

ORDINANCE NO. 2008 - 114

AUTHORIZING THE CITY MANAGER TO EXECUTE AN ACQUISITION AGREEMENT AND TO ACCEPT AN EASEMENT FOR A NEW STORM SEWER AND SANITARY SEWER IMPROVEMENT PROJECT AND DECLARING AN EMERGENCY (JOHNSTON)

WHEREAS, the City of Mason has undertaken the Muddy Creek Restoration Phase II/ US 42 North Trunk Sewer Phase 2B Project; and

WHEREAS, it is necessary to acquire certain easements from property owners in order to complete the project; and

WHEREAS, the City has reached an agreement with Noble L. and Marilyn Johnston regarding the acquisition of an easement for sanitary sewer and storm sewer on their property.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. That the City Manager is hereby authorized to execute the Acquisition Agreement attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. That the Finance Director is hereby authorized to make any payment to Noble L. and Marilyn Johnston consistent with the terms of the Acquisition Agreement.


Section 3. That the City of Mason hereby accepts the easement for sanitary sewer and storm sewer attached as an exhibit to the Acquisition Agreement incorporated herein by reference.

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and general welfare and shall be effective immediately upon its passage. The need for said emergency is the necessity to begin the Muddy Creek Restoration Phase II/ US 42 North Trunk Sewer Phase 2B Project as soon as possible.

Passed this 27th day of October, 2008.

Attest:


Clerk of Council


Mayor

**ACQUISITION AGREEMENT FOR
STORM SEWER IMPROVEMENTS**

This Agreement is entered into this ____ day of October, 2008, by and between the City of Mason, 6000 Mason Montgomery Road, Mason, Ohio 45040 (hereinafter "City") and Marilyn Johnston, whose current address is 316 S West Street, Mason, Ohio 45011 (hereinafter "Owner"), who owns the property located at 316 S West Street, Mason, Ohio 45040, identified as Warren County, Ohio Auditor's Sidwell No.'s 16364300040, 16364280160, 16364280180.

In consideration of the mutual promises herein contained, City and Owner agree as follows:

1. City is in the process of acquiring right-of-way for a Sanitary Sewer Improvement Project. Owner owns property fronting along S. West Street, and the preliminary easement for said property is attached as Exhibit "A", incorporated herein by reference. As part of this project, City needs to acquire temporary and permanent easement from Owner for purposes of the project.
2. Owner agrees to convey to City for this project the following: a 20 feet wide access easement along the property line and a variable width temporary easement, as identified on Exhibit "A" which Owner acknowledges having reviewed. In exchange for this conveyance, City agrees to pay to Owner, \$1.00 for the sanitary sewer easements. The City will pay Owner upon the execution of the dedication plat.
3. Upon execution of this agreement owner hereby grants City right of entry to perform work as contemplated by the documents herein.
4. Owner agrees that it shall convey good and marketable title, with release of dower, if any, to the property described in Exhibit "B" conveyed to City. A Dedication plat shall be used to convey the drainage easement and shall be in a form acceptable to the Law Director for the City.
5. City shall include the following issues related to this property into the contract:
 - a. Said work shall be done at no cost to the owner.
 - b. The City of Mason will work with the property owner to restore the property as close as possible to the original condition prior to construction. All topsoil removed from the temporary easement area in the field will be stockpiled and reused to re-grade the existing field. All gravel installed for temporary access and storage areas shall be removed from the property and the grade restored to the original elevation.
 - c. The City of Mason will install a 6" diameter sewer lateral to the property, Parcel Number 16-36-428-0180, from the existing sanitary sewer.
 - d. The City of Mason will cut down 4 pine trees identified by the owner and will ensure that the contractor disposes of any pine trees removed from this property.
 - e. The City of Mason will extend an 8" sanitary stub toward S. West Street for a possible future sanitary lateral at no expense to the property owner.
 - f. The City of Mason will ensure that the contractor shall notify the affected property owner at least 48 hours prior to disturbing the property.
 - g. The City will mark the storage area for approval by the property owner prior to installing any gravel for the storage area.
 - h. The City will abandon and relocate the existing storm sewer in a new easement provided by the property owners along the property line at no expense to the property owner.

WITNESSES:

OWNER(S):

Pt. 16-36-430-004

ORDINANCE NO. 2008 - 55

Pt. 16-36-428-016

Pt. 16-36-428-018

BF

VACATING A 16.5 FOOT ALLEY LOCATED ON 316 S. WEST STREET TO NOBLE AND MARILYN JOHNSTON.

WHEREAS, Noble and Marilyn Johnston has submitted a petition for the vacation of an alley which is 16.5 foot wide and runs from S. West Street east to Rose Hill Cemetery approximately 540 feet across 316 S. West St. S, as described on Exhibit "A" attached hereto, and

WHEREAS, the City of Mason has determined that this real estate is no longer needed for municipal purposes, and

WHEREAS, an easement for access to the sanitary sewer will be granted to the City for access to the existing sanitary sewer.

WHEREAS, this Council is satisfied that there is good cause for vacating the portion the alley and it will not be detrimental to the general interests and ought to be vacated.

BE IT ORDAINED by the Council of the City of Mason, Ohio, six members elected thereto concurring:

Section 1. That .003 acres of an alley which is 16.5 foot wide and runs from S. West Street east to Rose Hill Cemetery approximately 540 feet across 316 S. West Street, described in the attached "Exhibit "A", which is included herein by reference, be and the same is hereby vacated with title thereto vesting according to law. Exhibit "A" attached hereto vacation plat is hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute and cause delivery of any and all documents, if any, which are necessary to properly vest the property in successor owners.

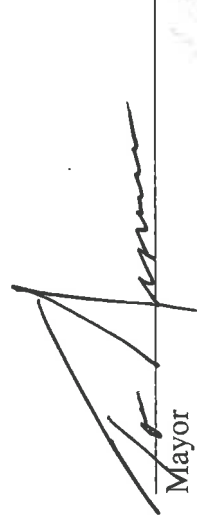
Section 3. That the Clerk is hereby directed to certify a copy of this Ordinance to the County Auditor and the County Recorder.

Section 4. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed this 12th day of May, 2008.

Attest:


Clerk of Council


Mayor

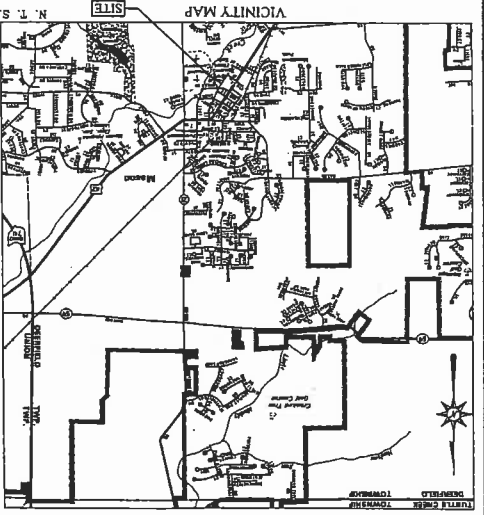


BOOK 4755 PAGE 601

CERTIFICATE

The undersigned, Clerk of Council of the City of Mason, hereby certifies this to be a true and exact copy of Ordinance 2006-55, adopted by the Council of the City of Mason on May 12, 2008.

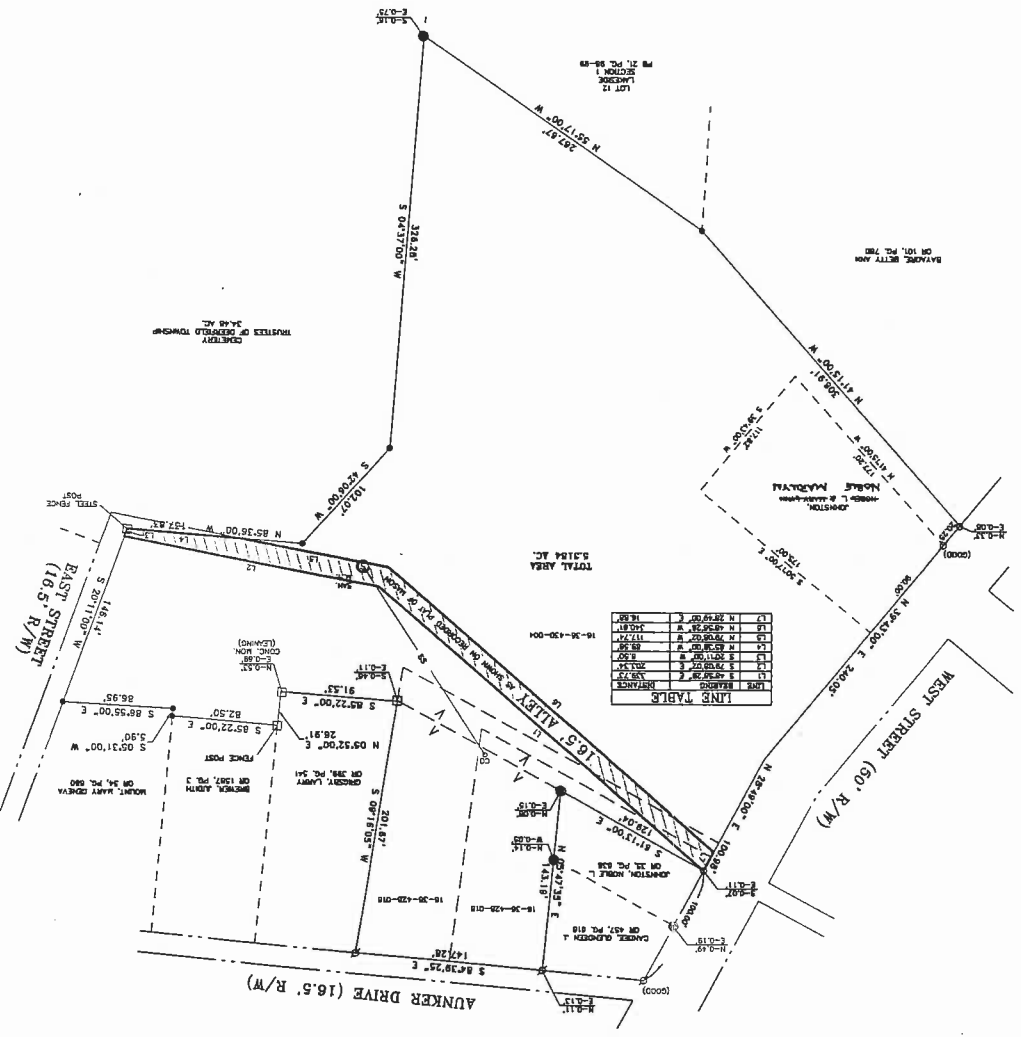

Clerk of Council



TRANSFER NOT NECESSARY
 NICK NELSON, AUDITOR
 WARREN COUNTY, OHIO
 OCT 17 2008
 NICK NELSON
 AUDITOR, WARREN CO. OHIO

BOOK 4755 PAGE 602

BETH DECKARD - WARREN COUNTY RECORDER
 Doc #: 711244 Type: VACA-TION
 Filed: 10/17/2008 15:09:21 \$ 200.00
 OR Volume: 4755 Page: 601 Return: M
 Rec#: 17188 Pages: 2
 CITY OF MASON



VOLUME _____ PLAT NO. _____
 RECORD OF LAND SURVEYS
 WARREN COUNTY ENGINEERS

AREA TO BE VACATED
 NOBEL & MARY-LYNN JOHNSTON
 NOBLE & MARYLYN

- LEGEND
- 1/4" FOUND - 1/2"
 - 1/4" FOUND - 1/2"
 - 1/4" SET - 1/2"
 - 1/4" FOUND - 1/2"
 - CONC. WORK FOUND
 - CONC. WORK FOUND



CITY ENGINEER APPROVAL:
 I HEREBY APPROVE THIS PLAT ON THIS 16th DAY OF OCTOBER, 2008. THIS PLAT
 WAS APPROVED AND ACCEPTED BY ORDINANCE NO. 2008-55

CITY COUNCIL APPROVAL:
 I HEREBY CERTIFY THAT THIS PLAT ON THIS 12th DAY OF MAY, 2008. THIS PLAT
 WAS APPROVED AND ACCEPTED BY ORDINANCE NO. 2008-55

MAYOR, CITY OF MASON, OHIO
 MASON CITY CLERK

EXHIBIT "A"
 ALLEY VACATION
 TO JOHNSTON
 SITUATED IN
 SECTION 37, TOWN 4, RANGE 2
 CITY OF MASON
 WARREN COUNTY, OHIO

REV. 10/11/05

KING-HASSELBRING & ASSOCIATES
 CIVIL ENGINEERS & LAND SURVEYORS
 1116 NORTH BROADWAY, SUITE 1000
 COLUMBUS, OHIO 43215
 TELEPHONE: (614) 882-3000 FACSIMILE: (614) 882-0447
 FAX: (614) 882-3000
 MASON, OHIO
 316 S. WEST STREET
 PROJECT NO. 00-10433 DATE 11/09/05
 DRAWN BY: DATE
 CHECKED BY: DATE
 SCALE: AS SHOWN
 EXISTING-ADJ. C-10565



J. TIMOTHY KING, PE-PS
 DATE 10/17/08
 THIS PLAT WAS PREPARED FROM EXISTING DEEDS, PLATS AND RECORDS AND IS NOT THE RESULT OF A NEW FIELD SURVEY.

10/17/08 15:09:21 711244 4755 601 17188 200.00 M