



LORAIN COUNTY COMMISSIONERS



Michelle Hung
President

David J. Moore
Vice President

Matt Lundy
Member

*cc staff
file*

May 14, 2021

James R. White, Attorney
409 East Avenue, Suite A
Elyria, Ohio 44035

Dear Attorney White:

Enclosed is a copy of Resolution 21-318, adopted by the Lorain County Board of Commissioners on May 12, 2021 granting a regular Annexation Petition of 41.9821 acres from Eaton Township to the Village of Grafton, Ohio.

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

Yours truly,

Theresa L. Upton
Clerk

tlu
Enclosure

Cc: Eaton Township Trustees
Village of Grafton
Ken Carney, LC Engineer
Craig Snodgrass, LC Auditor
File

In the matter of granting the annexation of)
 41.9821 acres from Eaton Township to the)
 Village of Grafton. Attorney James R. White)
 Agent for Petitioner KNG, Ltd., Kevin Flanigan)
 Authorized Member)

May 12, 2021

WHEREAS, the referenced Petition and Map were filed with the Board of Commissioners and received by the Clerk on January 22, 2021 for a proposed regular Annexation of approx. 41.9821 acres in Eaton Township to the Village of Grafton for the Petitioner – KNG Ltd., Kevin Flanigan, Authorized Member; and

WHEREAS, Letters were issued on January 25, 2021 to Ken Carney, Engineer and Craig Snodgrass, Auditor for their review; and

WHEREAS, on January 27, 2021 the Commissioners, via Res#21-49, received and journalized a regular annexation petition and set an initial hearing for April 6, 2021 at 9:30 a.m., (63rd day); and

WHEREAS, on February 2, an email was received from Grafton Village, incorporating a letter sent on 1/27/21, but not received by USPS, and an Affidavit from the Agent attesting to hand delivery of notices to Grafton & Eaton on 2/1. Additionally on that date an email was received from Ted Spillman, County Tax Map stating that the description of the area in the potential annexation does match the survey map; and

WHEREAS, on February 4, an Affidavit from Agent was received attesting to notices sent to owners by USPS on 2/3; and

WHEREAS, on February 17, the Lorain County Engineer confirmed the legal description and map as accurate and reported on an agreement between the Village of Grafton and the County on shared maintenance of Durkee Road; and

WHEREAS, on February 25, a Certificate of Filing from the Lorain County Auditor on the Petition of annexation and Res#21-49 was received. Additionally, an email was received from Atty Schrader requesting the petition and associated documents. Lastly, an email was received from Grafton Village concerning Res#20-039, relating to shared maintenance with the County on Durkee Road; and

WHEREAS, on March 3, an email was received from Grafton Village concerning Res#21-003, relating to services to be provided on annexation. Said email was received by regular mail on March 5; and

WHEREAS, on March 17, an Affidavit from Atty Lane attesting to publication on March 8 in the Chronicle Telegram and on March 19 an Affidavit from Agent White attesting to publication on March 8 in the Chronicle Telegram were received; and

WHEREAS, on April 1, Attorney Schrader requested and received file documents, and he filed a Notice of Appearance as counsel for Eaton Township; and

WHEREAS, on April 6, the first duly advertised public hearing was held, where Assistant County Prosecutor Petticord administered an oath to all persons testifying according to law and the evidence presented was tendered through stipulations of the Attorney for Petitioners, Attorney for Eaton and Village of Grafton along with testimony offered by the various parties. Commissioners continued this hearing until April 20, 2021; and

WHEREAS, on April 20, the public hearing concluded, where Assistant County Prosecutor Petticord administered an oath to all persons testifying according to law and the evidence presented was tendered through stipulations of the Attorney for Petitioners, Attorney for Eaton and Village of Grafton along with testimony offered by the various parties; and

WHEREAS, The Board makes the following findings upon the evidence and testimony presented (a complete transcript containing verbatim testimony is kept at the office of the Clerk of the Board of Commissioners); and

WHEREAS, there are 6 factors that the Board is required to review and consider on an annexation petition filed under Ohio Revised Code 709.033.

- 1 The petition meets all the requirements set forth in, and was filed in the manner provided in, section 709.02 of the Revised Code
- 2 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 constituted a majority of the owners of real estate in that territory.
- 3 The municipal corporation to which the territory is proposed to be annexed has complied with division (D) of section 709.03 of the Revised Code.
- 4 The territory proposed to be annexed is not unreasonably large.
- 5 On balance, the general good of the territory proposed to be annexed will be served, and the benefits to the territory proposed to be annexed and the surrounding area will outweigh the detriments to the territory proposed to be annexed and the surrounding area, if the annexation petition is granted. As used in division (A)(5) of this section, "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.
- 6 No street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway. For the purposes of this section, "street" or "highway" has the same meaning as in section 4511.01 of the Revised Code.

NOW, THEREFORE BE IT RESOLVED, by the 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 James R. White for Petitioner KNG, Ltd., Kevin Flanigan, Authorized Member; 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.

II. The Board further finds the territory to be annexed is not unreasonably large based upon stipulated testimony of Agent James R. White, Petitioner and that:

Said finding was supported by the evidence that:

The territory is not unreasonable large and 41.892 acres is not the largest territory this Board of Commissioners has permitted to be annexed. The municipality of Grafton Village will be able to provide services to the territory, 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 will be so eroded or depleted so as to not permit the Township to continue to provide goods and services to the residents.

III. The Board further finds that on balance, the general good of the territory proposed to be annexed will be served, and that the 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.

Said finding was supported by the evidence that:

The general good of the territory proposed to be annexed is served because of the ability to provide certain services, specifically including sewer services, in a more efficient and cost effective manner. Further, the annexation will provide benefit to the surrounding area through the enhancement of value of properties in the relevant area. The Board also finds that no evidence was offered as to any significant potential detriment that could occur in the area to be annexed and the surrounding area if annexation were approved. Therefore, the Board finds that the general good of the territory to be annexed is served because the benefits to the area to be annexed and the statutorily defined surrounding area outweigh any potential detriments.

IV. The Board further finds that no street or highway will be divided or segmented by the boundary line between a township and the municipal corporation as to create a road maintenance problem, or, if a street or highway will be so divided or segmented, the municipal corporation has agreed, as a condition of the annexation, that it will assume the maintenance of that street or highway.

Said finding was supported by the evidence that;

The Village of Grafton has submitted to the Board for its review a qualifying road maintenance agreement for Durkee Rd.

The above findings were supported by the stipulations of the parties and the documents and testimony offered throughout this process .

Said Legal Description reads as follows:

11-00-079-000-070 **Legal Description**
41.9821 Acres

Situated in the Village of Grafton, County of Lorain, State of Ohio, and known as being part of Original Eaton Township Lot Number 79, being a parcel of land described in a deed to KNG, LTD. as recorded in Instrument Number 2020-0763523 of the Lorain County Deed Records and further described as follows:

Commencing at a 1-inch iron pin found in a monument box at the intersection of the centerline of S. Durkee Road (a.k.a. Elm Street) (60 feet) also being the westerly line of Original Eaton Township Lot Number 79, with the southerly line of Eaton Township and the westerly extension of the northerly line of Kinter's Sunny Acres Subdivision Number 1 as recorded in Volume 24, Page 1 of the Lorain County Plat Records; Said point is the **True Place of Beginning** of land herein described;

Course 1: Thence **North 00° 05' 07" East** along the centerline of said S. Durkee Road, a distance of **533.04 feet** to a point in the southwesterly corner of a parcel of land described in a deed to Jeffrey A. & Constance A. Lynch as recorded in Instrument Number 2007-0195096 of the Lorain County Deed Records;

Course 2: Thence **North 89° 08' 37" East** along the southerly line of said Lynch parcel, passing through a 5/8-inch iron rebar with cap stamped "BRAMHALL 8073" set at 711.54, an overall distance of **721.54 feet** to a point in an existing ditch;

Course 3: Thence **North 06° 46' 35" West** along the easterly line of said Lynch parcel and along an existing ditch, a distance of **86.65 feet** to a 5/8-inch iron rebar with cap stamped "BRAMHALL 8073" set;

Course 4: Thence **North 62° 51' 53" West** along the easterly line of said Lynch parcel, a distance of **93.19 feet** to point in the southeasterly corner of a parcel of land described in a deed to Rabon & Andrea Smith as recorded in Instrument Number 1999-0639050 of the Lorain County Deed Records; Said point being 10.20 feet easterly and 0.22 feet southerly from a 1-inch iron pipe found;



Legal Description
41.9821 Acres

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- Course 5:** Thence **North 67° 53' 01" West** along the easterly line of said Smith parcel and along an existing ditch, a distance of **76.75 feet** to a point in the southeasterly corner of a parcel of land described in a deed to Rabon & Andrea Smith as recorded in Instrument Number 2006-0183021 of the Lorain County Deed Records and the southerly line of Country Place Subdivision Number 1 as recorded in Volume 31, Page 1 of the Lorain County Plat Records; Said point being 10.27 feet easterly and 0.27 feet southerly from a ¾-inch iron pipe found;
- Course 6:** Thence **North 89° 08' 54" East**, along the southerly line of said Country Place Subdivision Number 1 and along the southerly line of Country Place Subdivision Number 2 as recorded in Volume 31, Page 17 of the Lorain County Plat Records, a distance of **2185.46 feet** to a point in the easterly line of said Original Eaton Township Lot Number 79 and the northwesterly corner of a parcel of land described in a deed to Rabi Ridha & Wafa Aldhahir as recorded in Instrument Number 2012-0439923 of the Lorain County Deed Records; Said point being 0.19 feet westerly and 0.09 feet northerly from a 3/4-inch iron pipe found;
- Course 7:** Thence **South 00° 43' 27" East**, along the easterly line of said Original Eaton Township Lot Number 79 and the westerly line of said Ridha & Aldhahir parcel, a distance of **717.52 feet** to a 5/8-inch iron rebar with cap stamped "BRAMHALL 8073" set in the northerly line of Fiddler's Green Subdivision Number 3 as recorded in Volume 105, Page 34 of the Lorain County Plat Records;

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**Legal Description
41.9821 Acres**

Course 8: Thence **South 89° 39' 39" West**, along the southerly line of said Eaton Township, the northerly line of said Fiddler's Green Subdivision Number 3, the northerly line of Fiddler's Green Subdivision as recorded in Volume 88, Page 35 of the Lorain County Plat Records and the northerly line of said Kinter's Sunny Acres Subdivision Number 1, a distance of **2752.33 feet** to a point in the centerline of said Elm Street and the westerly line of said Original Eaton Township Lot Number 79 and the **True Place of Beginning**.

Containing within said bounds **41.9821 acres** of land, be the same more or less, but subject to all legal highways and easements of record. All bearings are to an assumed meridian and are intended to describe angles only. The basis of bearings used was a portion of the centerline of Elm Street (a.k.a. S. Durkee Rd.), which was assumed to be North 00° 05' 07" East.

The above intends to describe all of Lorain County Auditor's Permanent Parcel Number: 11-00-079-000-070.



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 James R. White, Agent for petitioner, Clerk of Grafton Village, and the Township Eaton
- III. The Clerk, if no appeal is filed within thirty days of journalizing of this resolution, be directed to deliver a certified copy of the entire record to the Clerk to the Village of Grafton

Motion by Moore, seconded by Hung to adopt Resolution. Upon roll call the vote taken thereon, resulted as: Ayes: Moore & Hung / Nays: Lundy
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. 21-318 is a true copy as it appears in Journal No. 2021 on date of May 12, 2021.

Theresa L. Upton, Clerk