

Sponsored by:
COMMUNITY DEVELOPMENT

T. Callahan
M. Jessie
J. Cerra

ORDINANCE NO. 2018- 71

AN ORDINANCE PURSUANT TO CHAPTER 913, CODIFIED ORDINANCES OF THE CITY OF ELYRIA, OHIO, VACATING A PORTION OF PROSPECT STREET, LOCATED NORTH OF CLARK STREET IN THE CITY OF ELYRIA, OHIO

WHEREAS, Prospect Street in the City of Elyria, Ohio, is a dedicated street; and

WHEREAS, Emerson Electric Co., Ridge Tool Co., J. Spot Properties, Inc., Pennsylvania Lines R.R., William M. Barendt and Ohio Edison Co. are the owners of real property in the City of Elyria in the immediate vicinity of Prospect Street; and

WHEREAS, Emerson Electric Co. and Ridge Tool Co. have requested that a portion of Prospect Street bounded and described in Section 1, be vacated pursuant to Chapter 913, Codified Ordinances of the City of Elyria, Ohio; and

WHEREAS, in the opinion of the Council, it would be conducive to the public welfare and safety, there is good cause for such vacation, and it will not be detrimental to the general interest and to the community to have said street vacated.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ELYRIA, STATE OF OHIO:

SECTION 1: That the portion of the dedicated street known as Prospect Street located in the City of Elyria, State of Ohio and described on the attached Exhibit "A" be and the same is hereby vacated.

SECTION 2: That, notwithstanding this Ordinance, the vacated portion of Prospect Street as described in Section 1 (the "Vacated Real Property") shall be subject to the following terms and conditions:

A. The reservation of a non-exclusive easement to the City of Elyria ("Elyria") upon, over and in said Vacated Real Property for sanitary and storm sewer, water mains and any other utilities purposes, as determined by Elyria, upon, over and in said Vacated Real Property; and

B. The right of Elyria to continue to maintain and operate any and all existing sanitary and storm sewers, water mains and any other utilities (the "Facilities") upon, over and in said Vacated Real Property; and

C. The continuing right of Elyria to install, inspect, alter, repair, replace, relocate, operate, remove, restore and maintain said Facilities over and in said Vacated Real Property and to enter upon, over and in said Vacated Real Property whenever Elyria determines that it is necessary for the purpose of installing, inspecting, altering, repairing, replacing, relocating, operating, removing and restoring and maintaining said Facilities; and

D. The easement rights granted herein are subject to all existing rights of any other utilities, public or private, existing upon, over and in said Vacated Real Property; and

E. The right of Elyria to enter upon and over said Vacated Real Property for any safety and emergency purposes as determined by Elyria; and

F. No person shall unreasonably restrict nor impede Elyria's right of access or any other right as provided in Section 2 hereof upon, over and in said Vacated Real Property.

G. In connection with Elyria's exercise of the easement rights reserved herein, Elyria agrees that (i) following any installation, excavation, maintenance, repair or other work by Elyria within the Vacated Real Property, the affected area will be restored by Elyria, at Elyria's sole cost and expense, and as nearly as practicable to its prior condition or otherwise to the

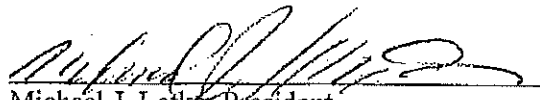
reasonable satisfaction of the Owners (as defined hereinbelow), (ii) any and all improvements constructed by Elyria in the Vacated Real Property shall be used, operated, constructed, maintained, repaired and replaced in good, safe and operating condition, in conformity with all applicable laws and codes and otherwise consistent with generally acceptable engineering standards and (iii) Elyria shall reasonably cooperate with the Owners to coordinate exercise of Elyria's easement rights, including, without limitation, the timing thereof, so as to minimize any interference with the Owners' ongoing operations on the Vacated Real Property. Elyria and its contractors and subcontractors shall be solely responsible for the transportation, safekeeping and storage of materials and equipment used in the exercise of the easement rights granted herein, for the removal of waste and debris resulting therefrom and for the prompt repair of any damage caused by Elyria, its contractors and subcontractors, to the Vacated Real Property.

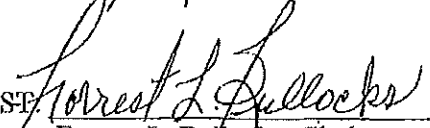
SECTION 3: The Vacated Real Property shall revert entirely to the abutting property owners (the "Owners"), as shown on Exhibit "A". The Owners shall have the right to use the Vacated Real Property for any and all purposes that do not unreasonably interfere with the exercise of Elyria's easement rights within the Vacated Real Property.

SECTION 4: That upon taking effect of this Ordinance, the Clerk of Council shall cause the plat or map attached hereto as Exhibit A to be transferred in the office of the County Auditor and recorded in the office of the County Recorder in the same manner as plats originally transferred and recorded.

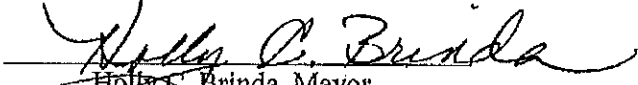
SECTION 5: This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in meetings open to the public in compliance with Ohio Law.

PASSED: 5/21/18


Michael J. Lotko, President

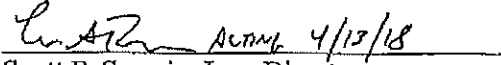
ATTEST: 
Forrest L. Bullocks, Clerk

APPROVED: 5/21/18


Holly C. Brinda, Mayor

Dated: 5-22-18, 2018

Approved as to form:

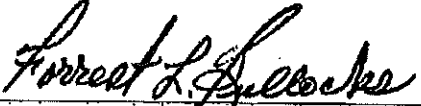

Scott F. Serazin, Law Director

Date Presented to Mayor: 5/22/18, 2018

CERTIFICATE OF PUBLICATION

I, THE UNDERSIGNED, CLERK OF COUNCIL OF THE CITY OF ELYRIA, OHIO, HEREBY CERTIFY THAT THE FULL TEXT OF THIS FOREGOING ORDINANCE NO. 2018- 71 WAS POSTED IN THREE PLACES WITHIN THE CITY AS DETERMINED BY COUNCIL, AND THAT SUCH PLACES WERE AS FOLLOWS: CITY HALL, CENTRAL FIRE STATION, AND THE POLICE STATION.

Dated: May 22, 2018



Forrest L. Bullocks, Clerk of Council
City of Elyria, Ohio