

ORDINANCE O-2018-31

AUTHORIZING THE VACATION OF PARK COURT AND ADJACENT AREAS ON MAPLE GROVE ROAD IN THE AREA OF BROOK COURT AND DECLARING AN EMERGENCY.

WHEREAS, upon the passage of Ordinance 2018-8 the Council of the Village of Windham has previously authorized the sale of a vacant parcel of property located generally near Brook Court and Park Court, and identified as Parcel/Tax ID Numbers 41-057-10-00-054-000 and 41-057-10-00-054-053 (hereinafter the NDS Property) in the Village of Windham, Ohio to Neighborhood Development Services; and

WHEREAS, after the sale Neighborhood Development Services has requested that Park Court, a dedicated, but existing on paper only, street in the Village of Windham as it appears in Plat Book 30, page 12, of the records of Portage County, Ohio, and associated areas adjacent to and part of the NDS Property on Maple Grove Road are not needed for public access and inhibits the proposed use of the NDS Property by Neighborhood Development Services; and

WHEREAS, In conformity with Ohio Revised Code section 732.06 written consent to the vacation considered in this legislation has been provided by Neighborhood Development Services and as a result the publication of Notice of the proposed vacation is not required.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Windham, two thirds or more of its members elected thereto concurring as follows:

Section One: The consent to the proposed vacation of Park Court and the associated areas adjacent to and part of the NDS Property on Maple Grove Road from Neighborhood Development Services as is set forth on the attached Exhibit A is hereby accepted.

Section Two: The Council finds that there is good cause for such vacation of said streets and public areas as requested, that such vacation of streets and adjacent areas will not be detrimental to the general interest of the Village and ought to be made.

Section Three: That Park Court, a dedicated but existing on paper only, street in the Village of Windham, as it appears in Plat Book 30, page 12, of the records of Portage County, Ohio, and associated areas adjacent to and part of the NDS Property on Maple Grove Road be and hereby are vacated on the condition that the owners of the a property abutting thereupon shall convey to the Village of Windham easements for the construction, maintenance and operation of various public utilities, publicly owned and otherwise.

Section Four: Village Administrator is hereby instructed to have prepared vacation plats of said vacated streets and areas and the Fiscal Officer is instructed to endorse upon such plats the action of this Council in vacating such areas and to cause said plats to be recorded in the office of the Recorder of Portage County, Ohio.

Section Five: The Fiscal Officer is directed to notify the Auditor of Portage County of this Vacation, by sending her a copy of this ordinance.

Section Six: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of the Council and any committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including §121.22 of the Revised Code of the State of Ohio.

Section Seven: This Resolution is hereby declared to be an emergency measure, immediately effective upon passage by at least two-thirds of the members elected to the Windham Village Council, for the reason that the designation of Park Court is shown on property previously owned by the Village of Windham and sold by the Village to NDS, and as part of the sale agreement the Village is obligated to provide clear title to the property.

Passed in Council on first reading November 27, 2018.

Vote of Council: Ayes: 5
 Nays: 0

ATTEST:

APPROVED:

Fiscal Officer, Cheree Taylor

Mayor, Scott Garrett

APPROVED AS TO FORM:

Village Solicitor, Thomas Reitz

WAIVER OF NOTICE AND CONSENT

Now comes Neighborhood Development Services and affirmatively states to the Village of Windham the following:

1. It is the owner of real estate identified as Parcel/Tax ID Numbers 41-057-10-00-054-000 and 41-057-10-00-054-053 (hereinafter the NDS Property) in the Village of Windham.
2. The NDS Property, combined with other property owned by Neighborhood Development Services encompasses the whole of the area upon which Park Court is located.
3. It is the request of Neighborhood Development Services that Park Court, a paper street, as it appears in Plat Book 30, page 12, of the records of Portage County, Ohio, in its entirety be vacated by the Village of Windham.
4. That a portion of the NDS Properties abut on and are adjacent to Maple Grove Road. The portions abutting on Maple Grove Road have in the past been used for parking off the road itself but still within the dedicated right of way. Neighborhood Development Services also requests that the use of these areas for parking be vacated, and that the remaining use of the right of way retained by the Village of Windham be limited to that needed to maintain and install as needed public utilities in the usual course of preserving public safety and public service.
5. That Neighborhood Development Services intends by signing this Wavier of Notice and Consent to grant consent and to waive all notice in conformity with Ohio Revised Code section 732.06 to the action of the Village of Windham Council in passing legislation to vacate Park Court and that portion of the NDS Properties that abut on and are adjacent to Maple Grove Road to the extent set forth in paragraph 4 of this Waiver of Notice and Consent.

IN WITNESS WHEREOF, the I have signed this Waiver of Notice and Consent on this the 26th day of November, 2018.

Neighborhood Development Services

By: Haley Brown

11-26-18
Date