

RECORD OF ORDINANCES

Ordinance No. 2023-53Passed AUGUST 2, 2023

SPONSOR: STREETS COMMITTEE

AN ORDINANCE VACATING SPRING STREET AND MILL STREET WITHIN THE MUNICIPAL LIMITS OF THE VILLAGE OF MOGADORE UPON THE SATISFACTION OF CERTAIN CONDITIONS BY THE WHEELING AND LAKE ERIE RAILWAY COMPANY, AND DECLARING AN EMERGENCY.

WHEREAS, Section 723.05 of the Ohio Revised Code authorizes this Council to adopt an ordinance to vacate any street or alley in the Village provided that this Council determines that there is good cause for vacating the street or alley, or any part thereof, and that such vacation will not be detrimental to the general interest of the public; and

WHEREAS, Spring Street is currently located within the Village of Mogadore, running west off of South Cleveland Avenue to a dead end; Mill Street runs south off of the aforementioned Spring Street. Collectively, Spring Street and Mill Street are comprised of 1.294 acres, and are bordered by The Wheeling and Lake Erie Railway Company, Brayden J. Guyer, and Carter Jones Lumber Company; and

WHEREAS, this Council finds that there is good cause for vacating Spring Street and Mill Street, as more fully depicted on the Spring/Mill Street Road Vacation Plat attached hereto as Exhibit A, given that the streets are no longer used for public purposes; and

WHEREAS, this Council finds that the vacation of Spring Street and Mill Street will not be detrimental to the general interest of the public; and

WHEREAS, as a condition to the vacation of Spring Street and Mill Street, The Wheeling and Lake Erie Railway Company must undertake certain actions before the Mayor is authorized to sign the vacation plat, to-wit:

- (i) An access drive must be installed by The Wheeling and Lake Erie Railway Company upon its parcel at a location approved by the Village Engineer.
- (ii) The Wheeling and Lake Erie Railway Company must remove all asphalt on the vacated portion of Spring Street between North Cleveland Avenue and the railroad overpass to the west, and subsequently fill and seed the same, to the Village Engineer's satisfaction.
- (iii) The Wheeling and Lake Erie Railway Company must install and/or repair the sidewalk that runs along North Cleveland Avenue in the to-be-vacated portion of Spring Street and the balance of the property owned by said Company along North Cleveland Avenue, to the Village Engineer's satisfaction.
- (iv) The Wheeling and Lake Erie Railway Company must clean-up the fill material used to fill in under the railroad overpass crossing the to-be-vacated Spring Street.
- (v) The Wheeling and Lake Erie Railway Company must execute and/or provide a performance guaranty that the above items will be completed.

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WHEREAS, this Council finds and determines, after reviewing all pertinent information, that it is necessary and in the best interest of the Village to vacate Spring Street and Mill Street within the municipal limits of the Village of Mogadore as set forth on Exhibit A, upon the completion of the conditions in the immediately preceding recital paragraph.

NOW, THEREFORE BE IT ORDAINED, by the Council of the Village of Mogadore, Counties of Summit and Portage, State of Ohio, that:

SECTION 1: This Council hereby orders and declares, upon satisfaction of the conditions set forth in the recitals, above, as the same will be certified by the Village Engineer, that Spring Street and Mill Street be vacated by the Village, as more fully set forth and depicted on the Spring/Mill Street Road Vacation Plat attached hereto as Exhibit A.

SECTION 2: This Council hereby authorizes the Mayor and Village Engineer, only upon the satisfaction of the conditions set forth in the recitals, above, to execute the Spring/Mill Street Road Vacation Plat in the form attached hereto as Exhibit A.

SECTION 3: The Clerk-Treasurer is hereby authorized and directed to file the Spring/Mill Street Road Vacation Plat and a certified copy of this Ordinance with the Summit County Fiscal Officer at the appropriate time.

SECTION 4: The Mayor, Clerk-Treasurer and Village Engineer are hereby authorized to execute and enter into any agreements necessary to effectuate the conditions to the vacation of Spring Street and Mill Street set forth in the recitals.

SECTION 5: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in this formal action were in meetings open to the public, in compliance with all legal requirements.

SECTION 6: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the residents of the Village of Mogadore and for the purpose of immediately vacating Spring Street and Mill Street so that the same may be utilized by The Wheeling and Lake Erie Railway Company to improve its operations within the Village, and, provided this Ordinance receives the affirmative vote of at least five (5) members elected or appointed to this Council, it shall take effect and be in force upon its passage by Council and approval by the Mayor, otherwise it shall take effect and be in force at the earliest period allowed by law.

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Michael Daddish 8-2-23
President of Council Date

Michael A. Pich 8-2-23
Mayor Date

Attest:
[Signature]
Clerk-Treasurer