

RESOLUTION NO. 07-795

In the matter of granting the annexation of )  
9.9923 acres from New Russia Township to ) November 1, 2007  
the City of Oberlin. Attorney John Keyse- )  
Walker, Agent )

WHEREAS, the Lorain County Board of Commissioners meet on November 1, 2007 to conduct a public hearing on the proposed Annexation of 9.9923 acres from New Russia Township to the City of Oberlin. Attorney John Keyse-Walker, Agent; and

WHEREAS, a petition and map for annexation were filed with the Clerk of the Board of Commissioners on August 30, 2007 for a proposed regular annexation and the same was set on for public hearing on November 1, 2007 by Resolution No. 07-646, the 63<sup>rd</sup> day; and

WHEREAS, letters were issued to Mark Stewart, Lorain County Auditor and Ken Carney, Lorain County Engineer on August 30, 2007 asking for review and accuracy of the Petition and Map; and

WHEREAS, September 5, 2007 Certificate of Filing was received from Auditor on proposed annexation; and

WHEREAS, September 6, 2007 County Auditor came across a discrepancy in acreage being listed at 7.250, a difference of 2.74 acres and Agent was notified; and

WHEREAS, September 13, 2007 Certificate of Filing was received from Auditor on Res#07-646 receiving and journalizing; and

WHEREAS, September 24, 2007 received Affidavit from Agent Keyse-Walker notifying owners and proof of service notice to the Clerk of New Russia Township and City of Oberlin; and

WHEREAS, September 25, 2007 received letter from County Engineer after review and Kendal of Oberlin was not the sole owner of property to be annexed at time petition was filed. Parcel 09-00-066-000-050 was owned by Ronald Zbydnowski but has since been transferred to Kendal of Oberlin. The legal description does accurately describe area to be annexed. Map shows 9.9923 acres to be of 2 parcels, however it should be 3 parcels; 09-00-066-000-028, 09-00-066-000-050 and 09-00-066-000-053 and the parcels are adjacent and contiguous to the City, notified Agent; and

WHEREAS, October 4, 2007 City of Oberlin Ord 07-80 AC CMS indicates what services will be provided, notified Agent; and

WHEREAS, October 10, 2007 received Affidavit from Agent Keyse-Walker relating to the notice of publication in the Chronicle Telegram on October 3, 2007; and

WHEREAS, October 23, 2007 received a deposit from Agent Keyse-Walker for Court Reporter. Clerk Upton called Kathleen Hopkins, Elyria to be present; and

WHEREAS, Assistant County Prosecutor Innes administered an oath to all persons testifying according to law and the evidence presented was tendered through stipulations of the Attorney for Petitioner; and

WHEREAS, Attorney John Keyse-Walker serving as one of the Agents; the other is Attorney Stephanie Mercado for Petitioners – Kendal At Oberlin.

This annexation is 9.9923 acres from New Russia Township to the City of Oberlin, east of SR58 and bounded on the north and east side and some south side of the City of Oberlin and boundary of New Russia Township is on the west side of the property. The total area and is 805 feet contiguous to the city with a total area of 1600 ft.

In accordance with ORC 709.02; Petition meets the requirements, petition signer is the owner of territory to be annexed, and petition has valid signatures with no challenge to the signatures or the petition as permitted 15 days before hearing under ORC 709.031. The evidence will also show the City of Oberlin has complied with the statutory requirements with an Ordinance indicating what services will be made available to the territory to include; fire, police, water, electric, sewer and garbage service which will be provided 30 days after the annexation process. The evidence will show the territory to be annexed is not unreasonably large, being under 10 acres. On balance the general good of the territory and surrounding areas will outweigh the detriments of the surrounding territory arising from the annexation; and

WHEREAS, Attorney Eric Severs, representing City of Oberlin introduced the new City Manager – Erin Norenberg.

Attorney Severs said there has been some indication that New Russia Township would like to negotiate with the City of Oberlin with a similar agreement like Pittsfield has with Oberlin. City Council could accept a proposal and have no objection to attempt to negotiate an agreement with New Russia, but it took over 2 years with Pittsfield. He said this type of negotiations he does not want this to be a part of this annexation request, it would be unfair to Kendal and they would like to proceed; and

WHEREAS, Attorney Stephen Bond, representing New Russia Township. Attorney Bond stated that the township does object to this proposal, as evidence all three Township Trustees are present. From a technical perspective there is an island of township that was created by the configuration of the property and it is a segmentation of property, not good planning. In particular, there was a court decision called In Re: Annexation of 343.2255 acres out of the 12<sup>th</sup> District – 1995 – 106<sup>th</sup> Ohio Appellate 3<sup>rd</sup> 512 – in the decision - “the court should also consider services available to the territory before annexation. There is no way to decide whether annexing a municipality can decide an adequate levy of service without basis or standard for comparison.” From the point being, the perspective of the Township feels this application is some what premature as there was no attempt to develop this property by applying to the township or formally requesting what services the township could provide. There was no indication whether or not the township should have negotiations or whatever means the township could provide services for this annexation. Attorney Bond said, as Mr. Severs indicated the Township is interested in working out some kind of long term arrangement with the City, possibly something like Pittsfield, but no one came forward with this presentation to the Township or who should have initiated it but since the petitioners

instigated this, the township feels they should have. There has been no attempt to make clear what services could or could have not been made available by the Township. The Township does not know how the Commission can make an assessment whether or not if the property will be better served under the annexation or under the current township and with this, they do not feel that the standard has been met and on that basis, they ask that the annexation be denied; and

WHEREAS, Assistant County Prosecutor said the Clerk has indicated that all statutory issues have been met there has been no challenges to the signatures on the petition; and

WHEREAS, Agent Keyse-Walker stated the following:

- 1) Please state your name, position and address;  
Barbara Thomas, CEO – Kendal At Oberlin, 600 Kendal Drive, Oberlin
- 2) Is this your signature on page 2 of tab 1 with the petition for annexation.  
Ms. Thomas said yes, signed on behalf of Kendal an Ohio corporation, not for profit and authorized by the Kendal Board on date of August 23, 2007. Kendal At Oberlin is the owner of the 9.9923 acres to be annexed and majority of owners.  
Annexation Petition was filed with the Commissioners with all property being in Lorain County, Ohio. There are no signatures occurring before 180 days before petition was filed and has an accurate legal description and map.
- 3) Petition designates John Keyse-Walker and Stephanie Mercado as Agents for the Petitioners
- 4) Time of filing, a list of all parcels and owners to be annex, as well as a list of all parcels and owners of adjacent and across the street of territory to be annexed.
- 5) Notices given to the Clerks of the City and Township
- 6) Agent affidavit confirming notice to adjacent land owners and owners of territory sought to be annexed.
- 7) Agent Affidavit of notice to Chronicle Telegram for publication
- 8) City of Oberlin ordinance indicated what services to be provided, received by Clerk on October 4, which is more than 20 days prior to hearing.
- 9) Size and location of property, displayed by map;  
Ms. Thomas said the blue highlighted portion indicates the existing 92 acres Kendal At Oberlin resides on now in the City of Oberlin  
Ms. Thomas said the yellow highlighted portion indicates the less than 10 acres of petition annexed.  
Ms. Thomas said the pink/red highlighted portion is existing properties right next to the property sought to be annexed in New Russia Township. Property borders City of Oberlin both on the north and east. There is no isolated peninsula or unusual shape that creates a problem with the annexation. The size and shape does not impure City of Oberlin to provide services. Ms. Thomas said is being done cooperatively to meet the expectations, along SR58, through the City territory. Ms. Thomas said the entranceway is not on SR58 and it will not be with this proposed annexation, the

entranceway is North Pleasant and Maple into Kendal At Oberlin. There are no new streets other than driveways into the new residential units.

- 10) With any un-annexed territory, will there be sufficient amount remain to provide a tax bases for the township to support. Ms. Thomas said less than 10 acres.
- 11) Is there any road or highway segmented or divided to create a maintenance problem, Ms. Thomas said no. The territory does abut SR58 but will not take any portion thereof
- 12) Explain how the general good of the territory proposed to be annexed will be served.  
Ms. Thomas said this give Kendal at Oberlin the ability to expand the community, currently serving over 300 residents, being 13 years old and will bring closer to the optimum and being more efficient.
- 13) Explain how services of the city will work for the general good of the territory. Mrs. Thomas said everything from fire, police protection and sewers most important to them.
- 14) Will value of the territory increase with the annexation.  
Ms. Thomas said yes, when communities like Kendal (there are 12 others in the system), which enhances the surrounding areas.
- 15) Was the current Kendal At Oberlin annexed, Ms. Thomas said yes.
- 16) On balance will the benefits to the territory proposed to be annexed and the surrounding areas outweigh the deterrents to the area. Ms. Thomas said absolutely.
- 17) Will there be any deterrents to the territory proposed to be annexed, Ms. Thomas said none.
- 18) With surrounding area in the township will there be benefits, Ms. Thomas said yes, with the services this could enhance the opportunities and increase the value.
- 19) With respect tot the surrounding area in the Township will there be deterrents, Ms. Thomas said no.
- 20) Explain the plans for the proposed annexation.  
Ms. Thomas said Kendal At Oberlin is in the midst of a 10 year master plan, finishing Phase 1 last year adding 12 units to the existing plan. The less than 10 acres is very critical and when opened it was a very small retirement community being non profit with 10 affiliates with 35 years experience and to be efficient needed to be larger to keep fees reasonable. In Phase 2-3, which will take 10 months for each phase brining in 12 units at a time, for an additional 24 units and completely up to date. Serving over 300 adults with average age of 80 years and each service need to be top notch to include; health and rehab wellness clinic and updated dining, also added more meeting room and can be used by the community. Staff education is also a plus, which they do not have now, and all together this will is needed to maintain high quality and marketable.  
With this additional phase, will it result in additional employment to the county. Ms. Thomas said yes, jobs will come as a result of the construction and is around \$8 million for both phases 2 and 3. Long term employment will be modest with the new units for Kendal At Oberlin.

- 21) Would this expansion be able to happen in the proposed territory if the annexation did not happen.  
Ms. Thomas said it would be very difficult, we are known as Kendal At Oberlin. The facility tracks residents over 30 states and it is a very attractive area and is proud to be neighbors to New Russia Township, which has been important with good communication over years and the park reserve next to the facility. To be a whole facility in Oberlin with the services provided are very important to the residents.
- 22) Was New Russia Township approached with the plans before this petition was filed. Ms. Thomas said yes, Kendal At Oberlin was very upfront and try to keep the communication solid.
- 23) Did the Township indicate that this annexation should not be filed, because services could be provided. Ms. Thomas said discussions were held with the Township and Kendal At Oberlin valued the services provided by the City of Oberlin for their facility.
- 24) Did the Township indicate they could provide sewers to the area. Ms. Thomas said discussions were had relating to the sewers, but Kendal At Oberlin recognized and with previous conversations with the City of Oberlin that fire protection was also a critical need. Kendal At Oberlin did not feel they could receive the need successful from New Russia Township as they would the city.
- 25) Was there communication that the petition would be filed with the City prior to it being filed, Ms. Thomas said yes.

And;

Attorney Stephen Bond asked the following:

- 1) When did the meetings take place with the Trustees of New Russia. Ms. Thomas said early part of October, late September 2007. Petition was filed August 30, so meeting to place afterwards. Ms. Thomas said yes, part of open communication and appreciation letter from the Township bring it forth to them. Attorney Bond said this letter also indicated the Trustees would not support this annexation. Ms. Thomas said Trustees were opened, but they would object by principal.
- 2) Were the township trustees contacted prior. Ms. Thomas said no, she was learning what the process was and the time length occurred and they were the first to be made aware.
- 3) How long has this construction been proposed for consideration. Ms. Thomas said the land has taken over 9 years to acquire and until this was secured of the purchaser agreement, the focus has been there. Attorney Bond when was the land secured. Ms. Thomas said the end of the year of 2006. Attorney Bond said the project has been in light since the first of the year. Ms. Thomas said everything is subject to Kendal At Oberlin Board. Attorney Bond said the first time the Trustees were contacted is after Kendal At Oberlin filed the petition, even after it came up in January. Ms. Thomas said all the preliminaries still need to be worked out and the conversations took place at the appropriate time.

- 4) Were the township trustees asked if they could provide services, or was it indicated that the land has been acquired and move forward and if they would support. Ms. Thomas said information was exchanged by all parties.
- 5) Was it an indicated assumption with the Township that if services could be provided, this annexation would be withdrawn. Ms. Thomas said Kendal At Oberlin was still gathering facts, along with the City of Oberlin and meetings took place to answer questions and issues.
- 6) Was the Township approached after this meeting. Ms. Thomas said information was still being compiled and there was no indication from either parties to meet again.
- 7) Other than fact gathering, no impression was given to the Township or intend to change the annexation. Ms. Thomas said no it was what would best serve the residents of Kendal at Oberlin.
- 8) When was the 2 parcels acquired, Ms. Thoms said in the original purchase agreement but 1 parcel needed to be detiemriend if it was buildable which was changed in January under the Dbrynoski family
- 9) Since the 2 parcels have been owned, was there any problem with the fire service. Ms. Thomas said there is no need for fire protection, it is vacant land.
- 10) What about police service. Ms. Thomas said she does not know anything about the Sheriff's sale but Kendal At Oberlin has presents of Oberlin. Ms. Thomas said for the 2 parcels there is nothing there to require them
- 11) What about the sewers. Ms. Thomas there is no need for service.
- 12) Was the Township asked how sewers could be provided to this area if they wanted. Ms. Thomas said discussions were had and residential units will be located there and sewers are very critical for safety of the residents. They have only known for 14 years the service they have now, which is excellent from the City of Oberlin.
- 13) Is it fair to say, Kendal AT Oberlin is happy with Oberlin and would provide good service, but the Township was not asked if they could or could not provide sewers. Ms. Thomas emphasized the need and importance of this project being under Kendal At Oberlin, which is critical for the success in market.
- 14) It is important for Kendal to say they are in Oberlin, but the Trustees were not asked whether or how sewers could beprovided. Ms. Thomas said conversations were had but it would have been difficult for them to provide this.

And;

WHEREAS, Commissioner Kalo said Kendal At Oberlin is a wonderful facility and understand the needs to be in the City, which is a brand. Discussions should have taken place relating to a JEDD but should not be part of this petition. What are the plans of this property. Ms. Thomas said there are going to be 2 additional u-shape clusters of 12 homes. and

WHEREAS, Bill Holtzman, Lorain County Engineer's Office said a revised map was received and the description is acute and 3 parcels are within area. Attorney John Keyse-Walker said this has been done since the filing of petition; and

WHEREAS, Gary Boyle, City of Oberlin – Director of Planning and Development – City of Oberlin since May 1998. The petition of the City to this proposed annexation was indicated by resolution to provide services such as; police, fire, electric, water, sewer and refuge services. The City electrical service could provide services outside legal limits but water and sewer service is not provided unless an annexation is granted. Mutual Aid service is provided if needed. Police Services is full time with approximately 17 full time officers, 3 part time and auxiliary force serving around 8,200 residents. The Township area is serviced by Lorain County Sheriff serving the unincorporated areas of approximately 357 square miles. Garbage service is provided by the City of Oberlin for refugee and recycling and operates both the water and wastewater distribution issues and the area subject to the petition is located with in the facility planning area approved by NOACA and EPA and area is attended for future use by Oberlin sewer service. The capacity of the sewer for intended use and by discussion with City Engineer yes it will provide capacity. The access of the services for proposed development would come from what is established now. Would there be a benefit to the surrounding areas outside of the area to be annexed with the extension of service. Mr. Boyle said the services to this site would benefit this petition but not sure if they would be available to abutting properties through its proposed petition.

And;

WHEREAS, Attorney Bond said the benefit to the area not in the annexation parcels, there could be a potential benefit to the other parcels; like what he calls the island without annexation. Mr. Boyle said it would require annexation. Mr. Bond said then more land would leave the township. Mr. Boyle said he can not say what other landowners would do. The surrounding areas would be benefited if they were annexed in. Mr. Boyle said based on current city policy this is the only way to get services. Mr. Bond said then there is not benefit, Mr. Boyle said he can not say what would happen in the future. Mr. Bond said if the Council decides who will receive service to an area, they could with or without an annexation. Mr. Boyle said yes. Attorney bond said has anyone had discussions with a negotiated agreement like Pittsfield Township with New Russia Township, Mr. Boyle said he does not aware of this.

Services that is available to the township. Mr. Boyles said yes under state law, the City can provide outside corp limits. Fire service, Mr. Boyle said yes, fire service contract with township. Mr. Bond said no change results to Kendal with regards to the fire protection; they will be served the same way as now. Mutual aid is provided by other entities as well. Sheriff's office has community offices within community, Mr. Boyle said yes with road patrol and community policing. Mr. Bond said there is one in new Russia Township. Garbage service is provided but not sure by whom.

Commissioner Kokoski asked where the island is and how big. Mr. Bond said the pink part he considers to be the island and is 311.

And;

WHEREAS, Assistant Prosecutor Innes asked anyone else for comments. Attorney Bond has no objections to the exhibits; and

WHEREAS, Attorney Bond asked John Piwinski, New Russia Township Trustee the following;

- 1) What is the position with the respect to the Township of this request. Mr. Piwinski said the township does not support the petition but there is no objection to Kendal At Oberlin. It is the policy of the city that needs to be address with the City, not just with the Township, county as a whole because the sewers are a major concern and service can be provided without annexation. The property in question is isolated.
- 2) Has the trustees ever been presented as whole with or without any services that could be provided Mr. Piwinski said no there has not been any formal request.

And

WHEREAS, Attorney Keyse-Walker asked the following;

- 1) New Russia township does not have sewer service to this area, Mr. Piwinski said correct or any to any residents. The nearest sewer line outside of Oberlin has nothing in the township or any in the future. The fire service is contracted with City of Oberlin. First preference goes to the City of Oberlin rather than New Russia Township. Police Service is the county sheriff serving 357 sq. miles of incorporated areas in the county. Road patrol and community policing, which has 1 in New Russia Township for 24 sq. miles, use to be 5 now have 2 with 9 townships because of budget constraints. Sheriff's website indicates community police officers serve; Brownhelm, Camden, Henrietta and New Russia Township.
- 2) When did New Russia Township learn of this annexation. Mr. Piwinski said maybe early September, Ms. Thomas had contacted him.
- 3) Need either other trustees meet with Kendal At Oberlin before petition was field. Mr. Piwinski said yes.
- 4) Has anyone from Township approached the City of Oberlin relating to arrangements. Mr. Piwinski said no. Attorney Keyse-Walker said there have been other annexations within the Township and no one approached the city at these times.

And

WHEREAS, Commissioners took a 5 minute recess to have all parties look at the map, Commissioner reconvened; and

WHEREAS, Assistant County Prosecutor Innes said the parties have identified the area with the Lorain County map; and

WHEREAS, Assistant County Prosecutor Innes asked if there was any more witnesses to be called or any other comments to be made. Attorney Bond has no more witness, will rest case; and



WHEREAS, Attorney Keyse-Walker gave his closing remarks;

There is not dispute in the petition and meets the conditions of annexation.

There are 7 requirements that the Commissioners need to examine.

- a) petition meets all requirements set forth in 709.02, with no dispute
- b) signatures of all owners of real estate, condition met
- c) number of valid signatures constitute a majority, condition meet, no dispute
- d) municipality adopted an ordinance providing services and when services are to be provide, condition meet and no dispute
- e) territory not unreasonably large, it is less than 10 acres in a 24 sq mile township. Some illusions have been discussed on islands, peninsulas and with respect the area of the township the area continues on and the territory proposed to be annexed is an arm of the same territory.
- f) On balance, the general good of the territory proposed to be annexed will be serviced, no dispute the service and testimony on the city services available a full time police vs. a stretched sheriff's office – with all respect no one will dispute this point. Fire service is provided by the City to the Township, no dispute. Sewers, which is always an issue but this is in the service area as designated by NOACA and by the township's own omission there is no service now or in the future. This is very crucial to the county to bring jobs to this fine institute of Kendal At Oberlin. The territory will be enhanced
- g) Determinants, no testimony to the area or surrounding area. There has been some to the enchantment of the surrounding area, but take out, there seems to be no deterrent, only benefit.
- h) No street tor highway will be provided.

It is unfortunate the township has to undergo annexation, there are things the township can do and was acknowledge through there testimony to discuss. It if very crucial to the petitioner that this annexation goes forth to get this facility and jobs into the county. The evidence and understanding of this and the Township and City should talk in the future but this has to be passed now and all conditions have been meet and urge the Commisioners act today and approve; and

WHEREAS, Attorney Severs, City of Oberlin said the sewers can be provided by the City within 30 days, but the sewer is already there, they would just build an extension of a lateral. The City would discussion with New Russia Township an agreement of annexation petitions, but do not penalize Kendal At Oberlin because there is no agreement today; and

WHEREAS, Attorney Stephen Bond, New Russia Township Trustees representative said Kendal At Oberlin is an innocent party, with no objection to them and do not object to the procedural items. Under the statute there has to be a balance between the property before and after and he reflected on the court issue that he discussed earlier. Kendal At Oberlin came forward and had this project in line for some time, acquired property since first of year but was fixated that they had to be a part of the City, there was no comparison as to what could be provided by the Township. The fire, police and sewers in this area, Kendal has agreed no specific issues to these services to this area. Township was ncvr given the chance to see what was available with no opportunity and a conclusion can not be made because on balance the property would be better if it was not part of the township, because the facts are not in front of the Commissioners; and

WHEREAS, Assistant County Prosecutor Innes said if there is nothing else the hearing will be closed and there are 7 factors the Board of Commissioners needs to determine.

Factors 1 – 4, which are technical are all ok, 7<sup>th</sup> factor is highway/street, ok. There are only 2 factors 5 and 6 that seem to have dispute. #5 is the unreasonably large area, which was an island questions and #6 the balance, need to determine that the general good of the territory is serviced and will outweigh any deterrents to the township. Commissioners can precede deliberate, research case or have an additional 30 days to make decision.

Motion by Kalo, seconded by Kokoski to close the hearing. Upon roll call the vote taken thereon, resulted as; Ayes: All.

Motion carried.

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 City of Oberlin with Attorney Eric Severs and report of the Lorain County Engineer and the stipulations of John Keyse-Walker, Agent for Petitioner, Attorney Stephen Bond representing New Russia Township 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 City of Oberlin by Ordinance 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:
  3. Within the proposed territory to be annexed.

4. That lie adjacent or directly across the street from the proposed territory to be annexed.
  5. 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 City of Oberlin 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 New Russia Township and the City of Oberlin as to create a road maintenance problem, or, if a street or highway be so divided or segmented, the City of Oberlin 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 Agent John Keyse-Walker, Petitioners and that:

Said finding was supported by the evidence that:

The territory is not unreasonable large and 9.9923 acres is not the largest territory this Board of Commissioners has permitted an annexation to occur. The municipality of Oberlin 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 available 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 out weight the detemrments 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

IV. The Board further finds that;

Said finding was supported by the evidence based upon stipulated testimony of Agent Keyse-Walker and the Petitioners;

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 Township and the City of Oberlin.
- II. The Clerk be directed to enter this resolution upon the journal of the Board and send a certified copy to Attorney John Keyse-Walker, Agent for petitioners, Clerk of Oberlin City, and the Financial Officer of Township New Russia
- 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 to the City Oberlin

Said Legal Description reads as follows:

Situated in the County of Lorain, State of Ohio and being known as part of New Russia Township Original Lot No. 66, being further bounded and described as follows:

Beginning at the intersection of the centerlines of Maple Street (49.50 feet wide) and Oberlin North Road (State Route 58);

Thence, North 07 degrees 01'46" West a distance of 926.25 feet along the centerline of said Oberlin North Road to a point thereon being the Northwesterly corner of land conveyed to Ronald Zbydnowski by deed recorded in document no. 20070211809 of Lorain County Recorder's Records on July 5, 2007;

Thence, North 89 degrees 29'55" East a distance 30.00 feet along the northerly line of said land conveyed to Ronald Zbydnowski to a point thereon being the easterly line of said Oberlin North Road and the Principal Place of Beginning;

Thence continuing North 89 degrees 29'55" east a distance of 351.94 feet along the northerly line of said land conveyed to Ronald Zbydnowski to the northeasterly corner thereof;

Thence, South 01 degrees 01'46" east a distance of 505.59 feet along the easterly line of said land conveyed to Ronald Zbydnowski and the Easterly line of land conveyed to Jerome J. and Mary A. Zbydnowski and Jean Dumford by deed recorded in document no. 20070211812 and the easterly line of land conveyed to Jerome J. Zbydnowski, Tr. by deed recorded in document no. 20070211819 and in part the easterly line of land conveyed to Jerome J. Zbydnowski, Tr. by deed recorded in document no. 20070211819 all of Lorain County Recorder's Records on July 5, 2007 to an iron pin set on the westerly prolongation of the northerly line of land conveyed to Daisy D. Jackson by deed recorded in Official Recorded Volume 159 Page 525 of Lorain County Recorder's Records on March 16, 1989;

Thence, North 89 degrees 32'04" east a distance of 311.44 feet along the northerly line of said land conveyed to Daisy D. Jackson to an iron pipe found at the northeasterly corner thereof, being a point on the westerly line of land conveyed to Kendal at Oberlin, Inc. by deed recorded in Official Record Volume 503, Page 735 of Lorain County Recorder's Records on March 4, 1992 and the Corporation line of the City of Oberlin as established by Annexation Ordinance No. 90-73 and Commissioners Resolution No. 90-387-A;

Thence, North 01 degrees 21'34" west a distance of 805.00 feet along said westerly line of land conveyed to Kendal at Oberlin, Inc., and said Corporation line of the City of Oberlin, to an iron pipe found at the corner thereof;

Thence, South 89 degrees 31'18" west a distance of 253.12 feet along a southerly line of said land conveyed to Kendal at Oberlin, Inc., and said corporation line of the City of Oberlin to a corner thereof;

Thence, North 01 degrees 01'46" west a distance of 200.00 feet along a westerly line of said land conveyed to Kendal at Oberlin, Inc. and said Corporation line of the City of Oberlin to a corner thereof;

Thence, South 89 degrees 31'18" west a distance of 405.62 feet along a southerly line of said land conveyed to Kendal at Oberlin, Inc. and said corporation line of the City of Oberlin to a point on the easterly line of Oberlin North Road;

Thence, South 01 degrees 01'46" east a distance of 499.42 feet along the easterly line of said Oberlin North Road, to the principal place of beginning, containing 9.9923 acres as surveyed by Thomas A. Simon, Registered Professional Surveyor NO. S-7775 in November 2006 through August 2007. Basis of bearings is the centerline of Oberlin Road North (State Route 58), North 01 degrees 01'46" west.

Enclosing a parcel containing about 13.48 acres of land of which about 0.79 acre is within Original Lot NO. 105 and 12.69 acre are within Original Lot No. 106, but subject to all legal highways.

Motion by Kalo, seconded by Kokoski to adopt Resolution. Ayes: All  
Motion carried. \_\_\_\_\_ (discussion was held on the above)

I, Theresa L. Upton, Clerk to the Lorain County Board of Commissioners do hereby certify that the above Resolution No. 07-795 is a true copy as it appears in Journal No. 07-2 on date of November 1, 2007

  
Theresa L. Upton, Clerk