



Roll Call Number

11-2084

Agenda Item Number

43

Date December 5, 2011

RESOLUTION APPROVING VOLUNTARY ANNEXATION  
OF TERRITORY IN UNINCORPORATED POLK COUNTY AT  
5055 NE 38th AVENUE

WHEREAS, on October 10, 2011, by Roll Call No. 11-1709, the City Council resolved that the accompanying Application for Voluntary Annexation from Darwin and Karen Hook, seeking the voluntary annexation by the City of Des Moines of their home at 5055 NE 38th Avenue, together with portions of the adjoining rights-of-way, all as generally shown on the maps attached hereto as Exhibit "A-1" and "A-2", 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 December 5, 2011, at 5:00 p.m.; and,

WHEREAS, Darwin and Karen Hook have requested that their home at 5055 NE 38th Avenue be annexed to allow their home to be connected to the public sanitary sewer system; and,

WHEREAS, on October 10, 2011, by Roll Call No. 11-1709, the City Council also approved an Agreement and Covenant with Darwin and Karen Hook allowing them to immediately connect their home to the City's public sewer system in anticipation of the completion of this annexation; 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 October 13, 2011, and they were invited to a consultation meeting with City staff held at 1:00 p.m., on October 19, 2011, in the Stavropol Conference Room at City Hall, to discuss the proposed annexation; and,

WHEREAS, no one attended the consultation meeting on behalf of the Polk County Board of Supervisors or the Saylor Township Board of Trustees; and,

WHEREAS, due notice of the public hearing was sent by certified or regular mail on November 9, 2011, 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 all applicants and owners of land included in and adjoining the Territory 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 also published in the Des Moines Register on November 9, 2011, 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,

( continued )

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WHEREAS, the real estate proposed to be annexed adjoins the boundaries of the City of Des Moines and is within two miles of the boundaries of the cities of Pleasant Hill and Altoona; 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 maps attached hereto as Exhibit "A-1" and "A-2", 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:

District/Parcel No.: 190/00434-001-000 and 060/09027-926-001

Legal: A parcel of land located in the Northwest Quarter of Section 27, Township 79 North, Range 23 West of the 5th P.M., Polk County, Iowa, that is more particularly described as follows:

Commencing as a point of reference at the North Quarter corner of said Section 27; thence N 89°35'10" W, 138.75 feet along the North line of said Section 27 to the Point of Beginning; thence S 00°24'50"W, 212.82 feet to a Point; thence N 89°36'13" W, 157.27 feet to a Point; thence N 00°30'32" E, 212.87 feet to a Point on said North Line of Section 27; thence S 89°35'10" E, 156.92 feet along said North Line of said Section 27 to the Point of Beginning and containing 0.768 acres more or less. (As conveyed by Quit Claim Deed at Book 12204, Page 635.)

AND all the adjoining portion of NE 38th Avenue right-of-way not previously annexed into the City of Des Moines, Iowa.

3. The City Clerk is hereby authorized and directed to forward a certified copy of this resolution and accompanying exhibits to the Legal Department for filing with the City Development Board.
4. The City Legal Department is hereby authorized and directed to seek approval of this voluntary annexation, in its entirety and each part thereof, by the City Development Board in accordance with the procedures established in Iowa Code Chapter 368.

( continued )



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( Council Communication No. 11- 741 )

MOVED by Mahaffey to adopt.

FORM APPROVED:

Roger K. Brown
Roger K. Brown
Assistant City Attorney

Exhibits:

- "A-1" - Vicinity Map
"A-2" - Map of the Territory to be Annexed
"B" - Application for Voluntary Annexation
"C" - Certificate of Mailing
"D" - Affidavit of Publication
"E" - Annexation Review by Polk County Auditor

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, and TOTAL (7 yeas).

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.

Mayor signature: T. M. Franklin

City Clerk signature: Diane Rauh