



**BUSINESS OF THE CITY COUNCIL
AGENDA STATEMENT**

Item No. 12
For Meeting of 01.21.2016

ITEM TITLE: Consideration of third (final) reading 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, shown 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 Council has previously chosen to adopt the ordinance vacating the north-south portion of the street.



___ Resolution X Ordinance ___ Contract ___ Other (Specify) ___

Funding Source: _____

APPROVED FOR SUBMITTAL _____
Paula Lopez-Diaz
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 and the second reading on January 7th, 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 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. Commencing at the Southwest corner of Section Six (6), Township Seventy-seven (77) North, Range Twenty-four (24) West of the 5th P.M., Warren County, Iowa; thence North 86°37 ½' East, 49.7 feet along the South line of the Fractional Southwest Quarter of the Fractional Southwest Quarter (FR. SW ¼ Fr. SW ¼) of said Section Six (6) to the presently established easterly right of way line of Primary Road No. 28; thence North 00°00 ¾ ' East, 27.2 feet 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 North 86°40 ¾ ' East, 132.0 feet along said South line to the East line of said tract of land to point of beginning; thence North 00°00 ¾ ' East, 727.0 feet along said East line and the extension thereof to the Northeast Corner of a certain

tract of land described in Book 186, Page 255, in the office of the Warren County Recorder; thence North 90°00' East , 18.3 feet; thence North 00°00' West 428.5 feet thence North 00°00' East 80.0 feet to the North Boundary of the Masteller Road right of way; thence Southeasterly 141.4 feet along a 90.0 foot radius curve, concave Southwesterly having a long chord of 127.3 feet bearing South 45°00' East; thence South 00°00' East, 926.8 feet; thence South 04°03 ½ ' East, 238.9 feet to the South line of the Fractional Southwest Quarter of the Fractional Southwest Quarter (Fr SW ¼ Fr SW ¼) of said Section Six (6); thence South 86°37 ½ ' West, 125.6 feet along said South line; thence North 00°00' East to the point of beginning.

- SECTION 4. VACATIONS. That the portion of the road described in Section 3 and depicted in Exhibit A, attached hereto, above and road easement is hereby declared vacated. That the Mayor and City Clerk of the City of Norwalk, Iowa, be and are hereby authorized to convey said real property via Quit Claim Deed, and execute all documents relating thereto, to United Properties Investment Company, L.C.
- 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 Phillips, Mayor

Attest:

Jodi Eddleman, City Clerk

First Reading: December 17, 2015
Second Reading: January 17, 2016
Third Reading:

I certify that I have reviewed Ordinance No. 15-15 and find it in conformance with State of Iowa Code and City of Norwalk Code of Ordinances. Signed this ____ day of _____, 2016.

James Dougherty, City Attorney

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

Jodi Eddleman, City Clerk

