

ORDINANCE 2022-09

AN ORDINANCE OF POLK CITY, FLORIDA, VACATING THREE PLATTED EASEMENTS DESCRIBED BELOW; PROVIDING FINDINGS AND CONDITIONS; PROVIDING FOR A CERTIFIED COPY TO BE FILED WITH THE POLK COUNTY CLERK OF COURT AND DULY RECORDED IN THE PUBLIC RECORDS OF POLK COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF POLK CITY, FLORIDA:

Section 1. Findings. In adopting this Ordinance, the City Commission of Polk City hereby makes and expresses the following findings, purposes, and intent:

- (1) Polk City has been conferred authority to vacate any street or alley by Sections 166.042 and 177.101, Florida Statutes.
- (2) The Petitioner, Susan Borsje, requests the City, to forever vacate and abandon the easements located as described in Section 2 herein and as shown in Exhibit "A" which is attached and made a part hereof.
- (3) Due public notice of the petition to seek the vacation of easement within the City was duly published in the Ledger for the purpose of hearing objections to the vacating of said easements at a public hearing held by the Polk City Planning Commission on September 12, 2022.
- (4) On September 6, 2022, the City notified all property petitioner within the subdivision of the proposed closing of the easements, and the City Commission held a regularly scheduled City Commission meeting on Monday, September 19, 2022 at 7:00 p.m. for the purpose of hearing objections to vacating the underlying easements and notice thereof was duly published.
- (5) Due public notice of the petition to seek the vacation of easements within the City was duly published in the Ledger for the purpose of hearing objections to the vacating of said easements at a public hearing held by the City Commission of Polk City on October 17, 2022.
- (6) The City has determined there are no utilities located within the underlying easements, and City staff does not have any objections to the vacation of the easements.
- (7) The City Commission, after having made a thorough study of the changing conditions in the neighborhood, being apprised of the existing facts, taking into

consideration the other easements whereby drainage and utilities may be routed, has determined that it is in the best interest of the Polk City and its residents that the said easements shall be forever vacated and abandoned.

Section 2. Vacation of Platted Easements; Conditions to Vacating the Easements. Based upon the findings set forth above, and the conditions set forth below, the City Commission hereby determines to conditionally vacate its easements as specified in Exhibit "A" hereof and articulated below:

(1) Platted Easements Located At 133 Bayberry Drive (Polk County Parcel Number 25-26-32-296016-000280) in the Sandy Pointe Subdivision; and described as Lot 29 Easement,

(2) A portion that certain drainage and utility easement as show as Lot 29 of Sandy Pointe, as recorded in Plat Book 90, Page 29, on the Public Records of Polk County, Florida; and described as Lot 28 Easement.

(3) A portion of that certain drainage and utility easement as shown on Lot 28 of Sandy Pointe, as recorded in Plat Book 90, Page 29, of the Public Records of Polk County, Florida; and a utilities easement being 10.00 feet in width and lying 5.00 feet each side of Lots 28 and 29 as recorded in Plat Book 90, Page 29, of the Public Records of Polk County, Florida.

The vacation of these easements is, however, subject to the following conditions:

(1) The Petitioner agree to indemnify and hold harmless the City from and against any and all claims, damages, liabilities, liens or expenses of any nature (including without limitations, costs, expenses, attorneys' and paralegals' fees) arising out of or resulting from the use of the vacated property, or the Petitioner' negligence or misconduct during its use of the vacated property, and,

(2) The Petitioner accept full responsibility and shall be obligated to prevent and maintain drainage in its current state from the property described in Exhibit "A" in this Ordinance. The Petitioner accept and acknowledge that Polk County has no responsibility for drainage from the property described in Exhibit "A" hereof; and,

(3) The Petitioner shall enter into that easement agreement attached to and incorporated in this Ordinance as Exhibit "B."

Section 3. Filing and Recording of Certified Copy. A certified copy of this Ordinance shall be filed with the Polk County Clerk of Court and duly recorded in the public records of Polk County in accordance with subsection 177.101(5) of the Florida Statutes.

Section 4. Severability: If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 5. Conflict. All existing ordinances or parts of existing ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Effective Date. This Ordinance shall take effect upon receipt of a fully executed and binding written agreement signed by the Petitioner covenanting to the conditions of approval set forth in Section 2 of this ordinance in the form substantially the same as that attached to and incorporated in this ordinance as Exhibit "B."

INTRODUCED AND PASSED on First Reading the 19th day of September, 2022.

POLK CITY, FLORIDA



Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

Approved as to form and correctness:



Thomas A. Cloud, City Attorney

PASSED AND DULY ADOPTED ON SECOND READING, with a quorum present and voting by the City Commission of Polk City, Florida meeting in Regular Session this day of 18th October, 2022.



Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk