

Date.....September 28, 2015.....

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF SOUTHEAST 40<sup>TH</sup> STREET TO JOHN F. AND EMMIE L. ANDERSON FOR \$900.00**

**WHEREAS**, on August 24, 2015, by Roll Call No. 15-1424, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission approving a City-initiated request for the vacation of an irregular-shaped segment of the eastern portion of Southeast 40<sup>th</sup> Street adjoining 4491 Southeast 40<sup>th</sup> Street, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated, and reservation of right of entry for servicing same; and

**WHEREAS**, John F. Anderson and Emmie L. Anderson, owners of adjoining 4491 Southeast 40<sup>th</sup> Street, have offered to the City of Des Moines the purchase price of \$900.00 for the purchase of the irregular-shaped segment of the eastern portion of Southeast 40<sup>th</sup> Street adjoining 4491 Southeast 40<sup>th</sup> Street for incorporation into their residential property, which price reflects the fair market value of said portion of street right-of-way as currently estimated by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the Property proposed to be sold, except for reservation of a storm sewer and surface water flowage easement over a portion of the property, and the City will not be inconvenienced by the sale of said Property; and

**WHEREAS**, on September 14, 2015, by Roll Call No. 15-1509, it was duly resolved by the City Council that the proposed vacation and conveyance of the City right-of-way be set down for hearing on September 28, 2015, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate and convey the City 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 City Council direction, those interested in the 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, any and all objections to the proposed vacation and conveyance of the irregular-shaped segment of the eastern portion of Southeast 40<sup>th</sup> Street adjoining 4491 Southeast 40<sup>th</sup> Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the irregular-shaped segment of the eastern portion of Southeast 40<sup>th</sup> Street adjoining 4491 Southeast 40<sup>th</sup> Street, legally described as follows, and said vacation is hereby approved:

Date.....September 28, 2015.....

-Except the North 27 Feet-, All of the Parcel of Land Recorded in Book 6193 Page 963 at the Recorder's Office of Polk County, Iowa and Described as Follows:

A parcel of land located in the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W, of the 5th P.M., Polk County, Iowa, more specifically described as follows:

Beginning at the northwest corner of the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W; thence east along the north line of the southeast ¼ of the southwest ¼, 539.3 feet to the west right-of-way line of the Chicago and Northwestern Railroad; thence southeasterly along the west right-of-way line of the Chicago and Northwestern Railroad, 84.85 feet: thence west, 459.3 feet: thence southwesterly 198.0 feet to a point on the west line of the southeast ¼ of the southwest ¼, Section 20, T-78-N, R-23-W: thence north along the west line of the southeast ¼ of the southwest ¼, 200.0 feet to the point of beginning, exclusive of present established highways,

And

-Except the West 33 Feet-, All of the Parcel of Land Recorded in Book 6548 Page 466 at the Recorder's Office of Polk County, Iowa and Described as Follows:

A parcel of land located in the north 17.37 acres of the west 23.87 acres in the SE ¼, SW ¼, Section 20, T-78-N, R-23-W of the 5th P.M., Polk County, Iowa, more specifically described as follows:

Commencing at the northwest corner of the SE ¼, SW ¼, Section 20, T-78-N, R-23-W; thence south along the west line of the SE ¼, SW ¼, 200.0 feet to the point of beginning; thence northeasterly 84.9 feet; thence south, 800.5 feet; thence west 60.0 feet to the west line of the SE ¼, SW ¼, Section 20; thence north along the west line of the SE ¼, SW ¼, 740.5 feet to the point of beginning;

All now included in and forming a part of the City of Des Moines, Polk County, Iowa and containing approximately 26,969 Square Feet.

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

To: John F. Anderson and Emmie L. Anderson

For: \$900.00

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Date September 28, 2015

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All now included in and forming a part of the City of Des Moines, Polk County, Iowa and containing approximately 26,969 Square Feet.

4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement for Storm Sewer and Surface Water Flowage and the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, the City Clerk is authorized and directed to forward the original of the Permanent Easement and 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 Permanent Easement and 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.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deeds and a copy of the other documents to the grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

Agenda Item Number

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Date September 28, 2015

(Council Communication No. 15-501)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
Lisa A. Wieland, Assistant City Attorney

*Ron*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, Laura Baumgartner, Chief Deputy 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.

\_\_\_\_\_  
Deputy City Clerk

\_\_\_\_\_  
Chief