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Date April 26, 2010

**HOLD HEARING FOR THE VACATION AND CONVEYANCE OF A SMALL SEGMENT OF
STREET RIGHT-OF-WAY LYING SOUTH OF BUCHANAN STREET
AND WEST OF PENNSYLVANIA AVENUE TO
DIVINE TEMPLE CHURCH OF GOD IN CHRIST FOR \$500.00**

WHEREAS, on October 26, 2009, by Roll Call No. 09-1915, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of City right-of-way lying south of Buchanan Street and west of Pennsylvania Avenue, hereinafter more fully described, be vacated and sold; and

WHEREAS, Divine Temple Church of God in Christ is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the portion of such right-of-way described below, in order to use such right-of-way for an off-street parking lot and incorporation with their existing site, which purchase price reflects the fair market value of the property as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need for such right-of-way and the City will not be inconvenienced by the vacation or sale of said property; and

WHEREAS, on April 12, 2010, by Roll Call No. 10-505, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on April 26, 2010, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided 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.

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 and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.
2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation more specifically described as follows:

That part of Lots 9, 10, and 11 of MARY T SMITH'S SUBDIVISION, of Lot 7 of Dean's Subdivision of Out Lots, an Official Plat, lying South of the easterly extension of the south right-of-way line of Buchanan Street, as presently established, all in Section 3, Township 78 North, Range 24

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West of the Fifth Principal Meridian, all now included in and forming a part of the City of Des Moines, Polk County, Iowa and more particularly described as follows:

Beginning at the southeast corner of the acquisition plat for the south right-of-way of Buchanan Street recorded in Book 9092, Page 94; thence easterly along the southerly line of said acquisition plat extended 12.0 feet; thence southeasterly to a point on the south lot line of said Lot 9, being 102.0 feet east of the west lot line of said Lot 9; thence southwesterly to a point 55.0 feet east of the west lot line of said Lot 11, said point being 10.0 feet north of the south lot line of said Lot 11; thence westerly 30.0 feet parallel with the south lot line of said Lot 11 to a point 25.0 feet east of the west lot line of said Lot 11; thence northeasterly 123.68 feet to the point of beginning.

3. The proposed sale of such vacated right-of-way, to the grantee and for the consideration identified below, is hereby approved:

To: DIVINE TEMPLE CHURCH OF GOD IN CHRIST for \$500.00

The vacated part of Lots 9, 10, and 11 of MARY T SMITH'S SUBDIVISION, of Lot 7 of Dean's Subdivision of Out Lots, an Official Plat, lying South of the easterly extension of the south right-of-way line of Buchanan Street, as presently established, all in Section 3, Township 78 North, Range 24 West of the Fifth Principal Meridian, all now included in and forming a part of the City of Des Moines, Polk County, Iowa and more particularly described as follows:

Beginning at the southeast corner of the acquisition plat for the south right-of-way of Buchanan Street recorded in Book 9092, Page 94; thence easterly along the southerly line of said acquisition plat extended 12.0 feet; thence southeasterly to a point on the south lot line of said Lot 9, being 102.0 feet east of the west lot line of said Lot 9; thence southwesterly to a point 55.0 feet east of the west lot line of said Lot 11, said point being 10.0 feet north of the south lot line of said Lot 11; thence westerly 30.0 feet parallel with the south lot line of said Lot 11 to a point 25.0 feet east of the west lot line of said Lot 11; thence northeasterly 123.68 feet to the point of beginning.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantees.

8. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

(Council Communication No. 10-222)

APPROVED AS TO FORM:

Moved by _____ to adopt.


Glenna K. Frank, Assistant City Attorney

PSW

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

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

Mayor

City Clerk