

ORDINANCE NO. 242

ORDINANCE APPROVING THE VACATION AND CONVEYANCE OF AN UNNEEDED RIGHT-OF-WAY LOCATED AT THE SOUTHERLY PROJECTION OF EDEN STREET AND THE WESTERLY PROJECTION OF THE FORMER LAKE SHORE ROAD BY QUIT CLAIM DEED (RESERVING UTILITY AND OTHER EASEMENTS) TO WHITECAP, LLC., SUBJECT TO CERTAIN TERMS, CONSIDERATIONS, AND CONDITIONS TO BE ESTABLISHED BY THE COUNCIL."

WHEREAS, the City of Okoboji, Dickinson County, Iowa ("CITY") has heretofore caused notice to be published of a public hearing on its proposal to vacate an unneeded right-of-way located at the southerly projection of Eden Street and the westerly projection of the former Lake Shore Road in the City of Okoboji, Dickinson County, Iowa (which borders and is adjacent to the former Inn Resort property), the boundaries of which are legally described as:

PARCEL 'C', BEING A PART OF EDEN STREET, OKOBOJI CITY, CITY OF OKOBOJI, DICKINSON COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWESTERLY CORNER OF PARCEL 'A' OF RECORD, BLOCK 21, OF SAID OKOBOJI CITY, AS THE SAME APPEARS IN A PLAT OF SURVEY BY R. V. BENDIXEN, L.S. NO. 9017, JACOBSEN-WESTERGARD & ASSOCIATES, DATED DECEMBER 1, 1998, AND FILED DECEMBER 1, 1998, IN SURVEY BOOK 6, PAGE 251, LOCATED AT THE DICKINSON COUNTY RECORDER'S OFFICE, MORE PARTICULARLY DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 'A' OF RECORD; THENCE SOUTH 14°26'33" WEST 372.85 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 'A' OF RECORD TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 14°26'33" WEST 57.54 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 'A' OF RECORD TO THE POINT OF CURVATURE OF THE CURVE ON THE SOUTHWESTERLY SIDE OF SAID PARCEL 'A' OF RECORD; THENCE SOUTHEASTERLY ALONG SAID CURVE ON THE SOUTHWESTERLY SIDE OF SAID PARCEL 'A' OF RECORD 45.37 FEET ALONG A 50.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY WITH A LONG CHORD BEARING OF SOUTH 12°02'17" EAST 43.83 FEET; THENCE NORTH 77°04'45" WEST 35.97 FEET; THENCE NORTH 18°12'35" EAST 97.67 FEET; THENCE SOUTH 77°04'45" EAST 10.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1,524 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 is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified and the proposed vacation will not deny owners of property abutting on the right-of-way reasonable access to their property;

WHEREAS, the City proposed to convey the same, by Quit Claim Deed, to Whitecap, LLC., subject to certain terms, reserving easements, including without limiting, utility easements; all to be detailed in the conveyance instrument;

WHEREAS, the vacated right-of-way does not currently have a zoning classification and once conveyed to Whitecap, LLC., under the above terms, will have the same zoning as the adjoining property under the City's Zoning Ordinance;

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, within 30 days after the proposed vacation was referred to the Council, and the Commission recommended approval of said vacation;

WHEREAS, a motion was made by Councilmember ROBINSON and seconded by Councilmember MEUDELHALL to consider this Ordinance and upon roll call the following vote was recorded: AYES: Andres, DELPERDANG, HENTGES, Mendenhall, ROBINSON; NAYS: N/A. Said motion to consider this Ordinance was approved by the City Council;

WHEREAS, a motion was made by Councilmember Andres and seconded by Councilmember HENTGES to waive the second and third considerations of this Ordinance and upon roll call the following vote was recorded: AYES: Andres, Delperdang, Hentges, Mendenhall, Robinson; NAYS: N/A. 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 ROBINSON to adopt this Ordinance and upon roll call the following vote was recorded: AYES: Andres, Delperdang, Hentges, Mendenhall, Robinson; NAYS: N/A. 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 the Vacated Right-of-Way, as above described, subject to certain terms and reserving easements and reversionary interest, all as above set forth and in the Deed;

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.

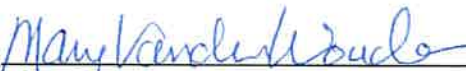
Section 6. Publication. The City Clerk/Administrator is hereby authorized and directed to publish this Ordinance in a newspaper of general circulation in Dickinson County, Iowa in conformance with the Iowa law.

Passed and approved this 10th day of July, 2018.

ATTEST:



Michael Meyers, City Clerk/Administrator



Mary Vander Woude, Mayor

I, Michael Meyers, hereby certify that I am the duly appointed, qualified and acting City Administrator/Clerk for the City of Okoboji, Iowa, and the foregoing Ordinance was duly adopted by the City Council of the City of Okoboji, on the 10th day of July, 2018 and thereafter on the 18th day of July, 2018, the same was published in the Dickinson County News, a weekly newspaper published in Dickinson County, Iowa.

Dated this 10th day of July, 2018.



MICHAEL MEYERS, CITY CLERK