

By: James H. Gross

An ordinance to amend and clarify Ordinance No. 35-81 regarding the "consent" given by the City of Bexley to the Director of Transportation, State of Ohio, to replace the Clifton Avenue bridge, and the further agreements regarding the maintenance of the improvement upon completion of construction, the availability and maintenance of the right of way, the placing and maintaining of traffic control devices upon said improvement, and the obligations of the City of Bexley for arranging and rearranging all public or private utility lines or structures within the boundaries of the project; and to declare an emergency.

WHEREAS, on October 27, 1981, the Council of the City of Bexley passed, as an emergency, Ordinance No. 35-81, which action had been requested by the office of the Franklin County Engineer, and which ordinance had been prepared from a standard form provided by the Director, Ohio Department of Transportation, all of which had been advised as a necessary first step in the repair and reconstruction of what is known as the Clifton Avenue bridge; and

WHEREAS, because of an apparent delay in funding approval at the State and Federal levels, no construction was implemented in 1982 and no further action was taken on the project that year; and

WHEREAS, on February 28, 1983, after numerous complaints, the City of Bexley requested, and the Franklin County Engineer, after inspecting the bridge, agreed to and did close the bridge because of its deteriorating condition; and

WHEREAS, this Council and the City of Bexley has evaluated the necessity and the desirability for the bridge, particularly in view of the substantial funds to be expended in reconstruction, has commissioned an engineering study of the traffic impacts of the bridge closure, and has reviewed the original "consent" ordinance to determine the continuing financial obligations to the City, if any, for bridge maintenance; and

WHEREAS, the language of such ordinance is confusing and even contradictory and the consequential obligations to the City of Bexley both in the reconstruction phase and thereafter, ambiguous and uncertain; and

WHEREAS, the office of the County Engineer has expressly advised the City of Bexley that said City would have no financial obligation in any way for any part of the reconstruction project and would have no maintenance obligation thereafter except as those now performed by the City in regard to the present bridge structure which consist of the maintenance of the surface of the right of way leading up to the bridge.

WHEREAS, this Council does not desire to withdraw its "consent" to the reconstruction project as initially given by Ordinance No. 35-81, but does desire to eliminate any continuing, or additional financial obligations for maintenance or otherwise which may have been assumed by the City in other sections of said Ordinance or imposed by operation of law because of said reconstruction; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY,
OHIO:

Section 1. That the "consent" given by the City of Bexley to the Director of Transportation, expressly set forth in Section 1 of Ordinance No. 35-81, to construct the improvement known as the Clifton Avenue bridge, is now specifically limited and made contingent upon the following conditions:

(A) No financial participation will be required from the City of Bexley for the cost of said "improvement", which is described as the replacement of the existing structurally deficient and functionally obsolete superstructure and necessary approach work on the existing alignment and grade;

(B) No financial obligation will be required of or assumed by the City of Bexley upon completion of the improvement, to maintain the improvement or to make ample financial and other provisions for such maintenance; and

(C) No financial obligation or responsibility will be required of the City of Bexley for the costs, if any, for the removal, relocation, or rearrangement of lines or structures of public utility companies affected by said improvements, for the rearrangement of water mains, service lines, fire hydrants, valve boxes, sanitary sewers, or other municipally owned utilities or appurtenances thereto to conform to said improvement (none are located within the boundaries of said project), or for the saving harmless of Department of Transportation of the State of Ohio from damage or claims resulting from the construction, reconstruction, and/or rearrangement of such publicly or privately owned utilities as required by said project.

Section 2. That the improvement, which includes the superstructure and necessary approach work, shall be maintained and paid for by the Franklin County Engineer and/or the Ohio Department of Transportation in the same manner as the present bridge superstructure and approaches, and nothing in this, or previous, consent legislation shall be construed to impose financial responsibility on the City of Bexley not previously imposed or assumed and paid by the City of Bexley.

Section 3. That the City of Bexley does accept responsibility for the maintenance of the right of way, as those obligations were and are imposed by virtue of the adoption of Ordinance No. 35-81, but limits such responsibility to the "surface" of the right of way, and not to the approach supports, or other structural supports for the "right of way" necessitated by the replacement of the bridge.

Section 4. That the City of Bexley further agrees to and does reconfirm its acceptance of all other duties and responsibilities imposed by virtue of the adoption of Ordinance No. 35-81 or by operation of law as a result of the replacement of the bridge, except as specifically excluded herein.

Section 5. That Ordinance No. 35-81 is hereby amended to conform to the conditions specifically imposed by this Ordinance.

Section 6. That the office of the Franklin County Engineer, the Ohio Department of Transportation, the City of Columbus, and any other parties necessary to the approval of the reconstruction project specifically agree to and acknowledge acceptance of the conditions set forth herein, or

provide the City of Bexley with a hold harmless agreement as to such conditions, and in the absence thereof then the consent originally given by Ordinance No. 35-81, and as reasserted herein, be considered withdrawn and null and void.

Section 7. That this is an emergency Ordinance necessary for the immediate preservation of the public peace, health or safety in that, bids for the project are now being received and will be opened at the end of the month and that clarification of the financial responsibility must be determined as soon as possible; therefore, such ordinance shall go into effect upon its adoption by two-thirds of the members elected to Council and approval by the Mayor.

Passed: January 24, 1984

John Hoge
President of Council

ATTEST: John W. Kohn
Clerk of Council

APPROVED: Jan. 24, 1984

David H. Madison
DAVID H. MADISON, Mayor

*Jan 24, 1984 - Just reading
Rules suspended and
adapted*