
THE CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION
NO. _____

**A RESOLUTION AUTHORIZING THE PAYMENT FOR CERTAIN
EASEMENT RIGHTS AND PRIVILEGES TO ROBERT BARKEI
PERTAINING TO THE MAINTENANCE OF CERTAIN OVERHEAD
UTILITIES BY ROCHELLE MUNICIPAL UTILITIES**

CHET OLSON, Mayor
SUE MESSER, City Clerk

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DAN McDERMOTT
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City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
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WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle (“City”), Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (*Village of Wauconda v. Hutton*, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, the City of Rochelle (“City”) pursuant to Section 5/11-76.1-1 of the Illinois Municipal Code (65 ILCS 5/11-76.1-1) is empowered to purchase real property for public purposes upon the affirmative vote of two-thirds of its City Council; and

WHEREAS, the City is the owner and operator of Rochelle Municipality Utilities (“RMU”), which operates various powerlines and utilities; and

WHEREAS, the City has determined that it is necessary to record its easement rights and privileges associated with RMU’s operation of the various powerlines and utilities; and

WHEREAS, Robert Barkei owns certain Real Property that the City’s easement rights and privileges are presently located upon; and

WHEREAS, the City has negotiated in good faith a reasonable offer to purchase its easement rights and privileges across said Property in an amount not greater than \$25,000.00 pursuant to a Utility Easement Agreement (“Agreement”) attached hereto as Exhibit 1; and

WHEREAS, it has been determined by the Corporate Authorities of the City of Rochelle that it is in the best interest of the City and its residents to enter in said Agreement; and

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, ILLINOIS:

SECTION ONE: That the City hereby incorporates all of the recitals above into this Resolution as if fully set forth herein.

SECTION TWO: The City hereby authorizes the City Manager to execute said Agreement with Robert Barkei in substantially the same form as attached hereto as Exhibit 1, and authorizes payment to Robert Barkei in an amount not to exceed \$25,000.00, subject to review and revision as to form by the City Attorney.

SECTION THREE: If any provision of this Resolution or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Resolution is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Resolution are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Resolution will govern.

SECTION FIVE: The City Clerk shall publish this Resolution in pamphlet form.

SECTION SIX: This Resolution shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS ____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED THIS ____ day of _____, 2018.

MAYOR

ATTEST:

CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, _____, City Clerk of the City of Rochelle, County of Ogle and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. _____, “A RESOLUTION AUTHORIZING THE PAYMENT FOR CERTAIN EASEMENT RIGHTS AND PRIVILEGES TO ROBERT BARKEI PERTAINING TO THE MAINTENANCE OF CERTAIN OVERHEAD UTILITIES BY ROCHELLE MUNICIPAL UTILITIES” which was adopted by the Mayor and City Council of the City of Rochelle on _____, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this _____ day of _____, 2018.

CITY CLERK