



LORAIN COUNTY

Board Of Commissioners

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440-329-5760

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440-329-5107

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440-329-5488

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440-329-5442

Telecommunications Supervisor

Nancy Bryant
440-329-5499

Children & Family Council Director

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E-9-1-1 Director

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Ernie Smith
440-329-5786

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Ralph Smugala
440-329-5116

Community Development Director

Ronald F. Twining
440-328-2323

Records Center Supervisor

Lynn Wallace
440-326-4866

July 12, 2004

Karen Webb, Clerk
Village of Wellington
115 Willard Memorial Square
Wellington, Ohio 44090

Dear Ms. Webb:

Enclosed is a complete transcript of the granted ~~Annexation from Wellington Township to the Village of Wellington, Ohio.~~

This annexation was granted June 10, 2004 by Resolution No. 04-410, for .8072 acres in Wellington Township to the Village of Wellington, Ohio – Attorney John L. Keyse-Walker, Agent for Petitioners Robert J. Dybo.

There were no appeals to this regular annexation, therefore the thirty (30) days has expired.

Yours truly,

Theresa L. Upton
Acting Clerk

18-00-029-000-005

tlu

Enclosure

Cc: Attorney John L. Keyse-Walker
Bernie Nirode, Clerk, Wellington Township
Mark Stewart, LC Auditor/Attn: Rosemary Wirth
Kenneth P. Carney, LC Engineer/Attn: Wayne Mileti
Judy Nedwick, LC Recorder
Tom McNair, Tax Map
Greg Stempowski, Board of Elections
Robin Jones, Director 9-1-1
File

B.1

RESOLUTION NO. 04-410

In the matter of granting the Annexation Petition)
of .8072 acres from Wellington Township to the) June 10, 2004
Village of Wellington – Attorney John L. Keyse-)
Walker, Agent)

WHEREAS, a petition, map and fee were filed in the Board of Commissioners received by the clerk on April 9, 2004 for a regular proposed annexation of approximately .8072 acres from Wellington Township to the Village of Wellington – Attorney John L. Keyse-Walker – Agent; and

WHEREAS, the Clerk scheduled the public hearing to be held on Thursday, June 10, 2004 at 9:00 a.m.; and

WHEREAS, letters were issued to Mark Stewart, Lorain County Auditor and Kenneth P. Carney, Lorain County Engineer asking for review and accuracy of the Petition and Map; and

WHEREAS, County Auditor certified the filing on April 13, 2004; and

WHEREAS, County Engineer by letter dated April 19, 2004 found the legal description correctly follows the map and the acreage is adjacent and contiguous to the Village of Wellington and Attorney John L. Keyse-Walker is the acting agent for the petitioner, Robert J. Dybo; and

WHEREAS, Board of Commissioners on April 22, 2004 received and journalized the proposed annexation by Resolution No. 04-287b; and

WHEREAS, May 10 the Agent filed the affidavit certifying the notices were sent to the property owners and proof of service was given on the Clerk of Wellington and Clerk of Wellington Village; and

WHEREAS, May 21 the Agent filed the affidavit and proof of publication in the Chronicle Telegram; and

WHEREAS, June 9, which is past the allotted time, Clerk received Ordinance No. 2004-26 from the Village of Wellington indicating what services the Village will provide upon the annexation in the Village of Wellington of certain lands owned by Robert & Linda Dybo; and

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

WHEREAS, Assistant County Prosecutor Innes identified the parties present, which were Attorney Walker, Agent for the Petitioners and Petitioners Robert and Linda Dybo; and

WHEREAS, Assistant County Prosecutor asked if there were any persons present from the Village or Township of Wellington or any other persons wishing to speak. There were no one present; and

WHEREAS, Attorney John Keyse-Walker, Agent for Petitioners Linda and Robert Dybo requesting a small parcel of .8072 acres owned by them from the Township of Wellington to the Village of Wellington. The parcel is located on the north side of Village on State Route 58, longest side of parcel 300 feet in length borders on the Village of is adjacent and contiguous to the Village; and

WHEREAS, Assistant County Prosecutor Innes stated that the Agent for Petitioners indicated there has been no withdrawal of petition/signatures or challenge to their signatures; and

WHEREAS, Attorney John Keyse-Walker had Robert Dybo give testimony;

1. Petitioner to state name and address;
Robert J. Dybo, 39569 Calann Drive, Elyria, Ohio 44035
2. Is annexation being sought on property involved in petition;
Yes
3. Are you one of the owners of property;
Yes
4. Does your signature appear on petition;
Yes
5. Is there another signature that appears on petition;
Yes, my wife Linda
6. Are there two of you that signed owners of real estate proposed to be annexed;
Yes, we are
7. Are you the majority of the owners of territory;
Yes
8. Ordinance from the Village of Wellington stating what services and when they will be provided to territory to be annexed.
Yes
9. Did you file petition with the Clerk of the Board of Commissioners of Lorain County, where the territory is located.
Yes
10. Is any signature on the petition more than 180 days before the filing of petition.
Not to my knowledge
11. Does the petition contain an accurate legal description and accurate map of the territory to be annexed;
Yes
12. Did you designate John Keyse-Walker and Howard Lane as Agent for the purpose of petition.
Yes, Sir we did.
13. Does the petition contain their name and address;
Yes, sir
14. At the time of the filing of petition, did Agent also file all parcels proposed for annexation with the Clerk of the Commissioners;
Yes, sir
15. At the time of the filing of the petition, did Agent also file a list of all parcels adjacent to or directly across from the road territory proposed to be annexed.
Yes, sir he did.

16. Did that included the name and address of each owner of the parcels.
Yes
17. Did it also include the permanent parcel numbers;
Yes
18. Was it also included on the map attached to the petition;
Yes
19. Do you believe the territory proposed to be annexed is unreasonably large to be annexed.
No sir, it is very small
20. Is it unusual shape in anyway.
No, sir it is rectangular
21. Is there anything about the shape, size or location that would present a difficulty to the Village of Wellington to provide services;
No, sir it is adjacent to the City and sits on a main highway
22. Do you know if the Village of Wellington is able to provide services to the property.
Yes, sir there would be no difficulty
23. The territory in Wellington Township remain after annexation, do you know if it will provide a sufficient tax base to the Township to support itself and operate if the annexation proceeds.
I believe it certainly would, my property is very small and tax base is very minor
24. On balance, will the general good of the territory to be annexed is served with the petition is granted.
Yes sir,
25. How would it best be served, what good will come from the annexation;
First of, he would have immediate police protection, right now he is under the Sheriff jurisdiction and it is a long way from Elyria to Wellington, he would also have sewers instead of leach bed system and water, garbage pick up, all the nicest that people living in cities have.
26. Do you believe the annexation has an effect on the value of the property.
Yes, sir the property value would go up
27. What would the general good of the territory proposed to be annexed be served if the petition is granted.
Yes, sir
28. On balance, the benefits to the territory proposed to annex and surrounding area outweigh the detriments to the territory proposed to be annexed and the surrounding area if the petition is granted.
Yes sir
29. How would it benefit to the territory proposed to be annexed.
My property would be annexed and the property directly north of us would be one step closer to having city services to the property behind and people around would benefit.
30. Do you see any detriments to your territory.
No, sir
31. Do you see any detriments to any surrounding territory as a result of the proposed annexation.
No, not at all.

32. Will the benefits of the territory proposed to annexed and surrounding area outweigh the detriments to the territory proposed to be annexed and the surrounding area if granted;
Yes it would be

;and

WHEREAS, Assistant County Prosecutor Innes asked if the Board had any comments or questions.

Commissioner Blair said the Ordinance from the Village of Wellington was received at a later date.

Assistant County Prosecutor Innes said under the statute the Ordinance is to be received 20 days after the filing of petition, which was not done, it was received by the clerk yesterday. The Board needs to determine if it is a procedural defect and if it was a defect that had a negative impact for the right of anyone to challenge the annexation proceeding. There is no one here to challenge or no one has looked at the documents within the annexation folder, therefore it does not appear to be a substantial procedural defect; and

WHEREAS, Attorney John L. Keyse-Walker, Agent said he would request the Board to accept the package of material and this is nothing else required from the Village pertaining to the roads or streets, since it is located on a state road; and

Said Legal Description reads as follows:

Situated in the Township of Wellington, County of Lorain and State of Ohio. Being kwon as part of Original Wellington Township Lot No. 29, and more definitely described as follows:

Beginning in the original centerline of the Ashland-Oberlin Road, also known as Ohio Route 58, said line being also the easterly line of Original Lot No. 29, at the southeasterly corner of land conveyed to Robert J. Dybo as recorded in Lorain County Recorder's Instrument No. 20040983787; said point being about 1190 feet distant northerly from the sideline of McCormick Street, 60 feet wide, as recorded in Volume 45, page 33 of Lorain County Plat Records;

Thence North $88^{\circ} 35' 57''$ West in Robert J. Dybo's southerly line, a distance of 57.92 feet to a point in the westerly right of way line of Ohio Route 58 and at an angle point in the existing corporation line of the Village of Wellington; said point is the

Thence continuing North $88^{\circ} 35' 57''$ West in Dybo's southerly line and in the existing corporation line of the Village of Wellington, a distance of 242.08 feet to Robert J. Dybo's southwesterly corner;

Thence North $1^{\circ} 14' 32''$ East in Robert J. Dybo's westerly line, a distance of 145.20 feet to Dybo's northwesterly corner;

Thence South $88^{\circ} 35' 57''$ East in Robert J. Dybo's northerly line, a distance of 242.23 feet to a point in the westerly right of way line of Ohio Route 58;

Thence South $1^{\circ} 18' 03''$ West in the westerly right of way line of Ohio Route 58, a distance of 145.20 feet to the principal place of beginning;

Enclosing a parcel containing 0.8072 acre of land, but subject to all legal highways.

The above description has been prepared from record and from right-of-way plans prepared by the State of Ohio for the Ashland-Oberlin Road as Project No. LOR-58 (7.98).

Parcel No. 18-00-029-000-005

Address: 20498 State Route 58, Wellington, Ohio 44090

Attached hereto is an accurate map of the territory to be annexed.

The name of the person or persons to act as agent for the undersigned petitioners is John L. Keyse-Walker, Esq. (jkeysewalker@fkwdlaw.com) and/or Howard T. Lane, Esq., hlane@fkwdlaw.com, Fauver, Keyse-Walker & Donovan, 5333 Meadow Lane Court Elyria, Ohio, 44035-1469, Telephone: (440) 934-3700, Fax: (440) 934-3708.

Date: 2-25-04

S/Robert J. Dybo

Date: 2-25-04

S/Linda Dybo

NOW, THEREFORE BE IT RESOLVED, by the Lorain County Board of Commissioners of Lorain County, Ohio that;

I. The Board makes the following findings upon the resolutions of the Village of Wellington, report of the Lorain County Engineer and the testimony presented as detailed in items 1-32 above that:

The necessary requirements are in the record for notification and have been complied with. The petitioners are owners of the territory of property proposed to be annexed, there has been no dispute of the validity of the petitioner's signatures and those signatures constitute a majority of the territory proposed to be annexed on the date of petition. The Village of Wellington by Ordinance No. 2004-26 had provided a statement indicating services that are willing to provide and will provide these services upon annexation.

A. The petition meets all the requirements set forth in, and was filed in the manner provided in Section 709.02 of the Revised Code in that:

1. The real estate is "contiguous" to the municipal corporation to which annexation is proposed.
2. The petition contains:
 - a. The name of the owners, their signatures, and date each signature was obtained.
 - b. A legal description of the perimeter of the proposed territory to be annexed.
 - c. A map or plat of the proposed territory to be annexed.
 - d. The name and address of the agent for the petitioner.
 - e. Lists of all the parcels and the name and mailing address of the owners of each parcel:
 1. Within the proposed territory to be annexed.
 2. That lie adjacent or directly across the street from the proposed territory to be annexed.

3. That a majority of the territory proposed for annexation lies within the county.

B. The persons who signed the petition are owners of real estate located in the territory proposed to be annexed in the petition, and, as of the time the petition was filed with The Board of County Commissioners the number of valid signatures on the petition constitute a majority of the owners of real estate in that territory. In order to be valid signatures:

1. Signatures are of "owners" of property.
2. Were not obtained more than 180 days before the date the petition was filed.
3. Constitute a majority of the owners of the territory proposed for annexation.

C. The Village of Wellington to which the territory is proposed to be annexed has complied with divisions (D) of section 709.03 of the Revised Code, the requirement to adopt by ordinance or resolution a statement indicating what services will be provided upon annexation and approximate date the services will be provided.

D. No street or highway will be divided or segmented by the boundary line between Wellington Township and the Village of Wellington to create a road maintenance problem, or, if a street or highway be so divided or segmented, the Village of Wellington has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of division, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

II. The Board further finds the territory to be annexed is not unreasonably large based upon stipulated testimony of Attorney John L. Keyse-Walker that:

Said finding was supported by the evidence that:

The territory is not unreasonable large. The municipality of Wellington will be able to provide services to the territory, they are not undertaking something that is unreasonable large, the shape and geographic features of the territory proposed to be annexed are regular and not unusual and are not creating any islands or peninsulas. The removal of the territory from the Township will not create a situation that the tax base of the Township to be so eroded or depleted so as to not permit the Township to continue on and provide goods and services to the township residents.

III. The Board further finds that on balance, the general good of the territory proposed to be annexed will be served, benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be amended and the surrounding area, if the annexation is granted. As used...here..."surrounding area" means the territory within the unincorporated area of any township located one-half mile or less from any of the territory proposed to be annexed.

Said finding was supported by the evidence that:

On balance, the general good of the territory proposed to be annexed, is served because of the availability of certain city services to those areas, including sewers, fire, police and there is also benefits to the area to be annexed and the surrounding areas and those benefits outweigh the detriments due to the availability of utilities. The annexation will provide benefit to the surrounding area through the enhancement of value of properties in the surrounding area. Final condition which we believe that has been met, is no street or highway will be divided between the Township and the municipality as to creating maintenance issues; and

BE IT FURTHER RESOLVED, that;

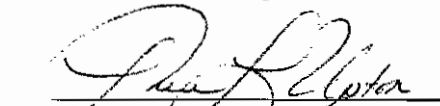
I. Based upon the findings of fact that all the conditions of annexation as contained in Revised Code 709.033 have been met the petition for annexation as presented is granted and incorporating the items of the annexation agreement between Wellington Township and the Village of Wellington.

II. The Clerk be directed to enter this resolution upon the journal of the Board and send a certified copy to John Keyse-Walker, agent for petitioners, Clerk of Wellington Village, and the Clerk of Wellington Township

III. The Clerk, if no appeal is filed within thirty days of journalization of this resolution, be directed to deliver a certified copy of the entire record to the Clerk of Wellington Village Council.

Motion by Moore, seconded by Vasi to adopt Resolution. Ayes: All
Motion carried. _____(discussion was held on the above)

I, Theresa L. Upton, Acting Clerk to the Lorain County Board of Commissioners that do hereby certify that the above Resolution No. 04-410 is a true copy as it appears in Journal No. 04 on date of June 10, 2004.


Theresa L. Upton, Acting Clerk