

VILLAGE OF SOUTHLEBANON, OHIO
RESOLUTION NO. 2015-02

A RESOLUTION DETERMINING THE PURPOSE OF AND NECESSITY OF THE STATE ROUTE 48 AND MASON MORROW MILGROVE ROAD INTERSECTION IMPROVEMENT PROJECT FOR PUBLIC USE, AND AUTHORIZING THE MAYOR TO GIVE NOTICE OF INTENT TO ACQUIRE, AND DECLARING AN EMERGENCY

WHEREAS, Ohio Rev. Code §§719.01 (A) and 723.02, provide that a municipal corporation may appropriate, enter upon and hold real estate within its corporate limits, inter alia, for opening, widening, straightening, changing the grade of, and extending streets; and,

WHEREAS, in accordance with Ohio Rev. Code §719.04, the legislative authority of a municipal corporation shall, whenever it is deemed necessary to appropriate property, pass a resolution declaring such intent, defining the purpose of the appropriation, and setting forth a pertinent description of the land and the estate or interest therein desired to be appropriated; and,

WHEREAS, in accordance with Ohio Rev. Code §719.05, immediately upon the passage of a resolution under section 719.04 of the Ohio Revised Code, the Mayor of a municipal corporation, after one reading, shall cause written notice to be given to the owner of, person in possession of, or person having an interest of record in, every piece of property sought to be appropriated, or to his authorized agent in accordance with said statute; and,

WHEREAS, Ohio Rev. Code § 163.021(A) provides as a prerequisite that no public agency shall appropriate real property except as necessary and for a public use; and,

WHEREAS, Ohio Rev. Code § 163.021(A) places the initial burden on the public agency to show by a preponderance of the evidence that the taking of private property and/or any interest therein is necessary and for a public use; however, in accordance with Ohio Rev. Code § 163.09 (B)(1)(a), a resolution of the public agency declaring the necessity for the appropriation creates a rebuttable presumption of the necessity for the appropriation if the public agency is not appropriating the property because it is a blighted parcel or part of a blighted area or sum; and,

WHEREAS, due to the high volume of traffic and amount of traffic crashes that occur in the vicinity, road improvements are necessary to improve the intersection of State Route 48 and Mason Morrow Millgrove Road in the Village of South Lebanon for the public health, safety and general welfare of the general public; and,

WHEREAS, the acquisition and/or appropriation of the property and/or interest therein for said public right-of-way is for the purpose of the construction associated with the public road improvements at the intersection of State Route 48 and Mason Morrow Millgrove Road, identified as ODOT Project No. WAR-48-8.80 PID 94494; and,

WHEREAS, the Council intends to appropriate properties and/or interest in properties in the Village of South Lebanon, the pertinent description of which, and the estate or interest in such, are identified on Exhibit "A" attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of South Lebanon, Ohio, at least two-thirds of all members elected thereto concurring:

Section 1. The Council does hereby determine the purpose of and necessity for the public health, safety and general welfare of the general public, to obtain or acquire Right-of-Way for the following project that does not include a blighted parcel or part of a blighted area or slum, for the construction of improvements to serve the public to be open without charge:

Public road improvements at the intersection of State Route 48 and Mason Morrow Millgrove Road, identified as ODOT Project No. WAR-48-8.80 PID 94494

Section 2. The Council does hereby declare the intent to acquire through appropriation certain properties and/or interest in properties in the Village of South Lebanon, the pertinent description of which, and the estate or interest in such, are identified on Exhibit "A".

Section 3. Upon the passage of this Resolution, the Mayor shall cause written notice to be given to the owner of, person in possession of, or person having an interest of record in, every piece of property sought to be appropriated, or to his authorized agent, in accordance with law.

Section 4. That the Council is acting in its administrative capacity in passing this Resolution.

Section 5. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 6. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public health, safety and/or general welfare.

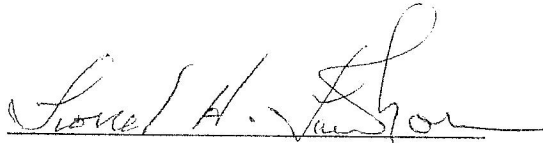
Section 7. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were passed in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 19th day of February, 2015.

Attest:



Sharon Louallen, Fiscal Officer/Clerk



Lionel Harold Lawhorn, Mayor

Rules Suspended: 2/19/15 (if applicable)

Effective Date -

Vote - 6 Yeas
_____ Nays

First Reading - 1 /2015
Second Reading - 1 /2015
Third Reading - 1 /2015

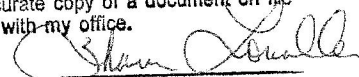
Effective Date - 1 /2015

Vote - 6 Yeas
_____ Nays

CERTIFIED COPY

I, Sharon Louallen, Fiscal Officer, of the Village of South Lebanon, Ohio do hereby certify this to be a true and accurate copy of a document on file with my office.

2-27-15
Date



Sharon Louallen
Fiscal Officer
Village of South Lebanon
Ohio

Prepared by and approved as to form:

BRUCE A. MCGARY
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: 

Date: 2/19/2015

CERTIFICATE

The undersigned hereby certifies the foregoing is a true and correct copy of the foregoing Resolution adopted by the South Lebanon Village Council at a meeting held on the 19th day February, 2015, together with a true and correct copy of the minutes of said meeting to the extent pertinent to the consideration and adoption of said Resolution.

SIGNATURE: 

NAME: Sharon Louallen

TITLE: Fiscal Officer

DATE:

CERTIFICATE OF POSTING

I, Sharon Louallen, Fiscal Officer of the Village of South Lebanon, Ohio do hereby certify I posted a true and accurate copy of this ordinance or resolution, summary of ordinance or resolution, or statement, order, proclamation, notice or report at five public places within the Village as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of Village of South Lebanon, Ohio.

2-20-15
Date

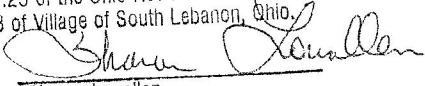

Sharon Louallen
Fiscal Officer
Village of South Lebanon,
Ohio

EXHIBIT A

Right-of-Way Property Acquisition Parcels

PID 94494 County WAR Route 48 Section 8.80											
Parcel #	Acquisition	Type	Estimated Unit (Acreage)								
11	Cooper, James Pt. 12-01-103-004-0	WD	0.053								
11.1	Cooper, James Pt. 12-01-103-002-0	WD	0.060								
12	Rock Castle Holdings, LLC. Pt. 12-01-103-006-0	WD	0.092								
5	TLC Properties, Inc. Pt. 12-01-103-009-0	WD	0.068								
6	Oeder & Sons Garage, Inc. Pt. 12-02-351-004-0	WD	0.189								
		TMP	0.178								
3	Bishop, Otis Pt. 12-01-129-003-0	WD	0.303								
		TMP	0.071								
13	Amburgy, Earl Pt. 12-01-129-004-0	WD	0.038								
		TMP	0.134								
14	Jett, Betty Pt. 12-01-126-004-0	TMP	0.021								
15	Amburgy, Kathleen Pt. 12-01-126-005-0	TMP	0.027								
8	G & H Real Estate LLC. Pt. 12-01-126-013-0	WL	0.067								
<p>NOTES: WD - Warranty Deed (Fee Simple) TMP - Temporary Construction Easement The Estimated Unit (Acreage) for each parcel may be subject to change.</p>											