

ORDINANCE NO. 236

**ORDINANCE VACATING UNNEEDED RIGHT-OF-WAY AND
CONVEYING THE SAME BY QUIT CLAIM DEED TO THE
ADJOINING PROPERTY OWNER**

WHEREAS, the City of Okoboji, Iowa (“City”) has heretofore caused notice to be published of a public hearing on a request to “clean up” right-of-way in the area of Gordon Drive by vacating unneeded right-of-way and conveying the same by quit claim deed to the adjoining property owner, reserving easements for existing utilities, if any. The boundaries of the right-of-way to be vacated are legally described as:

Parcel 'A', that being a part of the Gordon Drive right-of-way, formerly the Chicago, Milwaukee, St. Paul and Pacific Railroad Company's right-of-way, Okoboji Park, City of Okoboji, Iowa, more particularly described as follows: Beginning at the Northeasterly corner of Lot 7, Block A, Okoboji Park, City of Okoboji, Iowa; thence North 86°40'09" East 7.50 feet along an Easterly extension of the Northerly line of said Lot 7; thence South 07°05'05" East 139.48 feet to a point on the Easterly Line of said Lot 7; thence 48.90 feet along the Easterly line of said Lot 7 on a 2538.49 foot radius curve concave Southwesterly with a long chord bearing of North 09°08'16" West 48.90 feet; thence 91.28 feet along the Easterly line of said Lot 7 on a 2538.49 foot radius curve concave Southwesterly with a long chord bearing of North 10°41'07" West 91.28 feet to the Point of Beginning, containing 433 square feet and being subject to previous easements and encumbrances both apparent or of record (the “Vacated Right-of-Way”);

WHEREAS, the Vacated Right-of-Way adjoins land owned by/titled in Mau Family Limited Partnership (“Mau”);

WHEREAS, the Vacated Right-of-Way is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified. The proposed vacation will not deny adjoining owners of property reasonable access to their properties;

WHEREAS, the City proposed to convey the Vacated Right-of-Way, by Quit Claim Deed, to Mau, reserving easements for existing utilities, if any;

WHEREAS, City Code § 137.02 requires any proposal to vacate a street, alley, or portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission has held said meeting and submitted a written report to the Council and the Commission recommended approval of said vacation;

WHEREAS, a motion was made by Councilmember Mendenhall and seconded by Councilmember Delperdang to consider this Ordinance and upon roll call the following vote was recorded:

AYES: Jim Delperdang, Jim Hentges, Walter Mendenhall, Jerry Robinson;

NAYS: None;

ABSENT: None;

ABSTAINING: Julie Andres;

Said motion to consider this Ordinance was approved by the City Council;

WHEREAS, a motion was made by Councilmember Hentges and seconded by Councilmember Delperdang to waive the second and third considerations of this Ordinance and upon roll call the following vote was recorded:

AYES: Jim Delperdang, Jim Hentges, Walter Mendenhall, Jerry Robinson;

NAYS: None;

ABSENT: None;

ABSTAINING: Julie Andres;

Said motion to waive the second and third considerations of this Ordinance was approved by the City Council, and therefore, the second and third considerations of this Ordinance were waived;

WHEREAS, a motion was made by Councilmember Mendenhall and seconded by Councilmember Robinson to adopt this Ordinance and upon roll call the following vote was recorded:

AYES: Jim Delperdang, Jim Hentges, Walter Mendenhall, Jerry Robinson;

NAYS: None;

ABSENT: None;

ABSTAINING: Julie Andres;

Said motion to adopt this Ordinance was approved by the City Council. Thereupon, the Mayor declared this Ordinance, passed and approved on the date shown below.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Okoboji, Iowa:

Section 1. Purpose. The purpose of this Ordinance is to vacate unneeded Right-of-Way i.e. the Vacated Right-of-Way, reserving easements for existing utilities, all as above described;

Section 2. Vacation. That the Vacated Right-of-Way in Section 1 above is hereby declared vacated.

Section 3. Repealer. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 4. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 5. When Effective. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Section 6. Publication. The City Clerk/Administrator is hereby authorized and directed to publish this Ordinance in a newspaper of general circulation in Dickinson County, Iowa in conformance with the Iowa law.

Passed and approved this 13th day of June, 2017.

ATTEST:



Mary Vander Woude, Mayor



Jason Peters, City Clerk/Administrator

I, Jason Peters, hereby certify that I am the duly appointed, qualified and acting City Clerk/Administrator for the City of Okoboji, Iowa, and the foregoing Ordinance was duly adopted by the City Council of the City of Okoboji, on the 13th day of June, 2017. Thereafter on the 21st day of June, 2017, the same was published in the Dickinson County News, a weekly newspaper published in Dickinson County, Iowa.

Dated this 21st day of June, 2017.



Jason Peters, City Clerk/Administrator

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