



## Legislation Details (With Text)

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**On agenda:** 9/11/2018      **Final action:** 9/11/2018  
**Title:** Declaring the vacation of that portion of right of way, adjacent to Manley Road, South of Garden Road, within the City of Toledo, Lucas County, Ohio; waiving the fees and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
9/11/2018	1	City Council		
9/11/2018	1	City Council		
9/11/2018	1	City Council		

Zoning & Planning Committee

### **Declaring the vacation of that portion of right of way, adjacent to Manley Road, South of Garden Road, within the City of Toledo, Lucas County, Ohio; waiving the fees and declaring an emergency.**

#### **SUMMARY & BACKGROUND:**

The Council of the City of Toledo, by Resolution No. 80-18 adopted on February 27, 2018, declaring its intent to vacate, portion of right of way, adjacent to Manley Road, South of Garden Road, within the City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

All of the preliminary steps have been taken as required by law, the Charter of the City of Toledo, and the Toledo Plan Commission has made reports regarding the proposed vacations; and all things required by law to be done, have been done. During the vacation process it was determined the City of Toledo has received all fees for this vacation.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Council of the City of Toledo does hereby vacate that portion of right of way, adjacent to Manley Road, South of Garden Road, within the City of Toledo, Lucas County, Ohio; and more fully described as follows:

A parcel of land being part of the Northeast quarter (1/4) of Section Twenty-seven (27), Town Two (2) United States Reserve of the Twelve Mile Square at the Foot of the Rapids of the Miami of Lake Erie, in the City of Toledo, Lucas County, Ohio, said parcel of land being bounded and described as follows:

Commencing at the intersection of the northwesterly line of the Amended Plat of High Point Plaza, with the northeasterly line of the Amended Plat of High Point Plaza, as recorded in Volume 97, Page 47, Lucas County Plat Records, said point of intersection being marked with a found concrete monument;

thence South forty-four (44) degrees, fifty-four (54) minutes, seven (07) seconds West along said northwesterly line of the Amended Plat of High Point Plaza, a distance of sixty-one and ninety hundredths (61.90') feet to a point, said point being marked with a set capped iron rebar, said point also being the True Point of Beginning;

thence South forty-four (44) degrees, fifty-four (54) minutes, seven (07) seconds West along said northwesterly line of the Amended Plat of High Point Plaza, a distance of three hundred seventy-four and sixty-one hundredths (374.61') feet to the intersection of a line drawn forty and zero hundredths (40.00') feet easterly of and parallel with the centerline of relocated Manley Road, as it now exists, said point being marked with a set capped iron rebar, said point also being on an arc of curve;

thence along said line drawn forty and zero hundredths (40.00') easterly of and parallel with the centerline of relocated Manley Road, as it now exists, along a non-tangent arc of curve to the left, an arc length of one hundred sixty and ninety-five hundredths (160.95') feet to the point of tangency, said arc of curve having a radius of four hundred eighty and seventy-four hundredths (480.74') feet, a central angle of nineteen (19) degrees, ten (10) minutes, fifty-eight (58) seconds, a chord bearing of North twenty-three (23) degrees, thirty-six (36) minutes, thirteen (13) seconds East, and a chord length of one hundred sixty and twenty hundredths (160.20') feet, said point of tangency being marked with a set capped iron rebar;

thence North fourteen (14) degrees, zero (00) minutes, forty-four (44) seconds East along said line drawn forty and zero hundredths (40.00') feet easterly of and parallel with the centerline of relocated Manley Road, as it now exists, a distance of one hundred ninety-nine and forty-five hundredths (199.45') feet to the intersection of said line drawn seventy-five and zero hundredths (75.00') feet southerly of and parallel with the centerline of Garden Road, as it now exist, said point of intersection being marked with a set capped iron rebar,

thence South seventy-six (76) degrees, seventeen (17) minutes, fifty-five (55) seconds East along said line drawn seventy-five and zero hundredths (75.00') feet southerly of and parallel with the centerline of Garden Road, as it now exist, a distance of one hundred four and sixty-one hundredths (104.61') feet to a point, said point being marked with set capped iron rebar;

thence South forty (45) degrees, five (05) minutes, fifty-three (53) seconds East along a line, a distance of seventy-one and eleven hundredths (71.11') feet to the True Point of Beginning,

Said parcel of land having an area of 28,624 square feet or, 0.657 acres of land, more or less

The above described parcel of land is subject to any and all leases, easements and restrictions of record.

The bearings used hereon are based on an assumed meridian and are for the express purpose of calculating angular measurement.

Said set capped iron rebar being a 5/8" diameter and 30" long iron rebar with plastic cap stamped "Feller Finch PS7827".

Said set concrete monuments being 6" in diameter and 30" in length with a 2" aluminum cap, the aluminum cap being stamped Feller, Finch & Assoc., Inc.

The above description is based on a survey performed under my supervision during November 2014 and March 2015.

SECTION 2. That the vacation(s) herein shall be subject to compliance of the following condition(s), if any:

The following six (6) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions to Toledo City Council subject to the following six (6) conditions:

Division of Engineering Services

1. A pre-submittal meeting is not required, however one may be requested. Contact information is as follows:

Division of Engineering Services: 419-245-1315, fax 419-936-2850

Right-of-Way and Inspection: 419-245-1341

Roadway: 419-245-1344

Water: 419-936-2163

Stormwater Drainage: 419-245-3221; 419-245-1338

Sanitary Sewers: 419-936-2276

2. We object to the vacation as it encompasses a wastewater pump station. Area within 30 feet of the pump station shall be excluded from the vacation as agreed to three years ago. Right-of-way is needed to maintain the 8-inch diameter public waterline, a 24-inch diameter storm sewer and a 10-inch sanitary sewer that crosses the proposed parcel. Applicant shall relocate existing public water main, sanitary sewer, and storm sewer from the proposed vacated right of way. Alternatively, a full width easement shall be retained by the City of Toledo over vacated right of way. The following language shall appear in the authorizing vacation ordinance which shall be recorded and a notation placed in the remarks section of the County's real estate records:

*“That a full width (60 foot) easement is hereby retained over, across, under and through said vacated area as described in Section 1 herein, for the existing water main, sanitary sewer and storm sewer located in said vacated right of way. All City of Toledo facilities located within said easement are hereby dedicated to the City of Toledo, for City utility use only, to allow for future maintenance, repairs, replacements, etc. and shall not be combined with easements for other utilities. The easement hereby retained by the City of Toledo herein shall be primary in nature to any other utilities located therein, and any easement retained by any other utility as a result of this Ordinance shall be subject first to the easement rights of the City of Toledo. Said easement herein shall be permanent in nature for each utility currently located thereon and shall run with the land. Said easement also includes reasonable rights of ingress and egress over and through the utility easement area for the purpose of operating, maintaining, replacing, repairing and/or constructing any utilities located within the easement. The property owner shall not construct fences, walls or other barriers, which would impede access onto the easement. No temporary or permanent structures including building foundations, roof overhangs or other barriers denying access, may be constructed on or within the easement. Driveways, parking lots, walkways and other similar improvements are acceptable. The property owner hereby releases the City of Toledo, only, from any liability, responsibility or costs resulting from the City's removal of any barriers which deny ingress or egress from the easement or which obstruct access to the public utilities located on said property, and the City of Toledo shall have no obligation or duty to restore or compensate the property owner for the removed facilities. Further, any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained by the owner separately from each utility, as to their interest(s) only, by separate, recordable instrument.”*

Fire Prevention

3. The city hydrants adjacent to the proposed vacated area must stay

Plan Commissions

4. The revised survey and legal description, included as Exhibit “A”, shall be referenced for official recording purposes.

5. There is an existing access easement recorded for the shopping center. The “Private Place Access Easement”, as recorded in Amended Plat of High Point Plaza, shall be extended across the proposed area to be vacated. The Westerly prolongation of an existing 30 feet Private Place Access Easement lying within Lot #2 of the Amended Plat of High Point Plaza to the new easterly right of way of Manley Road as per this vacation.

6. A Site Plan Review shall be required for any future developments on the vacated area in accordance with the provisions of the Toledo Municipal Code Part Eleven, Planning and Zoning, Sec. 1111.0800, *Site Plan Review*.

SECTION 3. Waiver of fees for cost of land equaling \$ 23,242.69 per the request of the Council.

SECTION 4. That a full width easement in favor of the City is retained across, under and through said vacated area as described in Section 1 herein for the City’s future maintenance, repair, and replacement of the existing sewer, water and/or storm water facilities located in the vacated area. All City facilities located within said vacated area are hereby dedicated to the City for exclusive City utility use only and shall not be combined with easements or rights for other utilities. The easement retained by the City shall be primary to any other utilities located therein, and any easement retained by any other utility shall be subordinate to and subject to the easement rights of the City of Toledo. Said easement shall be permanent in nature for each utility and shall run with the land. Said easement also includes reasonable rights of egress and ingress over and through the vacated area. No fence, wall, building foundation, roof overhang, or other barrier which would impede access to the easement shall be constructed or maintained. Driveways, parking lots, walkways and other similar improvements are permitted subject to the prior written consent of the City. The City shall be released and held harmless for any liability, responsibility costs, or damages resulting from the City’s removal of any barriers which impede the City ingress or egress from the easement or which obstruct access to the utilities located within the vacated area. The City shall have no obligation or duty to restore or compensate the barrier owner for any barrier removed in whole or in part by the City. Any modification and/or release of any easement granted or retained by any utility as a result of this Ordinance shall be obtained separately from each utility, as to their interest(s) only, by separate recordable instrument.

SECTION 5. That the Real Estate Section of the Department of Development is hereby directed to cause a copy of this Ordinance to be recorded in the records of the office of Lucas County Recorder.

SECTION 6. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this Ordinance were adopted in a open meeting of Council, and that all deliberations of Council and any of its committees that result 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. That this Ordinance is hereby declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and for the further reason that this Ordinance must be immediately effective so that the vacations can be expeditiously completed to enable the property owner(s) to obtain the resulting benefits at the earliest time.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council