



**BUSINESS OF THE CITY COUNCIL
AGENDA STATEMENT**

Item No. 13
For Meeting of 01.07.2015

ITEM TITLE: Consideration of a resolution releasing property from easement in the City of Norwalk, Iowa (bike trail easement release)

CONTACT PERSON: Jim Dougherty, City Attorney
Wade Wagoner, Planning Director
Luke Parris, City Planner

SUMMARY EXPLANATION:

The Development Agreement with Farms of Holland (FOH) contains the following provision:

- 9. The City will release the current bike trail easement previously granted to the City by FOH upon ground owned by FOH West of the Property.

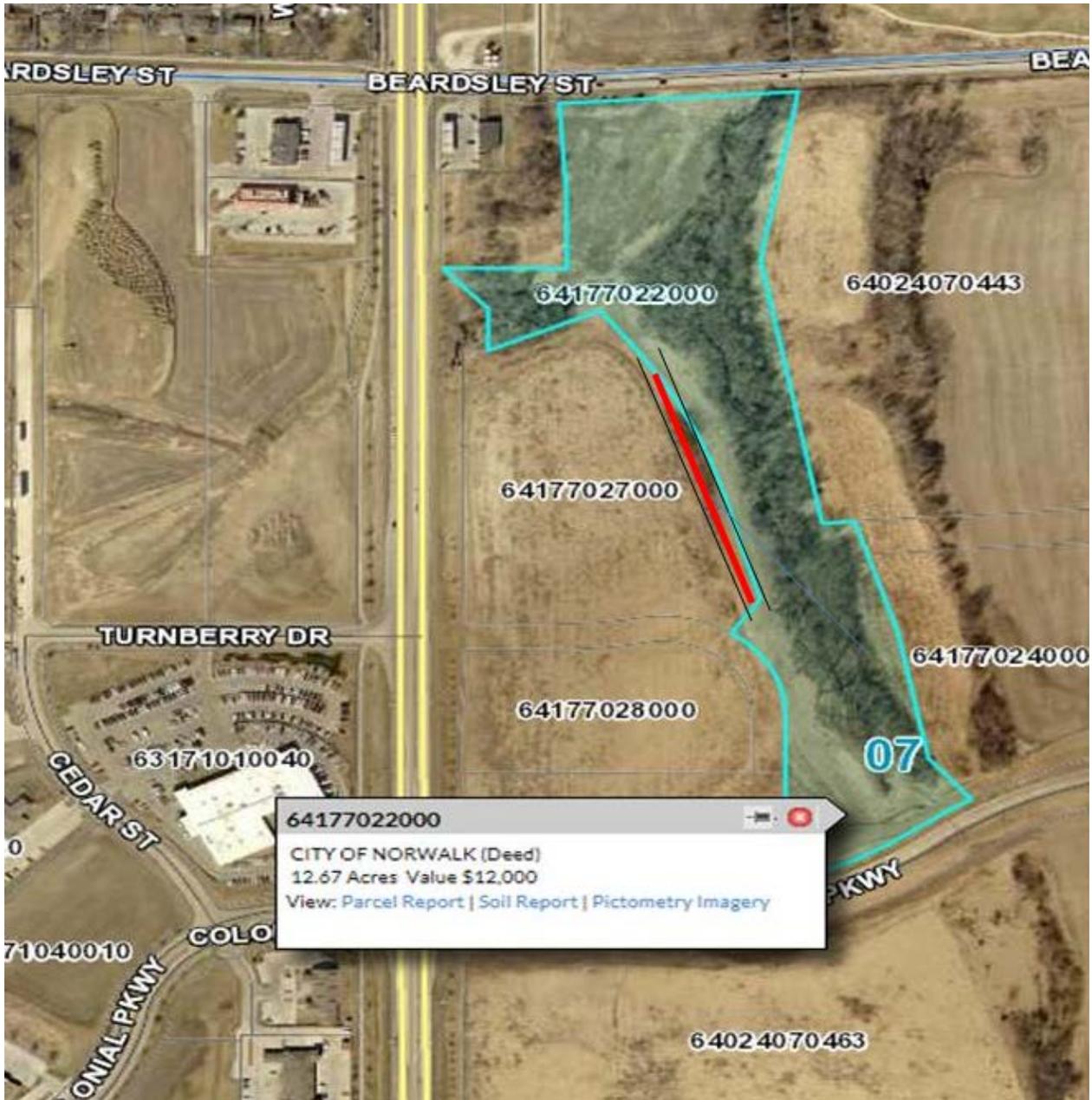
This bike trail easement is currently a 30 foot wide swath covering the entirety of the FOH ground and appears as a title objection when the developer attempts to sell property. The developer has asked that we remove this encumbrance.

The easement over the entire property, pending approval of this resolution, will be replaced with another, more narrowly defined easement, depicted on the attached map.

<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Contract <input type="checkbox"/> Other (Specify) _____
Funding Source: _____
APPROVED FOR SUBMITTAL _____ <div style="text-align: center;"></div> City Manager

STAFF RECOMMENDATION:

Staff recommends approval of the resolution vacating the old easement and reassigning a new easement over the exiting sanitary sewer main.



The new easement is shown (not to scale) by the two black lines over an existing sanitary sewer main in red.

Since there is already a sewer easement there, and since the bike trail easement covers the same piece of property, Farms of Holland has no objections to the new easement and asks that we proceed.

RESOLUTION RELEASING PROPERTY FROM EASEMENT IN THE CITY OF
NORWALK, IOWA

WHEREAS, The City of Norwalk was previously granted an easement dated June 9th, 2011 and filed of record June 10, 2011 in Book 2011, Page 4455 in the records of Recorder of Warren County Iowa (original easement); and

WHEREAS, the original easement provides for a thirty (30) foot wide easement, but does not describe a specific location within the described area and allows the City to determine the specific location within the general area described in the original easement; and

WHEREAS, the owner of the easement area has requested the City to release the following described property (released area) from the original easement area described in the original easement to facilitate the platting and sale of the property to a third party; to wit:

A 30' wide strip of property, as determined by the City of Norwalk, located in the Northwest Quarter of the Northwest Quarter of Section 7, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa running approximately North and South from Beardsley Road on the North to Parcel "E" of the survey of the Southwest Quarter of the Northwest Quarter of Section 7, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, as shown in Book 2011, Page 3691 in the office of the Warren County Recorder on the South.

EXCEPT

Lots A, B, and C in Farms of Holland Plat 2 as conveyed to the City of Norwalk in the Deed recorded on October 27th, 2015 in Book 2015, Page 8830 in the Office of the Warren County Recorder.

AND EXCEPT

The real property described in the Sanitary Sewer Easement granted by The Farms of Holland LLC to the City of Norwalk recorded on July 1, 2014 in Book 2014, Page 4699 in the Recorders Office of Warren County, Iowa.

And

WHEREAS, the released area is not an area needed to accommodate the original easement and it is in the best interests of the City of Norwalk that the released area be released from the original easement area.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Norwalk, Iowa, as follows:

1. The following described property is hereby released from the burden of the easement dated June 9th, 2011 and filed of record June 10, 2011 in Book 2011, Page 4455 in the records of Recorder of Warren County Iowa.

A 30' wide strip of property, as determined by the City of Norwalk, located in the Northwest Quarter of the Northwest Quarter of Section 7, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa running approximately North and South from Beardsley Road on the North to Parcel "E" of the survey of the Southwest Quarter of the Northwest Quarter of Section 7, Township 77 North, Range 24 West of the 5th P.M., Warren County, Iowa, as shown in Book 2011, Page 3691 in the office of the Warren County Recorder on the South.

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2. The original easement shall remain in full force and effect for the remainder of all of the property described in the original easement.

Dated this 7th day of December, 2016.

Tom Phillips, Mayor

Attest:

Jodi, Eddleman, City Clerk

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Isley	—	—	—
Kuhl	—	—	—
Lester	—	—	—
Livingston	—	—	—
Riva	—	—	—