

ORDINANCE 11-2021

AN ORDINANCE CLOSING A STREET RIGHT-OF-WAY LOCATED NORTH OF 2211 WEST 2ND STREET FROM RIVER ROAD TO TEXAS AVENUE IN THE CITY OF OWENSBORO, KENTUCKY, AT THE REQUEST OF DANIEL ROBERTS, OWENSBORO SELF STORAGE, LLC.

WHEREAS, Daniel Roberts, Owensboro Self Storage, LLC, has petitioned the City of Owensboro, pursuant to KRS 82.405(2) to close the street right-of-way located north of 2211 West 2nd Street, Owensboro, Kentucky, plat of which is attached hereto and incorporated by reference as Exhibit “A”; and

WHEREAS, adjoining and abutting property owners, Richard Hedges and Dennaë Hedges have given their written notarized consents to the closing of said street right-of-way as evidenced in the *Consent of Abutting Property Owner to Closure of Public Right-of-Way* heretofore filed, copies of which are attached and incorporated by reference as Exhibit “B”; and

WHEREAS, pursuant to KRS 82.405(2), the Board of Commissioners of the City of Owensboro, Kentucky, makes the following findings:

1. That the Petitioner, Daniel Roberts, Owensboro Self Storage, LLC, has given written, notarized consent to the closing and abandonment of the street right-of-way described hereinabove, a copy of Applicant’s *Request for Closure of Public Right-of-Way* is attached hereto.
2. That Daniel Roberts, Owensboro Self Storage, LLC, the Petitioner herein, and Richard Hedges and Dennaë Hedges are the only property owners abutting and adjoining the portion of the street right-of-way located north of 2211 West

2nd Street sought to be closed, and have given written, notarized consent to the closure.

3. That the closing of the street right-of-way to be abandoned herein would be in the best interest of the residents of the City of Owensboro, Kentucky, and will not create a hardship on any of the adjoining property owners or any person with any interest therein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That the findings of fact recited hereinabove are hereby adopted, affirmed and incorporated by reference herein.

Section 2. The hereinafter described street right-of-way be, and is hereby ordered to be officially closed and abandoned pursuant to the provisions of KRS 82.405(2):

The proposed street right of way being an east/west running 60 feet wide street section from the west right of way of River Road to the east right of way of Texas Avenue. Beginning at a calculated point in the west right-of-way line of River Road and the north right-of-way line of First Street and also being the southeast corner of the Richard and Denna Hedges property as recorded in Deed Book 953 at Page 724 in the Daviess County Clerk's Office; thence South 5 Degrees 59 Minutes 20 Seconds West with the west right-of-way line of River Road, a distance of 60.80 feet to a calculated point in the south right-of-way line of First Street and in the west right-of-way line of River Road, and also being the northeast corner of the Owensboro Self Storage LLC. property as recorded in Deed Book 951 at Page 859 in said clerk's office; thence with the south right-of-way line of First Street South 86 Degrees 41 Minutes 47 Seconds West, a distance of 331.82 feet to a calculated point being the northwest corner to said Owensboro Self Storage LLC. property and also being in the unimproved east right-of-way line of Texas Avenue; thence with the east right-of-way line of Texas Avenue North 11 Degrees 43 Minutes 53 Seconds West, a distance of 60.66 feet to a calculate point in the north right-of-way of First Street and also being the southwest corner to the Owensboro Self Storage LLC. Property as recorded in Deed Book 1030 at Page 416 in said clerk's office; thence with the north right-of-way line of First Street and the south line of said Owensboro Self Storage LLC. property North 86 Degrees 41 Minutes 47 Seconds East, passing through the southwest corner of

said Richard and Denna Hedges property, for a total distance of 350.52 feet to the point of beginning and containing 20,470 sq.ft. or 0.470 acres.

Section 3. A copy of this Ordinance shall be recorded in the Office of the Daviess County Court Clerk.

Section 4. That all ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict, hereby repealed.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this 17th day of August, 2021.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this 7th day of September, 2021.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk

CERTIFICATION

I, Beth Davis, City Clerk of the City of Owensboro, Kentucky, do hereby certify that the foregoing is a true and correct copy of Ordinance 11-2021 duly adopted by the Board of Commissioners of the City of Owensboro, Kentucky, on the 7th day of September, 2021, the original of which is on file in the Office of the City Clerk, on this the 7th day of September, 2021.

Beth Davis, City Clerk

EXHIBIT "A"

CITY OF OWENSBORO

COMMISSION MEETING DATE: 8/17/2021

**AGENDA REQUEST AND SUMMARY SUBMITTED BY: City Engineering Department
– Michael Hamilton**

**TITLE: PROPOSED CLOSING OF STREET RIGHT OF WAY NORTH OF 2211 WEST 2ND
STREET FROM RIVER ROAD TO TEXAS AVENUE**

Ordinance Prepared by: ☒ **City Staff** ☐ **Other Preparer** ☒ **Attachments:** Request for Closure of Public Right of Way Form, Consent of Abutting Property Owner to Closure of Public Right of Way Forms, Ordinance for Closure, Street right of way Description and Exhibit Plat

Summary & Background:

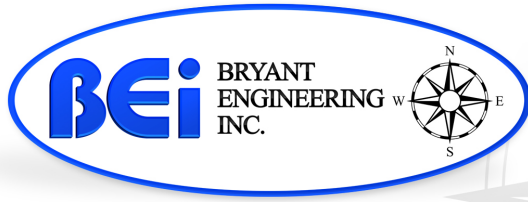
A request has been received from Daniel Robert, Owensboro Self Storage, LLC, for consideration to close street right of way behind 2211 West 2nd Street, being 60 foot wide and described below:

The proposed street right of way being an east/west running 60 feet wide street section from the west right of way of River Road to the east right of way of Texas Avenue. Beginning at a calculated point in the west right-of-way line of River Road and the north right-of-way line of First Street and also being the southeast corner of the Richard and Dennaes Hedges property as recorded in Deed Book 953 at Page 724 in the Daviess County Clerk's Office; thence South 5 Degrees 59 Minutes 20 Seconds West with the west right-of-way line of River Road, a distance of 60.80 feet to a calculated point in the south right-of-way line of First Street and in the west right-of-way line of River Road, and also being the northeast corner of the Owensboro Self Storage LLC. property as recorded in Deed Book 951 at Page 859 in said clerk's office; thence with the south right-of-way line of First Street South 86 Degrees 41 Minutes 47 Seconds West, a distance of 331.82 feet to a calculated point being the northwest corner to said Owensboro Self Storage LLC. property and also being in the unimproved east right-of-way line of Texas Avenue; thence with the east right-of-way line of Texas Avenue North 11 Degrees 43 Minutes 53 Seconds West, a distance of 60.66 feet to a calculate point in the north right-of-way of First Street and also being the southwest corner to the Owensboro Self Storage LLC. Property as recorded in Deed Book 1030 at Page 416 in said clerk's office; thence with the north right-of-way line of First Street and the south line of said Owensboro Self Storage LLC. property North 86 Degrees 41 Minutes 47 Seconds East, passing through the southwest corner of said Richard and Dennaes Hedges property, for a total distance of 350.52 feet to the point of beginning and containing 20,470 sq.ft. Or 0.470 acres.

Daniel Roberts, Owensboro Self Storage, LLC, owner of property at 2211 W. 2nd Street, 2225 W. 1st Street, and 2231 W. 1st Street, has submitted a Request for Closure Form and Consent of Abutting Property Owner form to initiate the proposed closing. Richard and Dennaes Hedges, owners of 2207 W. 1st Street, the only other abutting property owner has signed and submitted Consent of Abutting Property Owners forms.

The request has been forwarded to all City departments and City Utilities. No objections were noted to the closing of the public street right of way. No easement will need to be retained for the street right of way.

MARK PFEIFER, CITY ATTORNEY - DRAFTED THE ORDINANCE FOR CLOSURE



1535 Frederica Street
Owensboro, KY 42301
P.O. Box 21382
www.bryant-eng.com
Phone: (270) 685-2811
Fax: (270) 683-4991

PROPOSED W. FIRST STREET CLOSING
0.470 ACRES
20,470 SQ.FT.

BEGINNING AT A CALCULATED POINT IN THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD AND THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET AND ALSO BEING THE SOUTHEAST CORNER OF THE RICHARD AND DENNAE HEDGES PROPERTY AS RECORDED IN DEED BOOK 953 AT PAGE 724 IN THE DAVIESS COUNTY CLERK'S OFFICE; THENCE SOUTH 5 DEGREES 59 MINUTES 20 SECONDS WEST WITH THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD, A DISTANCE OF 60.80 FEET TO A CALCULATED POINT IN THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET AND IN THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD, AND ALSO BEING THE NORTHEAST CORNER OF THE OWENSBORO SELF STORAGE LLC. PROPERTY AS RECORDED IN DEED BOOK 951 AT PAGE 859 IN SAID CLERK'S OFFICE; THENCE WITH THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET SOUTH 86 DEGREES 41 MINUTES 47 SECONDS WEST, A DISTANCE OF 331.82 FEET TO A CALCULATED POINT BEING THE NORTHWEST CORNER TO SAID OWENSBORO SELF STORAGE LLC. PROPERTY AND ALSO BEING IN THE UNIMPROVED EAST RIGHT-OF-WAY LINE OF TEXAS AVENUE; THENCE WITH THE EAST RIGHT-OF-WAY LINE OF TEXAS AVENUE NORTH 11 DEGREES 43 MINUTES 53 SECONDS WEST, A DISTANCE OF 60.66 FEET TO A CALCULATE POINT IN THE NORTH RIGHT-OF-WAY OF FIRST STREET AND ALSO BEING THE SOUTHWEST CORNER TO THE OWENSBORO SELF STORAGE LLC. PROPERTY AS RECORDED IN DEED BOOK 1030 AT PAGE 416 IN SAID CLERK'S OFFICE; THENCE WITH THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET AND THE SOUTH LINE OF SAID OWENSBORO SELF STORAGE LLC. PROPERTY NORTH 86 DEGREES 41 MINUTES 47 SECONDS EAST, PASSING THROUGH THE SOUTHWEST CORNER OF SAID RICHARD AND DENNAE HEDGES PROPERTY, FOR A TOTAL DISTANCE OF 350.52 FEET TO THE POINT OF BEGINNING AND CONTAINING 20,470 SQ.FT. OR 0.470 ACRES. THIS DESCRIPTION IS FOR A STREET CLOSING ONLY AND IS NOT TO BE USED FOR THE TRANSFER OF REAL PROPERTY.

DESCRIPTION FOR CLOSING:

BEGINNING AT A CALCULATED POINT IN THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD AND THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET AND ALSO BEING THE SOUTHEAST CORNER OF THE RICHARD AND DENNAE HEDGES PROPERTY AS RECORDED IN DEED BOOK 953 AT PAGE 724 IN THE DAVIESS COUNTY CLERK'S OFFICE; THENCE SOUTH 5 DEGREES 59 MINUTES 20 SECONDS WEST WITH THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD, A DISTANCE OF 60.80 FEET TO A CALCULATED POINT IN THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET AND IN THE WEST RIGHT-OF-WAY LINE OF RIVER ROAD, AND ALSO BEING THE NORTHEAST CORNER OF THE OWENSBORO SELF STORAGE LLC. PROPERTY AS RECORDED IN DEED BOOK 951 AT PAGE 859 IN SAID CLERK'S OFFICE; THENCE WITH THE SOUTH RIGHT-OF-WAY LINE OF FIRST STREET SOUTH 86 DEGREES 41 MINUTES 47 SECONDS WEST, A DISTANCE OF 331.82 FEET TO A CALCULATED POINT BEING THE NORTHWEST CORNER TO SAID OWENSBORO SELF STORAGE LLC. PROPERTY AND ALSO BEING IN THE UNIMPROVED EAST RIGHT-OF-WAY LINE OF TEXAS AVENUE; THENCE WITH THE EAST RIGHT-OF-WAY LINE OF TEXAS AVENUE NORTH 11 DEGREES 43 MINUTES 53 SECONDS WEST, A DISTANCE OF 60.66 FEET TO A CALCULATE POINT IN THE NORTH RIGHT-OF-WAY OF FIRST STREET AND ALSO BEING THE SOUTHWEST CORNER TO THE OWENSBORO SELF STORAGE LLC. PROPERTY AS RECORDED IN DEED BOOK 1030 AT PAGE 416 IN SAID CLERK'S OFFICE; THENCE WITH THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET AND THE SOUTH LINE OF SAID OWENSBORO SELF STORAGE LLC. PROPERTY NORTH 86 DEGREES 41 MINUTES 47 SECONDS EAST, PASSING THROUGH THE SOUTHWEST CORNER OF SAID RICHARD AND DENNAE HEDGES PROPERTY, FOR A TOTAL DISTANCE OF 350.52 FEET TO THE POINT OF BEGINNING AND CONTAINING 20,470 SQ.FT. OR 0.470 ACRES. THIS DESCRIPTION IS FOR A STREET CLOSING ONLY AND IS NOT TO BE USED FOR THE TRANSFER OF REAL PROPERTY.



2211 W. 2nd STREET
OWENSBORO SELF STORAGE
D.B. 951, PG. 859
PVA PARCEL 6-10-4-1

S 86°41'47" W

331.82'

W. 1st STREET

20,470 S.F.
0.470
ACRES

350.52'

N 86°41'47" E

2231 W. 1st STREET
OWENSBORO SELF STORAGE
D.B. 1030, PG. 416
PVA PARCEL 6-10-3-5

2225 W. 1st STREET
OWENSBORO SELF STORAGE
D.B. 1030, PG. 416
PVA PARCEL 6-10-3-4

2207 W. 1st STREET
RICHARD & DENNAE HEDGES
D.B. 953, PG. 724
PVA PARCEL 6-10-3-2

CSX RAILROAD (R/W VARIES)

TEXAS AVE. (20' UNIMPROVED RW)
N 11°43'53" W

60.66'

60'

60.80'

S 05°59'20" W

RIVER ROAD (50' R/W)

CLIENT

OWENSBORO SELF STORAGE
200 ABIGAIL LANE
LEWISPORT, KY 42351

PURPOSE:

TO SHOW AND DESCRIBE THE PROPOSED STREET CLOSING.

SURVEYOR NOTES:

THE PROPERTY AND DESCRIPTION SHOWN HEREON DOES NOT CONSTITUTE A BOUNDARY SURVEY AND SHALL NOT BE USED FOR THE TRANSFER OF REAL PROPERTY.

COMPLIES WITH 201 KAR18:150 SECTION 13.
NOT A BOUNDARY SURVEY.
NOT FOR TRANSFER OF REAL PROPERTY.

PREPARED BY:

Mark A. Phelps

MARK A. PHELPS, KY. P.L.S. NO. 4420

8-6-21
DATE



EXHIBIT "A"
PROPOSED STREET
CLOSING

SCALE: 1"=50' / DATE: 07-04-2021



EXHIBIT "B"

REQUEST FOR CLOSURE OF PUBLIC RIGHT-OF-WAY

CITY ENGINEER:

The undersigned hereby requests that the right-of-way described below be closed and that the City Engineer's office make inquiry of all necessary City departments and utilities to determine if there are any reasons why the right-of-way located at:

West 1st Street Right of Way from River Road to Texas Avenue being north of
2211 West 2nd Street

should not be closed.

I understand that if I do not own all the land abutting the right-of-way proposed to be closed, I will obtain the consent of all other adjoining landowners on the appropriate form provided by the City. I also agree to provide the City with the names and addresses of all abutting or otherwise affected landowners by the proposed closure.

Once the appropriate consent forms have been executed by all fee simple property owners abutting the right-of-way proposed to be closed, and have been filed with the City, I understand and agree that it shall be my responsibility to obtain and pay for the services of a licensed attorney to prepare the legal documents necessary to close public right-of-way in accordance with KRS 82.405, subject to the approval of the City Attorney.

SIGNED BY: 

(PRINTED NAME) Daniel Roberts, Owensboro Self Storage, LLC

DATE: 6-28-2021

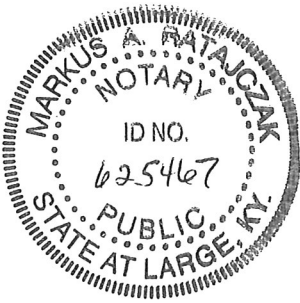
ADDRESS: 200 Abigail Lane, Lewisport, KY 42351

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was duly signed and acknowledged before me in my said County and State by

Daniel Roberts, on this the 28 day of June, 2021.



Markus A. Ratajczak # 625467
Notary Public, State of Kentucky at Large
My commission expires: 7-9-23

**CONSENT OF ABUTTING PROPERTY OWNER (S)
TO CLOSURE OF PUBLIC RIGHT-OF-WAY**

I (We), Daniel Roberts, Owensboro Self Storage, LLC and Richard & Denna Hedges, do Solemnly swear and affirm that I am (we are) the fee simple owner (s) of real property located at and known as 2211 W. 2nd St., 2231 W. 1st St., 2225 W. 1st St., & 2207 W. 1st St., part or all of which property abuts a part or all of public right-of-way that the City of Owensboro, Kentucky, proposes to abandon and close in conformity with **KRS 82.405**, which right-of-way is more particularly described as follows:

West 1st Street Right of Way from River Road to Texas Avenue being north of
2211 West 2nd Street

I (We), as fee simple owner (s) of property in or abutting the portion of public right-of-way to proposed to be closed, do knowingly, voluntarily, and expressly waive my (our) right to written notice of the proposed closing otherwise required by **KRS 82.405 (2) (b)**, and hereby consent to, and join in the request for, the closure of said public right-of-way as proposed herein. I (We) further understand that I (we) are not required to consent to the closure of public right-of-way and may object to same. However, I (we) expressly waive any and all rights to object to the proposed closure.

I (We) further understand and acknowledge, that upon the enactment and publication of an ordinance by the Owensboro Board of Commissioners closing subject right-of-way, unless otherwise agreed, I (we) as abutting landowner (s), will receive by operation of law as my (our) own property, that portion of the right-of-way abutting my (our) property up to the center line of said right-of-way.

I further understand and acknowledge that if other fee simple owner (s) of property in or abutting the public right-of-way proposed to be closed does (do) not approve of the proposed

closure, the City reserves the right to withdraw from consideration any ordinance, or dismiss any lawsuit prosecuted herein, unless any one or all of the fee simple owner (s) of property in or abutting the right-of-way proposed to be closed, agrees (agree) to indemnify and hold the city of Owensboro harmless from any and all damages assessed against it by virtue of the initiation of eminent domain proceedings pursuant to **KRS 82.405 (3) and (4)**.

I (We) further understand and acknowledge that the City of Owensboro reserves the right to deny or qualify any request for closure of public right-of-way, if upon inquiry from all necessary City departments, utilities, and all abutting or affected property owners, it is determined that it is not in the best interest of the city to close public right-of-way or the retention of public or private utility easements or required to accommodate municipal services.

In testimony whereof, witness my (our) signature (s) on this 28 Day of June, 2021

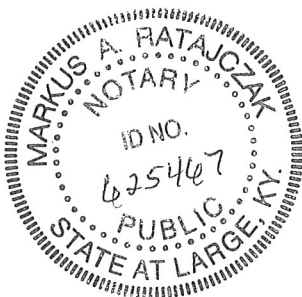
PROPERTY OWNER (S) :

Daniel Roberts, Owensboro Self Storage, LLC
[Signature] Dennae Hedges

STATE OF KENTUCKY)

COUNTY OF DAVIESS)

The foregoing instrument was signed and acknowledged before me by Daniel Roberts and Richard + Dennae Hedges
On this the 28 day of June, 2021.



Markus A Ratajczak #625467
NOTARY PUBLIC, State at Large
My Commission expires: 7-9-23