

County Council of Cuyahoga County, Ohio

Resolution No. R2016-0002

<p>Sponsored by: Councilmember Brown</p>	<p>A Resolution approving an adjustment of the municipal boundary between the City of Cleveland and the City of Shaker Heights that bisects eight parcels of land on Van Aken Boulevard at the intersection with Sutton and Onaway Roads, in order to incorporate all of the land within the municipal boundary of the City of Shaker Heights; and declaring the necessity that this Resolution become immediately effective.</p>
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WHEREAS, the City of Shaker Heights owns eight parcels of real property on Van Aken Boulevard, at the intersection with Sutton and Onaway Roads, which parcels are located partly in the City of Shaker Heights and partly in the City of Cleveland, and consist of approximately 2.34 acres of vacant land, with no structures and no residents, that have the permanent parcel numbers 731-18-021, 731-18-023, 731-18-024, 731-18-025, 731-18-026, 731-18-027 and 731-18-028 (“the Property”); and,

WHEREAS, the cities of Shaker Heights and Cleveland have mutually determined that the most prudent and efficient manner to incentivize economic development within, and adjacent to, the Property requires the adjustment of the municipal corporation boundary within the Property pursuant to Section 709.37 of the Ohio Revised Code, by causing the entire Property to be located within the corporate boundaries of the City of Shaker Heights (“Proposed Boundary Adjustment”); and,

WHEREAS, the Cleveland City Council and Shaker Heights City Council each enacted legislation on December 7, 2015 and December 23, 2015, respectively, approving the Proposed Boundary Adjustment in consideration of a tax sharing agreement; and,

WHEREAS, Section 709.37 of the Ohio Revised Code states “[t]he ordinances setting forth such agreement shall be certified to the board of county commissioners. Upon receipt of such certified ordinances, the board shall proceed by resolution to approve such change of boundary and to make such adjustment of funds, unpaid taxes, claims, indebtedness, and other fiscal matters as the board determines to be proper. Transcripts of the ordinances, agreements, and resolution certified by the board shall be filed in the office of the secretary of state and shall also be filed and recorded in the office of the county recorder. All fees and costs for such filing shall

be assumed and paid by such municipal corporations in such proportions as the board determines;" and,

WHEREAS, it is necessary that this Resolution become immediately effective in order to ensure critical services provided by Cuyahoga County can continue and to provide for the usual, daily operation of County departments, offices, and agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF CUYAHOGA COUNTY, OHIO:

SECTION 1. That Cuyahoga County Council hereby approves the Proposed Boundary Adjustment as specified in Cleveland City Ordinance No. 1446-15 and Shaker Heights City Ordinance No. 15-104 pursuant to Section 709.37 of the Ohio Revised Code.

SECTION 2. The County Executive and Fiscal Officer are hereby authorized to record and/or execute any documents that may be necessary to effectuate the Proposed Boundary Adjustment approved herein, and to file a certified copy of this Resolution, including the certified copies of Cleveland City Ordinance No. 1446-15 and Shaker Heights City Ordinance No. 15-104, with the Secretary of State in accordance with Section 709.37 of the Ohio Revised Code.

SECTION 3. All fees and costs of filing and recording shall be borne equally by the City of Cleveland and the City of Shaker Heights.

SECTION 4. It is necessary that this Resolution become immediately effective for the usual daily operation of the County; the preservation of public peace, health, or safety in the County; and any additional reasons set forth in the preamble. Provided that this Resolution receives the affirmative vote of at least eight members of Council, it shall take effect and be in force immediately upon the earliest occurrence of any of the following: (1) its approval by the County Executive through signature, (2) the expiration of the time during which it may be disapproved by the County Executive under Section 3.10(6) of the Cuyahoga County Charter, or (3) its passage by at least eight members of Council after disapproval pursuant to Section 3.10(7) of the Cuyahoga County Charter. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

SECTION 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

On a motion by Ms. Brown, seconded by Mr. Miller, the foregoing Resolution was duly adopted.

Yeas: Jones, Brown, Hairston, Simon, Greenspan, Miller, Germana, Gallagher,
Schron, Conwell and Brady

Nays: None



County Council President

1/27/2016
Date



County Executive

1-27-16
Date



Clerk of Council

1/26/2016
Date

First Reading/Referred to Committee: January 12, 2016

Committee(s) Assigned: Council Operations & Intergovernmental Relations

Journal CC021

January 26, 2016



City of Cleveland
Clerk of Council

ORDINANCE NO. 1446-15

Page 1 of 3

By Council Members Pruitt, Brancatelli and Kelley (by departmental request).

An emergency ordinance agreeing to the adjustment of the municipal boundary line between the City of Cleveland and the City of Shaker Heights in accordance with Section 709.37 of the Revised Code; and authorizing the Mayor to enter into a tax-sharing agreement with the City of Shaker Heights for the purpose of sharing in tax revenues generated in the Redevelopment Area located in and around Van Aken Boulevard, Sutton Road, and Milverton Road for the purpose of facilitating development associated with the proposed construction of townhouses in that area, in accordance with Section 9.482 of the Revised Code.

WHEREAS, the City of Shaker Heights ("Shaker Heights") currently owns 8 permanent parcels, constituting approximately 2.3 acres, located along Van Aken Boulevard, Sutton Road, and Milverton Road, and are currently located both in the City of Cleveland and the City of Shaker Heights (the "Redevelopment Area"); and

WHEREAS, Shaker Heights wishes to develop this area by constructing townhomes in connection with its Blue Line Rapid Terminus Improvement (the "Improvement"); and

WHEREAS, because the Redevelopment Area is in two cities, it is an impediment for development; and

WHEREAS, Shaker Heights desires to annex the portions of the Redevelopment Area that is located in the City of Cleveland ("Cleveland-located portion of the Redevelopment Area"); and

WHEREAS, the City of Cleveland ("Cleveland") is willing to adjust its boundary line so the Redevelopment Area, is located wholly in Shaker Heights; and

WHEREAS, the proposed change in the municipal boundary lines does not involve the transfer of territory presently inhabited by any residents; and

WHEREAS, in consideration of such boundary adjustment of the Redevelopment Area, Shaker Heights and Cleveland agree under Revised Code Section 9.482 and their respective Home Rule powers, that a Tax Sharing Agreement between Shaker Heights and Cleveland for the purpose of facilitating economic development, including the sharing of real estate and income taxes are necessary; and

WHEREAS, Section 9.482 of the Revised Code authorizes two municipal corporations to enter into such agreements; and

WHEREAS, Article VIII, Section 13 of the Ohio Constitution also provides to Charter municipalities the authority to engage in economic development activities to facilitate the creation and retention of jobs; and

WHEREAS, the economies of Cleveland and Shaker Heights are adapting to the many challenges they face in the global marketplace; and

WHEREAS, Cleveland and Shaker Heights recognize that it is imperative that they cooperate and collaborate with one another for the benefit of the region and its resident-taxpayers in order to attract and retain businesses and jobs; and

WHEREAS, Cleveland and Shaker Heights are desirous of creating a new model for inter-municipal cooperation and revenue sharing so that they may mutually benefit from the Improvement; and,

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That, under Section 709.37 of the Revised Code, Cleveland does agree that the municipal boundary line between Cleveland and Shaker Heights be changed to establish a new corporation line separating the two cities, so that the Redevelopment Area is located wholly in Shaker Heights, which new corporation line is further described as follows:

November 06, 2015
LEGAL DESCRIPTION
Of Land in the City of Cleveland
Which Boundary Shall Be Adjusted
To Place Such Land Into The City of Shaker Heights
Boundary Adjustment Parcel 1

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, being part of Original Warrensville Township Lot 41, and being all that part of Sublot 11 of the Milverton Road Subdivision as shown by plat recorded in volume 62, page 27 of Cuyahoga County Map Records (PPN 731-18-028), lying within the City of Cleveland, and further described as follows:

Beginning at a 5/8 inch iron pin (Id: Dudley) found in the northeasterly right of way of Milverton Road (50 feet wide) at the most southerly corner of subplot 30 of said Milverton Road Subdivision;

- COURSE 1** Thence North 47°51'00" East, along the southeasterly line of said subplot 30, 54.96 feet to a 5/8 inch iron pin (Id: Polaris) set therein, at the corporation line between the City of Cleveland and the City of Shaker Heights;
- COURSE 2** Thence South 00°26'20" East, along said corporation line, 84.65 feet to a 5/8 inch iron pin (Id: Polaris) set in the northeasterly right of way of Milverton Road
- COURSE 3** Thence North 40°55'10" West, along northeasterly right of way of Milverton Road, 63.20 feet to the Place of Beginning, and containing 0.0398 acres of land (1,736 square feet), based on a survey performed in February, 2014 by Edward B. Dudley III, P.S. #6747, and calculated and described in September, 2015 by Michael P. Spellacy P.S. 8169 of Polaris Engineering and Surveying Inc., subject to all legal highways and easements of record. The bearings used refer to the centerline of Sutton Road, North 00°26'20" West, as shown by plat for Milverton Road Subdivision, and are used to indicate angular values only. All iron pins set are 5/8 inch by 30 inch long rebar with plastic identification caps inscribed "Polaris". The intent of this instrument is to describe land in PPN 731-18-028 in the City of Cleveland which boundary shall be adjusted to place such land into the City of Shaker Heights.

November 03, 2015
LEGAL DESCRIPTION
Of Land in the City of Cleveland
Which Boundary Shall Be Adjusted
To Place Such Land Into The City of Shaker Heights
Boundary Adjustment Parcel 2

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, being part of Original Warrensville Township Lots 31 and 41, and being all that part of Sublots 12 through 18 inclusive of the Milverton Road Subdivision as shown by plat recorded in volume 62, page 27 of Cuyahoga County Map Records (PPN 731-18-021 through 731-18-027 inclusive), lying within the City of Cleveland, and further described as follows:

Beginning at a 5/8 inch iron pin (Id: Dudley) found in the Southwesterly right of way of Van Aken Boulevard (170 feet wide) at the most northerly corner of Milverton Path (width Varies) as shown by plat for Milverton Road Subdivision, the same being most easterly corner of subplot 16 of said Milverton Road Subdivision, and in the line between Original Warrensville Township Lots 31 and 41;

Thence South 89°35'48 West, along said lot line, 15.50 feet to a 5/8 inch iron pin (Id: Polaris) set therein, at an angle point in the corporation line between the City of Cleveland and the City of Shaker Heights, and the **Principal Place of Beginning** of the following described parcel:

- COURSE 1** Thence South 00°26'20" East, along said corporation line, 261.83 feet to a 5/8 inch iron pin (Id: Polaris) set in the northeasterly line of subplot 31 of said Milverton Road Subdivision;
- COURSE 2** Thence North 22°38'25" West, along the northeasterly line of sublots 31 and 32 of said Milverton Road Subdivision, 57.32 feet to a 5/8 inch iron pin (Id: Dudley) found;
- COURSE 3** Thence North 49°54'22" West, along the northeasterly line of sublots 32, 33, and 34 of said Milverton Road Subdivision, 155.37 feet to a 5/8 inch iron pin (Id: Dudley) found;
- COURSE 4** Thence North 63°41'34" West, along the northeasterly line of sublots 34, through 36 of said Milverton Road Subdivision, 120.00 feet to a 5/8 inch iron pin (Id: Polaris) set in the southeasterly corner of subplot 19 of said Milverton Road Subdivision;
- COURSE 5** Thence North 17°19'25" East, along the easterly line of subplot 19 of said Milverton Road Subdivision, 56.63 feet to a 5/8 inch iron pin (Id: Polaris) set therein, and in the corporation line between the City of Cleveland and the City of Shaker Heights;

COURSE 6

Thence North 89°35'48" East, along the corporation line between the City of Cleveland and the City of Shaker Heights, 229.63 feet to the Principal Place of Beginning, and containing 0.7345 acres of land (31,996 square feet), based on a survey performed in February, 2014 by Edward B. Dudley III, P.S. #6747, and calculated and described in October, 2015 by Michael P. Spellacy P.S. 8169 of Polaris Engineering and Surveying Inc., subject to all legal highways and easements of record. The bearings used refer to the centerline of Sutton Road, North 00°26'20" West, as shown by plat for Milverton Road Subdivision, and are used to indicate angular values only. All iron pins set are 5/8 inch by 30 inch long rebar with plastic identification caps inscribed "Polaris". The intent of this instrument is to describe land in PPN 731-18-21 through 731-18-027 in the City of Cleveland which boundary shall be adjusted to place such land into the City of Shaker Heights.

Section 2. That the agreed change in the municipal boundary line shall take effect in the manner prescribed in the general laws of the State of Ohio. This Council requests that the resolution to be adopted by the Cuyahoga County Council, under Section 709.37 of the Revised Code, provide for an effective date.

Section 3. That the Director of Economic Development is authorized to enter into an agreement with Shaker Heights in order to effect this adjustment and to transfer ownership of any Cleveland-located portion of the Redevelopment Area to Shaker Heights.

Section 4. That the agreement shall be prepared by the Director of Law and shall contain any terms and conditions that are necessary to protect and benefit the public interest.

Section 5. That the proposed boundary adjustment and transfer of property shall be at no cost to Cleveland.

Section 6. That the Mayor, the Director of Law, the Director of Public Utilities, or the Commissioner of Purchases and Supplies are authorized to file all papers and execute all documents that are necessary to implement this adjustment, including an interim escrow arrangement.

Section 7. That the Clerk of Council is directed to certify a copy of this ordinance to the Board of County Commissioners of Cuyahoga County, Ohio, under Section 709.37 of the Revised Code, for further proceedings in accordance with the law.

Section 8. That the Mayor is authorized to enter into a tax-sharing agreement between Cleveland and Shaker Heights to share real estate and income-tax revenues generated through residents of said Redevelopment Area related to the proposed new boundary.

Section 9. That the agreement authorized by this ordinance generally shall entitle Cleveland and Shaker Heights to equally share in the real estate and income-tax revenues, which shall be an amount equal to one-half of all real estate and income tax revenues received by Shaker Heights in the Redevelopment Area.

Section 10. That all payments made to Cleveland by Shaker Heights under the agreement authorized by this ordinance shall be deposited in the Cleveland's general fund.

Section 11. That the Mayor, or the appropriate City official, is authorized to execute on behalf of Cleveland all necessary documents to effectuate the purposes of this ordinance.

Section 12. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed December 7, 2015.
Effective December 10, 2015.

I, Allan Dreyer, Deputy Clerk, Clerk of Council Pro Tempore, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1446-15, passed by the Council of the City of Cleveland on December 7, 2015.

WITNESS my hand and seal at Cleveland, Ohio, this 21st day of December, 2015.



Allan Dreyer
Deputy Clerk, Clerk of Council Pro Tempore

ORDINANCE NO. 15-104
BY: Rob Zimmerman

Approving an adjustment of the municipal boundary between the City of Cleveland and City of Shaker Heights that bisects eight parcels of land owned by Shaker Heights located on Van Aken Boulevard, at the intersection with Sutton and Onaway Roads, in order to incorporate all of the land within the municipal boundary of the City of Shaker Heights, pursuant to Section 709.37 of the Ohio Revised Code, and declaring an emergency.

WHEREAS, the City of Shaker Heights owns eight parcels of real property on Van Aken Boulevard, at the intersection with Sutton and Onaway Roads, which parcels are located partly in the City of Shaker Heights and partly in the City of Cleveland, and consist of approximately 2.34 acres of vacant land, with no structures and no residents, that have the permanent parcel numbers 731-18-021, 731-18-022, 731-18-023, 731-18-024, 31-18-025, 731-18-026, 731-18-027 and 731-18-028 ("the Property"); and

WHEREAS, Shaker Heights desires to develop the Property to enhance the City's tax base and revitalize the surrounding neighborhood, which is partly in Cleveland and partly in Shaker Heights, through incentivizing the construction of new housing; and

WHEREAS, Shaker Heights and Cleveland have determined that the most prudent and efficient manner in which to incentivize such new housing requires the adjustment of the municipal corporation boundary within the Property pursuant to Section 709.37 of the Ohio Revised Code, by causing the entire Property to be located within the corporate boundaries of the City of Shaker Heights; and

WHEREAS, a process for adjusting the boundaries of adjoining municipal corporations by the mutual consent of their respective legislative bodies is provided in Section 709.37 of the Ohio Revised Code, as long as the property is not inhabited by more than five voters, and the process requires approval by the Cuyahoga County Council; and

WHEREAS, Cleveland City Council enacted legislation on December 7, 2015 agreeing to the boundary adjustment, in exchange for a tax sharing agreement regarding the Property, which agreement is subject to separate contemporaneous authorizing legislation.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, State of Ohio:

Section 1. Pursuant to Section 709.37 of the Ohio Revised Code, this Council approves the adjustment of the municipal boundary between the City of Cleveland and City of Shaker Heights that bisects the eight parcels of land owned by Shaker Heights located on Van Aken Boulevard, at the intersection with Sutton and Onaway Roads, with the permanent parcel numbers as follows, 731-18-021, 731-18-022, 731-18-023, 731-18-024, 31-18-025, 731-18-026, 731-18-027 and 731-18-028, which adjustment shall thereby incorporate all of said parcels entirely within the municipal boundary of the City of Shaker Heights.

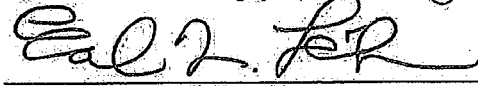
Section 2. The Mayor and other appropriate City officials are authorized to prepare and execute such plat or plats and other documents that may be necessary to effectuate the boundary adjustment approved herein.

Section 3. The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the Clerk of the Council of Cuyahoga County and the Cuyahoga County Executive.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary in the current operation of the City and, further, in order to allow the ordinance to be certified and sent to the Cuyahoga Council for approval, in order to allow the development of the City's Property to proceed in a timely manner and allow for construction to occur in 2016, and therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted December 21, 2015.

Approved this 23rd day of December 2015.



EARL M. LEIKEN, Mayor

Attest:



JERI E. CHAIKIN
Clerk of Council

coun15/1218transitvillage-boundaryadjustment

CERTIFICATION

The undersigned does hereby certify that the foregoing is a true and correct copy of Ordinance No. 15-104 adopted by the Council of the City of Shaker Heights.



Clerk of Council

Date: 12/23/15