

**RESOLUTION NO. 16-2017**

**INTRODUCED BY: Council as a Whole and Mayor Ann Marie Donegan**

**RESOLUTION OF THE OLMSTED FALLS CITY COUNCIL DECLARING ITS INTENT TO ASCERTAIN THE EXISTENCE OF A PUBLIC NUISANCE OF THE PRIVATE BRIDGE OVER BAKER'S CREEK ON THE PRIVATE DRIVE OF E. RIVER ROAD AND DETERMINE THE RIGHT, NECESSITY AND REASONABLE MEANS FOR ITS ABATEMENT, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Council and Mayor hereby acknowledge the following facts and circumstances:

1. East River Road is a private vehicular drive located in the City of Olmsted Falls and includes a certain bridge that was constructed early in the 1900's; and,

2. In conjunction with the private drive, the bridge has historically provided access over Baker's Creek to the parcels of property situated to the north and to the east of the bridge; and,

3. The bridge has been deteriorating for decades, thus creating a safety and life-threatening condition that potentially constitutes a public nuisance that commands the attention of Council and the administration to consider the right and necessity of the City of Olmsted Falls to require its abatement; and,

4. The structure of the bridge rests upon a portion of three individual parcels of private property; however, the bridge further provides access of ingress and egress to seven (7) other adjacent benefitting properties whose owners have, for many years, utilized the bridge for their ingress and egress, both for vehicular and pedestrian travel, thereby demonstrating that said property owners are in fact beneficiaries of the bridge; and,

5. Attached as Exhibit "A" is a list of the owners upon whose property the bridge structure rests; further attached as Exhibit "B" is the list of adjacent property owners for whom the bridge provides the benefit of ingress and egress; and, further attached as Exhibit "C" is an aerial map depicting the respective parcels of the property owners listed hereinabove; and,

6. Historically, prior and current administrations' diligent efforts to secure unanimous consent of the above-listed property owners to reach consensus upon the abatement of the bridge's unsafe condition have been unsuccessful, thereby necessitating legislative action as hereinafter set forth; and,

7. As reflected in attached Exhibits "D" and "E", the City, through its Law Director, has notified all of the affected property owners of the dangerous condition of the bridge and has encouraged the traversing of the bridge to cease until such time as its safety has been fully restored; and,

8. The more recent efforts by City officials to address the problem of the bridge's unsafe condition reflect a renewed attempt that was previously made in 2007, when officials recognized the chronic deteriorating condition of the bridge and sought to secure a petition to be signed by all of the affected property owners; such petition was circulated, but failed to achieve unanimity; consequently, the bridge has continued to deteriorate; and,

9. The City has engaged the services of the City Engineer to undertake preliminary evaluation of the structural condition of the bridge; the engineer has raised serious questions about its safety and function, and has recommended that the bridge be replaced; and,

10. The administration has accordingly convened informal meetings with the property owners in the renewed effort to reach consensus for replacement of the bridge; however, these efforts have again proven to be unsuccessful; and,

11. The only other access to those homes lying north and east of the bridge on East River Road is by way of a narrow easement intended exclusively for emergency vehicular access via Northwood Drive; and,

12. Given the facts and circumstances set forth above, the Council and the Mayor have reason to believe that the condition of the bridge is so unsafe as to constitute a public nuisance for which formal steps toward its abatement must be taken.

**WHEREAS**, Council authorizes the administration to notify all of the above-listed property owners to appear before Council for a duly-convened Public Hearing, at which time Council shall entertain objections, consents, evidence and other pertinent information regarding Council's intention formally to ascertain the existence of a public nuisance and, thereafter to determine reasonable means for its abatement and the steps to be taken therefor. Now therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, CUYAHOGA COUNTY, OHIO, THAT:**

**SECTION 1.** This Council, having sufficient information and documentation to have reasonable belief of the existence of a public nuisance as set forth above declares its intent to substantiate such belief through formal presentation of objective, substantive and dispositive evidence, as well as other public commentary that may be germane to this matter.

**SECTION 2.** The Mayor is authorized and directed to cause formal notification to be made to the property owners identified hereinabove of the date, time, location and purpose of the Public Hearing that shall be convened by this Council for its disposition as

to the existence of a public nuisance and, if so determined, the reasonable steps that will be necessary for its abatement.

**SECTION 3.** Council finds and determines that all formal actions of this Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this Council and of its committees resulting in such formal action took place in meetings open to the public, in compliance with all statutory requirements, including the requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 4.** This Resolution is hereby declared to be an emergency measure for the immediate preservation of the health, safety and welfare of the residents of the City of Olmsted Falls and particularly the residents of East River Road, and for the reason that safe access over the bridge is immediately necessary for emergency responders and for the affected residents. Therefore, this Resolution shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

\_\_\_\_\_  
*Linda Garrity, President of Council*

PASSED: \_\_\_\_\_

APPROVED: \_\_\_\_\_  
*Ann Marie Donegan, Mayor*

\_\_\_\_\_  
*Date*

APPROVED AS TO FORM: \_\_\_\_\_  
*Gregory M. Sponseller, Director of Law*

ATTEST: \_\_\_\_\_  
*Angela Mancini, Clerk of Council*

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

Property Owners  
Baker's Creek Bridge

<b>Name</b>	<b>Address</b>	<b>PP#</b>
Paul Scheutzow	9625 East River Road	291-14-005
Gayle Boesken	9608 East River Road	291-14-011
Ted & Marie Nyland	9630 East River Road	291-14-013

East River Road Residents  
Database

<b>Name</b>	<b>Address</b>	<b>PP#</b>
Paul Scheutzow	9625 East River Road	291-14-005
John Guzik	9615 East River Road	291-14-014
Robert Setter	9600 East River Road	291-14-001
Gayle Boesken	9608 East River Road	291-14-011
Ruth Ann Koehl	9580 East River Road	291-14-012
Mary R. School	9580 East River Road	291-14-012
Ralph Haun	9618 East River Road	291-14-018
Ted & Marie Nyland	9630 East River Road	291-14-013
Michael Abramovich	9620 East River Road	291-14-017
Thomas Norton	9602 East River Road	291-14-016
Maura Norton	9604 East River Road	291-14-015





# City of Olmsted Falls

*Celebrating 200 years*

26100 Bagley Road • Olmsted Falls, Ohio 44138 • (440) 235-5550 • Fax (440) 235-8900 • [www.olmstedfalls.org](http://www.olmstedfalls.org)

Ann Marie Donegan  
Mayor

Gregory M. Sponseller  
Law Director

Santo Incorvaia  
Asst. Law Director/Prosecutor

February 26, 2015

TO: All East River Road Property Owners

RE: Private Drive Access Bridge

Dear Owners:

Please accept this letter as a follow-up to the meetings that have been held with some of the owners with regard to addressing the issue of the private bridge over Bakers Creek. As discussed, a general visual review of the bridge shows that the bridge is in an apparent state of disrepair/deterioration such that it appears unsafe. The bridge is on private property as part of a private access driveway and, as private property, is required to be maintained by the private owners. Please know that anyone utilizing the bridge does so at his/her own risk and that the City suggests that access be from the "emergency" access drive until such time as the bridge is repaired to a safe condition or replaced.

Because the access drive and bridge do not meet right-of-way requirements of the City and because the bridge is part of the private access driveway on private property, the City is not, and cannot, be responsible for its maintenance, repair and/or replacement, nor can the City be responsible for any personal bodily injuries, death or property damage as a result of the failure of the bridge.

Accordingly, we strongly recommend that the access bridge no longer be utilized and that the "emergency" alternate access way be used as needed. Moreover, if the bridge is to be utilized in the future, it is clear that it must be significantly repaired or replaced. Again, because the bridge is a private bridge on private property to be owned and maintained by private owners, the City cannot be responsible for repair or replacement of the bridge. However, the City administration, subject to the cooperation and consent of City Council, may be able to utilize its ability to obtain bids for you, the Owners, for the repair or replacement of the bridge so long as all of the property owners consent and petition the City to do so. The process would be similar to an assessment process although the bridge itself is on private property. It is imperative that

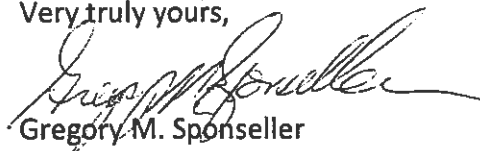
Exhibit "D"

all of the owners be on the same page and consent and request to the City proceeding in this fashion.

In conclusion, we strongly recommend that the bridge not be utilized until it is repaired or replaced. We strongly encourage the property owners to get together and have unanimous consent and agreement to a process for repairing and replacing the bridge and paying for the same, and the City will help facilitate this process with the consent and cooperation of all of the owners.

Thank you for your anticipated cooperation.

Very truly yours,



Gregory M. Sponseller  
Law Director  
City of Olmsted Falls

cc: Ann Marie Donegan, Mayor  
Don Sheehy, City Engineer  
Olmsted Falls City Council  
Cornel Munteanu, Fire Chief  
Dan Gilles, Police Chief  
Joe Borczuch, Service Director





# CITY OF OLMSTED FALLS

26100 Bagley Road, Olmsted Falls, Ohio 44138

Phone: 440-235-5550 Fax: 440-235-8900

Department of Law  
www.olmstedfalls.org

FILE COPY

November 29, 2016

To: East River Road North Property Owners

RE: *Bridge Replacement Matter*

Dear Property Owners:

As you know, the City has been attempting to resolve the issue associated with the private drive bridge across Baker's Creek. As you also know, this bridge is a hazard and a life safety issue that must be resolved. Several of you have expressed your written consent to the tentative proposal for bearing a portion of the costs associated with the replacement of the bridge. Others of you have indicated partial or complete opposition to participating in the cost.

The City is setting up a final meeting with the owners of the properties to explain the options available and the alternatives and consequences associated with your choices. **This meeting is scheduled for Wednesday, December 7<sup>th</sup> at 6:30 p.m. at City Hall. Your attendance at this meeting is strongly encouraged and respectfully requested.** It is our hope and expectation that a final course of action will be determined at this meeting and your participation and input at the meeting is encouraged.

Please know that the issues associated with this bridge must be resolved for everyone's safety.

Please contact City Hall directly at 440-235-5550 to confirm your attendance at this meeting on Wednesday, December 7<sup>th</sup> at 6:30 p.m. at City Hall.

Thank you for your attention and we look forward to discussing this in detail with you at that meeting.

Very truly yours,

  
Gregory M. Sponseller  
Law Director

cc: Ann Marie Donegan, Mayor  
Jay Linn, Council President  
All Members of City Council  
Robert Arida, Fire Chief  
William Traine, Asst. Safety Director  
Joe Borczuch, Service Director  
Rosann Jones, Mgr. Business & Comm Services

Exhibit "E"