



## Legislation Details (With Text)

**File #:** O-077-18      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Approved  
**File created:** 2/16/2018      **In control:** City Council  
**On agenda:** 2/27/2018      **Final action:** 2/27/2018  
**Title:** Declaring the vacation of that portion of Belmont Avenue between Division Street and Clemente Trace, the north half of Bresnahans Green between Division Street and Clemente Trace & Rogan Way between Addie Way and the north half of Bresnahans Green within Collingwood Green, in 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
2/27/2018	1	City Council	Dispense with the rules of Council requiring...	Pass
2/27/2018	1	City Council	declare emergency	Pass
2/27/2018	1	City Council	passage	Pass

### Zoning & Planning Committee

**Declaring the vacation of that portion of Belmont Avenue between Division Street and Clemente Trace, the north half of Bresnahans Green between Division Street and Clemente Trace & Rogan Way between Addie Way and the north half of Bresnahans Green within Collingwood Green, in 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. 166-17 adopted on April 8, 2014, declaring its intent to vacate that portion of Belmont Avenue between Division Street and Clemente Trace, the north half of Bresnahans Green between Division Street and Clemente Trace & Rogan Way between Addie Way and the north half of Bresnahans Green within Collingwood Green in 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 Belmont Avenue between Division Street and Clemente Trace, the north half of Bresnahans Green between Division Street and

Clemente Trace & Rogan Way between Addie Way and the north half of Bresnahans Green within Collingwood Green in the City of Toledo, Lucas County, Ohio; and more fully described as follows:

Legal Description Street Vacation: Being part of Collingwood Green, as recorded in Official Record 20140124-0002518 and part of Belmont Avenue, in City of Toledo, Lucas County Ohio, bounded and described as follows:

**NORTH PORTION:**

Commencing at a 1 inch iron bar monument found at the intersection of the centerlines of Nebraska Avenue, so called, and Division Street, so called.

Thence South 89 degrees, 56 minutes, 09 seconds East, along the centerline of Nebraska Avenue, a distance of 30.00 feet to the southerly prolongation of the East right-of-way of Division Street.

Thence North 00 degrees, 47 minutes, 44 seconds East, along the East right-of-way of Division Street and its southerly prolongation, passing a brass plate monument found at a distance of 30.00 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 450.88 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 556.89 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 749.90 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 809.90 feet, an overall distance of 1012.92 feet to a brass plate monument found on the South right-of-way of Belmont Avenue, so called, said point also being the True Point of Beginning of the North portion.

Thence North 00 degrees, 30 minutes, 20 seconds East, a distance of 60.00 feet to a point on the North right-of-way of Belmont Avenue.

Thence South 89 degrees, 54 minutes, 36 seconds East, along the North right-of-way of Belmont Avenue, passing a brass plate monument found at a distance of 240.00 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 332.93 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 392.93 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 675.15 feet, an overall distance of 735.15 feet to a 1/2 inch galvanized steel pipe set on the East right-of-way of Clemente Trace, so called.

Thence South 00 degrees, 05 minutes, 24 seconds West, along the East right-of-way of Clemente Trace, a distance of 60.00 feet to a 1/2 inch galvanized steel pipe set on the South right-of-way of Belmont Avenue.

Thence North 89 degrees, 54 minutes, 36 seconds West, along the South right-of-way of Belmont Avenue, passing a 1/2 inch galvanized steel pipe set at a distance of 60.00 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 469.22 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 529.22 feet, an overall distance of 735.59 feet to the True Point of Beginning of the North portion.

Containing 44,122.19 square feet or 1.013 acres of land.

**TOGETHER WITH:**

**SOUTH PORTION:**

Commencing at a 1 inch iron bar monument found at the intersection of the centerlines of Nebraska Avenue, so called, and Division Street, so called.

Thence South 89 degrees, 56 minutes, 09 seconds East, along the centerline of Nebraska Avenue, a distance of 30.00 feet to the southerly prolongation of the East right-of-way of Division Street.

Thence North 00 degrees, 47 minutes, 44 seconds East, along the southerly prolongation of the East right-of-way of Division Street, passing a brass plate monument found at a distance of 30.00 feet, also passing a 1/2 inch galvanized steel pipe set at a distance of 450.88 feet, an overall distance of 503.89 feet to a point on the centerline of Bresnahans Green, so called, said point also being the True Point of Beginning of the South portion.

Thence continuing North 00 degrees, 47 minutes, 44 seconds East, along the East right-of-way of Division Street, a distance of 53.00 feet to a 1/2 inch galvanized steel pipe set on the North right-of-way of Bresnahans Green.

Thence South 89 degrees, 54 minutes, 36 seconds East, along the North right-of-way of Bresnahans Green, a distance of 125.38 feet to a 1/2 inch galvanized steel pipe set on a point deflection of the North right-of-way of Bresnahans Green.

Thence along the North right-of-way of Bresnahans Green, being a non-tangent curve to the right, having a radius of 176.50 feet, an arc length of 97.23 feet, a tangent length of 49.88 feet, a central angle of 31 degrees, 33 minutes, 44 seconds, a chord bearing of North 64 degrees, 31 minutes, 22 seconds East and a chord distance of 96.00 feet to a 1/2 inch galvanized steel pipe set on the West right-of-way of Rogan Way, so called.

Thence North 00 degrees, 05 minutes, 24 seconds East, along the West right-of-way of Rogan Way, a distance of 151.57 feet to a 1/2 inch galvanized steel pipe set on the South right-of-way of Addie Way, so called.

Thence South 89 degrees, 54 minutes, 36 seconds East, along the South right-of-way of Addie Way, a distance of 60.00 feet to a 1/2 inch galvanized steel pipe set on the East right-of-way of Rogan Way.

Thence South 00 degrees, 05 minutes, 24 seconds West, along the East right-of-way of Rogan Way, a distance of 151.57 feet to a 1/2 inch galvanized steel pipe set on a non-tangent curve to the right of the North right-of-way of Bresnahans Green.

Thence along the North right-of-way of Bresnahans Green, being a non-tangent curve to the right, having a radius of 176.50 feet, an arc length of 97.23 feet, a tangent length of 49.88 feet, a central angle of 31 degrees, 33 minutes, 44 seconds, a chord bearing of South 64 degrees, 20 minutes, 34 seconds East and a chord distance of 96.00 feet to a 1/2 inch galvanized steel pipe set at a point of deflection of the North right-of-way of Bresnahans Green.

Thence South 89 degrees, 54 minutes, 36 seconds East, along the North right-of-way of Bresnahans Green, a distance of 84.69 feet to a 1/2 inch galvanized steel pipe set on the West right-of-way of Clemente Trace, so called.

Thence along the West right-of-way of Clemente Trace, being a non-tangent curve to the right, having a radius of 380.00 feet, an arc length of 146.52 feet, a tangent length of 74.18 feet, a central angle of 22 degrees, 05 minutes, 32 seconds, a chord bearing of North 16 degrees, 30 minutes, 57 seconds East and a chord distance of 145.62 feet to a 1/2 inch galvanized steel pipe set on the South right-of-way of Addie Way.

Thence South 57 degrees, 54 minutes, 36 seconds East, along the Southeasterly prolongation of the South right-of-way of Addie Way, a distance of 60.22 feet to a point on the East right-of-way of Clemente Trace.

Thence along the East right-of-way of Clemente Trace, being a non-tangent curve to the left, having a radius of 320.00 feet, an arc length of 166.06 feet, a tangent length of 84.94 feet, a central angle of 29 degrees, 43 minutes, 58 seconds, a chord bearing of South 11 degrees, 50 minutes, 39 seconds West and a chord distance of 164.20 feet to a point on the centerline of Bresnahans Green and its Easterly prolongation.

Thence North 89 degrees, 54 minutes, 36 seconds West, along the centerline of Bresnahans Green, a distance of 176.58 feet to a point on the East line of Lot D in Collingwood Green.

Thence along the East line of Lot D in Collingwood Green, being a non-tangent curve to the left, having a radius of 31.50 feet, an arc length of 31.23 feet, a tangent length of 17.03 feet, a central angle of 56 degrees, 48 minutes, 29 seconds, a chord bearing of North 28 degrees, 18 minutes, 51 seconds West and a chord distance of 29.97 feet to a 1/2 inch galvanized steel pipe set on the North line of Lot D in Collingwood Green, said point also being a point of compound curvature.

Thence continuing along the North line of Lot D in Collingwood Green, being a curve to the left, having a radius of 126.50 feet, an arc length of 146.57 feet, a tangent length of 82.75 feet, a central angle of 66 degrees, 23 minutes, 02 seconds, a chord bearing of North 89 degrees, 54 minutes, 36 seconds West and a chord distance of 138.50 feet to a 1/2 inch galvanized steel pipe set on the West line of Lot D in Collingwood Green, said point also being a point of compound curvature.

Thence continuing along the West line of Lot D in Collingwood Green, being a non-tangent curve to the left, having a radius of 31.50 feet, an arc length of 31.23 feet, a tangent length of 17.03 feet, a central angle of 56 degrees, 48 minutes, 29 seconds, a chord bearing of South 28 degrees, 29 minutes, 39 seconds West and a chord distance of 29.97 feet to a point on the centerline of Bresnahans Green.

Thence North 89 degrees, 54 minutes, 36 seconds West, along the centerline of Bresnahans Green, a distance of 159.13 feet to the True Point of Beginning.

Containing 44,316.71 square feet or 1.017 acres of land

Both Portions combined containing a total of 88,438.90 square feet or 2.030 acres of land in all. Bearings used herein are based upon an assumed meridian and are intended to indicate angular measurement only. This legal description is based upon a field survey prepared by Lewandowski Engineers on March 22, 2017.

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

The following four (4) 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: ph. 419-245-1315, fax 419-936-2850  
Right-of-Way and Inspection: Joe Warnka 419-245-1341  
Roadway: Tim Grosjean, ph. 419-245-1344

Water: Andrea Kroma, ph. 419-936-2163  
Stormwater Drainage: Lorie Haslinger, ph. 419-245-3221;  
Andy Stepnick 419-245-1338  
Sanitary Sewers: Mike Elling, ph. 419-936-2276

2. A full-width easement will be required to maintain the existing public utilities. The easement shall be dedicated to the City of Toledo, for City utility use only, to allow for future maintenance and shall not be combined with easements for other utilities. The following language shall appear in the authorizing vacation ordinance that 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 that would impede access onto the easement. No temporary or permanent structure, 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 that deny ingress or egress from the easement or that 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.

#### 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.

#### Division of Streets, Bridges, and Harbors

4. The City of Toledo shall retain access to Belmont from Division to Clemente Trace (formerly Weiler Ave) for the purpose of street operations, including but not limited to: snow & ice operations, leaf collection, street sweeping, etc.

SECTION 3. Payment of fees for cost of land equaling \$29,892.38 was waived per the request of the Council.

SECTION 4. 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 5. 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 6. 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