



LORAIN COUNTY

Board Of Commissioners

Betty Blair David J. Moore Mary Jo Vasi

Administrator
James R. Cordes

Clerk Of Board
Roxann Blair

Ombudsman
Larry Allen

Solid Waste
Daniel Billman

Telecommunications
Nancy Bryant

Children & Family First
Juan Molina Crespo

Projects Manager
Karen Davis

Human Resources
Jeff Fogt

Golden Acres
William Glowacki

Job & Family Services
Mary Lou Golski

911
Robin Jones

E. M. A
Thomas Kelly

Office on Aging
Patricia Littleton

Charles Berry Bridge
Charles Mackin

Dog Warden
Tom Majoras

Purchasing
Yvonne Newton

Workforce Development Agency
William Ogle

Office Services
B. Howard Reynolds

Budget
John Rokasy

Information Technology
Ernie Smith

Maintenance
Ralph Smugala

Community Development
Ronald F. Twining

Records Center
Lynn Wallace

September 3, 2002

Linda S. Bales, Clerk
Grafton Village
960 Main Street
Grafton, Ohio 44044

Dear Ms. Bales:

Enclosed please find a copy of the transcript of proceedings granting the annexation of granting the proposed Annexation of approximately 1.1867 acres in Grafton Township to the Village of Grafton, Ohio - Attorneys Garrett Murray, acting on behalf of Robert and Marcia Frabotta, Petitioners.

The Board of Commissioners adopted Resolution 02-619 on August 8, 2002 granting the Annexation.

This is being forwarded for your information and files.

Yours truly,

Roxann Blair,
Clerk

RB/tlu
Enclosure

cc: Attorney Garrett Murray
 Mary R. Dangelo, Clerk, Grafton Township
 Mark Stewart, Lorain County Auditor/Attn: Rosemary Wirth
 Kenneth P. Carney, Lorain County Engineer/Attn: Wayne Mileti
 Mary Ann Jamison, Lorain County Recorder
 Tom McNair, Tax Map
 Greg Stempowski, Board of Election
 Robin Jones, 9-1-1
 File

RESOLUTION NO. 02-619

In the matter of granting the Annexation of 1.1867 acres from)
Grafton Township to the Village of Grafton, Ohio, Attorney) August 8, 2002
Garrett Murray, acting on behalf of Robert and Marcia Frabotta)
Petitioners)

WHEREAS, Assistant County Prosecutor Innes administered an oath to anyone wishing to give testimony; and

WHEREAS, Resolution No. 02-576, adopted July 25, 2002 continued this hearing; and

WHEREAS, Attorney Garrett Murray, 409 East Avenue, Elyria, Ohio stated he is representing Robert Frabotta and Marcia Frabotta, 859 Mechanic Street, Grafton, Ohio. He is here requesting an annexation of 1.1867 acres from Township of Grafton to Village of Grafton, Ohio; and

WHEREAS, Attorney Murray said this property is located on the north side of Crook Street, west of Elyria-Medina Road – State Route 57, east of B&O Railroad tracks and south of Grafton Village Willow Park. The size of the property is about 200 feet along Crook Street, 364.62 feet on west and 199.6 on east and 225 on the north. This parcel is adjacent and contiguous with the Village on the north property line by 208 feet wide. He displayed a colored copy of a map of said property. Attorney Murray said parcel 011 is .32 of an acre already in the Village of Grafton and the neighbors also have their parcels this way. Parcel 005 and 006 the corporation line goes through the buildings and 003 is 1.5 acre parcel in the name of Grafton Village but is not in the Village. The corporation line runs east and west on said map and extends past railroad tracks to Mechanic Street and runs southerly down Mechanic Street and easterly down Crook Street and south along parcel 001 and proceeds west again and continues down Crook Street; and

WHEREAS, Attorney Murray said the previous hearing on July 25, 2002 there were some omissions discovered and take into consideration that legal counsel did not represent his clients, so these omissions have been attempted to be corrected. The petition did not provide in accordance with 709.02 (c) the naming of the agent. The petition was amended to say the name of agent and the reason for naming an Agent in the petition is because sometimes there may be a petition that has multiple property owners, therefore the Board needs to know whom they need to consult with. On the approval by the County Engineer they referred to Mr. Frabotta as the Agent. The petition was also amended to provide the statement that there are two owners of real estate, section 709.02 (b) there should be a statement as to the number of owners of real estate to the territory sought to be annexed, so this was amended to read two owners – Robert and Marcia Frabotta, the petition did state they were joint owners, but the petition just cleared this up, so there is no mistake. Section 709.032 provides for the petition to be amended without further notice to the Board with consent of the Agent without adding to the territory of original petition. We respectfully request the Board amend this petition. The other question that was raised was section 709.031 the property owners within 7 days received notice of the hearing date to deliver copies to the Clerk of the Township and Clerk of the Village. In this particular case, Petitioners did mail notices to the Village and Township, and they were late, but from the time they were mailed to the time of the hearing on July 25, 42 days elapsed.

RECEIVED
LORAIN COUNTY
PLAT OFFICE

2002 MAR 25 A 10:25

WILLIAM CLAIR
CLERK

ELYRIA-MEDINA RD. (S.R. 57)

-002
Village of Grafton
V.197 P.9
Parcel 1

-006
John M. &
Vickie L. Ives
O.R.V. 1001 P.159

-005
David Allen
Doc. #20010796853

Grafton

Township

160019.104-011

-010
David Allen
Doc. #20010796853

S14°47'15"E
119.31'

1.1867 Acres
To Be Annexed

S15°49'17"E
109.89'

N87°57'54"E
583.69
ST.

22.50'

200.00' W
200.00' W
572.00' CROOK

208.00'

80.25'

S81°12'56"W

-013

Village of
Grafton

S15°49'17"E

364.62'

1600019.104-

-008
John M. &
Vickie L. Ives
O.R.V. 1001 P. 159

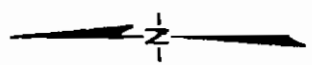


EXHIBIT B

Proposed Annexation for Bob Frabotta

Scale: 1"=100

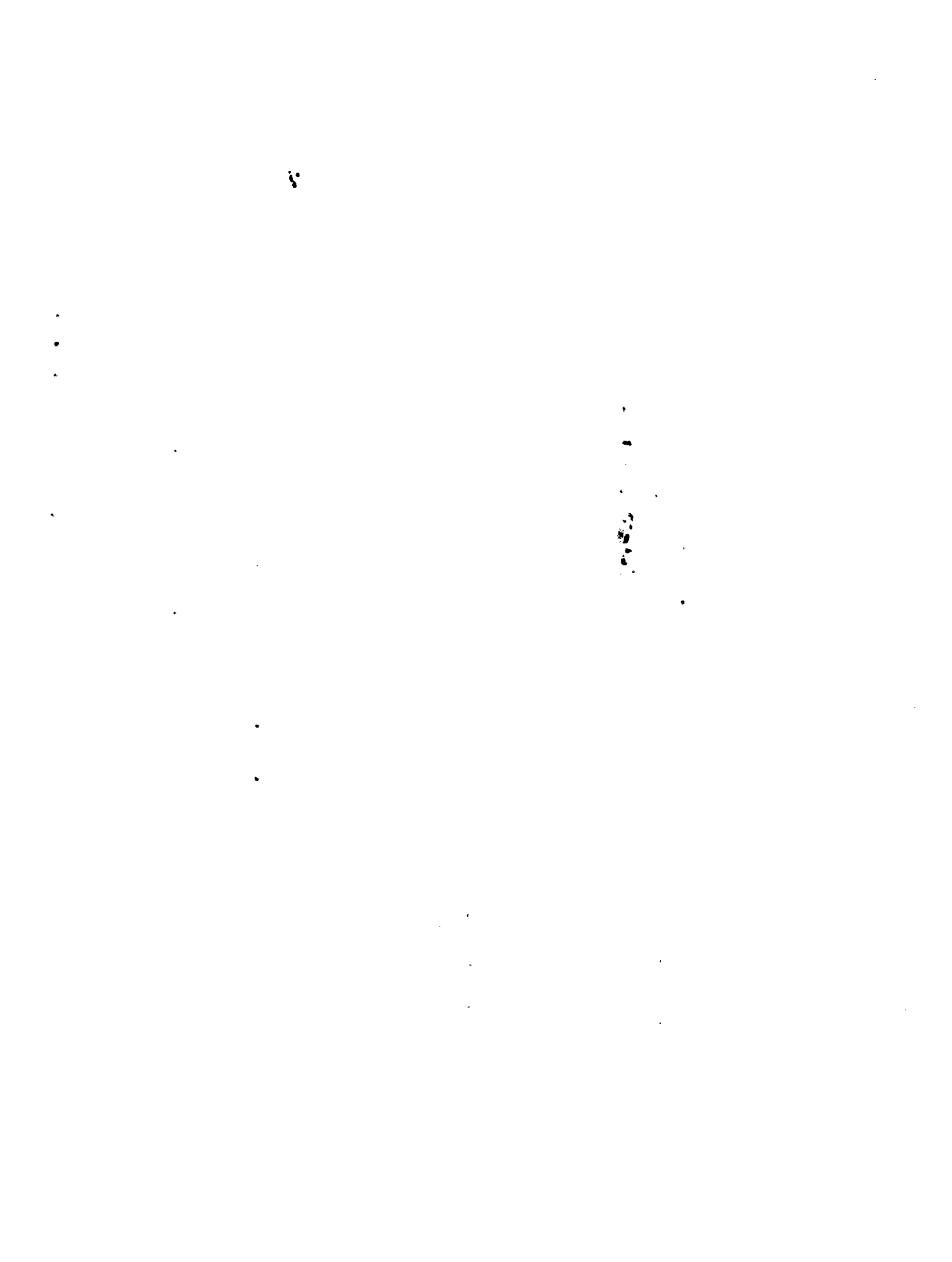
Date: 3/19/2002

Revised:

Job: Surveyor: Richard D. Carlson



3-21-02



In addition, the notice was published in the newspaper 4 consecutive weeks prior to the hearing in the Chronicle. Attorney Murray said there is a representative from the Village and the Village Mayor are present today and the Township Trustees have responded in writing, they did not seem prejudice as to not receiving these notices in time. In *Dayton vs McFerson*, a person published the notice in the newspaper and after the posting then they mailed them to the Village and Township and the Court stated it did satisfy the provision in section 709.031, even though the person did not send it out in seven days.

As mentioned before, when the petition was filed on July 25, 2002, they did not have or file with the Clerk the certification with the Chronicle that the notice was published four weeks prior to hearing and since that time, Mr. Murray has filed the paperwork with the Clerk.

Another questioned raised, was whether Rural Water or the Village would provide the water. Grafton Village Council amended their original resolution of May 9, 2002, passing a new ordinance on August 5, 2002, indicating that Rural Water Authority would service this lot with water, not the Village and have supplied the Commissioners Clerk a copy of that ordinance.

Attorney Murray said under Section 709.033 there are certain standards the Board of Commissioners must comply in annexation proceedings. In this particular case the word "territory" in the phrase "in the general good of the territory sought to be annexed", as used in land the municipality means the focus is on the owners of the lot, also means the inhabitants of the territory sought to be annexed. In re: *Char 59 Ohio Appeals 2nd - 146*, indicated that the requirements of 709.033 the general good of the territory must be served before the land can be annexed, is satisfied if the annexation is exclusively to the benefit of the sole owners of the property. In re: *LaResio 38 Ohio State 299* states under 709.033 the desires and intentions of the sole owners is for the good of the territory sought to be annexed must be given greater weight and consideration of those of other residents in the township. In re: *Esman vs. Jefferson Township Board of Trustees in 1994*, Ohio Appeals Case, said one of the legislative policies in the enactment of 709.033 was to give the owner of the parcel, freedom of choice as the governmental subdivision, as to which, they desire their property to be located.

If you look at the map, again, parcel 011 will be bounded on the north side of Grafton Village and both sides by the Township. Incidentally, the neighbors of Mr. and Mrs. Frabotta have no objection to this annexation proceeding, so this might be a concern and know the law. In re: *Esman vs. Jefferson Township Board of Trustees* they indicated while islands or peninsulas are generally discouraged their existence alone will not defeat a petition of annexation, so long as to the decision as to create them was not unreasonable, illogically or arbitrary. As you can see on the map, the corporate line comes down Mechanic Street in a southerly direction, then towards Crooks Street to the south and west and this parcel was annexed to Grafton Village and left the Township property to the north, east and south of the parcel, so this might be considered to be a precedence.

The general good of this particular piece and the benefit for the territory and owners would be the owners would like to construct a home on said parcel. The petitioners have made the choice to live in Grafton Village. The reason for this is that Mr. and Mrs. Frabotta work in the Village of Grafton, have lived in the Village for 35 years and this parcel is one quarter of a mile from city services, which is closer than township services, which are five miles. The electric rate is 15% cheaper and Mr. Frabotta is the first ward councilman in the Village and he must live within the

Village in order to continue as councilman. He has three years left and has been councilman for nine years, this would certainly be for the general good of him. This parcel fits in the unity of the neighborhood and would be one more residence in the residential neighborhood and it is not out of character.

Attorney Murray said he is of the opinion that his client has complied with section 709.033 and feels that no rights of anyone has been prejudice, feel that this does comply with the statue and would be for the general good of the territory if annexed.

Commissioner Vasi asked about the maintenance of the road and safety services. Attorney Murray said the road is not included in the annexation and would be the townships responsibility and for safety services they are all ready being serviced; and

WHEREAS, the Village Mayor said the number system is four digits. If an emergency call comes in the dispatcher would know, if it was a four digit it goes to the Village and five digits go to the Township; and

WHEREAS, Commissioner Vasi asked if anyone is present against the annexation, there were no comments; and

WHEREAS, Assistant Prosecutor Innes said the amendments that Attorney Murray has implemented comply with the procedural defects that were noted and he has correctly cited the law and seems there is no prejudice cause then it a waiverable consent.

NOW, THEREFORE BE IT RESOLVED, based upon the testimony presented, the Lorain County Board of Commissioners hereby grants the proposed Annexation of approximately 1.1867 acres in Grafton Township to the Village of Grafton, Ohio – Attorney Garrett Murray acting on behalf of Robert and Marcia Frabotta, Agent for Petitioners and description is as follows:

Situated in the Township of Grafton, County of Lorain and State of Ohio and known as being part of Original Lot Number 19 of said township and being bounded and described as follows:

Beginning at the intersection of the centerlines of Elyria-Medina Road (State Route 57) and Crook Street.

Thence, South 87 deg. 57' 59" West a distance of 583.69 feet along the centerline of Crook Street to an angle therein.

Thence, South 72 deg. 00' 00" West a distance of 98.85 feet along the centerline of Crook Street to the Southwesterly corner of land conveyed to David Allen by document number 2001-0796853 of Lorain County records.

Thence, North 15 deg. 49' 17" West a distance of 22.50 feet along the Westerly line of land so conveyed to David Allen to the northerly line of Crook Street and the principle place of beginning of land herein described.

Thence, South 72 deg. 00' 00" West a distance of 200.00 feet along the Northerly line of Crook Street to a point on the easterly line of land conveyed to John M. & Vickie L. Ives by deed recorded as Official Record Volume 1001 Page 159 of Lorain County records.

Thence, North 15 deg. 49' 17" West a distance of about 286.35 feet to a point on the Southerly line of the Village of Grafton.

Thence, North 87 deg. 58' 03" East a distance of about 208.00 feet along the southerly line of the Village of Grafton to a point on the westerly line of land so conveyed to David Allen.

Thence, South 14 deg. 47' 15" East a distance of about 119.31 feet along the westerly line of land so conveyed to David Allen to an iron set.

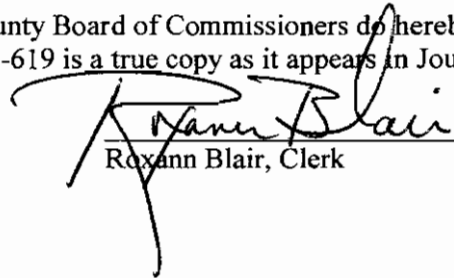
Thence, South 15 deg. 49' 17" East a distance of 109.89 feet along the westerly page line of land so conveyed to David Allen to the principle place of beginning. Containing within said bounds 1.1867 acres of land. Prepared by Richard D. Carlson Registered Ohio Surveyor Number 7496.

BE IT FURTHER RESOLVED, a certified copy of the final transcript of this Board of Commissioners relating to the finds and orders of this Board together with the accompanying map and Petition and all other papers pertaining thereto shall be delivered to the City of Elyria, Ohio.

Commissioner Blair moved that the petition be amended as submitted and approve said annexation for the general good of the territory sought to be annexed, seconded by Commissioner Vasi. Ayes; Blair & Vasi / Absent: Moore

Motion carried. _____ (discussion was held on the above)

I, Roxann Blair, Clerk to the Lorain County Board of Commissioners do hereby certify that the above Resolution No. 02-619 is a true copy as it appears in Journal No. 02 on date of August 8, 2002.



Roxann Blair, Clerk

