

ORDINANCE NO. 251

**ORDINANCE APPROVING VACATION OF AN UNNEEDED EASEMENT IN
RETURN FOR CONVEYANCE OF A NEW EASEMENT TO THE CITY AND
SUBJECT TO CERTAIN TERMS**

WHEREAS, Project Blue LLC owns real estate property located at 6913 Lakeshore Drive and 6909 Lakeshore Drive, Okoboji, Dickinson County, Iowa (“Project Blue Property”);

WHEREAS, the City of Okoboji, Dickinson County, Iowa (“City”) is a municipal corporation organized and existing under the laws of the State of Iowa;

WHEREAS, the City has an existing storm sewer and easement for storm sewer over the Project Blue Property, recorded January 17, 1996 as Instrument Number 96-276 of the Dickinson County Recorder’s Office (“Existing Easement”);

WHEREAS, Project Blue LLC has requested the City vacate the Existing Easement subject to approval of the final plat of the Project Blue Addition and the conveyance to the City of a new easement as represented on said final plat.

WHEREAS, the Vacated Easement 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 owners of abutting property reasonable access to the City’s storm sewer;

WHEREAS, the City intendeds to convey the Vacated Easement, by Quit Claim Deed to Project Blue LLC in return for said new easement from Project Blue LLC to the City of Okoboji and subject to all the terms of the Agreement;

WHEREAS, Iowa Code § 364.7 requires a public hearing prior to a city disposing of an interest in real estate;

WHEREAS, City Code § 137.02 requires any proposal to vacate a street, alley, or portion thereof or any public grounds 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, submitted a written report to the Council, and recommended approval;

WHEREAS, the City has heretofore caused notice to be published of a public hearing on said aforementioned proposal;

WHEREAS, the City Council has had said public hearing on the aforementioned proposal and has determined it is in the best interest of the City to approve the same;

WHEREAS; once said vacated easement has been conveyed to Project Blue LLC, the Vacated Easement real estate will have the same zoning classification as the Project Blue LLC, under the City’s Zoning Code.

WHEREAS, a motion was made by Councilmember Delperdang and seconded by Councilmember Mendenhall to consider approval of this Ordinance (first consideration) and upon roll call the following vote was recorded: YEA: Delperdang, Andres, Robinson, Mendenhall. 4-0. Said motion to consider approval of this Ordinance (first consideration) was approved by the City Council;

WHEREAS, a motion was made by Councilmember Delperdang and seconded by Councilmember Mendenhall to waive the second and third considerations of this Ordinance and upon roll call the following vote was recorded: YEA: Delperdang, Andres, Robinson, Mendenhall. 4-0. 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 Delperdang and seconded by Mendenhall to adopt this Ordinance and upon roll call the following vote was recorded: YEA: Delperdang, Andres, Robinson, Mendenhall. 4-0. 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 Easement subject to certain terms, including conveyance of a New Easement to the City, all as above set forth.

Section 2. Vacation. That the Vacated Easement 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.

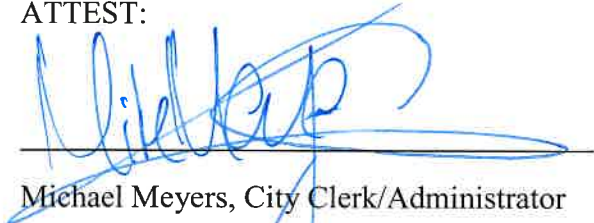
Section 6. Publication. The City Clerk/Administrator is hereby authorized and directed to publish this Ordinance in a newspaper of general circulation in Dickinson County, Iowa in conformance with the Iowa law.

Passed and approved this 9th day of July, 2019.



Mary Vander Woude, Mayor

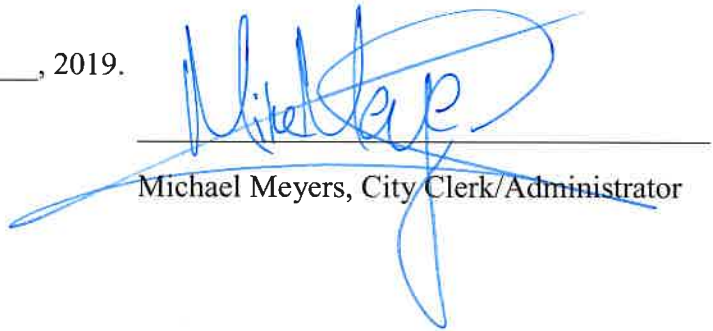
ATTEST:



Michael Meyers, City Clerk/Administrator

I, the undersigned, 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 9th day of July, 2019 and thereafter on the 17th day of July, 2019, the same was published in the Dickinson County News, a weekly newspaper published in Dickinson County, Iowa.

Dated this 19th day of JULY, 2019.



Michael Meyers, City Clerk/Administrator