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KEN CARNEY
LORAIN COUNTY ENGINEER

June 8, 2020

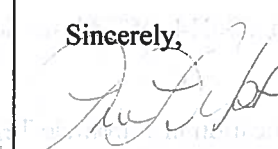
Attorney Kathryn Frombaugh
33 E Main Street
New London, Ohio 44851

Dear Attorney Frombaugh:

Enclosed is a copy of Resolution No. 20-349 adopted by the Lorain County Board of Commissioners on June 1, 2020 granting the annexation of 27.4297 acres from Eaton Township to the Village of Grafton. Attorney Kathryn Frombaugh, Agent for Petitioners Thomas J. Nagel Sr., Jaimie Nagel and Thomas Nagel Jr.

If there are no appeals within thirty (30) days a complete transcript will be submitted to the Village of Grafton.

Sincerely,


Theresa L. Upton
Clerk

tlu
Enclosure

Cc: Ken Carney, LC Engineer
Eaton Township
Grafton Village
File

RESOLUTION NO. 20-349

In the matter of granting the annexation of)
27.4297 acres from Eaton Township to the)
Village of Grafton. Attorney Kathryn)
Frombaugh, Agent for Petitioners Thomas J.)
Nagel Sr., Jaimie Nagel and Thomas Nagel Jr.)

June 1, 2020

WHEREAS, the Lorain County Board of Commissioners met via zoom on June 1, 2020 to conduct a public hearing on the proposed Annexation of 27.4297 acres from Eaton Township to the Village of Grafton. Attorney Kathryn Frombaugh, Agent for Petitioners Thomas J. Nagel Sr., Jaimie Nagel and Thomas Nagel Jr.; and

WHEREAS, a petition and map for annexation were filed with the Clerk of the Board of Commissioners on February 25, 2020 for a proposed regular annexation; and

WHEREAS, letters were issued to Craig Snodgrass, Lorain County Auditor and Ken Carney, Lorain County Engineer on February 27, 2020 for review and accuracy of said petition; and

WHEREAS, March 3, 2020, Resolution No. 20-156 received and journalized said petition and set public hearing for May 5, 2020; and

WHEREAS, March 3, 2020 – Engineer resubmitted his report on March 3, 2020 stating petition’s legal description and accompanying map accurately describe the perimeter of territory proposed to be annexed to the Village of Grafton. This territory is landlocked, so there is no need for any road maintenance agreement between the County and the Village; and

WHEREAS, March 3, 2020, Certificate of Filing from County Auditor received on proposed annexation; and

WHEREAS, March 16, 2020 – received affidavit of facts from Agent Frombaugh dated March 11, 2020 notices were sent to owners and adjacent land owners and proof of service was given to Village of Grafton and Eaton Township on March 6, 2020; and

WHEREAS, March 18, 2020 Village of Grafton Resolution No. 20-014 set forth services to be supplied to the 27.4297 acres of land; and

WHEREAS, March 30, 2020, Agent Frombaugh notice of publication in Chronicle Telegram of said hearing to be held May 5, 2020; and

WHEREAS, March 31, 2020 Certificate of Filing from County Auditor on Resolution No. 20-156 receive and journalize petition; and

WHEREAS, May 4, 2020 as per discussion with Assistant Prosecutor Gerald A. Innes the annexation hearing on May 5, 2020 has been cancelled and Commissioners will approve a resolution on May 6, 2020 to reschedule. Clerk sent email to Agent, Township and Village; and

WHEREAS, Resolution No. 20-301, adopted May 6, 2020 amended Res#20-156 on March 3, 2020 receiving and journalizing said petition and set hearing date of May 5, 2020. Said amendment is to reflect due to the COVID-19 the hearing on May 5, 2020 was cancelled due to the inability to have public participation at that time and will reschedule hearing to June 1, 2020 at 9:30 a.m.; and

WHEREAS, May 18, 2020 received affidavit of facts from Agent Kathryn Frombaugh dated May 8, 2020 notices were sent to owners and adjacent land owners and proof of service was given to Village of Grafton and Eaton Township; and

WHEREAS, May 18, 2020, Agent Frombaugh notice of publication in Chronicle Telegram on May 15 2020 of said hearing to be held June 1 2020; and

WHEREAS, Assistant County Prosecutor Innes administered an oath to all persons testifying; and

WHEREAS, Commissioner Kokoski asked Agent Frombaugh if she had any statement to be made. Agent Frombaugh said not at this time; and

WHEREAS, Commissioner Kokoski asked if there were any Township Trustee present or if Attorney Schrader was making statement on their behalf

Attorney Schrader said yes he is representing Eaton Township generally they do not like annexation and will have some questions regarding procedurals things and apologize to Clerk Upton he was having trouble hearing her when she was reading, so at some point he might ask the questions she already answered. He said he is just here to make sure that everything that is in the statue is followed correctly regarding annexation, so he will be quiet now and let Petitioner make their presentation now and no Trustees are here now; and

WHEREAS, Commissioner Kokoski asked if there were anyone present that wanted to make a statement in favor of the annexation.

Kathy Frombaugh, Agent for Petitioners and said they are doing this mainly out of convenience the property is landlocked and fully surrounded by property already annexed into the Village of Grafton. There is already utilities that would go through property to other property and the water and sewer would be more reasonable if it was in the Village of Grafton and there is no intend by her clients to improve the property at this time just want to make sure that the full amount of services is provided if ever needed in the future. Also for the convenience for them because they already have property that is right beside that has already been annexed in the Village. She said there has been published and notices twice with no concerns that they are aware of and ask that it be granted; and

WHEREAS, Commissioner Kokoski asked if there were anyone present that wanted to make a statement in opposition to the annexation, there were none; and

WHEREAS, Commissioner Kokoski asked if the Engineers office had any statements.

Mr. Peter Zwick stated that the map and petition were accurate and no need for road maintenance as indicated on the letter of March 3 and he has nothing further; and

WHEREAS, Attorney Schrader apologies if these things had already been answered but Eaton Township Trustee Jason Monschein, is a fireman and is unable to be here today, he is working today

Attorney Schrader asked if in the record, is there documentation or evidence that the township was notified by the agent within 5 days the Commissioners set the first hearing that was continued.

Clerk stated yes

Commissioner Kokoski asked Clerk or Assistant Prosecutor to answer the questions.

Clerk stated yes everyone was notified.

Attorney Schrader said within 5 days of time the commissioners set the hearing. Clerk said yes

Attorney Schrader said when it was continued was there a notice to the township within 5 days. Clerk said yes

Attorney Schrader said when you did continue did they start the hearing, he knows it was continued on May 4 and was set on May 5 did the commissioners start the hearing on following day or just told everyone that is was being continued or let it go, how was this done. He said sometimes you start a hearing then adjourn

Commissioner Kokoski said the Commissioners cancelled this all together and delayed to the date, never opened a hearing at all

Attorney Schrader said ok

Attorney Schrader said within 10 days within the time the hearing was continued, is there evidence of the Agent notifying the adjacent owners and following notarized affidavit that they have in fact notified owners that the date of continuance, adjacent owners not township. Commissioner Kokoski asked if the Clerk did this. Clerk Upton stated that the Agent did do that all paperwork was done on May 8 to all attached property owners

Attorney Schrader said there was published notice in the paper and evidence that that was placed on May 14. Clerk said yes it was published on May 12

Attorney Schrader said they did both the mail notice and publish notice. Clerk said correct

Attorney Schrader asked if the City filed a resolution of services to be provided to the area for the refiled petition. Clerk said no, there is a Village of Grafton Resolution No. 20-014 that was approved on March 17.

Attorney Schrader said that was for the one that withdrawn, he is talking about the one that was original scheduled for May and now being heard today.

Commissioner Kokoski said sorry we did not have these questions ahead of time to be a little bit more prepared.

Clerk asked if the Village of Grafton wanted to answer because she is showing that she received 2 resolutions, one being 20-014 and you have not met since.

Village Administrator Joe Price said the resolution that was passed and there were 2 resolutions and he has is Clerk Treasurer present. Clerk Barnhart said one resolution was dated January 21 and the 2nd on March 17. Mr. Price said both resolutions were passed and both approved by Council and not sure why they would come into questions.

Attorney Schrader said they were both resolutions indicating what services would be provided. Clerk Upton said yes. Mr. Price said yes and Clerk Upton has a copy of resolution.

Attorney Schrader said the resolution was filed with the Commissioners, Clerk Upton said yes
Attorney Schrader said he apologies and normally go up to the Clerk's Office and review the file so he would know the answers to the questions although on the ordinance you have until the day of hearing to file, so he was not attempting to delay the hearing he just needed to ask questions and appreciates your indulgence. He also appreciates the efficiency of Theresa Upton always does a great job. Clerk thanked him. Commissioner Kokoski said so do they

Attorney Schrader said he remembers on the annexation case argument over the 100 foot strip, which we believe was a barrier to annexation and certainly Attorney Gretchen Holderman said was not. There was a resolution indicating sewer would be available without annexation so as to the issue of general good, this would be for the convenience for the property owner, which he understands and sewer and water from Village, which is true but believe pursuant to that resolution and judgment entry signed by the Judge back in 1988, you are already entitled to those things because it is within the immediate area of what ultimately what was annexed to be the prison. So he is not sure that the annexation is at all necessary or for the general good on that basis. He is not arguing the 100 foot strip, because as Agent Kathy argued they are pretty much surrounded by the Village and that adjacency includes areas other than the 100 foot strip, so this is not an argument they are making. They are concerned that the petitioners may already entitled and believe are entitled to water and sewer pursuant to that Judge Cirigilianos entry back in 1988. He said the fact that it appears the procedures are correct and the Board of Trustees has long taken the position they do not like annexations but they are not going to oppose one if there is no reason too. The only reason to oppose this one is from the journal entry the petitioners are already entitled to that, which they say they would benefit from pursuant to this annexation with extension of water and sewer but there is a judgement entry that gives them that right already, as he read it. So that is all they have at this point. Frankly, if that had not existed the judgement entry of water and sewer the Trustees said as long as everything was done procedural correctly and there is no such argument the township would not have opposed. So he hopes that and

making this as quick as he can and the only objection is that we believe they are already entitled to that by way of a judgement entry back in 1988

Joe Price, Village of Grafton Administrator responded to Attorney Schrader. He stated that looking at that agreement it talks about extending the sewers north to SR82, if sewer in the future in 1988. Since this time, LORCO was created and brought sewers to that area this had nothing to with the property to the west and this parcel would not have been excluded and water would have been Rural Water so it is not a matter, that agreement from 1988 has nothing to do with this.

Commissioner Kokoski thanked him for clarification

AND;

WHEREAS, Commissioner Kokoski asked if there were any other comments, Commissioners, there were none; and

WHEREAS, Commissioner Kokoski asked Assistant Prosecutor Innes that there are 7 criteria's that Commissioners have to review annexation petition.

Assistant Prosecutor Innes said let's go through them.

He said to Mr. Schrader questions as the status requires.

- 1 The technical requirements of the petition of the statutes and are true
- 2 Representation from Agent and persons that signed petition are owners
- 3 Petition contains majority of the owners
- 4 Municipality has adopted an ordinance providing services
- 5 27 acres piece of land is generally not unreasonable
- 7 No highway or street being divided

6 On balance, the benefit to the territory outweighs the detriments. Although Mr. Shrader has pointed out that the services might already be there and Agent Frombaugh that the property is already surrounded by Village and asked Agent if she stated the owners already have property in the Village that was previously annexed. Agent Frombaugh said they do, adjacent to the property. Mr. Innes said he can see that the owners would like to have all their property within one location and has not heard anything detrimental about this. Although the benefit presented was not overwhelming the balance of benefit of annexation, balance is greater than any detriments because we have no detriments presented.

AND;

WHEREAS, Commissioner Kokoski asked if the Commissioners had any comments.

Commissioner Lundy said not at this time

Commissioner Sweda said not at this time

Commissioner Kokoski said with no more comments will entertain motion close said hearing.

Motion by Kokoski, seconded by Sharon 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 Village of Grafton, report of the Lorain County Engineer and Agent Kathryn Frombaugh for Petitioners Thomas J. Nagel Sr., Jaimie Nagel and Thomas Nagel, Jr. that:
 - 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 person who signed the petition is owner 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. Signature is of "owner" 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 Grafton 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 Eaton Township and the Village of Grafton 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 Kathryn Frombaugh, Petitioner and that:

Said finding was supported by the evidence that:

The territory is not unreasonable large and 0.7229 acres is not the largest territory this Board of Commissioners has permitted an annexation to occur. The municipality of Grafton Village 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 Kathryn Frombaugh and Petitioner;

Said Legal Description reads as follows:

Exhibit A
Boundary Description
Parcel No. 11-00-080-000-022
27.4297 Acres

Situated in the County of Lorain, in the State of Ohio and being known as part of Original Eaton Township Lot. No. 80, and being further bounded and described as follows:

Beginning at a railroad spike found on the centerline of Elm Street (60 feet wide) and the Southerly line of said Original Lot No 80;

Thence, South 89 degrees 40'27" East a distance of 1499.65 feet along the Southerly line of said Original Lot No. 80, to a point thereon, being the Principal Place of Beginning;

Thence North 01 degrees 33'29" East a distance of 2028.77 feet along a line being the existing corporation line of the Village of Grafton, to a corner thereof;

Thence, North 89 degrees 40'27" West a distance of 261.19 feet along a line being the existing corporation line of the Village of Grafton, to a point on the Southeasterly line of land conveyed to CSX Transportation, Inc., by deed recorded in document no. 20000677885 of Lorain County Recorders' Records on April 7, 2000, said line also being an existing corporation line of the Village of Grafton;

Thence, North 55 degrees, 28'40" East a distance of 930.00 feet along said Southeasterly line an iron pin set thereon, being the Northwesterly corner of land conveyed to the State of Ohio by deed recorded in Deed volume 272 Page 247 of Lorain County Recorder's Records;

Thence, South 01 degrees 33'29" West a distance of 2560.30 feet along the Westerly line of said land conveyed to the State of Ohio, being an existing corporation line of the Village of Grafton, to the Southwesterly corner thereof, being a point on the Southerly line of said Original Lot No. 80;

Thence, North 89 degrees 40'27" West a distance of 490.60 feet along the Southerly line of said Original Lot No. 80, to the Principal Place of Beginning, containing 27.4297 Acres as surveyed by Thomas A. Simon, Registered Professional Surveyor No. S-7775 in March, 2007. Basis of bearings is the Southerly line of Original Lot No. 80 (South 89 degrees 40'27" East). Iron pins set at 5/8" diameter, 30" long with plastic caps "T.Simon, S-7775".

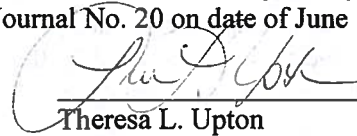
BE IT FURTHER RESOLVED, that;

- 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 Eaton Township and the Village of Grafton.
- II. The Clerk be directed to enter this resolution upon the journal of the Board and send a certified copy to Attorney Kathryn Frombaugh, Agent for petitioner, Clerk of Grafton Village, and the Township Eaton
- 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 Village of Grafton

Motion by Kokoski, seconded by Sweda to adopt Resolution. Upon roll call the vote taken thereon, resulted as: Ayes: Kokoski, Sweda and Lundy / Nays: None

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. 20-349 is a true copy as it appears in Journal No. 20 on date of June 1, 2020



Theresa L. Upton