

ORDINANCE NO. 23, 2022



ORIGINAL

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH ROGER BACON HIGH SCHOOL FOR CONSTRUCTION OF A CROSSWALK ON MITCHELL AVENUE AND DECLARING AN EMERGENCY

WHEREAS, the decision to expend public funds must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only; and

WHEREAS, in *State ex rel. McClure v. Hagerman*, 155 Ohio St. 320 (1951), the Ohio Supreme Court offered general guidelines to be applied in determining whether a particular expenditure constitutes a public purpose. First, “Generally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents...” *Id.* at 325. Second, if the primary objective is to further a public purpose, it is immaterial that, incidentally, private ends may be advanced. Third, the determination of what constitutes a public purpose is primarily a legislative function, and a legislative determination of a public purpose will not be disturbed except where such determination is palpable and manifestly arbitrary and incorrect; and

WHEREAS, over the years, the Village has received numerous complaints from residents about accidents on Mitchell Avenue caused by cars traveling at excessive speeds both eastbound and westbound on Mitchell Avenue, and of congestion and access issues arising from students who attend Roger Bacon High School parking on the residential streets of the Village near the High School; and

WHEREAS, Roger Bacon High School approached the City of Cincinnati and the Village of St. Bernard, requesting assistance with a plan to allow students to park in Bron Bachevich Stadium during school hours and safely cross Mitchell Avenue to approach the High School, which plan would alter the flow of traffic in both the western and eastern bound lanes and install a crosswalk at the stadium, thereby slowing traffic and alleviating congestion in the residential areas of St. Bernard; and

WHEREAS, The City of Cincinnati has consented to plan to alter traffic on the westbound side of Mitchell Avenue and permit the installation of the crosswalk, and has contributed its engineering services in furtherance of the plan; and

WHEREAS, Roger Bacon High School has solicited bids on construction of the plans prepared by the City of Cincinnati and will enter into a contract with the construction company; and

WHEREAS, the Village of St. Bernard, has determined the construction project will result in the promotion of the public health and safety; and

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO:

Section 1. That the Council of the Village of St. Bernard finds it necessary and in the best interest of the Village to authorize the Mayor to enter into an agreement with Roger Bacon High School to share in the cost of the construction of a crosswalk on Mitchell Avenue to improve the safety of students/pedestrians crossing to and from Bron Bachevich Stadium.

Section 2. That the total estimated cost of the project that the village will partner with Roger Bacon High School for is \$113,060.00.

Section 3. That the Village of St. Bernard is committing to paying for fifty percent (50%) of the project, which is \$56,530.00

Section 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is to allow construction to begin which will improve the safety of both vehicular traffic and of pedestrians and students crossing Mitchell Avenue to and from Bron Bachevich Stadium and will alleviate the amount of traffic and congestion on the Village's streets. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than a majority of the members of Council and in that event the emergency provisions herein are set at naught.

Passed this 28th day of July, 2022.

Steve Asbach

President of Council

ATTEST:

Caroline Stegman

Clerk of Council

Approved this 28th day of July, 2022.

[Signature]

Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 23, 2022, was made by posting true copies of the same in the most public places designated by Council: City Hall, Vine Street and Washington Avenue; for a period of fifteen (15) days or more commencing July 28th, 2022.

ATTEST: *Caroline Stegman* DATE July 28th, 2022

Clerk of Council

Approved as to form *John Danahy* Date 28 July 2022

Director of Law

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