

★ Roll Call Number

10-1600

Agenda Item Number

50

Date September 27, 2010

RESOLUTION APPROVING VOLUNTARY ANNEXATION
OF TERRITORY IN UNINCORPORATED POLK COUNTY
IN THE 4900 BLOCK OF EASTON BOULEVARD

WHEREAS, on August 9, 2010, by Roll Call No. 10-1271, the City Council resolved that the accompanying Application for Voluntary Annexation from Lowell and Cathy Long seeking the voluntary annexation by the City of Des Moines of real estate they own in the 4900 Block of Easton Boulevard (county road NE 23rd Avenue), all as generally shown on the map attached hereto as Exhibit "A" and as more specifically described below, be set down for consideration by the City Council at a public hearing to be held in the Council Chambers on September 27, 2010, at 5:00 p.m.; and,

WHEREAS, notice of the proposed annexation was given to the Polk County Board of Supervisors and to the Delaware Township Board of Trustees by letter of August 3, 2010, and they were invited to a consultation meeting with City staff held at 1:15 p.m., on August 12, 2010, in the Kofu Conference Room at City Hall, to discuss the proposed annexation, but no one appeared at the meeting on behalf of the County or Township; and,

WHEREAS, due notice of the public hearing was sent by certified or regular mail on September 3, 2010, to all affected utilities, to all other cities located within two miles of the Property, to the Polk County Board of Supervisors and County Attorney, and to the applicants and all owners of land included in and adjoining the property proposed to be annexed as required by Sections 368.5 and 368.7 of the Iowa Code; and,

WHEREAS, due notice of the public hearing was published in the Des Moines Register on September 3, 2010, as provided by law, setting forth the time and place for hearing on said proposed annexation; and,

WHEREAS, in accordance with the published and mailed notice, those interested in the annexation, both for and against, have been given opportunity to be heard with respect thereto and have presented their views to the City Council; and,

WHEREAS, the real estate proposed to be annexed adjoins the boundaries of the City of Des Moines and also adjoins the boundaries of the City of Pleasant Hill; and,

WHEREAS, Iowa Code §368.17(7) prohibits the City Development Board from approving an annexation which creates an island of unincorporated land surrounded by one or more cities, and unless a strip of land along the south side of the real estate described below is

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removed from the annexation, it will illegally create such an island immediately to the west that is surrounded by the cities of Des Moines and Pleasant Hill; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts, statements of interested persons and arguments of counsel, the objections to the proposed annexation are hereby overruled and the hearing is closed.
2. The annexation of the real estate generally shown on the map attached hereto as Exhibit "A", and more specifically described below, is hereby found to be consistent with the City's long range plans for the area, and is hereby approved, subject to the limitation identified in paragraph 3, below:

All that portion of the following tract not previously annexed into the City of Des Moines, Iowa:

A tract of land in Lot 1 of the Plat of the Stephen Harvey Estate in the East Half of the Southwest Quarter of Section 27, Township 79 North, Range 23 West of the 5th P.M., Polk County, Iowa, more particularly described as follows: Commencing at the Southwest Corner of the SE ¼ of the SW ¼ of Section 27, T79N, R23W of the 5th P.M., Polk County, Iowa; thence N90°00'00"E, 328.17 feet, along the South line of the SW ¼ of said Section 27, to the Point of Beginning. Thence N00°02'32"E, 1460.10 feet; thence N90°00'00"E, 328.17 feet; thence South 00°02'32"W, 1460.10 feet to the South line of said SW ¼; thence along said South line S90°00'00"W, 328.17 feet to the Point of Beginning. Said tract contains 11.00 acres including 0.249 acres of public road right of way. (District/Parcel No.: 190/01863-001-001)

3. To prevent the creation of an island of unincorporated land immediately to the west, the south 50 feet of the real estate described above is hereby removed from the territory approved for annexation into the City of Des Moines. In the event the City Development Board requires that more than 50 feet of unincorporated land be maintained along the south side of the territory to be annexed, the Legal Department is hereby authorized to agree on behalf of the City to the removal of a wider strip of land on and adjoining the south side of such real estate, up to a maximum total width of 90 feet, if required by the City Development Board for approval of the annexation of the balance of such real estate.

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4. If the applicants do not withdraw their application within three business days of this date, the Legal Department shall file this annexation with the City Development Board and seek approval of this annexation as provided above.

MOVED by Mahaffey to adopt.

(Council Communication No. 10-592)

FORM APPROVED:

Roger K. Brown

Roger K. Brown
 Assistant City Attorney

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Attachments: _____

- Exhibit "A" - Map
- Exhibit "B" - Application for Voluntary Annexation
- Exhibit "C" - Certificate of Mailing
- Exhibit "D" - Affidavit of Publication
- Exhibit "E" - Auditor's Annexation Review

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY				✓
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	6			1

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED
T. M. Franklin Mayor

Diane Rauh City Clerk