

# THE CITY COUNCIL OF NORTH ROYALTON, OHIO

ORDINANCE NO. 06-78

INTRODUCED BY: Mayor Luks

## AN ORDINANCE APPROPRIATING AN EASEMENT INTEREST IN REAL PROPERTY FOR RIGHT-OF-WAY OF A PORTION OF PERMANENT PARCEL NUMBER 488-03-031 VIA QUICK-TAKE PROCEDURE AND DECLARING AN EMERGENCY

WHEREAS: Article I, Section 19 of the Ohio Constitution and R.C. 719.01 provides authority for a municipality to appropriate property for the purpose of “making or repairing roads open to the public without charge”; and

WHEREAS: The City is working to improve the intersection of State Route 94 (State Road) with County Route 57 (Wallings Road) in the City of North Royalton by expanding and widening the intersection; and

WHEREAS: The City has employed an engineer and acquisition consultant who have worked to identify all property for which the City has found it necessary to acquire a permanent and/or temporary easement for this road intersection widening project; and

WHEREAS: North Royalton City Council finds that the City, by and through its agents, has appraised the property, negotiated or attempted to negotiate with the owner(s) and has been unable to agree with the owner(s) of the property for the purchase of said easement(s); and

WHEREAS: Council finds it is necessary for the City to appropriate easement interests in the real property described below and in the Exhibits attached hereto by quick-take procedure involving a portion of permanent parcel number 488-03-031 presently owned by F.R.M. Service Inc. in order to purchase the permanent highway easement and other temporary easements necessary for construction purposes in order to widen the intersection of State Route 94 (State Road) with County Route 57 (Wallings Road) in the City of North Royalton in accordance with the United States Constitution, the Ohio Constitution and R.C. Chapter 163 and 719; and

WHEREAS: This appropriation of a certain portion of the above described parcel is necessary in order to obtain an easement interest to establish a public right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH ROYALTON, COUNTY OF CUYAHOGA AND STATE OF OHIO THAT:

Section 1. A permanent highway easement and temporary easements for construction, slope and grading in and to the parcel of real estate known as permanent parcel number 488-03-031 presently owned by F.R.M. Service Inc. and as more fully described in Exhibits A and B attached hereto and incorporated herein by reference, is/are hereby appropriated for the municipal purpose of widening the intersection of State Route 94 (State Road) with County Route 57 (Wallings Road) adjacent to the parcel described above and in the exhibits attached hereto pursuant to the Constitution and the Laws of the State of Ohio.

Section 2. The Council finds that the appropriation is necessary for the stated public purposes listed above in the preamble and Section 1, which are incorporated herein by reference, that the City has made attempts to negotiate the purchase of the easement interests described above from the owner and has been unable to agree with the owner of the property, and that the City intends to obtain immediate possession of the property, which immediate possession is necessary for the public purposes stated above.

Section 3. The Council hereby fixes the value of the fair market value of the property appropriated from permanent parcel number 488-03-031 as follows: \$29,869 for the permanent highway easement amounting to 0.0396 acres and \$1,207 for the temporary easement amounting to 0.0635 acres, for a total of \$31,076 which sums shall be deposited with the Court of Common Pleas for Cuyahoga County, Ohio. The Court of Common Pleas shall be requested to permit only such use of the funds as shall benefit the owners of the property appropriated as permitted by law with the request that any unused portion of the fair market value be reimbursed to the City of North Royalton. Upon such deposit, the City of North Royalton shall take possession of and enter and remain upon the property pursuant to law.

Section 4. The City Law Director is directed to file a Complaint for Appropriation in a Court of competent jurisdiction, to have a jury empanelled to assess the compensation to be paid for the real estate described above.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted 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 in compliance with all legal requirements.

Section 6. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the City, and for the further reason that it is immediately necessary to quickly pursue obtaining this easement to pursue this project in a timely fashion.

THEREFORE, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

/s/ Robert A. Stefanik  
PRESIDENT OF COUNCIL

APPROVED: /s/ Cathy Luks  
MAYOR

DATE PASSED: June 8, 2006

DATE APPROVED: June 9, 2006

ATTEST: /s/ Laura J. Haller  
DIRECTOR OF LEGISLATIVE SERVICES

First reading May 16, 2006  
Second reading June 6, 2006  
Third reading June 8, 2006  
Amended June 8, 2006

YEAS: Stefanik, Bobulsky, Gentile, Willey,  
McKee, Zaccardelli, Uffman-Kirsch  
NAYS: none