

ORDINANCE NO. 38-2015 AMENDED

Offered by All of Council

AN ORDINANCE TO APPROPRIATE THE PARCEL OF REAL PROPERTY KNOWN AS 4034 WHEATLEY ROAD, PERMANENT PARCEL NUMBER 50-01486, FOR THE MAKING OF ROADS OPEN TO THE PUBLIC WITHOUT CHARGE, AND DECLARING AN EMERGENCY

WHEREAS, on January 6, 2015, this Council adopted Resolution No. 101-2014 declaring the necessity and intention of taking a fee simple interest in and for the premises owned by Bigadza Family Limited Partnership located at 4034 Wheatley Road in the Village of Richfield, Summit County, Ohio, known as Permanent Parcel No. 50-01486 (the "Property") for the making of a road open to the public without charge; and

WHEREAS, the Mayor caused written notice to be given to the owner of record of the Property of the notice of intent to acquire the Property, a copy of a proposed purchase agreement, an appraisal of the Property prepared by C.P. Braman & Co., Inc. and dated April 14, 2015 and, the Village's Resolution of Necessity; and

WHEREAS, the Village has been unable to agree on a conveyance or the terms of conveyance of the Property with the owner of record of the Property; and

WHEREAS, the Village desires to take the Property by instituting a quick take eminent domain proceeding under Ohio Revised Code Section 163.05, for the reason that the land is needed to build a road open to the public without charge and that pursuant to Ohio Revised Code Section 163.05, the Petition filed with the Summit County Probate Court will indicate and include a statement of the value of the property being appropriated; and

WHEREAS, the Finance Director is authorized to deposit the appropriate funds for the value of the Property, to be filed along with the Petition with the Summit County Probate Court.

NOW THEREFORE, BE IT ORDAINED, by the Council of the Village of Richfield, County of Summit, State of Ohio, that:

SECTION 1. The fee simple interest in and to the following described premises located at 4034 Wheatley Road in the Village of Richfield, Summit County, Ohio, known as Permanent Parcel No. 50-01486 owned by Bigadza Family Limited Partnership, a legal description of which is attached hereto as Exhibit A and incorporated herein fully as if by reference, is appropriated for the making of a road open to the public without charge pursuant to the Constitution and the laws of the State of Ohio.

SECTION 2. Council finds that the appropriation is necessary for public roadway purposes and that the Village has been unable to agree on the fair market value with the owner of record.

SECTION 3. There be appropriated from the Land Acquisition Fund, Cost of Operations, Four Hundred Thirty Thousand Dollars (\$430,000.00).

SECTION 4. There be appropriated from the Income Tax Fund, Transfer to Land Acquisition Fund, Four Hundred Thirty Thousand Dollars (\$430,000.00).

SECTION 5. The Director of Law be and hereby is authorized and directed to prepare and file a Petition for Appropriation in a court of competent jurisdiction, to attach a statement of the value of the property appropriated, and to deposit the funds in the amount of the appraisal, with the petition, to the Summit County Probate Court, and have a jury empaneled to make inquiry into and assess the compensation and damages, if any, to be paid for the fee simple interest in said Property..

SECTION 6. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 7. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare, and for the further reason that it is immediately necessary so that the Village has the ability to facilitate a necessary public roadway improvement at the earliest possible time; wherefore, provided this Ordinance receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 6-16-15

Rick Audak
President of Council

Bobbie Beshan
Mayor

Dated: 6/16/15

ATTEST:
Carolyn E. Sullivan
Clerk of Council

“EXHIBIT A”

Legal Description of the Property

Situated in the Village of Richfield, County of Summit and State of Ohio; And known as being part of Original Lot 3, in Tract 3, in said Township and further bounded and described as follows: Beginning at the intersection of the centerline of the Original Cleveland-Massillon Road, which line is also the Westerly line of Original Lot 3 and the Original Wheatley Road; Thence North 89 deg. 36' 00" East, 1613.08 feet along the centerline of Wheatley Road to the true place of beginning for the following described parcel of land; Thence continue North 89 deg. 36' 00" East 180.00 feet along the centerline of Wheatley Road to a point; Thence South 00 deg. 26' 30" West 643.00 feet to an iron pin set and passing over an iron pin set 30.00 feet from the centerline of Wheatley Road; Thence South 80 deg. 36' 00" West 180.00 feet to an iron pin set; Thence North 00 deg. 26' 30" East 643.00 feet to the centerline of Wheatley Road and passing over an iron pin found 30.00 feet from the centerline of Wheatley Road, said place is the true place of beginning for this parcel, containing 2.66 acres of land more or less, but subject to all legal highways.