



Legislation Text

File #: O-339-23, Version: 1

Zoning & Planning Committee

Declaring the vacation of a portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

The Council of the City of Toledo, by Resolution No. 589-22 adopted on November 9, 2022, declaring its intent to vacate a portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio.

On January 12, 2023, the Toledo City Plan Commission recommended approval of the request for the vacation of vacate a portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio.

The City Council Zoning and Planning Committee on February 15, 2023, sent as approved the request for the vacation of a portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio.

The Board of Revision met on May 25, 2023 and approved the request for the vacation of a portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio.

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 hereby vacate the portion of right of way located west of the relocated Angola Road and Airport Highway in the City of Toledo, Lucas County Ohio; and more fully described as follows:

A parcel of land being part of the Northeast 1/4 of fractional Section 18, Town 3 of the United States Reserve of 12 Mile Square at the Foot of the Rapids of the Miami of Lake Erie in the City of Toledo, Lucas County, Ohio and is bounded and described as follows (all iron rods set mentioned in this description are 5/8 inch diameter topped with a surveyor's cap ORAVECZ PS 5439);

Commencing at a found 1 inch diameter iron rod in a monument box marking the centerline of survey and right-of-way for Byrne Road and Airport Highway (a.k.a. State Route 2);

1) thence South 73°-05'-46" West, along the centerline of survey of Airport Highway, a distance of 914.35 feet to a 1 inch diameter iron rod in a monument box marking its intersection with the North line of said fractional Section 18;

- 2) thence continuing South 73°-05'-46" West, along the centerline of survey of Airport Highway, a distance of 503.62 feet to the Southwest corner of a parcel of land now or formerly owned by the City of Toledo as recorded in Official Record 20040809-0064857, Lucas County, Ohio records;
- 3) thence North 00°-05'-41" West, along the westerly line of said parcel recorded in Official Record 20040809-0064857, a distance of 51.97 feet to a set iron rod marking the point of BEGINNING of the hereinafter described parcel of land;
- 4) thence continuing North 00°-05'-41" West, along the westerly line of said parcel recorded in Official Record 20040809-0064857, said westerly line also being the easterly line of a parcel of land now or formerly owned by Kuba Enterprises, Ltd. as recorded in Official Record 20031119-0090654, Lucas County, Ohio records, a distance of 71.73 feet to a set iron rod;
- 5) thence South 85°-57'-01" East, a distance of 33.55 feet to a set iron rod;
- 6) thence South 22°-16'-04" East, a distance of 52.18 feet to a set iron rod;
- 7) thence South 68°-21'-48" West, a distance of 57.15 feet to the point of BEGINNING.

Containing 0.062 of an acre of land, more or less, all of which lies within parcel 20-02053, and is subject to legal highways and is subject to all legal easements, restrictions, leases of record and of the records in the respective utility offices and other conveyances, if any.

Prior Deed: Official Record 20040809-0064857, Lucas County, Ohio records

The bearings hereon are based on an assumed bearing of South 73°-05'-46" West for the centerline of survey of Airport Highway (a.k.a. State Route 2) as shown on the State of Ohio, Department of Transportation, LUC 2-11.68, City of Toledo, Lucas County Ohio, Right-of-Way Plans.

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

The following condition is listed by agency of origin. Applicants are encouraged to contact the agency to address compliance with their conditions.

Division of Transportation

1. 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.

SECTION 3. That the Real Estate Section of the Department of Economic 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. 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 Land Fees have been paid in the amount of \$687.40. The engineering fee and the Recording fee have been paid for total amount of \$862.40.

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 12, nays 0.

Passed: June 13, 2023, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

June 13, 2023
Wade Kapszukiewicz
Mayor