

January 19, 2015

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Disposition of Vacated Public Right-of-Way



ACTION: Vote on Resolution Disposing Vacated Right-of-Way to Hiway Truck Equipment

Background

Hiway Truck Equipment requested that the City vacate and dispose of a portion of right-of-way land directly south of their property. See attached map and legal description. Hiway Truck Equipment presently utilizes a portion of this 0.08 acres of right-of-way area for on-site vehicle parking, and the remaining right-of-way area is currently used as an entrance to the site.

Analysis of Issue

When analyzing requests for the vacation of public right-of-way, City Staff and the Plan and Zoning Commission consider the following:

- abutting property owners' access, support and other impacts;
- parking and transportation;
- liability, safety and maintenance;
- existing or proposed utilities and potential City improvement projects; and
- consistency with the City's Land Use Plan.

Each of the above items was considered, and, as noted in the Staff Report and Ordinance for Vacation of said Public Right-of-Way, there are no concerns regarding access, parking, safety, utilities, or land use for this right-of-way vacation/disposition area.

Budget Impact

According to the City's Right-of-Way Vacation Policy, which was adopted by City Council in June of 2014, the sale price of vacated streets and all other vacated property (aside from alleys) shall be based on Fair Market Value, as determined by the City. However, this Policy also states that a reduction in sales price may be considered based on the value of improvements made to the disposed property. Please see the attached letter from Brian Forsythe, owner of Hiway Truck, explaining planned improvements at this specific site. Due to the planned improvements mentioned in the letter, the disposition of the vacated lands will result in a payment to the City for said lands at a price determined to be \$250.00, which is below the calculated Fair Market Value of \$2,648.60.

Strategic Plan Impact

N/A

Existing Plan Impact

N/A

Subcommittee or Commission Review / Recommendation

The Plan & Zoning Commission considered the request for right-of-way vacation at their meeting on November 25, 2014 and unanimously recommended approval of this request.

Staff Conclusions / Recommendations

Subject to City Council review, staff recommends approving the disposition of the vacated public right-of-way, as requested.

Alternatives

The alternative would be to deny the disposition of the vacated public right-of-way, as requested. The ROW property would then remain in the City's Ownership.

Implementation and Accountability

If the disposition is approved, the City will execute the appropriate documents to complete the disposition to Hiway Truck Equipment.

Signed



Maggie Carlin
Associate Planner
Business Affairs & Community Growth

Approved



David R. Fierke
City Manager

PREPARED BY: TERRY COADY, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

RETURN TO: TERRY COADY, SNYDER & ASSOCIATES, INC., 2727 SW SNYDER BLVD, ANKENY, IA 50023 (515)964-2020

VACATION PLAT

RIGHT-OF-WAY VACATION DESCRIPTION:

A PART OF LOT 3 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE COUNTY AUDITOR'S SUBDIVISION OF THE NW1/4-SW1/4, NE1/4-SW1/4, SE1/4-SW1/4 AND SW1/4-SW1/4 OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST OF THE 5TH P.M. AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH 89° 51' 49" EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 485.24 FEET; THENCE SOUTH 0° 04' 57" EAST, 75.00 FEET TO THE NORTHEAST CORNER OF A PLAT OF SURVEY RECORDED IN BOOK 63 ON PAGE 297 OF THE WEBSTER COUNTY RECORDER'S OFFICE; THENCE SOUTH 89° 52' 21" WEST ALONG THE NORTH LINE OF SAID PLAT OF SURVEY, 184.95 FEET TO THE NORTHWEST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH 0° 04' 03" EAST ALONG THE WEST LINE OF SAID PLAT OF SURVEY, 317.53 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF SURVEY AND TO THE POINT OF BEGINNING; THENCE NORTH 72° 08' 00" EAST ALONG THE SOUTH LINE OF SAID PLAT OF SURVEY, 194.32 FEET TO THE SOUTHEAST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH 00° 04' 57" EAST, 12.71 FEET; THENCE SOUTH 46° 19' 27" WEST, 25.07 FEET; THENCE SOUTH 75° 45' 19" WEST, 172.11 FEET; THENCE NORTH 00° 04' 03" WEST, 12.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,416 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

BASIS OF BEARING

THE NORTH LINE OF LOT 3,
COUNTY AUDITOR'S SUBDIVISION
OF THE NW1/4 OF THE SW1/4 OF
SECTION 21-89-20 IS ASSUMED
TO BEAR S 89° 51' 53" W

DATE OF SURVEY

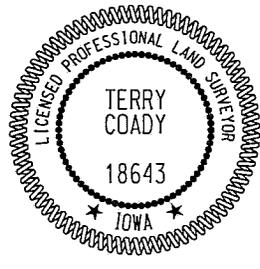
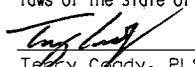
11-28-12

OWNER

CITY OF FORT DODGE

LEGEND

| Survey | Found | Set |
|--|-------|-----|
| Section Corner | ▲ | △ |
| 1/2" Rebar, Yellow Cap # 18643 (Unless Otherwise Noted) | ● | ○ |
| ROW Marker | ■ | □ |
| ROW Rail | I | II |
| Control Point | ⊙ CP | |
| Bench Mark | ⊙ | |
| Platted Distance | P | |
| Measured Bearing & Distance | M | |
| Recorded As | R | |
| Deed Distance | D | |
| Calculated Distance | C | |
| Minimum Protection Elevation | MPE | |
| Centerline | ----- | |
| Section Line | ----- | |
| 1/4 Section Line | ----- | |
| 1/4 1/4 Section Line | ----- | |
| Easement Line | ----- | |

| | |
|--|---|
|  | I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa. |
| |  11-6-2014 Terry Coady, PLS Date |
| | License Number 18643 My License Renewal Date is December 31, 2015 |
| | Pages or sheets covered by this seal: Sheets 1 and 2 |

FORT DODGE EAST REGION STORM SEWER

PARCEL 200 - CITY OF FORT DODGE



SNYDER & ASSOCIATES, INC.
Engineers and Planners

2727 S.W. SNYDER BLVD.
ANKENY, IA 50023 (515) 964-2020

SHEET 1 OF 2

PN: 1120558

PM: TLC

DATE: 11/06/14

TECH: KRG

Right-of-Way Vacation Request - Hiway Truck Equipment



Prepared By: Maggie Carlin, City of Fort Dodge, 819 1st Ave S, Fort Dodge, Iowa 515-576-8191
Return To: City of Fort Dodge, 819 1st Ave S., Fort Dodge, Iowa 50501, 515-576-8191

RESOLUTION NO. _____

**RESOLUTION DIRECTING THE DISPOSAL OF AN INTEREST
IN REAL PROPERTY FOLLOWING PUBLIC HEARING**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE,
IOWA:

WHEREAS, a Public Hearing was held on the 8th day of December, 2014, at
6:00 p.m., to consider the proposed disposal of the following described real
estate, to wit:

A PART OF LOT 3 OF THE NORTHWEST $\frac{1}{4}$ OF THE
SOUTHWEST $\frac{1}{4}$ OF THE COUNTY AUDITOR'S SUBDIVISION
OF THE NW $\frac{1}{4}$ -SW $\frac{1}{4}$, NE $\frac{1}{4}$ -SW $\frac{1}{4}$, SE $\frac{1}{4}$ -SW $\frac{1}{4}$ AND SW $\frac{1}{4}$ -SW
 $\frac{1}{4}$ OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST
OF THE 5TH P.M. AN OFFICAL PLAT, NOW INCLUDED IN AND
FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER
COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3;
THENCE NORTH 89° 51' 49" EAST ALONG THE NORTH LINE
OF SAID LOT 3, A DISTANCE OF 485.24 FEET; THENCE
SOUTH 0° 04' 57" EAST, 75.00 FEET TO THE NORTHEAST
CORNER OF A PLAT OF SURVEY RECORDED IN BOOK 63 ON
PAGE 297 OF THE WEBSTER COUNTY RECORDER'S OFFICE;
THENCE SOUTH 89° 52' 21" WEST ALONG THE NORTH LINE
OF SAID PLAT OF SURVEY, 184.95 FEET TO THE
NORTHWEST CORNER OF SAID PLAT OF SURVEY; THENCE
SOUTH 0° 04' 03" EAST ALONG THE WEST LINE OF SAID PLAT
OF SURVEY, 317.53 FEET TO THE SOUTHWEST CORNER OF
SAID PLAT OF SURVEY AND TO THE POINT OF BEGINNING;
THENCE NORTH 72° 08' 00" EAST ALONG THE SOUTH LINE
OF SURVEY; THENCE SOUTH 00° 04' 57" EAST, 12.71 FEET;
THENCE SOUTH 46° 19' 27" WEST, 25.07 FEET; THENCE
SOUTH 75° 45' 19" WEST, 172.11 FEET. THENCE NORTH 00°
04' 03" WEST, 12.76 FEET TO THE POINT OF BEGINNING AND
CONTAINING 0.08 ACRES (3,416 S.F.).

WHEREAS, the City Council of the City of Fort Dodge, Iowa, has made the
following findings:

1. The above-described real estate is no longer needed for public
purposes; and

2. The adjacent landowner is desirous of obtaining said property. Said adjacent landowners being Hiway Truck Equipment; and
3. The above-described real estate will be disposed of at a price less than Fair Market Value due to the adjacent landowner's planned site improvements for this area of land; and
4. The proposed disposal of the above-described portion of public right-of-way will not negatively impact transportation, public utilities, or access onto public rights-of-way.

NOW THEREFORE, BE IT RESOLVED, that the above-described real estate be conveyed by deed to the abutting landowners.

BE IT FURTHER RESOLVED that the Mayor shall execute on behalf of the City deeds to the above-described real estate and the City Clerk shall co-sign said deeds and deliver same to said abutting property owner within thirty days after the date of this Resolution in consideration of two-hundred, fifty dollars and zero cents(\$250.00) and other valuable consideration. Action on this Resolution shall be final upon completion of recording of the deed by the City Clerk and such fact noted on the official record of said Resolution.

PASSED AND APPROVED by the City Council of the City of Fort Dodge, Iowa this ___ day of _____, 2015.

AYES _____

NAYES _____

OTHER _____

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

(CITY SEAL)

STATE OF IOWA, WEBSTER COUNTY, ss:

On this _____ day of _____, 2015 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public

Prepared by: Maggie Carlin, Business Affairs & Community Growth, 819 1st Ave South, Fort Dodge, IA 50501 (515)573-8321
Send Taxes To: Hiway Truck Equipment, 2246 1st Ave. S., Fort Dodge, IA 50501
Mail Recorded Document To: City of Fort Dodge, 819 1st Ave. S., Fort Dodge, IA 50501

QUIT CLAIM DEED

For the consideration of One and no/100----- Dollar(s) and other valuable consideration, City of Fort Dodge, Iowa, a Municipal Corporation, organized and existing under the laws of The State Of Iowa does hereby Quit Claim to Hiway Truck Equipment the following described real estate in Webster County, Iowa:

A PART OF LOT 3 OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF THE COUNTY AUDITOR'S SUBDIVISION OF THE NW ¼-SW ¼, NE ¼-SW ¼, SE ¼-SW ¼ AND SW ¼-SW ¼ OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST OF THE 5TH P.M. AN OFFICAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number; according to the context.

CITY OF FORT DODGE

Dated: _____

By _____
Matt Bemrich, Mayor

(SEAL)

By _____
Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this _____ day of _____, 2015 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public

**REAL ESTATE TRANSFER - GROUNDWATER HAZARD STATEMENT
TO BE COMPLETED BY TRANSFEROR**

TRANSFEROR:

Name City of Fort Dodge

| | | | |
|-------------------------------------|-------------------|-----------|--------------|
| Address <u>819 1st Avenue South</u> | <u>Fort Dodge</u> | <u>IA</u> | <u>50501</u> |
| Number and Street or RR | City, Town or PO | State | Zip |

TRANSFeree:

Name Hiway Truck Equipment

| | | | |
|--------------------------------------|-------------------|-----------|--------------|
| Address <u>2246 1st Avenue South</u> | <u>Fort Dodge</u> | <u>IA</u> | <u>50501</u> |
| Number and Street or RR | City, Town or PO | State | Zip |

Address of Property Transferred:

N/A - Vacated ROW

| | | | |
|-------------------------|------------------|-------|-----|
| Number and Street or RR | City, Town or PO | State | Zip |
|-------------------------|------------------|-------|-----|

Legal Description of Property: (Attach if necessary)

Please see attached.

1. Wells (check one)

- There are no known wells situated on this property.
- There is a well or wells situated on this property. The type(s), location(s) and legal status are stated below or set forth on an attached separate sheet, as necessary.

2. Solid Waste Disposal (check one)

- There is no known solid waste disposal site on this property.
- There is a solid waste disposal site on this property and information related thereto is provided in Attachment #1, attached to this document.

3. Hazardous Wastes (check one)

- There is no known hazardous waste on this property.
- There is hazardous waste on this property and information related thereto is provided in Attachment #1, attached to this document.

4. Underground Storage Tanks (check one)

- There are no known underground storage tanks on this property. (Note exclusions such as small farm and residential motor fuel tanks, most heating oil tanks, cisterns and septic tanks, in instructions.)
- There is an underground storage tank on this property. The type(s), size(s) and any known substance(s) contained are listed below or on an attached separate sheet, as necessary.

5. Private Burial Site (check one)

- There are no known private burial sites on this property.
- There is a private burial site on this property. The location(s) of the site(s) and known identifying information of the decedent(s) is stated below or on an attached separate sheet, as necessary.

6. Private Sewage Disposal System (check one)

- All buildings on this property are served by a public or semi-public sewage disposal system.
- This transaction does not involve the transfer of any building which has or is required by law to have a sewage disposal system.
- There is a building served by private sewage disposal system on this property or a building without any lawful sewage disposal system. A certified inspector's report is attached which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the Department of Natural Resources. A certified inspection report must be accompanied by this form when recording.
- There is a building served by private sewage disposal system on this property. Weather or other temporary physical conditions prevent the certified inspection of the private sewage disposal system from being conducted. The buyer has executed a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. A copy of the binding acknowledgment is attached to this form.
- There is a building served by private sewage disposal system on this property. The buyer has executed a binding acknowledgment with the county board of health to install a new private sewage disposal system on this property within an agreed upon time period. A copy of the binding acknowledgment is provided with this form.
- There is a building served by private sewage disposal system on this property. The building to which the sewage disposal system is connected will be demolished without being occupied. The buyer has executed a binding acknowledgment with the county board of health to demolish the building within an agreed upon time period. A copy of the binding acknowledgment is provided with this form. [Exemption #9]
- This property is exempt from the private sewage disposal inspection requirements pursuant to the following Exemption [Note: for exemption #9 use prior check box]: _____
- The private sewage disposal system has been installed within the past two years pursuant to permit number _____

Information required by statements checked above should be provided here or on separate sheets attached hereto:

I HEREBY DECLARE THAT I HAVE REVIEWED THE INSTRUCTIONS FOR THIS FORM AND THAT THE INFORMATION STATED ABOVE IS TRUE AND CORRECT.

Signature: *Maggie Carlson*
(Transferor or Agent)

Telephone No.: (515) 576-8191

Legal Description for Hiway Truck Equipment's Right-of-Way Vacation/Disposition:

A PART OF LOT 3 OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE COUNTY AUDITOR'S SUBDIVISION OF THE NW $\frac{1}{4}$ -SW $\frac{1}{4}$, NE $\frac{1}{4}$ -SW $\frac{1}{4}$, SE $\frac{1}{4}$ -SW $\frac{1}{4}$ AND SW $\frac{1}{4}$ -SW $\frac{1}{4}$ OF SECTION 21, TOWNSHIP 89 NORTH, RANGE 28 WEST OF THE 5TH P.M. AN OFFICAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF FORT DODGE, WEBSTER COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE NORTH $89^{\circ} 51' 49''$ EAST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 485.24 FEET; THENCE SOUTH $0^{\circ} 04' 57''$ EAST, 75.00 FEET TO THE NORTHEAST CORNER OF A PLAT OF SURVEY RECORDED IN BOOK 63 ON PAGE 297 OF THE WEBSTER COUNTY RECORDER'S OFFICE; THENCE SOUTH $89^{\circ} 52' 21''$ WEST ALONG THE NORTH LINE OF SAID PLAT OF SURVEY, 184.95 FEET TO THE NORTHWEST CORNER OF SAID PLAT OF SURVEY; THENCE SOUTH $0^{\circ} 04' 03''$ EAST ALONG THE WEST LINE OF SAID PLAT OF SURVEY, 317.53 FEET TO THE SOUTHWEST CORNER OF SAID PLAT OF SURVEY AND TO THE POINT OF BEGINNING; THENCE NORTH $72^{\circ} 08' 00''$ EAST ALONG THE SOUTH LINE OF SURVEY; THENCE SOUTH $00^{\circ} 04' 57''$ EAST, 12.71 FEET; THENCE SOUTH $46^{\circ} 19' 27''$ WEST, 25.07 FEET; THENCE SOUTH $75^{\circ} 45' 19''$ WEST, 172.11 FEET. THENCE NORTH $00^{\circ} 04' 03''$ WEST, 12.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,416 S.F.).