



Document 2009 3331

Book 2009 Page 3331 Type 06 024 Pages 11

Date 11/05/2009 Time 2:10 PM

Rec Amt \$59.00

INDX ✓
ANNO
SCAN

LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

CHEK

ε Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072 (515) 758-2667
✓ Return To: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072

CERTIFICATION

The undersigned, , being the duly appointed and acting City Clerk of the City of Earlham, Iowa, does hereby certify that the attached documents are true and authentic copies of Resolution No. 09-22 passed by the City Council of the City of Earlham, Iowa on August 10, 2009 and Resolution No. 09-26 passed by the City Council of the City of Earlham, Iowa on the 14th day of September, 2009 pertaining to the vacation and transfer of the alley in Block 7 in the Original Town of Earlham, Madison County, Iowa.

Dated this 5th day of November, 2009, at Earlham, Iowa.

(CITY SEAL)

Linette Crouch

Linette Crouch
City Clerk
City of Earlham, Iowa.

This instrument was acknowledged before me on November 5th, 2009, by Linette Crouch as City Clerk of the City of Earlham, Iowa.



Susan Clark

Notary Public in and for the State of Iowa.

Earlham, Iowa, August 10, 2009

The City Council of Earlham, Iowa, met in regular session, in the Council Chambers, City Hall, Earlham, Iowa at 7:00 o'clock P.M., on the above date. There were present Mayor Andrew Arnburg, in the chair, and the following named Council Members:

Beisner, Lillie, Hollander, Waugh

Absent: Petersen

Council Member Beisner introduced the following resolution entitled "RESOLUTION PROPOSING THE VACATION OF THE ALLEY IN BLOCK 7 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA" and moved that the same be adopted. Council Member Lillie seconded the motion to adopt. The roll was called and the vote was,

Ayes: Beisner, Lillie, Hollander,
Waugh

Nays: _____

Abstain: _____

Whereupon, the Mayor declared the following resolution duly adopted.

RESOLUTION NO. 09-12

RESOLUTION PROPOSING THE VACATION OF THE ALLEY
IN BLOCK 7 IN THE ORIGINAL TOWN OF EARLHAM,
MADISON COUNTY, IOWA.

WHEREAS, the City of Earlham, Iowa, is the owner of the alley located in Block 7 of the Original Town of Earlham, Madison County, Iowa; and

WHEREAS, the alley in said Block 7 lies within the real estate complex wholly owned by the Farmers Cooperative Company of Farnhamville, Iowa, and portions of two buildings located within the complex have been constructed over and on said alley thereby rendering it of no benefit to the public or the City; and

WHEREAS, the Farmers Cooperative owns all lots on both sides of a portion of the alley proposed to be vacated; and

WHEREAS, the City Council is of the opinion that it is in the best interest of the City to vacate said alley which is legally described as follows, to-wit:

Commencing at the Northeast Corner of Lot 10 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edges of Lots 10, 9, 8 and 7 to the Southeast Corner of said Lot 7 in said Block 7, thence East 20 feet to the Southeast Corner of Lot 6 in said Block 7, thence North along the West edges of Lots 6, 5, 4, and 3 to the Northwest Corner of Lot 3 in said Block 7, thence Northwesterly 20 feet along the Railroad right-of-way to the Northeast Corner of Lot 10 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

And

Commencing at the Northwest Corner of Lot 11 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edge of said Lot 11 to the Railroad right-of-way, thence Southeasterly 20 feet along the Railroad right-of-way to the Southwest Corner of Lot 1 in said Block 7, thence North along the West edge of said Lot 1 to the Northwest Corner of said Lot 1, thence West 20 feet to the Northeast Corner of Lot 11 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

WHEREAS, the City Council finds that the alley proposed to be vacated is not used and is not needed for the use of the public, and the proposed vacation will not deny any property owner access to their property; and

WHEREAS, before said alley can be vacated, it is necessary that a public hearing be held on the proposal pursuant to Chapter 138.03 of the Earlham Code of Ordinances;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EARLHAM, IOWA:

1. That the City of Earlham, Iowa proposes to vacate the alley in Block 7 of the Original Town of Earlham, Madison County, Iowa that lies South and North of the railroad right-of-way and within the complex of land wholly owned by the Farmers Cooperative Company.

2. That the alley the City of Earlham, Iowa proposes to vacate is described as follows, to-wit:

Commencing at the Northeast Corner of Lot 10 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edges of Lots 10, 9, 8 and 7 to the Southeast Corner of said Lot 7 in said Block 7, thence East 20 feet to the Southeast Corner of Lot 6 in said Block 7, thence North along the West edges of Lots 6, 5, 4, and 3 to the Northwest Corner of Lot 3 in said Block 7, thence Northwesterly 20 feet along the Railroad right-of-way to the Northeast Corner of Lot 10 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

And

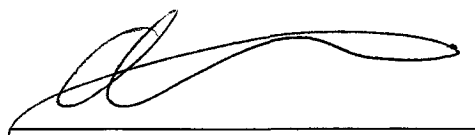
Commencing at the Northwest Corner of Lot 11 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edge of said Lot 11 to the Railroad right-of-way, thence Southeasterly 20 feet along the Railroad right-of-way to the Southwest Corner of Lot 1 in said Block 7, thence North along the West edge of said Lot 1 to the Northwest Corner of said Lot 1, thence West 20 feet to the Northeast Corner of Lot 11 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

BE IT FURTHER RESOLVED that a public hearing be held on this proposal on September 14, 2009 at 7:00 o'clock P.M., at City Hall, City of Earlham, Iowa;

BE IT FURTHER RESOLVED that the City Clerk publish notice of this proposal and of the date, time and place of hearing thereon pursuant to Section 362.3, Code of Iowa.

BE IT FURTHER RESOLVED that the proposed vacation described herein is hereby referred by the City Council to the Planning and Zoning Commission of the City for its study and recommendation pursuant to Section 138.02 of the Earlham Code of Ordinances.

PASSED AND APPROVED this 10th day of August, 2009.



Andrew Arnburg, Mayor

ATTEST:



Linette Crouch, City Clerk

Earlham

PROOF OF PUBLICATION

STATE OF IOWA }
 }SS:
MADISON COUNTY }

I, Trish Toma-Lark, being duly sworn, attest that a weekly newspaper printed in Earlham, in said County and State, and that the notice of which the attached is a printed copy was published in said newspaper for one week, publication being on the 2nd day of Sept, 2009.

Cost: \$25.49

Trish Toma-Lark
Trish Toma-Lark

STATE OF IOWA }
 }SS:
MADISON COUNTY }

Subscribed and sworn to before me by Trish Toma-Lark on this 16th day of September, 2009.

Donna M. Volz
Notary Public



**NOTICE OF HEARING ON
PROPOSAL TO VACATE ALLEY**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City Council of the City of Earlham, Iowa on a resolution proposing that the City of Earlham vacate the alley in Block 7 in the Original Town of Earlham, Iowa. The alley in said Block 7 that is proposed to be vacated lies South and North of the railroad right-of-way and within the complex of buildings and land owned wholly by the Farmers Cooperative Company, which portion of the alley is described as follows, to-wit:

Commencing at the Northeast Corner of Lot 10 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edges of Lots 10, 9, 8 and 7 to the Southeast Corner of said Lot 7 in said Block 7, thence East 20 feet to the Southeast Corner of Lot 6 in said Block 7, thence North along the West edges of Lots 6, 5, 4, and 3 to the Northwest Corner of Lot 3 in said Block 7, thence Northwesterly 20 feet along the Railroad right-of-way to the Northeast Corner of Lot 10 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

And

Commencing at the Northwest Corner of Lot 11 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edge of said Lot 11 to the Railroad right-of-way, thence Southeasterly 20 feet along the Railroad right-of-way to the Southwest Corner of Lot 1 in said Block 7, thence North along the West edge of said Lot 1 to the Northwest Corner of said Lot 1, thence West 20 feet to the Northeast Corner of Lot 11 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

The City Council will hold a public hearing on the proposal to vacate said alley at City Hall, in the City of Earlham, Iowa on the 14th day of September, 2009 at 7:00 o'clock P.M. Comments for or against the proposed vacation will be received at the public hearing. After the public hearing, the City Council will make a final determination on whether or not to vacate the alley. If it is determined that the alley should be vacated, the City Council will vacate the alley by ordinance.

This Notice is published by order of the City Council.

Linette Crouch, City Clerk

ORIGINAL

September 14, 2009

The City Council of Earlham, Iowa, met in regular session, in the Council Chambers, City Hall, Earlham, Iowa, at 7:00 o'clock P.M., on the above date. There were present Mayor Andrew Arburg, in the chair, and the following named Council Members:

Jeff Beisner, Jeff Lillie, David Hollander,
Scott Petersen, Doug Waugh

Absent: _____

The Mayor announced that on August 10, 2009 the City Council passed a resolution proposing that the alley in Block 7 of the Original Town of Earlham be vacated. The Mayor stated that the proposed vacation had been referred to the Planning and Zoning Commission for its study and recommendation as required by Chapter 138.02 of the Earlham Code of Ordinances. The Mayor further stated that the Planning and Zoning Commission had studied the proposed vacation and recommended that the Council enact the vacation. The Mayor further stated that final action on the proposal would be taken at this meeting. The Mayor then opened the public hearing on the matter of the proposed vacation and called for any oral objections to the proposal. No oral objections were offered and the Clerk reported that no written objections thereto had been filed. The City Council discussed the proposal, and noted that it would be in the best interest of the City to vacate the alley, and that the alley in said Block 7 lies within the real estate complex wholly owned by the Farmers Cooperative Company of Farnhamville, Iowa, and that portions of two buildings located within the complex have been constructed over and on said alley thereby rendering it of no benefit to the public or the City.

Council Member Lillie introduced the following ordinance entitled "AN ORDINANCE VACATING THE ALLEY IN BLOCK 7 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA" and moved its adoption. Council Member Hollander seconded the motion to adopt. The ordinance was read and considered. The Mayor put the question on the motion, and the roll was called and the vote was,

Ayes: Lillie, Hollander, Waugh, Petersen

Nays: Beisner (abstained)

Whereupon, the Mayor declared the motion duly carried.

It was moved by Council Member Lillie and seconded by Council Member Hollander that the rule requiring that the ordinance be considered on three (3) different occasions be suspended. The Mayor put the question on the motion, and the roll being called, the following named Council Members voted:

Ayes: Waugh, Lillie, Hollander, Petersen, Beisner

Nays: _____

Whereupon, the Mayor declared the motion duly carried.

It was moved by Council Member Lillie and seconded by Council Member Hollander that the ordinance entitled: "AN ORDINANCE VACATING THE ALLEY IN BLOCK 7 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA" be now put upon its final passage and adoption, and the roll being called, the following Council Members voted:

Ayes: Lillie, Hollander, Waugh, Petersen, Beisner

Nays: _____

Whereupon, the Mayor declared the ordinance duly adopted, and the Clerk assigned it the Number 09-24

ORDINANCE NO. 09-26

AN ORDINANCE VACATING THE ALLEY IN BLOCK 7 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA.

Be it ordained by the Council of the City of Earlham, Iowa:

Section 1. Section 131.01 of the Earlham Code of Ordinances provides that when, in the judgment of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, the Council may do so by ordinance in accordance with the provisions of Chapter 138. Section 138.02 provides that any proposal to vacate a street or alley shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation. Section 138.03 provides that the Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

Section 2. On August 10, 2009 the Council proposed to vacate the alley in Block 7 in the Original Town of Earlham, Madison County, Iowa. The Planning and Zoning Commission has recommended that the alley be vacated. Public hearing was held on the proposal on September 14, 2009 following published notice of hearing as required by law.

Section 3. The City Council of Earlham finds that the alley in Block 7 of the Original Town of Earlham, Iowa lies within the real estate complex wholly owned by the Farmers Cooperative Company of Farnhamville, Iowa, and that portions of two buildings located within the complex have been constructed over and on said alley thereby rendering it of no benefit to the public or the City. The City Council finds it is in the best interest of the City to vacate said alley. The City Council further finds that the alley proposed to be vacated is not needed for the use of the public, and the proposed vacation will not deny abutting property owners access to their property.

Section 4. Now, therefore, the alley in Block 7 of the Original Town of Earlham, Iowa is hereby vacated, said alley being legally described as follows, to wit:

Commencing at the Northeast Corner of Lot 10 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edges of Lots 10, 9, 8 and 7 to the Southeast Corner of said Lot 7 in said Block 7, thence East 20 feet to the Southeast Corner of Lot 6 in said Block 7, thence North along the West edges of Lots 6, 5, 4, and 3 to the Northwest Corner of Lot 3 in said Block 7, thence Northwesterly 20 feet along the Railroad right-of-way to the Northeast Corner of Lot 10 which is

the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.

And

Commencing at the Northwest Corner of Lot 11 in Block 7 of the Original Town of Earlham, Madison County, Iowa, thence South along the East edge of said Lot 11 to the Railroad right-of-way, thence Southeasterly 20 feet along the Railroad right-of-way to the Southwest Corner of Lot 1 in said Block 7; thence North along the West edge of said Lot 1 to the Northwest Corner of said Lot 1, thence West 20 feet to the Northeast Corner of Lot 11 which is the point of beginning, all in Block 7 of the Original Town of Earlham, Madison County, Iowa.


Section 5. The Mayor is hereby authorized and directed to execute and deliver a Quit Claim Deed on behalf of the City conveying all right, title and interest of the City in and to said alley to the Farmers Cooperative Company. The City Clerk is hereby authorized and directed to attest the Mayor's execution of said deed. The form of deed is now presented to the Council and the Council hereby approves the deed as executed.

Section 6. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 7. Severability Clause. If any section, provision 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 8. When Effective. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed by the Council this 14th day of September, 2009 and approved this 14th day of September, 2009.



Andrew Arnburg, Mayor.

ATTEST:



Linette Crouch, City Clerk