



# City of Muscatine



## AGENDA ITEM SUMMARY

City Council

DATE:11-19-20

### STAFF

Andrew Fangman, Assistant Community Development Director

### SUBJECT

Ordinance Vacating Undeveloped Right-of-Way Located behind 1000 Hershey Avenue

&

Resolution Executing Deed to Convey the Vacated Right-of-Way to the Adjoining Property Owner, McKee Button Company

### EXECUTIVE SUMMARY

McKee Button Company has submitted a request to vacate and deed over the unimproved Front Street (Mississippi Drive) right-of-way that directly adjoins the rear of their property at 1000 Hershey Avenue.

### STAFF RECOMMENDATION

Staff recommends approval of the ordinance, and the subsequent resolution to execute the deed to convey the vacated right-of-way to McKee Button Company.

### BACKGROUND/DISCUSSION

The majority of the Front Street right-of-way being requested for vacation was subject to a resolution (*Public Document No. 9892*) passed by City Council in 1905, see attached. This resolution vacated and deeded over to the adjoining property owner the majority of Front Street (Mississippi Drive) right-of-way that adjoins 1000 Hershey Avenue. However, the property owner that received this deed from the City in 1905, failed to record it and no copies of it can currently be found. This lack of a recorded deed makes it impossible to document with 100% certainty the current owner of the specific portion of the Front Street (Mississippi Drive) right-of-way. If approved this request would allow for the City to issue a new deed, in the name of the current adjoining property owner, resolving this issue.

Additionally, McKee Button is requesting that the City vacate and then deed over the small part of the Front Street (Mississippi Drive) right-of-way retained by the City in 1905. Currently this stretch of right-of-way is occupied by a gravel driveway that is solely used by McKee Button.

The subject right-of-way has not been developed as a public street and contains no public infrastructure. In the portion that was subject of the 1905 City Council resolution numerous buildings and structures have been constructed since 1905. The adjoining property to south is owned by the Canadian Pacific Railroad.

The proposed purchase price of \$250 is the standard amount used in the recent disposal of right-of-way that only has value to the adjoining property owner. This price covers the City's costs of processing the transaction and makes the purchase of unneeded right-of-way attractive to adjoining property, which benefits the City by adding such real estate and any subsequent improvements to the tax rolls.

Easements to accommodate existing public infrastructure will be created as part of this vacation if it is approved.

With approval of the final reading of the ordinance vacating this right-of-way, it is then necessary for council to approve a resolution directing for the Mayor and City Clerk to sign the deed conveying this right-of-way to McKee Button Company, the adjoining property owner

#### **CITY FINANCIAL IMPACT**

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Approval of this action would result in small increase in revenue. The applicant will cover transactional costs. The vacation will make the property and any future improvements upon it subject to property tax.

#### **ATTACHMENTS**

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1. Map
2. Ordinance vacating right-of-way
3. A Resolution Conveying Vacated Right-of-Way to McKee Button Company
4. Deed to McKee Button Company



### PVROW-8 Proposed Vacation of Right of Way Behind 1000 Hershey Avenue

- Front Street (Mississippi Dr) Right of Way Proposed for Vacation
- Right of Way Explicitly Retained by the City in 1905 as Front Street
- Right of Way Subject Vacation Resolution in 1905
- McKee Button Property - 1000 Hershey Ave
- Parcel Lines

0 60 120 240 Feet



RESOLUTION

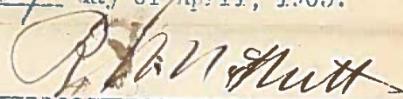
Directing the Mayor and City Recorder to Execute, Seal and Deliver a Certain Quit Claim Deed to the Hershey Lumber Company.

Whereas, A certain deed of release and conveyance has been tendered to the City by the Hershey Lumber Company, conveying to said City certain ground necessary to widen Green Streets, also for an extension of Busch and Pearl Streets, Bismark Avenue and the alley in Block Thirty (30), and as a part of Mill Street, and as a part of Front Street, for loading purposes:

And, Whereas, Said grant by said company was upon the condition that the City release and quit claim to the said Hershey Lumber Company, certain grounds which were formerly in the bed of Muscatine Slough, and also a portion of the ground lying South of Block Two (2) in the City of Muscatine, Iowa.

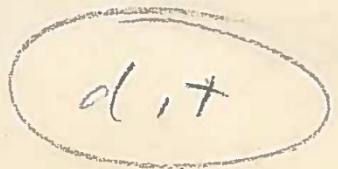
Therefore, be it resolved by the City Council of the City of Muscatine, that the Mayor and City Recorder be, and they are hereby directed to execute in behalf of said City, the certain deed of release herewith presented; the same to be delivered to said Hershey Lumber Company on receipt of the deed from said Hershey Lumber Company to the City, properly executed and acknowledged.

Adopted and approved this 17<sup>th</sup> day of April, 1905.



John Nutt  
Mayor.

Attest:

  
\_\_\_\_\_  
Fred C. Lee  
City Recorder.



**ORDINANCE NO. 2020-0362**

**AN ORDINANCE VACATING RIGHT-OF-WAY LOCATED BEHIND 1000  
HERSHEY AVENUE, MCKEE BUTTON**

**WHEREAS**, the Planning and Zoning Commission of the City of Muscatine, on October 13, 2020 and recommended approval of the vacation of a certain right-of-way located behind 1000 Hershey Avenue in the City of Muscatine, Iowa; and

**WHEREAS**, the City Council of the City of Muscatine, on November 5, 2020, 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:

**A STRIP OF LAND ADJACENT TO BLOCK 2 IN THE CITY OF MUSCATINE, MUSCATINE  
COUNTY, IOWA.**

**BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 2, THENCE SOUTH 88°07'01" EAST 125.08 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF HERSEY AVENUE EXTENDED TO THE APPARENT NORTHERLY RIGHT OF WAY OF THE IOWA CHICAGO & EASTERN RAILROAD; THENCE SOUTH 53°17'56" WEST 536.51 FEET ALONG SAID RIGHT-OF WAY TO THE WEST LINE OF SAID BLOCK 2 EXTENDED; THENCE NORTH ALONG SAID LINE NORTH 01°34'52" EAST 96.09 FEET TO THE SOUTHWEST CORNER OF BLOCK 2; THENCE NORTH 52°54'32" EAST 379.22 FEET ALONG THE SOUTHERLY LINE OF BLOCK 2 TO THE POINT OF BEGINNING, CONTAINING 0.807 ACRES, MORE OR LESS.**

Vacation and Easement Plats are hereto attached as Exhibits A & B

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

**PASSED, APPROVED AND ADOPTED this 19<sup>th</sup> day of November, 2020.**

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

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**Diana Brodersen, Mayor**

**Attest:**

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**Carol Webb, City Clerk**

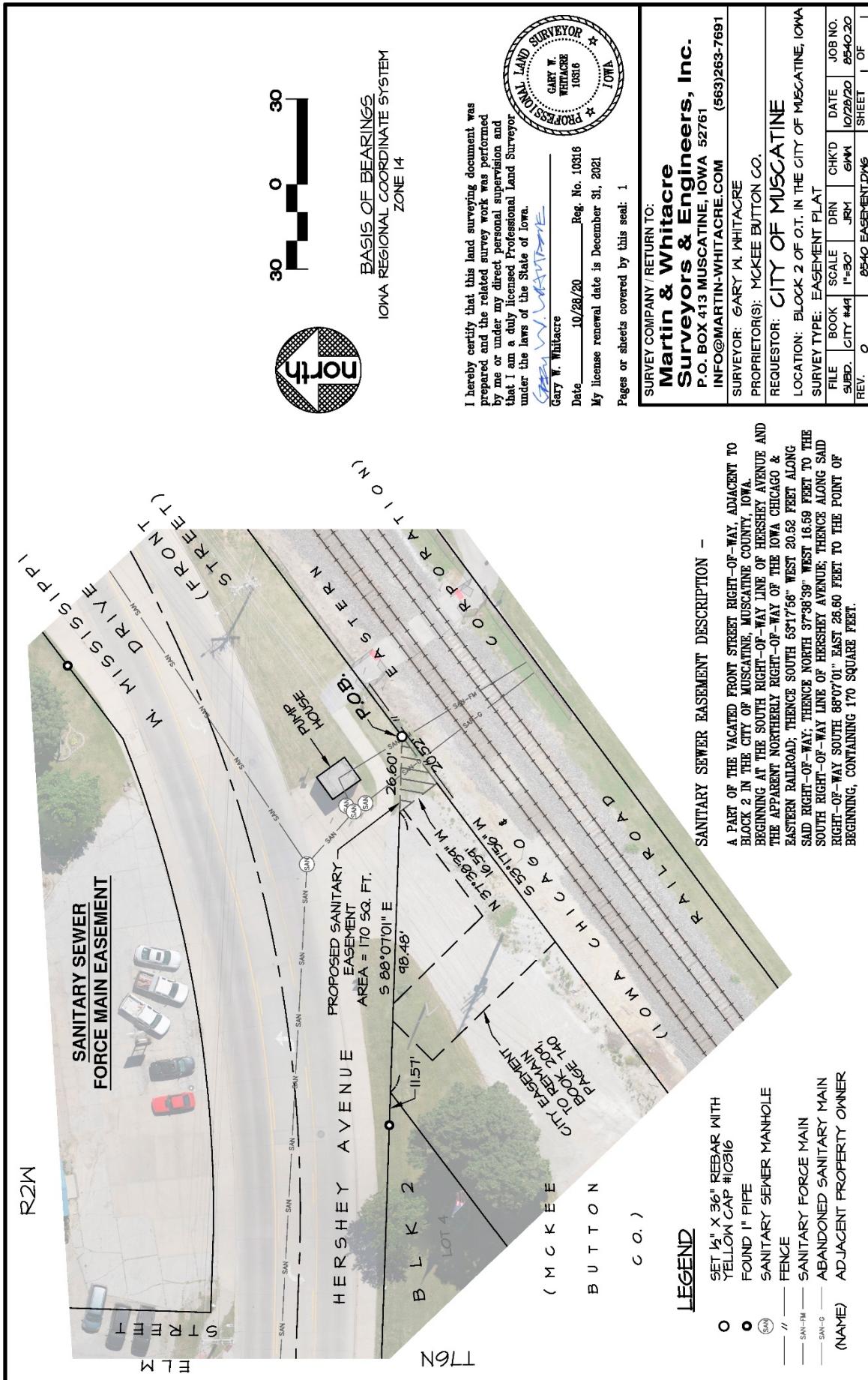
**1<sup>st</sup> Reading: November 5, 2020**

**2<sup>nd</sup> Reading: November 12, 2020**

**3<sup>rd</sup> Reading: November 19, 2020**

## Exhibit A





**RESOLUTION NO. 2020- 0390**

**A RESOLUTION CONVEYING VACATED RIGHT-OF-WAY LOCATED  
BEHIND 1000 HERSHY AVENUE TO MCKEE BUTTON COMPANY**

**WHEREAS**, the Planning and Zoning Commission of the City of Muscatine, on October 13, 2020, recommended approval of the vacation and conveyance right-of-way located behind 1000 Hershey Avenue, as specifically described elsewhere in this resolution, to the adjoining property owner, McKee Button Company; and

**WHEREAS**, due notice of said proposal to vacate and convey said right-of-way and to further convey said vacated right-of-way to the adjoining property owner was given as provided for by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Muscatine, Iowa at public hearing held on November 5, 2020; and

**WHEREAS**, the said right-of-way was vacated by Ordinance on November 19, 2020; and

**WHEREAS**, McKee Button Company is the adjoining property for the portion said vacated right-of-way described as follows:

**A STRIP OF LAND ADJACENT TO BLOCK 2 IN THE CITY OF MUSCATINE,  
MUSCATINE COUNTY, IOWA.**

**BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 2, THENCE  
SOUTH 88°07'01" EAST 125.08 FEET ALONG THE SOUTH RIGHT OF WAY  
LINE OF HERSHY AVENUE EXTENDED TO THE APPARENT  
NORTHERLY RIGHT OF WAY OF THE IOWA CHICAGO & EASTERN  
RAILROAD; THENCE SOUTH 53°17'56" WEST 536.51 FEET ALONG SAID  
RIGHT-OF WAY TO THE WEST LINE OR SAID BLOCK 2 EXTENDED;  
THENCE NORTH ALONG SAID LINE NORTH 01°34'52" EAST 96.09 FEET  
TO THE SOUTHWEST CORNER OF BLOCK 2; THENCE NORTH  
52°54'32"EAST 379.22 FEET ALONG THE SOUTHERLY LINE OF BLOCK 2  
TO THE POINT OF BEGINNING, CONTAINING 0.807 ACRES, MORE OR  
LESS.**

**WHEREAS**, it the intent of the City to convey said vacated right-of-way to McKee Button Company.

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

1. The City of Muscatine, Iowa, will sell and convey its rights, title, and interest in and to the real property described in the copy of the deed attached to this Resolution marked Exhibit A to McKee Button Company for \$250.00.

2. The deed will be in the name of the City of Muscatine, Iowa; will be signed by the Mayor and attested by the City Clerk; and will be in substantially the same form as the copy of the deed attached as Exhibit A to this Resolution.
3. Any Resolution or part thereof in conflict or inconsistent with this Resolution is repealed.

**PASSED, APPROVED AND ADOPTED this 19<sup>th</sup> day of November, 2020.**

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

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**Diana L. Broderson, Mayor**

**Attest:**

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**Carol Webb, City Clerk**

Prepared by: Andrew Fangman, 215 Sycamore Street, Muscatine, IA 52761; 563.262.4141  
Return and Tax Statement to: McKee Button Co., PO Box 230, Muscatine, IA 52761-0004

## **WARRANTY DEED**

The City of Muscatine, Iowa, a municipal corporation situated in Muscatine County, Iowa, for valuable consideration, transfers and conveys to McKee Button Co. all its right, title, and interest in the following real property in Muscatine County, Iowa:

### **A STRIP OF LAND ADJACENT TO BLOCK 2 IN THE CITY OF MUSCATINE, MUSCATINE COUNTY, IOWA.**

**BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 2, THENCE SOUTH 88°07'01" EAST 125.08 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF HERSEY AVENUE EXTENDED TO THE APPARENT NORTHERLY RIGHT OF WAY OF THE IOWA CHICAGO & EASTERN RAILROAD; THENCE SOUTH 53°17'56" WEST 536.51 FEET ALONG SAID RIGHT-OF WAY TO THE WEST LINE OR SAID BLOCK 2 EXTENDED; THENCE NORTH ALONG SAID LINE NORTH 01°34'52" EAST 96.09 FEET TO THE SOUTHWEST CORNER OF BLOCK 2; THENCE NORTH 52°54'32" EAST 379.22 FEET ALONG THE SOUTHERLY LINE OF BLOCK 2 TO THE POINT OF BEGINNING, CONTAINING 0.807 ACRES, MORE OR LESS.**

*Exempt from transfer tax per Iowa Code Section 428A.2(21).*

The City covenants with the grantee, its successors and assigns, to warrant and defend the real property against the lawful claims of all persons claiming by, though, or under the City.

IN WITNESS WHEREOF, the City of Muscatine, Iowa, has caused this instrument to be executed in its corporate name by its Mayor and City Clerk and its seal to be affixed on November 19, 2020.

CITY OF MUSCATINE, IOWA

(CITY SEAL)

By \_\_\_\_\_

Diana L. Broderson  
Mayor

ATTEST:

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Carol Webb  
City Clerk

STATE OF IOWA, MUSCATINE COUNTY, ss.

This instrument was acknowledged before me on \_\_\_\_\_, 2020, by Diana L. Broderson and Carol Webb as Mayor and City Clerk, respectively, of the City of Muscatine, Iowa.

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Cinda Hilger, Notary Public in and for the State of Iowa