

**VILLAGE OF YELLOW SPRINGS  
RESOLUTION #2006-34**

**ADOPTING A STATEMENT INDICATING THE SERVICES THE VILLAGE OF YELLOW SPRINGS, OHIO WILL PROVIDE TO THE TERRITORY PROPOSED TO BE ANNEXED TO THE VILLAGE OF YELLOW SPRINGS, OHIO PURSUANT TO A PETITION FILED WITH THE BOARD OF COUNTY COMMISSIONERS OF GREENE COUNTY BY HAROLD EDWARD FOGG, CO-TRUSTEE OF THE LUCY VAN NESS LIVING TRUST AND EQUITY TRUST COMPANY CUSTODIAN FBO WARREN D. MILLER IRA, BRADLEY C. SMITH, ESQ., AGENT, AS PROVIDED BY OHIO REVISED CODE SECTION 709.023(C), AND PROVIDING FOR THE POSSIBLE CREATION OF A BUFFER AREA BETWEEN THE TERRITORY PROPOSED FOR ANNEXATION AND ADJACENT TOWNSHIP AREA AS PROVIDED BY OHIO REVISED CODE SECTION 709.023(C).**

**WHEREAS**, Harold Edward Fogg, Co-Trustee of the Lucy Van Ness Living Trust and Equity Trust Company Custodian FBO Warren D. Miller IRA, by and through their agent, Bradley C. Smith, Esq. (collectively, "Petitioner"), have filed with the Board of Commissioners of Greene County, Ohio, a petition to annex to the Village of Yellow Spring, Ohio, 39.180 acres of land more or less, in Miami Township, Ohio (the "Territory"); and

**WHEREAS**, Ohio Revised Code Section 709.023(C) provides that the legislative authority of the Village shall adopt an ordinance or resolution indicating what services the Village will provide to the land to be annexed to the Village upon receiving notice of the petition for annexation; and

**WHEREAS**, Ohio Revised Code Section 709.023(C) further provides that the legislative authority of the Village also shall adopt an ordinance or resolution indicating that, under certain conditions, it will impose a requirement that a buffer area be developed between the Territory and any adjacent Miami Township territory as part of any Village zoning resolution relating to the Territory.

**WHEREAS**, it is the intent of the Village Council to respond accordingly.

**NOW, THEREFORE, THE COUNCIL FOR THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY RESOLVES THAT:**

Section 1. The Village of Yellow Springs, Ohio hereby states that it will provide the following services to the Territory, as follows: (1) law enforcement and professional planning staff shall be available immediately upon annexation; and (2) recreation programming; maintenance of any and all public streets and alleyways, keeping same open, in repair and free from nuisance; potable water service; storm sewerage; and solid waste collection and disposal, as necessary and appropriate, shall be available to the Territory as the owners of the Territory develop the Territory and construct or provide for

any necessary infrastructure improvements to allow for the provision of such services. The availability of sanitary sewer service and electric service to the Territory will be dependant upon capacity requirements and availability, which issues are currently under review by the Village. Any public utility services offered to the Territory shall be subject to such regulations and conditions, as the Village deems appropriate, including, but not limited, construction and installation by the owner(s) of the Territory, of all necessary infrastructure improvements required to make such services available. For example, the Village has no plans to extend storm sewer services to the Territory at the Village's cost. Petitioner can elect to extend storm sewer facilities at Petitioner's expense.

**Section 2.** The Village of Yellow Springs, Ohio hereby further states that if the Territory is annexed and becomes subject to zoning by the Village and the Village zoning permits uses in the Territory that the Village Council determines are clearly incompatible with the uses permitted under the current zoning of Miami Township, Ohio in the adjacent land remaining within Miami Township, then the Village will require, in the zoning ordinance permitting any such incompatible uses, the owner of the Territory to provide a buffer separating the use of the Territory and the adjacent land remaining within Miami Township as permitted or required by Ohio Revised Code Section 709.023(C).

**Section 3.** The Clerk is hereby directed to forward a copy of this resolution to the Board of Greene County Commissioners.

**Section 4.** This Resolution will be in effect and in full force for as soon as permitted by law to satisfy the requirements set forth in Ohio Revised Code Section 709.023.

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Jocelyn Hardman, President of Council

Passed: October 16, 2006

Attest: \_\_\_\_\_  
Deborah Benning, Clerk of Council

Roll Call:

Jocelyn Hardman Yes

Karen Wintrow Yes

Bruce Rickenbach Yes

Judith Hempfling Absent

Kathryn Chase Yes

