

MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

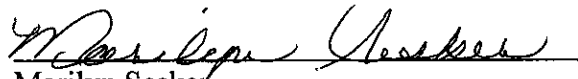
U Prepared By: Samuel H. Braland, P.O. Box 370, Earlham, Iowa 50072 (515) 758-2267

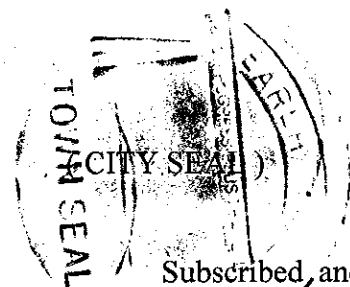
STATE OF IOWA)
) SS
COUNTY OF MADISON)

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. 08-04, Resolution Proposing The Vacation Of A Portion Of The Alley In Block 16 In The Original Town Of Earlham, Madison County, Iowa, and A Portion of S.W. Second Street In The City Of Earlham, Iowa passed by the City Council of the City of Earlham, Iowa on March 8, 2004, and Ordinance No. 313, An Ordinance Vacating A Portion Of The Alley In Block 16 In The Original Town Of Earlham, Madison County, Iowa, and A Portion Of S.W. Second Street Right-Of-Way In The City Of Earlham, Iowa passed by the City Council of the City of Earlham, Iowa on the 12th day of April, 2004.


Dated this 22nd day of April, 2004, at Earlham, Iowa.


Marilyn Sesker
City Clerk
City of Earlham, Iowa.



Subscribed and sworn to before me and in my presence by the said Marilyn Sesker this 22nd day of April, 2004.




Notary Public in and for the State of Iowa.

RESOLUTION NO. 08-04

RESOLUTION PROPOSING THE VACATION OF A PORTION OF THE ALLEY IN BLOCK 16 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA, AND A PORTION OF S.W. SECOND STREET IN THE CITY OF EARLHAM, IOWA.

WHEREAS, the City of Earlham, Iowa, is the owner of certain real estate described as Parcel "A", Parcel "B", and Parcel "C" which are more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein; and

WHEREAS, a portion of the alley in Block 16 of the Original Town of Earlham, Iowa, lies within said Parcel "C", and a portion of S.W. Second Street right-of-way lies within Parcels "A", "B"; and "C"; and

WHEREAS, pursuant to Resolution No. 04-01 adopted by the City Council on January 12, 2004 and Resolution No. 04-05 adopted by the City Council on February 9, 2004, the City Council has determined that Parcel "A", Parcel "B", and Parcel "C" should be disposed of in a real estate exchange transaction between the City of Earlham and the Earlham branch office of the Farmers Cooperative Company; and

WHEREAS, the City Council of the City of Earlham proposes that the portion of the alley in Block 16 of the Original Town of Earlham, Iowa that lies within Parcel "C" be vacated in order to effectuate the exchange transaction between the City of Earlham and the Farmers Cooperative Company; and

WHEREAS, the City Council of the City of Earlham proposes that the portion of S.W. Second Street right-of-way that lies within Parcel "A", Parcel "B", and Parcel "C" be vacated in order to effectuate the exchange transaction between the City of Earlham and the Farmers Cooperative Company; and

WHEREAS, the City Council of the opinion that it is in the best interest of the City to vacate said portions of said alley and said street right-of-way; and

WHEREAS, the City Council finds that the portions of the alley and street proposed to be vacated are not needed for the use of the public, and the proposed vacation will not deny abutting property owners access to their property; and

WHEREAS, before said portions of said alley and said street right-of-way 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 portion of the alley in Block 16 of the Original Town of Earlham, Madison County, Iowa that lies within Parcel "C" which parcel is more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein.

2. That the City of Earlham, Iowa proposes to vacate the portion of S.W. Second Street right-of-way that lies within Parcels "A", Parcel "B", and Parcel "C" which parcels are more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED that a public hearing be held on this proposal on April 12, 2004 at 7:00 o'clock P.M., at City Hall, City of Earlham, Iowa;

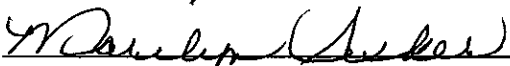
BE IT FURTHER RESOLVED that the City Clerk publish notice of this proposal and of the date, time and place of hearing thereon pursuant to Section 362.3, Code of Iowa.

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 8th day of March, 2004.


Richard Rothert, Mayor

ATTEST:



Marilyn Sesker, City Clerk

PROOF OF PUBLICATION

STATE OF IOWA, MADISON COUNTY, ss:

I, Deborah Kiewiet, being duly sworn and say that I am Publisher of the Earlham Advocate, 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

25th day of March, 2004.

Cost: 42.55

Deborah Kiewiet

Deborah Kiewiet

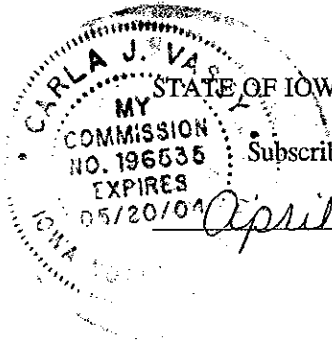
STATE OF IOWA, MADISON COUNTY, ss:

Subscribed and sworn to before me by Deborah Kiewiet on this 20th day of

April, 2004.

Carla J. Vassey

Notary Public



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 portions of said alley and said street right-of-way. If it is determined that the portions of alley and street should be vacated, the City Council will vacate the portions of alley and street by ordinance. If the portions of alley and street are vacated, they will be disposed of in a real estate exchange transaction between the City of Earlham, Iowa and the Earlham branch office of the Farmers Cooperative Company of Farnhamville, Iowa. Said real estate exchange transaction has been previously approved by the City Council.

This Notice is published by order of the City Council.

Marilyn Sesker, City Clerk

PLAT OF SURVEY

PARCEL "A" DESCRIPTION

A part of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 6, Township 77 North, Range 28 West of the 5th P.M., Madison County, Iowa and described as follows:

Commencing at the Southwest Corner of Lot 2, Block 16 of the Original Town of Earlham, being an Official Plat, Madison County, Iowa; thence South 88°52'50" West, 165.07 feet to the West line of said Block 16; thence North 0°07'13" West along said West line to the Northwest Corner of Lot 11 of said Block 16, 233.40 feet to the Point of Beginning; thence South 0°07'13" East along the West line of said Block 16, 18.63 feet; thence North 75°09'53" West 55.89 feet; thence North 0°07'13" West, 18.63 feet; thence South 75°09'53" East, 55.89 feet to the Point of Beginning and containing 1,006 S.F.

PARCEL "B" DESCRIPTION

A part of Lot 11, Block 16 of the Original Town of Earlham, being an Official Plat, Madison County, Iowa and described as follows:

Commencing at the Southwest Corner of Lot 2 of said Block 16; thence South 88°52'50" West, 165.07 feet to the West line of said Block 16; thence North 0°07'13" West along said West line, 122.32 feet to the Southwest Corner of said Lot 11 and being the Point of Beginning; thence North 0°07'13" West along the West line of said Lot 11, 25.17 feet; thence South 75°09'53" East, 91.57 feet to the

South line of said Lot 11; thence South 88°52'50" West along said South line, 88.48 feet to the Point of Beginning and containing 1,114 S.F.

PARCEL "C" DESCRIPTION

A part of Lot 1, Lot 11, and the alley in Block 16, Original Town of Earlham, being an Official Plat, Madison County, Iowa, and described as follows:

Commencing at the Southeast Corner of Lot 2 of said Block 16; thence North 0°29'32" West along the East line of said Lots 1 and 2, 118.27 feet; thence North 75°09'53" West, 18.29 feet to the Point of Beginning; thence Westerly along a curve concave Northerly whose radius is 580.00 feet, whose arc length is 93.20 feet and whose chord bears North 79°46'05" West, 93.10 feet; thence North 75°09'53" West, 93.42 feet; thence North 88°52'50" East, 31.77 feet to the East line of said Lot 11; thence North 0°29'32" West along said East line, 25.16 feet to the Northeast Corner of said Lot 11; thence South 75°09'53" East, 20.74 feet to the Northwest Corner of said Lot 1; thence South 0°29'32" East along the West line of said Lot 1, 26.47 feet; thence South 75°09'53" East, 134.59 feet to the Point of Beginning and containing 1,596 S.F.

PUBLIC NOTICE

NOTICE OF HEARING ON PROPOSAL TO VACATE PORTION OF ALLEY AND PORTION OF PUBLIC STREET

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 a portion of the alley in Block 16 in the Original Town of Earlham, Iowa, and also a portion of S.W. Second Street right-of-way in the City of Earlham, Iowa. The portion of the alley in said Block 16 that is proposed to be vacated lies within Parcel "C", and the portion of S.W. Second Street right-of-way proposed to be vacated lies within Parcels "A", "B", and "C", which parcels are more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein.

The City Council will hold a public hearing on the proposal to vacate said portions of said alley and said street right-of-way at City Hall, in the City of Earlham, Iowa on the 12th day of April, 2004 at 7:00 o'clock P.M.

ORDINANCE NO. 313

AN ORDINANCE VACATING A PORTION OF THE ALLEY IN BLOCK 16 IN THE ORIGINAL TOWN OF EARLHAM, MADISON COUNTY, IOWA, AND A PORTION OF S.W. SECOND STREET RIGHT-OF-WAY IN THE CITY OF EARLAHM, 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 March 8, 2004 the Council proposed to vacate a portion of the alley in Block 16 in the Original Town of Earlham, Madison County, Iowa, and a portion of S.W. Second Street right-of-way in the City of Earlham, Iowa. The Planning and Zoning Commission has recommended that said portion of the alley and street right-of-way be vacated. Public hearing was held on the proposal on April 12, 2004 following published notice of hearing as required by law.

Section 3. The City Council of Earlham finds that the portion of the alley in Block 16 of the Original Town of Earlham, Iowa that lies within Parcel "C" should be vacated in order to effectuate a real estate exchange transaction between the City of Earlham and the Farmers Cooperative Company. The City Council further finds that the portion of S.W. Second Street right-of-way that lies within Parcel "A", Parcel "B", and Parcel "C" should be vacated in order to effectuate a real estate exchange transaction between the City of Earlham and the Farmers Cooperative Company. The vacation and real estate exchange transaction are necessary in order to implement the S.W. Second Street Paving Project which project is in the best interest of the City. The City Council finds that it is in the best interest of the City to vacate said portions of said alley and said street right-of-way. The City Council further finds that the portions of the alley and street proposed to be vacated are 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 portion of the alley in Block 16 of the Original Town of Earlham, Iowa that lies within Parcel "C" is hereby vacated, said Parcel "C" being more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein.

Section 5. Now, therefore, the portion of S.W. Second Street right-of-way that lies within Parcel "A", Parcel "B", and Parcel "C" is hereby vacated, said parcels being more fully described on the attachment entitled Plat of Survey attached hereto and by this reference incorporated herein.

Section 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. 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 4. When Effective. This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed by the Council this 12th day of April, 2004, and approved this 12th day of April, 2004.


Richard Rothert, Mayor.

ATTEST:


Marilyn Sesker, City Clerk