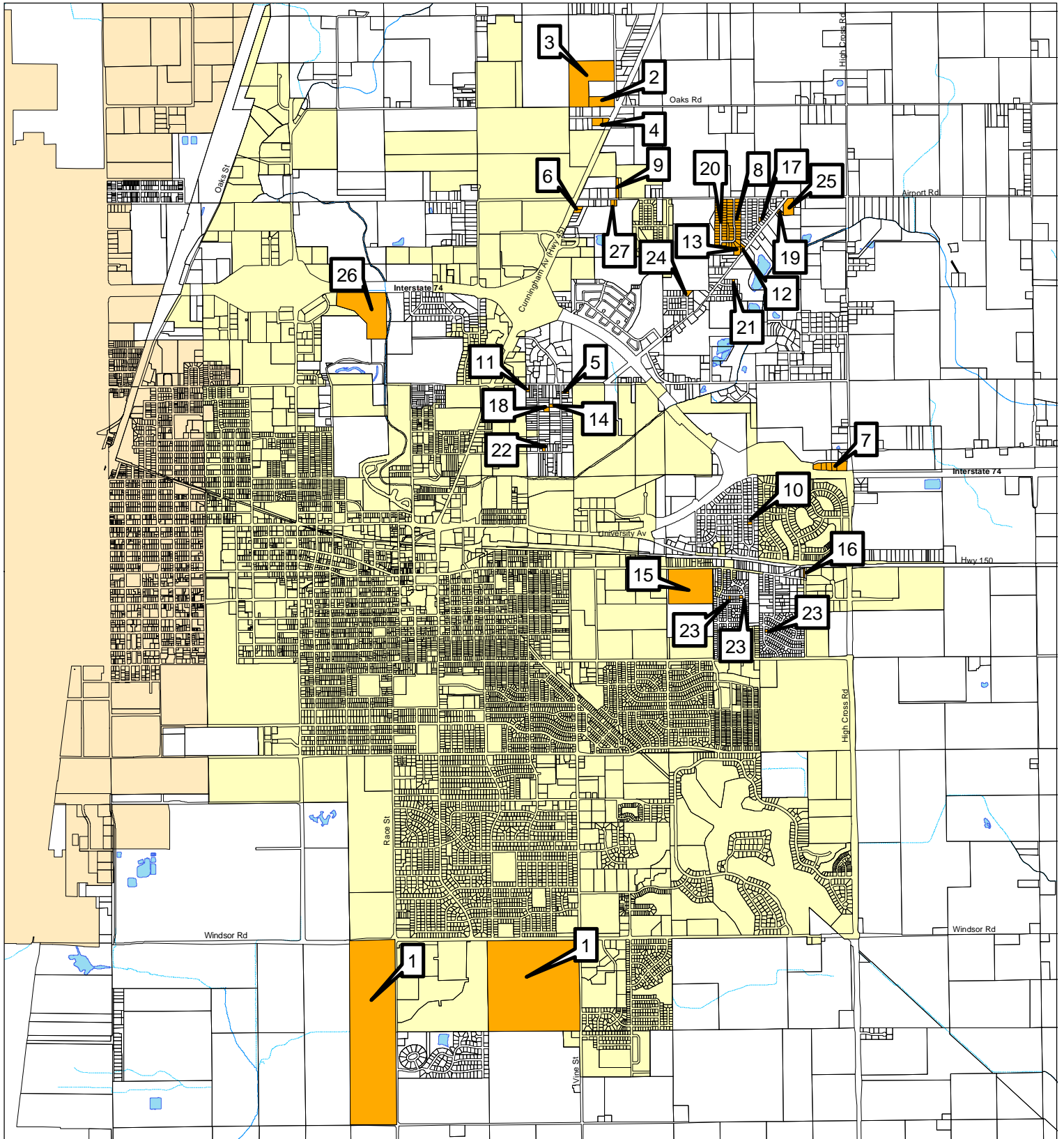
(b) This Section shall not apply in (i) a county with a population of more than 3,000,000, (ii) a county that borders a county with a population of more than 3,000,000 or (iii) a county with a population of more than 246,000 according to the 1990 federal census and bordered by the Mississippi River, unless the parties to the annexation agreement have, at the time the agreement is signed, ownership or control of all property that would make the property that is the subject of the agreement contiguous to the annexing municipality, in which case the property that is the subject of the annexation agreement is subject to the ordinances, control, and jurisdiction of the municipality in all respects the same as property owned by the municipality that lies within its corporate limits.

(c) In the case of property that is located in Boone, **Champaign,** DeKalb, Grundy, Kankakee, Kendall, LaSalle, Ogle, or Winnebago County, if the property that is the subject of an annexation agreement is located within 1.5 miles of the corporate boundaries of the municipality, that property is subject to the

ordinances, control, and jurisdiction of the annexing municipality. If the property is located more than 1.5 miles from the corporate boundaries of the annexing municipality, that property is subject to the ordinances, control, and jurisdiction of the annexing municipality unless the county board retains jurisdiction by the affirmative vote of two-thirds of its members. **Provided, however, application of this Section may be modified by intergovernmental agreement between the County and municipality.**

(d) If the county board retains jurisdiction under subsection (c) of this Section, the annexing municipality may file a request for jurisdiction with the county board on a case by case basis. If the county board agrees by the affirmative vote of a majority of its members, then the property covered by the annexation agreement shall be subject to the ordinances, control, and jurisdiction of the annexing municipality.

# City of Urbana Annexation Agreements Outside Corporate Limits







0 0.2 0.4 0.8 1.2 1.6 Miles



Properties outside Urbana corporate limits holding an annexation agreement between the years of 1985 and 2006 with the City of Urbana .

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## Legend

-  Parcel in Agreement
-  Parcel Outline
-  City of Urbana
-  City of Champaign



**Annexation Agreements with the City of Urbana Outside Corporate Limits 1985 - 2006**

Map ID	Ordinance #	Year	Case #	Project Name	Location	UCC Action Date	Petitioner's Name	Record # / Date	Annexation Effective
1	8687-38	1986	1986-A-08	Annexation Agreement regarding the Forestry Research Farm, Veterinary Medicine Research Facilities, Pomology Lab and Agriculture Experiment Station	Approximately 160 acres located between Windsor Road and Curtis Road, west of Race Street AND approximately 160 acres located at the southwest corner of Windsor and Philo Roads	Agreement Approved - 11/3/1986	Board of Trustees of the University of Illinois	(Agreement) 1998R18204 - 06/19/1998	(Agreement) ?
2	9091-63	1990	1990-A-09	Lee Annexation	TR1475E and west of U.S. Route 45	Agreement Approved - 11/19/1990	Harlan and Vivian Lee	(Agreement) 90R24508 - 12/11/1990	(Agreement) 11/29/1990
3	9091-79	1991	1991-A-02	Lee Annexation Agreement No. 2	TR1475 East and west of U.S. Route 45	Amendment Approved - 02/04/1991	Harlan and Vivian Lee	(Agreement) ?	(Agreement No. 2) ?
4	9192-88	1992	1992-A-02	Schluter Annexation Agreement	1 Triumph Drive	Agreement Approved - 04/06/1992	John C. Schluter	(Agreement) 92R11576 - 04/22/1992	(Agreement) 04/22/1992
5	9394-65	1994	1994-A-01	Paeth Annexation Agreement	1504 North Eastern Avenue	Agreement Approved - 02/21/1994	Virginia Paeth	(Agreement) ?	(Agreement) ?
6	9394-88	1994	1994-A-04	Keller Annexation	2704 North Cunningham Avenue	Agreement Approved - 04/18/1994	Edmund G. Keller and Vicki M. Keller	(Agreement) 94R13745 - 05/20/1994 (Agreement Rerecorded) 2004R19705 - 06/25/2004	(Agreement) 05/20/1994
7	9394-89	1994	1994-A-05	Wildberry Acres Subdivision Annexation	North of Interstate 74, South of Anthony Drive and west of High Cross Road	Agreement Approved - 04/18/1994	Edwin and Marilyn Buxton	(Agreement) 94R13744 - 05/20/1994	(Agreement) 05/20/1994
8	9495-8	1994	1994-A-07	Flessner Annexation Agreement	2401 East Airport Road	Agreement Approved - 07/18/1994	Don Flessner/ Flessner Development Corporation	(Agreement) ?	(Agreement) Recording Date
9	9495-9	1994	1994-A-08	Mathews Annexation	1714 East Airport Road	Agreement Approved 07/18/1994	James Mathews, Sr. and Clarice Mathews	(Agreement) 1994R20409 - 08/01/1994	(Agreement) 08/01/1994
10	9495-61	1994	1994-A-12	Wilson Annexation	403 North Dodson Drive East	Agreement Approve - 12/19/1994	James Arthur Wilson and Verniece J. Wilson	(Agreement) ?	(Agreement) Recording Date

ID	Ordinance #	Year	Case #	Project Name	Location	Annexation Type	Petitioner's Name	Record # / Date	Annexation Effective
11	9596-19	1995	1995-A-05	Norman Annexation	1101-B East Perkins Road	Agreement Approved - 08/21/1995	Dorothy Norman	(Agreement) 95R22116 - 10/16/1995	(Agreement) 10/16/1995
12	9596-122	1996	1996-A-02	Troy Flessner Annexation	2409 and 2411 Brownfield Road	Agreement Approved - 06/03/1996	Troy Flessner	(Agreement) 96R14402 - 06/12/1996	(Agreement) 06/12/1996
13	9596-123	1996	1996-A-03	Soliday Annexation	2407 Brownfield Road	Agreement Approved - 06/03/1996	Donald L. and Leatitia J. Soliday	(Agreement) 96R14401 - 06/12/1996	(Agreement) 06/12/1996
14	9697-56	1996	1996-A-06	Hull Annexation	1307 North Eastern Avenue	Agreement Approved - 11/18/1996	Brian J. and Marsha E. Hull	(Agreement) 96R30324 - 12/10/1996	(Agreement) 12/10/1996
15	9697-21	1997	1997-A-01	Smith Annexation	2205 East Main Street	Agreement Approved - 01/22/1997	Smith Farm Limited Partnership and Shari Wolfe, as Trustee of the Trust Estate of Ruth E. Smith	(Agreement) ?	(Agreement) 02/05/1997
16	9697-71	1997	1997-A-02	Kearns Annexation	2910 East Main Street	Agreement Approved - 01/06/1997	Frank R. and Tonya L. Kearns	(Agreement) 97R01072 - 01/14/1997	(Agreement) 01/14/1997
17	2002-07-073	2002	2002-A-07	Hess Annexation	2606 Arlene Drive	Agreement Approved - 08/05/2002	Jerry Hess, Jr.	(Agreement) 2004R22409 - 07/16/2004	(Agreement) 04/20/2004
18	2002-07-074	2002	2002-A-08	Price Annexation	1304 Carroll Avenue	Agreement Approved - 08/05/2002	Doug Price	(Agreement) 2004R22410 - 07/16/2004	(Agreement) 06/09/2004
19	2002-08-085	2004	2002-A-09	Richardson Annexation	2612 Brownfield Road	Agreement Approved - 08/05/2002	Neil and Margaret Richardson	(Agreement) 2004R22411 - 07/16/2004	(Agreement) 04/20/2004
20	2002-09-112	2002	2002-A-10	Flessner Development Company/ Somerset Subdivision No. 4	South side of Airport Road, west of Somerset Drive	Agreement Approved - 10/07/2002	Flessner Development Company	(Agreement) ?	(Agreement) ?
21	2004-06-075	2004	2004-A-05	Scaggs Annexation	2410 Sharlyn Drive	Agreement Approved - 07/06/2004	Robert and Shirley Scaggs	(Agreement) 2004R31100 - 09/28/2004	(Agreement) 09/28/2004
22	2004-06-076	2004	2004-A-06	Jayne Annexation	1204 East Kerr Avenue	Agreement Approved - 07/06/2004	Robert and Yvonne Jayne	(Agreement) 2004R31101 - 09/28/2004	(Agreement) 09/28/2004
23	2005-01-008	2005	2005-A-01	Homestead Corporation Annexation	2413 and 2425 East Elm Street and 504 MacArthur Drive	Agreement Approved - 01/18/2005	Homestead Corporation of Champaign-Urbana	(Agreement) 2005R08327 - 03/31/2005	(Agreement) 03/31/2005

ID	Ordinance #	Year	Case #	Project Name	Location	Annexation Type	Petitioner's Name	Record # / Date	Annexation Effective
24	2005-06-079	2005	2005-A-08	Kissaw Annexation	2110 Barnes Street	Agreement Approved - 06/20/2005	Scott Kissaw	(Agreement) 2005R18081 - 06/30/2005	(Agreement) 06/30/2005
25	2005-08-126	2005	2005-A-09	Weemer Annexation	2803 East Airport Road	Agreement Approved - 08/15/2005	Elmer Weemer	(Agreement) 2005R24493-8/17/2005 (Recorded Agreement) 2005R34416-11/10/2005	(Agreement) 11/10/2005
26	2006-01-009	2005	2005-A-13	Urbana Country Club Annexation	Northern Terminus of Country Club Drive	Agreement Approved - 06/05/2006	Urbana Country Club	(Agreement) 2006R26010 - 09/15/2006	(Agreement) 06/05/2006
27	2006-06-073	2006	2006-A-06	James Fitzgerald Annexation	1711 and 1715 East Airport Road	Agreement Approved - 06/19/2006	James and Priscilla Fitzgerald	(Agreement) 2006R17562 - 07/03/2006	(Agreement) 06/21/2006