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September 23, 2020

Dylan Mulfinger
Oelwein City Hall
20 2nd Ave SW
Oelwein IA 50662

Patrick Dillon
Dillon Law, PC
209 East 1st Street
Sumner IA 50674

RE: Oelwein Community School District sale of Harlan school property
Vacation of Alley

Dear Dylan and Pat:

The Oelwein Community School District proposes to sell the former Harlan School property to David D. & Garland E. Moore. In the process of researching the transfer of title, it was discovered that the alley that transects the school grounds was never vacated and conveyed to the School District. The alley has been incorporated into the school grounds since the early 1990s and clearly has not been maintained or serve as a public right-of-way for a lengthy period of time. There is only one other property that adjoins the alley and that property owner appears to have been using the alley right-of-way for a private drive.

I have taken the liberty of drafting a couple of documents for use by the City of Oelwein to vacate the alley and convey the vacated alley to the adjacent proprietors pursuant to Iowa Code Section 354.23, which I enclose for your consideration. Please find the enclosed an incomplete draft of a proposed Ordinance to vacate and convey the alley and an incomplete draft of a proposed Resolution Setting Public Hearing on the proposed vacation and conveyance. In addition, the City will be required to publish and post notice of the public hearing.

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The Oelwein School District proposes to reimburse the costs incurred by the City of Oelwein to complete the Alley Vacation and Conveyance.

I am available to discuss at your convenience. Thank you for your time and attention to this matter.

Sincerely,

R. L. Van Veldhuizen

RLV/bk

enclosures

cc: Josh Ehn, Oelwein Community School District

*DRAFT -
Incomplete
Proposed Ordinance*

Street Vacation

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE VACATION AND CONVEYANCE TO ADJOINING PROPRIETORS OF THE ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 13, 14, 15, 16, 17 AND 18 AND LOTS 19, 20, 21, 22, 23 AND 24, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTINS THIRD ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA.

BE IT ORDAINED by the City Council of the City of Oelwein, Iowa, as follows:

Section 1. Purpose: The purpose of this Ordinance is to Vacate that portion of the

ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 13, 14, 15, 16, 17 AND 18 AND LOTS 19, 20, 21, 22, 23 AND 24, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTINS THIRD ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA.

And thereby relieve the City of Oelwein of the responsibility for its maintenance and supervision.

Section 2. Facts Found: The Council of the City of Oelwein, hereby makes the following findings:

- A. The above described alley has been unused for more than 10 years and is not needed for public use and provides no benefit to the general public. Therefore, continued maintenance of said alley at public expense is not justified.
- B. The proprietors of the real estate adjoining said alley are:
 - (1) David D. Moore and Garland E. Moore, husband and wife, hold title to Lots 13 - 16 and Lots 19 - 24, Bentley's Subdivision of Block 9, Martin's Third Addition to Oelwein, Fayette County, Iowa, adjoining said real estate and alley.
 - (2) James Peterson and Cecelia Peterson, husband and wife, hold title to the West fifty (50) feet of Lots 17 and 18, Bentley's Subdivision of Block 9, Martin's Third Addition to Oelwein, Fayette County, Iowa, adjoining said real estate and alley
- C. The vacation of said alley will not deny owners of property abutting on said alley reasonable access to their adjoining property.
- D. Iowa Code section 354.23 authorizes a City to vacate and convey a vacated alley to the adjoining proprietors through the Vacation Ordinance.
- E. Notice of the intended vacation and conveyance including the date on which the

Council will consider the vacating and conveying Ordinance, has been published and posted at least once along the described alley not less than four (4), nor more than twenty (20), days before the date set for the hearing, as provided in Section 363.3(1) of the Code of Iowa.

Section 3. Vacation: That portion of the ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 13, 14, 15, 16, 17 AND 18 AND LOTS 19, 20, 21, 22, 23 AND 24, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTIN'S THIRD ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA. is hereby vacated.

Section 4. Conveyance: The above described vacated alley shall be conveyed to the adjoining proprietors as follows:

- A. The City of Oelwein, an Iowa Municipal Corporation, does hereby Quit Claim to David D. Moore and Garland F. Moore, Husband and Wife, as Joint Tenants with Rights of Survivorship and not as Tenants in Common, all right, title, interest, estate, claim and demand in the following described real estate in Fayette County, Iowa:

West one-half ($\frac{1}{2}$) of alley adjacent to Lots 19-24, Bentley's Subdivision of Block 9, Martin's Third Addition to Oelwein, Fayette County, Iowa

And

East one-half ($\frac{1}{2}$) of alley adjacent to Lots 13-16, Bentley's Subdivision of Block 9, Martin's Third Addition to Oelwein, Fayette County, Iowa

- B. The City of Oelwein, an Iowa Municipal Corporation, does hereby Quit Claim to James Peterson and Cecelia Peterson, Husband and Wife, as Joint Tenants with Rights of Survivorship and not as Tenants in Common, all right, title, interest, estate, claim and demand in the following described real estate in Fayette County, Iowa:

East one-half ($\frac{1}{2}$) of alley adjacent to the West Fifty (50) Feet of Lots 17 and 18, Bentley's Subdivision of Block 9, Martin's Third Addition to Oelwein, Fayette County, Iowa

Section 5. Repealer: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. 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.

DRAFT
Incomplete
Resolutions

RESOLUTION NO. _____

RESOLUTION TO SET PUBLIC HEARING ON PROPOSED VACATION AND CONVEYANCE TO THE ADJOINING PROPERTY OWNER(S), OF THE ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 13, 14, 15, 16, 17 AND 18 AND LOTS 19, 20, 21, 22, 23 AND 24, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTINS THIRD ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA.

BE IT RESOLVED by the Council of the city of Oelwein, Iowa, as follows:

Section 1. The Council of the City of Oelwein, Iowa, hereby proposes to vacate and convey to adjoining property owners the ALLEY RUNNING NORTH AND SOUTH BETWEEN LOTS 13, 14, 15, 16, 17 AND 18 AND LOTS 19, 20, 21, 22, 23 AND 24, BENTLEY'S SUBDIVISION OF BLOCK 9, MARTINS THIRD ADDITION TO OELWEIN, FAYETTE COUNTY, IOWA.

Section 2. The Clerk is hereby directed to publish notice and post, at least once on each block along the described alley, notice that a public hearing will be held at _____ P.M. on _____, 2020, at the Council Chambers at City Hall, in Oelwein, Iowa, at which time the Council will hear objections to the vacation from any interested party.

Section 3. This Resolution shall be in effect upon its passage and approval as provided by law.

Passed and adopted by the City Council of the City of Oelwein, Iowa this _____ day of _____, 2020.

, Mayor