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PUBLIC HEARING MINUTES

A Public Hearing was held on August 7, 2018 at 6:50 PM in the Council Chambers, Municipal Building for the vacation of two (2) streets situated in the City of Findlay known as the Carrol Street and Benton Street vacation Ordinance No. 2018-058 AS AMENDED.

Being all of Carrol Street as platted in the Cory, Daniels et al Addition to East Findlay, together with that part of Benton Street from Hawthorne Road to Carrol Street in the Morning Heights Subdivision, Findlay, Ohio.

President Monday asked if anyone wished to address Council.

1. Melissa Humphress lives across the street from Matthias Leguire's property at 830 East Sandusky Street. During the last flood, if it had not been for Carrol Street and Benton Street, he would have been trapped in his home. Mr. Leguire does not want those streets vacated for a couple of reasons. One because of flooding. His property is right next to a creek. The other reason being egress and ingress from Hawthorne Street, Benton Street, and Carrol Street. Hawthorne Street gives him access to and from his property in case of an emergency, or if he does any construction in the back of his property (i.e. building a fence, deliver construction materials, etc.). Those egress and ingresses are closer to where he would be doing any work and instead of having to go through his entire property on Sandusky Street. She urged Councilmembers to think about the safety of his family for ingress and egress purposes and flooding.

Discussion:

Councilman Wobser asked Ms. Humphress if she is referring to ingress/egress onto Sandusky Street. Ms. Humphress replied no, ingress/egress from his property. Councilman Wobser asked Ms. Humphress if she is concerned with the safety of driving onto Sandusky Street from his driveway. Ms. Humphress replied that when it floods, he cannot get out of his driveway. Councilman Wobser noted that Ms. Humphress had voice her concerns about the safety of his children and noted that it only floods every now and then. Ms. Humphress asked Councilman Wobser if he has ever been to Mr. Leguire's property. Councilman Wobser replied he has. He is just trying to understand what the concern is. There are a lot of driveways on Sandusky Street. No one else has voiced an issue of getting in and out of their driveways there, so he is trying to figure out what the issue is with this piece of property. Ms. Humphress replied she had mentioned the safety of his family mostly during flooding. Councilman Wobser asked if it is a flooding issue. Ms. Humphress replied it is to get in and out of his driveway and if East Sandusky Street is closed during a flood, he is not allowed to drive on Sandusky Street. He uses very little of Carrol Street. The jobs out of the back of his property are now behind his fully erected fence. It is safer to access that area from Benton Street to the cutout off of Hawthorne in which the cutout is already there.

2. Matthias Leguire is curious about the five (5) who requested this legislation. He asked why it was requested. They did not talk to all the homeowners. He asked why they requested these streets be vacated. He asked why the five (5) individuals requested the legislation. It failed three (3) different reports. Planning and Zoning voted it down. Hancock Regional Planning Commission voted down. City Planning Commission also voted it down. He asked why the five (5) Councilmembers requested the legislation. He directed his question to Councilman Harrington. Councilman Russel replied that the desire for the legislation came out of the Planning and Zoning Committee. During that committee meeting, there was a lot of discussion about whether or not the request to vacate should be for the entire length of Benton Street plus Carrol Street. There was not a consensus on it, plus the Planning and Zoning was working with the knowledge that City Planning had already recommended to act against the approval. When City Planning did that, it put an extra burden on the applicant.

Planning and Zoning felt there was a lot of merit in the request, but did not like the additional burdens that were going to be placed on the applicant, nor did they think the request went far enough and that all of it should be vacated. It was a continuation of the vacation request for Carrol Street and the streets to the south that came before Planning and Zoning that was vacated in the last year or two (2). When that issue came up, the Planning and Zoning Committee was asked why the City was not going to vacate the entire area. It goes back to a 1977's report that the Hancock Regional Planning Commission made for the City of Findlay on unimproved streets and alleys and the desire and benefits of vacating. During that time, they indicated that these streets should be vacated. Councilman Russel was the one who generated the legislation for this vacation. During the Planning and Zoning Committee, it was discussed how to move forward on this and it was decided that Council would make the recommendation to vacate the entire property with the burden of the notification process to be on Council. He asked for co-sponsors who were familiar with the situation that were in agreement that this was a proper way to move forward. That generated five (5) sponsors for the legislation. Primarily, he was the one who wrote the letter and found the co-sponsors.

Councilman Shindledecker noted that he was also one of the five (5) co-sponsors of the legislation request. He lives on North Main Street, another member of this Council lives just off of Bright Road with an egress from their property onto Bright Road. Councilman Russel lives on South Main Street, and Councilman Wobser grew up on South Main Street. Councilman Shindledecker does not buy the argument about the safety of Mr. Leguire's children. He has gone to Benton Street and has determined that entering Mr. Leguire's property through Benton Street would be a lot more dangerous to young children as there are woods on one side. It is a blind area because of the property just to the north. It does not seem to be a sufficient reason. The traffic on Sandusky Street is no greater than the traffic on North Main Street, South Main Street or Bright Road. The speed of the traffic for the most part on those other streets is greater than the average speed on Sandusky Street. This was his reason for the legislation. He did not agree that Benton Street is the proper egress/ingress from Mr. Leguire's property for safety reasons. Sandusky Street is used by many for many reasons. The safety aspect Mr. Leguire claims does not make sense to him. Mr. Leguire replied that some Councilmembers have come out to his property and have noticed how difficult it is to back out onto Sandusky Street from his driveway. He has eight (8) children who will all eventually get their driver's licenses, so he would like to provide them a safe way in and out of his property. The ingress/egress are named street that are being used. The vacation is being opposed by Mr. Leguire. If Council wants to set a precedent now and start vacating areas even when some oppose it, they will be going down another path. Carrol Street is a street. It is not an alley. It is platted. The burden should have been on those who requested it be vacated. He does not know why the City decided to use tax money to pay for the whole process. Even in the letter, it states that it is an unimproved portion of Carrol Street and Benton Street, so they are not alleys. The operative word is that it is a street and is named. He uses it for its intended purpose, which is driving on it. He is not using it as a yard. He grew up at 915 East Sandusky Street so he knows a little about the area and the traffic issues. He attended the July 3, 2018 City Council meeting, and when he went home that evening, due to the fairgrounds fireworks event, it would have taken him an extra thirty (30) minutes if he had gone all the way down Sandusky Street and entered through his driveway instead of driving around and going in through the rear of his property. He saved himself a lot of time by going that way when he left that City Council meeting. It was designated a street when his neighbors purchased their properties. They did not petition it as soon as they purchased it and instead waited nine (9) years. Whether the street is unimproved is not the real issue, nor are any of the other arguments that anyone has come up with. It was stated that he should have done his due diligence before purchasing his property. He did do so. He saw Carrol Street and Benton Street on the aerial view of his property before he ever went inside the home. The aerial view is what sold him. He lived on Larkins Street a few doors down from Walter Brothers Auctioneers. He missed the auction on his current property because he was coaching baseball. During that auction, there was a large poster of the property showing Carrol Street and Benton Street on it, so he bought the property. If he were to build something on the back of his property, he would not want to put in a driveway that goes eight hundred feet (800 ft) from Sandusky Street all the way to the back of his property when Carrol Street is there and he would not want to put in sewage from Sandusky Street eight hundred feet (800 ft) away when Carrol Street and Benton Street are already there. That is what they are there for. That is why they were put in. Property owners claim that they have maintained the property. Just because someone maintains governmental property does not entitle them to any claim of that property and they should have done their due diligence before they purchased their property. If they did not want Carrol Street right there, they should not have bought the property.

It was there when they bought their property nine (9) years ago. It is not new. It was not just put in recently. Council President Monday asked Mr. Leguire to wrap up his comments as his time has expired. Mr. Leguire continued saying there is a process for vacating streets. He did so when he vacated some of Benton Street and some of Decker Avenue. He vacated what he wanted to use. If that had not gone the way he wanted it to, he would have expected to pay for it as all taxpayers pay for their vacation. Instead, he would have expected that Council would not have gone through with it. There were three (3) different reports recommending not to vacate. That should have been enough. He does not understand why the City thinks there is a burden. He asked what the burden is that the City should have to pay for instead of the petitioner. The petition states that if it gets voted down, they can pay to publish it in the newspapers for six (6) consecutive weeks. He asked why Council did not have the petitioners pay for it. Council President Monday replied to Mr. Leguire that his time had expired.

3. Renee Leguire thanked Councilwoman Frische for her hot topics page. It is an incredible asset for Findlay to keep people abreast of what is going on. She asked Council to oppose the vacation of Carrol Street and Benton Street for the reasons that Mr. Leguire stated. She lives on Larkins Street. Her son, Mr. Leguire, used to live down the street from her with his family. There was a family that wanted to vacate an alley across the street from her. In that situation, all four (4) property owners that abutted against it did not want the vacation, so it did not go through. There are other alleys in her neighborhood that have been vacated because all of the property owners agreed to it. The fact that there are property owners that do not agree with the vacation and the fact that the other committees have voted to not vacate the streets, should all be taken into consideration.

Discussion:

Councilman Niemeyer asked if this property is five (5) acres. Ms. Leguire replied it is close to five (5) acres. Councilman Niemeyer then asked if Mr. Leguire could sell parcels off if someone wanted to build. Ms. Leguire replied yes he could. Councilman Niemeyer added that there is a street off West Sandusky Street that nobody knows is there with the same situation in that parcels could be sold. In December, the City cut a tree down that was in the middle of the street and is now in someone's driveway. He feels Ms. Leguire has a good idea.

Councilman Watson noted that Mr. Leguire asked for comments about sewer and water on Benton Street and Carrol Street. He asked if there are extensions there. Service Director/Acting City Engineer Thomas replied that there are no existing utilities on Benton Street or Carrol Street. Mr. Leguire is referring to bringing utilities off of Hawthorne back through those streets which would be closer to Sandusky Street. There are no existing utilities in those right-of-ways.

4. Chris Neely asked Council to vote in favor of vacating Carrol Street and Benton Street. The Mayor and various Councilmembers have visited this property to gain a perspective on the situation. The rear and side yards of the areas in question have been used by his neighbors and families before him for the last sixty (60) years. There was a shed on city property when he bought his house. Down the street, there is an existing fence that extends onto city property back where Mr. Leguire drives through. Those areas have always been maintained without complaint. They do not claim that area. They just maintain it. The Swisher's, who owned the house before he did, had a baseball diamond, kickball area, etc. The City was never really aware that they were there. The residents were aware because they lived there. They were never talked about and had always enjoyed their use. By voting to vacate these right-of-ways, City Council would be giving him and his neighbors the opportunity to permanently increase the size of their yards adding to the overall property value and appeal of their homes. The neighborhood is not in aggreance on those points. The property owner at 830 East Sandusky Street would like to keep the right-of-ways open because he currently uses them as his driveway. Some of Mr. Leguire's arguments are that East Sandusky Street is too busy to safely exist his driveway in which he sympathizes with that, but asked if Mr. Leguire was aware of that when he purchased the house. The other neighbors on that street seem to do fine. He is not aware of many accidents there. Properties on East Sandusky Street seem to still be selling well, so he does not see that as an issue. Another argument of his is that he would like to possibly add another driveway to the rear of his property. There would have to be a real street in order to do that. Council President Monday reminded Mr. Neely that he has one (1) more minute left in his allowed time. This street is on paper, so one way or another, someone would have to improve that street in order for Mr. Leguire to put a driveway in. If that is going to happen and not vacate it, he would then like to see a street put in.

Mr. Leguire would have to pay to put in a street so he can be driving on the street and not in back yards. Vacating these right-of-ways would improve his and his neighbor's lives. This whole ordeal has consumed them. If they would have been able to see into the future, they would have had these streets vacated a long time ago. If they would have known what was to come, they would have bought the property at 830 East Sandusky Street so that none of this would ever have happened.

Discussion:

Councilwoman Frische noted that after listening to both sides of this and visiting both properties, she feels both have valid points. She asked Councilman Russel, since he asked for the legislation, if he spoke with all the property owners within the extension prior to requesting the ordinance. She understands Mr. Neely's point of not wanting someone coming in and out of the back of an unimproved road, but it is a street. She sees the point of Sandusky Street and the traffic flow and getting in and out as she did experience it herself especially with Marathon getting in and out where traffic is very heavy. Some of the properties on East Sandusky Street sit back further than Mr. Leguire's property. They are smaller lots that are not eight hundred feet (800 ft) back. There are unimproved streets everywhere within the City. When Safety Director Schmelzer was the Service-Safety Director, it was discussed then if the City wanted to start vacating unimproved streets. Some like to park their boats, an extra car, etc. in the back which is within their right, but some neighbors do not like it. Mr. Neely replied that they are not maintaining streets. They are maintaining yards. They are not mowing the street. Councilwoman Frische replied that it is an unimproved street that has grassed over. Mr. Neely replied he understands it is called a street on paper, but it is not a street. Councilwoman Frische replied that to the property owner, it is not a street, but it is. Mr. Neely's comment about if Mr. Leguire wants to use that property, then he needs to pave it, or if he wants to develop his acreage, that it is not a real street and asked who would be paying for it. It would be no different than any developer that comes in who has to pay to develop the streets (water, sewer, etc) which would be at the developer's cost, and at that point, if Mr. Leguire does so, he would become a developer. Service Director/Acting City Engineer Thomas nodded in agreement. Councilwoman Frische added that the City would not improve a street at the City's cost when there is no need to do so. Mr. Neely replied that he understands that, but what he does not understand is that Mr. Leguire is using it daily, sometimes up to three (3) times a day. There needs to be a street for Mr. Leguire to access. Councilwoman Frische pointed out that when she went out there, she noticed that another property owner has placed a trailer off of Benton Street, so people do use it. It is unfortunate that this is at the point it is as it was denied three (3) times. She would not have an issue with it if Mr. Russel and the other four (4) Councilmembers had talked to the other property owners and if it was known that they are all on board with it. The reason it was voted down three (3) times was because the City Engineer on that committee had pointed out that past practices did not vacate if all property owners were not on board. The City wants one hundred percent (100%) abutting property owners in agreement. Mr. Leguire has a large portion and Mr. Neely wants to purchase some of it to increase his yard, but one (1) out of four (4) has now turned into one (1) out of seven (7) or eight (8) that are not for it, so she cannot go and vacate a street because one (1) property owner is choosing to use it for what he feels is for safety reasons or flooding issues. His lot is not the normal lot size. When she went out there, she did not see where any properties were torn up from anyone entering and existing off of Hawthorne. Coming off of Hawthorne is less than three hundred feet (300 ft) from Mr. Leguire's property. While she sympathizes with Mr. Neely in how he keeps his property and how Mr. Leguire keeps his, but when there is not one hundred percent (100%) support on a vacation and when she does not have an answer on why no one talked to the rest of the property owners before asking for legislation, Council did not do their due diligence and she cannot make that change at this point. Mr. Neely does not care how Mr. Leguire keeps his property anymore. Mr. Leguire has put up a decent fence, but he is not crazy about the one corner. Mr. Leguire also put up approximately twelve (12) no trespassing signs that he has to look at every day and does not appreciate it. Mr. Leguire does it to bug him. Mr. Leguire had also stated that he was going to move all his junk behind the fence if it this vacation goes through, so he has all that to look at every day. Councilwoman Frische replied that she has talked with Mr. Leguire about that. Mr. Neely noted that he just wants to inform Council where they are at. He asked Council to please vacate the alleys so he can also put up a fence and will not have to see everything and will not be aware of it. Council President Monday asked if the meeting could now move forward as it is now running very late.

Councilman Russel noted that he was just waiting for Councilwoman Frische to finish her comments before he answered her questions as he thought there would be multiple questions, but ended up only being one (1) question. He did not talk to all the property owners.

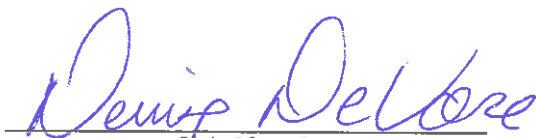
Councilman Wobser would like some clarity on Carrol Street and Benton Street as he has heard that it is an unimproved street. He asked if anyone can drive on it. He asked if he drove down it to Mr. Leguire's back yard and parked there for awhile if that would be okay. Councilwoman Frische agreed it would be. Councilman Wobser then asked if can do so on any unimproved street in the City. He asked if Council would be okay with having anyone drive down those types of streets and park wherever they want to because it is a "city street" because it has been platted even though it is a field. Councilwoman Frische replied that she understands Councilman Wobser's view on that, but the City does not go vacating alleys and streets every day because the future is unknown. The City does not know what developments may come in. If it is vacated too early, the City will be stuck in a pickle. She is unsure why the City would want to cause a hardship several years down the road to a property owner who has a large section with options because the unimproved street is beside their property. It is no different than alleys or any other unimproved streets. The City vacates alleys all the time that are not high traffic areas (i.e. South Main Street, North Main Street, etc.). When the City does those, it is because there is one hundred percent (100%) support from all of the property owners that take over maintaining it. Councilman Wobser asked if it is one hundred percent (100%) or the majority. Service Director/Acting City Engineer Thomas replied he has not researched it, but is certain there have been instances where there have been one hundred percent (100%) and other instances where there was a majority. Councilman Wobser replied that he was under the impression it was majority and since Mr. Leguire owns six (6) of these properties and not all of the others on the other side agree, it means that all are not in agreeance. Mr. Leguire has six (6) votes on this and everyone else just has one (1) vote.

Councilman Hellmann asked if he is correct that the Administration would like a policy to begin to eliminate a lot of these "paper streets" or unimproved streets and that this was a good place to start since it encompassed a couple of streets. Safety Director Schmelzer replied it is not a desire to eliminate paper streets or platted right-of-way. Each one has its own individual merits and must be weighed accordingly.

Councilman Wobser asked if this is a piece of property that the City needs to keep so that it can be improved upon for potential commercial business down the road. Safety Director Schmelzer replied he has not thought much about it, so he cannot answer that at this point. This piece of property has been talked about extensively from a couple of different perspectives. He suggested Council consider, at some point, whether it is through the Streets, Sidewalks, & Parking Committee or whatever committee wants to take it, to decide whether or not to allow people to do exactly what was suggested which is to utilize unimproved areas. This area is platted, but when those streets were platted, they should have been improved in order to function like they were intended to be. He does not think anyone intends to use grass and backyards as "streets". To him, they are not streets. They are platted right-of-way. That is it. They do not become a street until they are improved and become something that the public maintains. Councilman Wobser replied that is also his point with this that it is not a street. It is not improved. It is a platted piece of property and it does not mean that it will ever be a street. The fact that it is being used as a street is an abuse of the situation. If people started doing that all across the City in unimproved platted right-of-ways, there would be a lot of problems.

Councilwoman Frische noted that the Safety Director mentioned taking it to committee and asked if there are any issues with the Findlay Police Department having to address it with people parking on unimproved streets and hanging out. Safety Director Schmelzer replied that to his knowledge, there are not an extensive number of people that are using unimproved right-of-ways like Mr. Leguire does. Councilwoman Frische added that they are referred to as streets and act like Mr. Leguire is cruising the circuit up and down that street. He is not. He is going maybe fifty feet (50 ft) onto Hawthorne and curving the street another twenty-five feet (25 ft) and onto his property. He is not even going down past Mr. Neely's property or anyone else's property except for the one property on the corner. Council has not heard any complaining from that property owner.

President Monday adjourned the Public Hearing at 7:24pm.



Clerk of Council
Denise DeVore



President of Council
R. Ronald Monday