

Prepared by Steven Boka, 215 Sycamore St., Muscatine, Iowa 563.262.4141

**ORDINANCE NO. 91025-1109**

**AN ORDINANCE VACATING AND TRANSFERRING CITY RIGHT-OF-WAY  
IN THE CITY OF MUSCATINE, IOWA.**

**WHEREAS**, the City of Muscatine Planning and Zoning Commission has reviewed a request to vacate and transfer public right-of-way located north of, and adjacent to the property located at 3000 North Highway 38; and

**WHEREAS**, the City of Muscatine's Planning and Zoning Commission has determined there is no anticipated future use of this right-of-way and has recommended that the request be approved; and

**WHEREAS**, the City Council of the City of Muscatine has conducted a public hearing on said vacation request;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA** as follows:

Section I. The following described real estate be vacated by the City of Muscatine, Iowa:

PARCEL "R" OF PART OF THE PARK AVENUE WEST IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 77 NORTH, RANGE 2 WEST OF THE 5<sup>TH</sup> P.M., CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 24; THENCE S00°55'55"E, 373.46 FEET ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE S89°04'05"W, 87.75 FEET TO THE WESTERLY RIGHT OF WAY LINE OF IOWA HIGHWAY #38 AND THE POINT OF BEGINNING; THENCE S02°56'18"E, 156.40 FEET; THENCE S45°05'39"W, 13.58 FEET; THENCE N64°06'50"W, 115.72 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF PARK AVENUE WEST; THENCE N42°31'30"E, 156.40 FEET ALONG THE EXISTING RIGHT OF WAY LINE TO THE POINT OF BEGINNING, CONTAINING 9460 SQUARE FEET OF EXISTING PUBLIC ROAD RIGHT OF WAY.

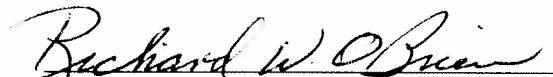
Section II. Said vacation is subject to easements for inspection, maintenance, repair and replacement of all existing utilities.

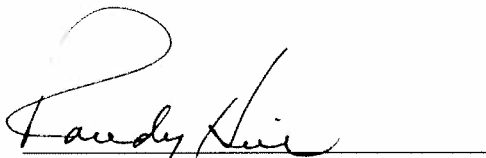
Section III. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

**PASSED, APPROVED AND ADOPTED** this 5<sup>th</sup> day of November 2009.

**BY THE CITY COUNCIL OF THE  
CITY OF MUSCATINE, IOWA**



  
Richard W. O'Brien, Mayor

  
Randy Hill, Interim City Clerk

1<sup>st</sup> Reading: November 5, 2009

2<sup>nd</sup> Reading: November 5, 2009

3<sup>rd</sup> Reading: November 5, 2009

Publication November 12, 2009

## PROOF OF PUBLICATION

I, Jeff Lee, being duly sworn, on my oath, say that I am an advertising clerk at the *Muscatine Journal*, a newspaper of general circulation, published in the City of Muscatine, Muscatine County, Iowa; and that the following Notice:

Muscatine City Clerk

Ordinance No. 91025-1109

Of which the annexed printed slip is a true, correct and complete copy, was published in said *Muscatine Journal* one time having been made there in on:

November 12, 2009

Jeff Lee

### STATE OF IOWA MUSCATINE COUNTY

Subscribed and sworn to before me this  
11th day of January 2010

Beth Lester

Beth Lester, Notary Public



Beth Lester  
Iowa Notarial Seal  
Commission number 745921  
My Commission Expires 03/20/2010

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WHEREAS, the City of Muscatine's Planning and Zoning Commission has determined there is no anticipated future use of this right-of-way and has recommended that the request be approved; and

WHEREAS, the City Council of the City of Muscatine has conducted a public hearing on said vacation request;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA as follows:

Section I. The following described real estate be vacated by the City of Muscatine, Iowa:

PARCEL "K" OF PART OF THE PARK AVENUE WEST IN THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 77 NORTH, RANGE 2 WEST OF THE 5TH PM., CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE CENTER OF SAID SECTION 24; THENCE S00056°56'E, 373.46 FEET ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24; THENCE S88004°05'W, 82.75 FEET TO THE WESTERLY RIGHT OF WAY LINE OF IOWA HIGHWAY #38 AND THE POINT OF BEGINNING; THENCE S02056°18'E, 156.40 FEET; THENCE S45005°39'W, 13.58 FEET; THENCE N64006°30'W, 115.72 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF PARK AVENUE WEST; THENCE N42031°30'E, 156.40 FEET ALONG THE EXISTING RIGHT OF WAY LINE TO THE POINT OF BEGINNING, CONTAINING 9460 SQUARE FEET OF EXISTING PUBLIC ROAD RIGHT OF WAY.

Section II. Said vacation is subject to easements for inspection, maintenance, repair and replacement of all existing utilities.

Section III. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

PASSED, APPROVED AND ADOPTED this 5th day of November 2009.

BY THE CITY COUNCIL OF THE  
CITY OF MUSCATINE, IOWA  
Richard W. O'Brien, Mayor

Attest:  
Randy Hill, Interim City Clerk

1st Reading: November 5, 2009  
2nd Reading: November 5, 2009  
3rd Reading: November 5, 2009  
Publication: November 12, 2009

## **MEMO**

**TO:** Randy Hill, Interim City Administrator

**FROM:** Steven Boka, Director of Planning, Zoning & Building Safety

**SUBJECT:** Vacation Request – Portion of Unimproved ROW adjacent to Highway 38

**DATE:** October 29, 2009

During their October 13, 2009 meeting, the Planning and Zoning Commission reviewed and approved a request submitted by Toyota of Muscatine to vacate, sell and transfer a portion of city owned right-of-way adjoining their new business location at 3000 North Highway 38. The owners originally sought to purchase this property from the State of Iowa but learned through dealings with the Iowa department of Transportation (IDOT) that the remnant was deeded to the City as surplus following modifications to Highway 38 and Park Avenue West. The owners have since developed the property as additional parking for their business and are now requesting that the city vacate and sell the remnant to them for their use.

During their regular meeting on October 15<sup>th</sup>, the City Council adopted a resolution to schedule a public hearing on this request for November 5, 2009. Following the required public hearing, the City Council will have the opportunity to consider the adoption of the attached Ordinance on first reading.

If approved, the Owners have agreed to a sale price of \$9,933.00, or \$1.05 per square foot.

Please place the attached Ordinance on the agenda for City Council consideration during their November 5<sup>th</sup> meeting.