



## Legislation Text

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**File #:** O-522-19, **Version:** 1

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### Zoning & Planning Committee

**Declaring the vacation of all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, 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. 235-18 adopted on June 19, 2018, declaring its intent to vacate all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, City of Toledo, Lucas County, Ohio; as more fully described in Section 1 hereof.

On August 9, 2018, the Toledo City Plan Commission recommended approval of the request to vacate all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, City of Toledo, Lucas County, Ohio.

The City Council Zoning and Planning Committee on September 12, 2018, sent as approved the request to vacate all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, City of Toledo, Lucas County, Ohio.

The Board of Revision met on October 25, 2019 and approved the request to vacate all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, 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. During the vacation process it was determined the City of Toledo has waived 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 all rights of way, with exceptions, found within the boundaries of the proposed Manhattan Marsh Metropark, being a part of Northern Heights Plat 3, “North Toledo”, Section 20, Town 9 South, Range 8 east, and the Forsythe Tract, City of Toledo, Lucas County, Ohio.

Description for overall Parcel 1 (The parcel within which roads and alleys are to be vacated)

A parcel of land being part of the Plat of North Toledo, part of the Plat of Northern Heights Plat 3, part of Section 20, Town 9 South, Range 8 East, and part of the Forsythe Tract, City of Toledo, Lucas County, Ohio and being more particularly described as follows:

Commencing at the intersection of the Centerline of Suder Avenue with the intersection of Ontario Street;

thence South 43 02'05" West, on the Centerline of Ontario Street, a distance of 49.50 feet to a point on the Southwesterly Line of Suder Avenue and the True Point of Beginning of the parcel herein described;

thence continuing South 43 02'05" West, on the Centerline of Ontario Street (vacated) a distance of 300.00 feet to a point;

thence South 46 57'51" East, a distance of 235.55 feet to a point on the Northwesterly Line of Chase Street (60 feet wide);

thence South 43 01'35" West, on the Northwesterly Line of Chase Street (60 feet wide), a distance of 163.49 feet to a point on the Southwesterly Line of Adrian Street (60 feet wide);

thence South 46 59'31" East, on the Southwesterly Line of Adrian Street (60 feet wide), a distance of 30.00 feet to the Easterly Corner of Lot 130 in Northern Heights Plat 3;

thence South 43 01'53" West, on the Southeasterly Line of said Lot 130, a distance of 406.14 feet to the Southerly Corner of said Lot 130;

thence North 46 59'11" West, on the Northeasterly Line of Clifford Street (60 feet wide), a distance of 30.01 feet to a point;

thence South 43 00'35" West, on the Northwesterly Line of Chase Street (60 feet wide), a distance of 145.90 feet to a point;

thence North 46 58'16" West, on a line being 17.00 feet Northeasterly of the Northeasterly Line of Lot 134 in said Northern Heights Plat 3, a distance of 103.00 feet to a point;

thence South 43 01'29" West, on the Northeasterly Extension of the Northwesterly Line of said Lot 134, and the Northwesterly Line of said Lot 134, and the Southeasterly Line of Lot 141 in said Northern Heights Plat 3, a distance of 319.87 feet to a point on the Northeasterly Line of Pontiac Street (60 feet wide);

thence North 46 58'16" West, on the Northeasterly Line of Pontiac Street (60 feet wide), a distance of 163.08 feet to the intersection of the Northeasterly Line of Pontiac Street (60 feet wide) with the Southeasterly Line of Ontario Street (60 feet wide);

thence North 43 02'11" East, on the Southeasterly Line of Ontario Street (60 feet wide) a distance of 139.91 feet to a point;

thence North 46 58'35" West, on the Northeasterly Line of Lots 12 and 13 in Block 128 North Toledo, and its Southeasterly extension, a distance of 48.95 feet to a point on the Northeasterly Line of said Lot 13;

thence North 84 32'33" West, a distance of 273.71 feet to a point on the Southeasterly Line of Michigan Street (vacated);

thence North 82 54'37" West, a distance of 37.06 feet to a point on the Centerline of Michigan Street (vacated);

thence South 43 02'05" West, on the Centerline of Michigan Street (vacated), a distance of 636.35 feet to a point on the Northeasterly Line of Bassett Street (60 feet wide);

thence North 46 58'14" West, on the Northeasterly Line of Bassett Street (60 feet wide), a distance of 761.88 feet to the intersection of the Northeasterly Line of Bassett Street (60 feet wide) with the Northwesterly Line of Edison Street (60 feet wide);

thence North 46 57'56" West, on the Northeasterly Line of Bassett Street (60 feet wide), a distance of 87.99 feet to the Westerly Corner of Lot 27 In Block 180 North Toledo;

thence North 43 01'48" East, on the Northwesterly Line of Lot 27 Block 180 North Toledo, a distance of 120.02 feet to the Northerly Corner of Lot 27 In Block 180 North Toledo;

thence North 46 58'14" West, on the Northeasterly Line of Lots 28 through 32 inclusive in Block 180 North Toledo, a distance of 218.00 feet to a point on the Southeasterly Line of Joseph Street (60 feet wide);

thence South 43 01'48" West, on the Southeasterly Line of Joseph Street (60 feet wide), a distance of 180.02 feet to the intersection of the Southwesterly Line of Bassett Street (60 feet wide) with the Southeasterly Line of Joseph Street (60 feet wide);

thence South 46 58'12" East, on the Southwesterly Line of Bassett Street (60 feet wide), a distance of 99.00 feet to a point;

thence South 46 01'48" West, on the Southeasterly Line of the Northwesterly 11.00 feet of Lot 5 in Block 181 North Toledo, a distance of 133.05 feet to a point on the Northeasterly Line of Lot 8 In Block 181 North Toledo;

thence South 46 58'14" East on the Northeasterly Line of Lots 8 and 18 in Block 181, a distance of 207.00 feet to the Easterly Corner of said Lot 18;

thence South 43 01'48" West, on the Northwesterly Line of Edison Street (60 feet wide), a distance of 120.06 feet to the South Corner of Lot 20 In Block 181 North Toledo;

thence North 46 58'12" West, on the Southwesterly Line of said Lot 20, a distance of 146.50 feet to the Easterly Corner of said Lot 20;

thence North 43 01'48" East, on the Northwesterly Line of said Lot 20, a distance of 40.02 feet to the Northerly Corner of said Lot 20;

thence North 46 58'12" West, on the Southwesterly Line of Lot 9 In Block 181, and its Southeasterly Extension, a distance of 159.50 feet to the Westerly Corner of said Lot 9;

thence North 43 01'48" East, on the Southeasterly Line of Joseph Street, a distance of 80.05 feet to the Northerly Corner of Lot 8 In Block 181 North Toledo;

thence North 46 58'13" West, a distance of 60.00 feet to the East Corner of Lot 18 in Block 195 North Toledo;

thence North 46 58'14" West, on the Northeasterly Line of Lots 8 and 18 in Block 195 North Toledo, a distance of 261.10 feet to the East Line of the Former Detroit Toledo Shoreline Railroad;

thence in a Northerly Direction, on the East Line of the Former Detroit Toledo Shoreline Railroad, on a curve to the left, said curve having a radius of 820.82 feet, a central angle of 14 10'37", a length of 202.97 feet, a chord bearing of North 09 21'50" West, and a chord distance of 202.58 feet to a point of tangency;

thence North 16 40'00" West, on the East Line of the Former Detroit Toledo Shoreline Railroad, a distance of 6.01 feet to a point of curvature;

thence in a Northerly direction, on the East Line of the Former Detroit Toledo Shoreline Railroad, on a curve to the right, said curve having a radius of 895.36 feet, a central angle of 15 20'24", a length of 239.59 feet, a chord bearing of North 08 46'44" West, and a chord distance of 239.00 feet to a point of tangency;

thence North 01 06'32" West, on the East Line of Former Detroit Toledo Shoreline Railroad, a distance of 609.02 feet to a point on the South Line Manhattan Boulevard;

thence North 85 59'29" East, on the South Line of Manhattan Boulevard, a distance of 98.02 feet to a point on the Southerly Line of the Former Toledo Terminal Railroad;

thence South 50 45'15" East, on the Southerly Line of the Former Toledo Terminal Railroad, a distance of 16.86 feet to a point of curvature;

thence in a Easterly Direction, on the Southerly Line of the Former Toledo Terminal Railroad, on a curve to the left, said curve having a radius of 1458.68 feet, a length of 1311.30 feet, a central angle of 51 31'00", a chord bearing of South 76 30'45" East, and a chord distance of 1267.82 feet to a point of tangency;

thence North 77 43'45" East on the Southerly Line of the Former Toledo Terminal Railroad, a distance of 62.67 feet to a point;

thence South 00 48'31" East on the Southerly Line of the Former Toledo Terminal Railroad, a distance of 40.81 feet to a point;

thence North 77 43'45" East, on the Southerly Line of the Former Toledo Terminal Railroad, a distance of 951.60 feet to a point on the Southwesterly Line of Suder Avenue (99 feet wide);

thence South 46 56'24" East, on the Southwesterly Line of Suder Avenue (99 feet wide), a distance of

700.41 feet to the True Point of Beginning.

Also included with the overall Parcel one the following parcel located outside the perimeter of the above Parcel One:

Lots 2 and 3 in Block 181 North Toledo.

The area of the overall Parcel One and said external lots added is 74.916 acres, more or less.

EXCEPTING THEREFROM the following portions of Joseph Street, Pontiac Street, and Edison Street in North Toledo which are NOT being vacated and being more particularly described as follows:

Beginning at the intersection of the Southwesterly Line of Bassett Street (60 feet wide) with the Northwesterly Line of Joseph Street (60 feet wide), also being the Easterly Corner of Lot 1 in Block 195 North Toledo;

thence North 43 01'48" East, on the Northwesterly Line of Joseph Street (60 feet wide), a distance of 745.09 feet to the intersection of the Northwesterly Line of Joseph Street with the Northeasterly Line of Pontiac Street (60 feet wide), said point also being the Southerly Corner of Lot 12 in Block 193 North Toledo;

thence South 46 58'16" East, on the Northeasterly Line of Pontiac Street (60 feet wide), a distance of 426.00 feet to the intersection of the Northeasterly Line of Pontiac Street (60 feet wide) with the Southeasterly Line of Edison Street (60 feet wide) said point being the Westerly Corner of Lot 18 in Block 163 North Toledo;

thence South 43 01'48" West, on the Southeasterly Line of Edison Street (60 feet wide), a distance of 312.04 feet to the Westerly Corner of Lot 10 in Block 164 North Toledo;

thence North 46 58'33" West, a distance of 60.00 feet to the Southerly Corner of Lot 19 In Block 180 North Toledo;

thence North 43 01'48" East, on the Northwesterly Line of Edison Street (60 feet wide), a distance of 252.04 feet to the intersection of the Northwesterly Line of Edison Street (60 feet wide) with the Southwesterly Line of Pontiac Street (60 feet wide), also being the Easterly Corner of Lot 1 in Block 180 North Toledo;

thence North 46 58'16" West, on the Southwesterly Line of Pontiac Street (60 feet wide), a distance of 306.00 feet to the intersection of the Southwesterly Line of Pontiac Street (60 feet wide) with the Southeasterly Line of Joseph Street (60 feet wide), said point being the Northerly Corner of Lot 7 in Block 180 North Toledo;

thence South 43 01'48" West, on the Southeasterly Line of Joseph Street (60 feet wide), a distance of 685.09 feet to the intersection of the Line of Joseph Street (60 feet wide) with the Southwesterly Line of Bassett Street (60 feet wide), said point being the North Corner of Lot 7 In Block 181 North Toledo;

thence North 46 58'12" West, a distance of 60.00 feet to the True Point of Beginning of the above described excepted parcel, said excepted parcel containing 1.877 acres of land, more or less.

ALSO EXCEPTING therefrom the above described overall Parcel 1 portions of Michigan Street, Adrian Street, Champlain Street, Clifford Street, and Edison Street in North Toledo which are NOT being vacated and being more particularly described as follows:

Beginning at the Intersection of the Southwesterly Line of Suder Avenue (99 feet wide) with the Northwesterly Line of Michigan Street (60 feet wide), said point also being the Easterly Corner of Lot 1 in Block 144 North Toledo;

thence South 46 56'24" East, on the Southwesterly Line of Suder Avenue (99 feet wide), a distance of 60.00 feet to the Northerly Corner of Lot 7 in Block 126 North Toledo;

thence South 43 02'05" West, on the Southeasterly Line of Michigan Street (60 feet wide), a distance of 463.87 feet to the intersection of the Southeasterly Line of Michigan Street (60 feet wide) with the Southwesterly Line Adrian Street (60 feet wide), said point also being the Northerly Corner of Lot 7 in Block 127 North Toledo;

thence North 46 59'31" West, on the Southwesterly Line of Adrian Street (60 feet wide), a distance of 365.28 feet to the intersection of the Southwesterly Line of Adrian Street (60 feet wide) with the Southeasterly Line of Champlain Street (60 feet wide), said point also being the Northerly Corner of Lot 7 in Block 145 North Toledo;

thence South 43 03'02" West, on the Southeasterly Line of Champlain Street (60 feet wide), a distance of 466.05 feet to the intersection of the Southeasterly Line of Champlain Street (60 feet wide) with the Southwesterly Line of Clifford Street (60 feet wide), said point also being the Northerly Corner of Lot 7 In Block 146 North Toledo;

thence North 46 59'11" West, on the Southwesterly Line of Clifford Street (60 feet wide), a distance of 426.55 feet to the intersection of the Southwesterly Line of Clifford Street (60 feet wide) with the Northwesterly Line of Edison Street (60 feet wide), said point also being the Easterly Corner of Lot 1 in Block 179 North Toledo;

thence North 43 01'48" East on the Northwesterly Line of Edison Street (60 feet wide), a distance of 370.70 feet to the Southerly Line of the Former Toledo Terminal Railroad;

thence North 77 43'45" East, on the Southerly Line of the Formal Toledo Terminal Railroad, a distance of 105.40 feet to a point on the Southeasterly Line of Edison Street (60 feet wide);

thence South 43 01'48" West, on the Southeasterly Line of Edison Street (60 feet wide), a distance of 397.34 feet to the intersection of the Southeasterly Line of Edison Street (60 feet wide) with the Northeasterly Line of Clifford Street (60 feet wide);

thence South 46 59'11" East, on the Northeasterly Line of Clifford Street (60 feet wide), a distance of 306.57 feet to the intersection of the Northeasterly Line of Clifford Street (60 feet wide) with the Northwesterly Line of Champlain Street (60 feet wide);

thence North 43 03'02" East, on the Northwesterly Line of Champlain Street (60 feet wide), a distance of 466.04 feet to the intersection of the Northwesterly Line of Champlain Street (60 feet wide) with the Northeasterly Line of Adrian Street (60 feet wide), said point being the Southerly Corner of Lot 12 in Block 161 North Toledo;

thence South 46 59'31" East, on the Northeasterly Line of Adrian Street (60 feet wide), a distance of 365.27 feet to the intersection of the Northeasterly Line of Adrian Street (60 feet wide) with the Northwesterly Line of Michigan Street (60 feet wide), said point being the Southerly Corner of Lot 12 in Block 144;

thence North 43 02'05" East, on the Northwesterly Line of Michigan Street (60 feet wide), a distance of 403.92 feet to the Point of Beginning, said second exception containing 2.776 acres of land, more or less.

Said over Parcel 1, less and excepting the two above exceptions contains 70.263 acres of land, more or less.

Description for overall Parcel 2 (The parcel within which roads and alleys are to be vacated) Which Lies Northeasterly of Suder Avenue.

A parcel of land being part of Blocks 124, 125, and 143 in North Toledo and being more particularly described as follows:

Beginning at the intersection of the Northeasterly Line of Suder Avenue (99 feet wide) with the Northwesterly Line of Ontario Street (60 feet wide), said point also being the Southerly Corner of Lot 12 in Block 125 North Toledo;

thence North 46 56'24" West, On the Northeasterly Line of Suder Avenue (99 feet wide), a distance of 574.00 feet to a point on the North Line of North Toledo;

thence North 88 59'08" East, on the North Line of North Toledo, a distance of 798.51 feet to a point on the Northwesterly Line of Ontario Street (60 feet wide);

thence South 43 01'39" West, on the Northwesterly Line of Ontario Street (60 feet wide), a distance of 555.44 feet to the Point of Beginning. Overall parcel 2 containing 3.659 acres of land, more or less.

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

The following nine (9) conditions are listed by agency of origin. Applicants are encouraged to contact

each of the agencies to address compliance with their 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: ph. 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. Easements are needed to maintain the 6-inch diameter public waterlines in vacated Joseph Street between the end of Joseph Street and Bassett Street, and in Bassett Street between Joseph Street and Edison Street. Full width easements 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 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 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."
3. If the petitioner wishes to reduce the size of the easement, the water main shall be located by survey and a twenty-foot (20') easement centered on the water main will be acceptable. The survey shall be conducted by and paid for by the petitioner.
4. Easements shall be required for all City of Toledo maintained headwalls, stormwater outfalls and stormwater pipes located in the proposed vacation. For Headwalls, the easement shall be a minimum of ten (10) feet from either side of the walls and tie into the Right of Way (where possible). A twenty-foot (20') easement centered on the pipe will be required for any storm pipes maintained by the City of Toledo

that will remain in service. Language required for the easement(s) appear in a previously stated comment.

5. Public storm sewers that will become obsolete due to the proposed vacation, shall be removed or abandoned properly by petitioner. Else the ownership shall transfer to the petitioner.
6. Easements for existing private stormwater outfalls shall be negotiated with the private outfall owners.
7. Any areas which contain public sanitary sewers shall not be vacated, unless the sewers are made private.

#### Division of Transportation

8. 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.

#### Plan Commission

9. A Site Plan Review and/or Special Use Permit 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.

SECTION 3. That fees for vacation are hereby waived as the City of Toledo is the applicant. The cost of the fees waived are \$16,041.75.

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 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 11, nays 0.

Passed: October 29, 2019, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger  
Clerk of Council

Matt Cherry  
President of Council

Approved:

October 29, 2019  
Wade Kapszukiewicz  
Mayor