



**BUSINESS OF THE CITY COUNCIL
AGENDA STATEMENT**

Item No. 13
For Meeting of 01.07.2016

ITEM TITLE: Consideration of second and possibly third reading(s) of an Ordinance vacating a public access easement over Masteller Road.

CONTACT PERSON(S): Wade R. Wagoner, AICP LEED GA
Planning & Economic Development Director

SUMMARY EXPLANATION

Chapter 138 of the City of Norwalk City Code provides regulations for the "Vacation and Disposal of Streets." Section 138.02 specifically states that the City Council must refer the proposal to the Planning and Zoning Commission for study and review. The Planning and Zoning Commission shall then provide a written report and recommendation to the City Council regarding the proposed vacation of a City street. The City Council cannot vacate a street unless they find the following:

1. Public Use. The street, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street reasonable access to their property.

At their December 3, 2015 meeting, the City Council held a public hearing and referred the matter of the vacation of Masteller Road to the Planning and Zoning Commission for review and recommendation. On December 14, 2015, the Planning and Zoning Commission met to review the proposed vacation and provide a recommendation focused on the two points described above. The City Council approved the first reading of this ordinance on December 17th, 2015.

DETAILS OF PROPOSED VACATION

The current alignment of Masteller Road is proposed to be vacated and a new alignment of Masteller Road will be developed by United Properties LLC as part of their commercial development within the Echo Valley PUD. The new alignment of Masteller Road would maintain the intersection at Iowa Highway 28. The intersection of Masteller and Beardsley Street would be relocated to the east along Beardsley Street. Current landowners adjacent to and with access to Masteller Road are United Properties Invest Co. LLC. and James Oil. The James Oil property has a secondary access to Beardsley Street. The United Properties Invest Co. LLC. does not have a second access, however, United Properties is redeveloping Masteller Road, which will maintain access to their property.

While a majority of the Masteller Road is now under construction, this ordinance contemplates vacating all of the North South Portion of the road, show in red on the map. (The City intends to

keep the northern east/west portion, shown in green, as it has been identified as the future access and likely signalization off of Iowa Highway 28.)

The City can choose to vacate all or a portion of the street or place conditions on the vacation such as a deal being reached by the two private property owners regarding the James Oil property.



____ Resolution	<input checked="" type="checkbox"/>	Ordinance	____ Contract	____ Other (Specify) _____
Funding Source: _____				
APPROVED FOR SUBMITTAL _____				
 City Manager				

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission reviewed the proposed vacation on December 14, 2015. The Commission found that Masteller Road is no longer needed for the use of the public and that its maintenance at public expense is no longer justified. The Commission also found that abutting property owners would not be denied reasonable access to their property because the James Oil site maintained access to Beardsley Street. The Commission recommends that the north/south portion of Masteller be vacated and that the northerly east/west portion that connects to Iowa Highway 28 be preserved. The City Council approved the first reading of this ordinance on December 17th, 2015.

ORDINANCE NO. ____

AN ORDINANCE PROVIDING FOR THE VACATION OF A PORTION OF THE ROAD
KNOWN AS MASTELLER ROAD WITHIN THE CITY OF NORWALK, IOWA

Sections:

- Section 1. Purpose.
- Section 2. Facts Found.
- Section 3. Description.
- Section 4. Vacations.
- Section 5. Repealer.
- Section 6. Severability Clause.
- Section 7. When Effective.

BE IT ORDAINED BY THE CITY COUNCIL, CITY OF NORWALK, IOWA:

SECTION 1. PURPOSE. The purpose of this ordinance is to vacate a portion of Masteller Road, within the City of Norwalk, Iowa and thereby relieve the City of the responsibility for its maintenance and supervision, pursuant to Sections 354.23 and 364.12(2)(a), Iowa Code, and Chapter 138, Norwalk Code.

SECTION 2. FACTS FOUND. The City Council of the City of Norwalk, Iowa, herein makes the following findings:

1. The portion of Masteller Road described herein is not needed for the use of the public, and, therefore, the maintenance at public expenses is no longer justified.
2. The vacation will not deny owners of property abutting on the road reasonable access to their property.
3. The described road is of no benefit to the public.
4. Notice of Hearing of the intended vacation and said road was provided to the public as required by law.

SECTION 3. DESCRIPTION. Beginning at the SW Corner of Section 6, Township 77 North, Range 24 West of the 5th P.M.; thence N 86°37 1/2'E, 49.7 ft. along the south line of the Fr. SW ¼ Fr. SW ¼ of said Sec. 6 to the presently established easterly right of way line of Primary Road No. 28; the point of beginning; thence N00°00 ¾'E, 27.2 ft. along said right of way line to the south line of a certain tract of land described in Book 140, Page 575, in the office of the Warren County Recorder; thence N86°40 ¾ 'E, 132.0 ft. along said south line to the east line of said tract of land; thence N00°00 ¾'E, 727.0 ft. along said east line and the extension thereof of the NE Corner of a certain tract of land described in Book 186, Page 255, in the office of the Warren County Recorder; thence N90°00'E, 18.3 ft.; thence N00°00'W, 428.5ft.; thence N90°00'W, 147.8 ft. to the presently

established easterly right of way line of Primary Road No. 28; thence N00°18'E, 80.0 ft. along said right of way line; thence S90°00'E, 147.4 ft.; thence southeasterly 141.4 ft. along a 90.0 ft. radius curve, concave southwesterly having a long chord of 127.3 ft. bearing S00°00'E, 926.8 ft.; thence S04°03 ½'E. 238.9 ft. to the south line of the Frl. SW ¼ Frl. SW ¼ of said Sec. 28; thence S86°37 ½' W, 257.6 ft. along said south line to the Point of Beginning; containing 3.28 acres more or less. Note: The south line of the Frl. SW ¼ FR. SW ¼ of said Sec. 6 is assumed to bear N86°37 ½' E.

- SECTION 4. VACATIONS. That the portion of the road described in Section 3 above is hereby declared vacated.
- 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, provisions 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 7. WHEN EFFECTIVE. This ordinance shall be in effect after final passage, approval, and publication as provided by law.

APPROVED AND ADOPTED by the City Council of the City of Norwalk, Iowa, this ____ day of _____, 20__.

Tom Philips, Mayor

Attest:

Jodi Eddleman, City Clerk

First Reading: December 17, 2015

Second Reading: waived

Third Reading: waived

I certify that the foregoing was published as Ordinance No. 15-15 on the _____ day of _____, 20 ____.

Jodi Eddleman, City Clerk

Exhibit A



Exhibit B

Masteller Road Easement Vacation

The _____ **Jim Dougherty** _____ Addition to Norwalk, an Official Plat, Norwalk ,
Warren County, Iowa.