



Legislation Text

File #: O-560-19, **Version:** 1

The Clerk Reports

Amending Ord 238-19 that declared the Vacation of certain Right-of Ways along Front Street in the City of Toledo, Lucas County, Ohio for the purpose of conforming the legal descriptions therein to the respective Replats; making certain findings with respect thereto; and declaring an emergency.

SUMMARY & BACKGROUND:

Ordinance 238-19 declared the vacation with retained easements of the 30 Foot Right-of-Way Strip adjacent to Lot 8 in the Plat of the Marina District; 30 Foot Right-of-Way strip adjacent to Lot 12 in the Plat of the Marina District; 30 foot Right-of-Way strip adjacent to Lot 13 in the Plat of the Marina District and the 30 foot Right-of-Way strip adjacent to Private Place "G" in the Plat of the Marina District, in the City of Toledo, Lucas County, Ohio.

The Council of the City of Toledo, by Resolution No. 161-18 adopted on April 24, 2018, declared its intent to vacate several 30-foot right-of-way strips within the Plat of the Marina District, in the City of Toledo, Lucas County, Ohio.

On June 14, 2018, the Toledo City Plan Commission recommended approval of the request for the vacation of several 30-foot right-of-way strips within the Plat of the Marina District and on July 18, 2018, the Toledo City Council Zoning and Planning Committee recommended approval of the vacation of these 30-foot right-of-way strips within the Plat of the Marina District.

On November 16, 2018, the City of Toledo's Board of Revision of Assessments recommended to the Council of the City of Toledo approval of the vacation of these four 30-foot right-of-way strips within the Plat of the Marina District.

During the City of Toledo's vacation process, replats of the Marina District Plat were filed and recorded as Record Nos. 20180724003172 and 201807250032017 in the records of the Lucas County Recorder. Considering the Replats affecting the descriptions of the subject right-of-ways, this Ordinance amends Ordinance 238-19 for the purpose of conforming the legal descriptions of the vacated right-of-ways with those of the Replats.

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.

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

SECTION 1. That the Council of the City of Toledo does amend Ordinance 238-19 and hereby vacates a portion of several 30-foot right-of-way strips within the Plat of the New Waterfront Metropark and Marina

District Deux, in the City of Toledo, Lucas County, Ohio, in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Prior Deed:
O.R.20090304-0009825
Parcel: Right-of-way
LE Survey #49526

Legal Description Proposed 30' Strip Vacation: Being part of Front Street adjacent to lot 1 in the plat of New Waterfront Metropark, as recorded in O.R. 20180725-0032017, in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at the Easterly most corner of lot 1, in the Plat of New Waterfront Metropark, said point also being the True Point of Beginning.

Thence South 45 degrees, 54 minutes, 02 seconds East along the prolongation of the Easterly line of lot 1, a distance of 30.26 feet to a point on a line that is parallel with and 40.00 feet distant from the centerline of Front Street, so called.

Thence South 51 degrees, 38 minutes, 01 second West along a line that is parallel with and 40.00 feet distant from the centerline of Front Street, a distance of 568.11 feet to a point on the prolongation of the Easterly parcel line of land owned by Metropolitan Park District of the Toledo Area, parcel number 18-63507.

Thence North 26 degrees, 36 minutes, 59 seconds West along the prolongation of the Easterly parcel line of land owned by Metropolitan Park District of the Toledo Area, a distance of 30.64 feet to a point on a line that is parallel with and 70.00 feet distant from the centerline of Front Street.

Thence North 51 degrees, 38 minutes, 01 second East along a line parallel with and 70.00 feet distant from the centerline of Front Street, a distance of 557.90 feet to the True Point of Beginning.

Containing 16,890.06 square feet or 0.388 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only.

Prior Deed:
O.R.20090304-0009825
Parcel: Right-of-way
LE Survey #49526

Legal Description Proposed 30' Strip Vacation: Being part of Front Street adjacent to lot 1 in the plat of New Waterfront Metropark, as recorded in O.R. 20180725-0032017, in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at the Southern most corner of lot 1 in the plat of New Waterfront Metropark, said point also being the True Point of Beginning.

Thence North 38 degrees, 28 minutes, 12 seconds West along the Westerly line of lot 1, a distance of 30.00 feet to a point on a line that is parallel with and 70.00 feet distant from the centerline of Front Street, so called.

Thence North 51 degrees, 31 minutes, 48 seconds East, along a line that is parallel with and 70.00 feet distant

from the centerline of Front Street, a distance of 712.23 feet to a point on the Westerly parcel line of land owned by Metropolitan Park District of the Toledo Area, parcel number 18-63507.

Thence South 38 degrees, 28 minutes, 12 seconds East along the Westerly parcel line of land owned by Metropolitan Park District of the Toledo Area, a distance of 30.00 feet to a point on a line that is parallel with and 40.00 feet distant from the centerline of Front Street.

Thence South 51 degrees, 31 minutes, 48 seconds West along a line that is parallel with and 40.00 feet distant from the centerline of Front Street, a distance of 712.23 feet to the True Point of Beginning.

Containing 21,366.90 square feet or 0.491 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only.

Prior Deed:
O.R.20090304-0009825
Parcel: Right-of-way
LE Survey #49526

Legal Description Proposed 30' Strip Vacation: Being part of Front Street adjacent to lot 7 in the plat of Marina District Deux, as recorded in O.R. 20180724-0031712, in the City of Toledo, Lucas County, Ohio, bounded and described as follows:

Commencing at a stone with drill hole monument found 3.50 feet Northeast from the centerline intersection of Main Street, so called, with Front Street, so called.

Thence North 51 degrees, 33 minutes, 33 seconds East along the centerline of Front Street, a distance of 186.50 feet to a point of intersection with the prolongation of the Westerly line of lot 7 in the plat of Marina District Deux.

Thence North 38 degrees, 25 minutes, 16 seconds West along the prolongation of the Westerly line of lot 7, a distance of 40.00 feet to a point on a line that is parallel with and 40.00 feet distant from the centerline of Front Street, said point being the True Point of Beginning.

Thence continuing North 38 degrees, 25 minutes, 16 seconds West along the Westerly line of lot 7 a distance of 30.00 feet to a point on a line that is parallel with and 70.00 feet distant from the centerline of Front Street.

Thence North 51 degrees, 33 minutes, 33 seconds East along a line that is parallel with and 70.00 feet distant from the centerline of Front Street, a distance of 132.89 feet to a point of deflection to the left.

Thence North 51 degrees, 31 minutes, 48 seconds East along a line that is parallel with and 70.00 feet distant from the centerline of Front Street, a distance of 67.12 feet to a point on the Westerly line of lot 6.

Thence South 38 degrees, 25 minutes, 16 seconds East along the Westerly line of lot 6 a distance of 30.00 feet to a point on a line that is parallel with and 40.00 feet distant from the centerline of Front Street.

Thence South 51 degrees, 31 minutes, 48 seconds West along a line parallel with and 40.00 feet distant from the centerline of Front Street, a distance of 67.10 feet to a point of deflection to the right.

Thence South 51 degrees, 33 minutes, 33 seconds West along a line that is parallel with and 40.00 feet distant

from the centerline of Front Street, a distance of 132.91 feet to the True Point of Beginning.

Containing 6,000.30 square feet or 0.138 acres of land. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only.

SECTION 2. That the vacation(s) herein shall be subject to compliance with the following condition (s):

The following five (5) conditions are listed by agency of origin. Applicants are encouraged to contact each of the agencies to address compliance with their conditions.

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. Retain full width easement over vacated area to maintain 60" sewer that is located in that area.

Division of Transportation

3. Within the limits allowed by law, the applicant shall indemnify the City of Toledo, its officials, agents or employees, from any and all claims, demands, causes of action, suits or liability in connection with the performance of any and all acts authorized or permitted under this vacation. Said indemnification language shall be contained within and evidenced by the endorsement on a certified copy of the final vacating legislation by the owner which indemnification shall be kept in the permanent file of the Clerk of Council.

Toledo Edison Company

4. Toledo Edison has existing aerial facilities, which will need to remain in place.

Buckeye Cablevision

5. Buckeye Cable has a facility in the right-of-way and an easement will be required.

SECTION 3. That the fees for this vacation are waived in the amount of \$9,891.85 consistent with the development agreement authorized by Ordinance 41-19.

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 Neighborhoods and Business 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 an 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