

Date October 23, 2017

HOLD HEARING AND APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF CITY-OWNED STREET RIGHT-OF-WAY LOCATED NORTH OF FRANKLIN AVENUE BETWEEN 23RD STREET AND 24TH STREET AND CONVEYANCE TO ADJOINING PROPERTY OWNERS FOR \$450.00

WHEREAS, on August 14, 2017, by Roll Call No. 17-1360, the City Council of the City of Des Moines, Iowa voted to receive and file the recommendation from the City Plan and Zoning Commission that the west 16.5 feet of the 33-foot wide half-street right-of-way adjoining 2327 Franklin Avenue and 1915, 1921 and 1925 24th Street (collectively "City Right-of-Way"), hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, and subject to the reservation of a shared vehicular access easement for the benefit of the adjoining properties; and

WHEREAS, David Dale Lohner, owner of 2327 Franklin Avenue, has offered to the City of Des Moines ("City") the purchase price of \$200.00 for the vacation and purchase of the portion of street right-of-way adjoining his property at 2327 Franklin Avenue; and Martin Stoner owner of 1915 24th Street, has offered to the City the purchase price of \$100.00 for the vacation and purchase of the portion of street right-of-way adjoining his property at 1915 24th Street; and Ronald M. Delaney IRA Guaranty Bank and Trust Company as Trustee, owner of 1921 24th Street, has offered to the City the purchase price of \$100.00 for the vacation and purchase of the portion of street right-of-way adjoining its property at 1921 24th Street; and Preferred Property Enterprises, LLC, owner of 1925 24th Street, has offered to the City the purchase price of \$50.00 for the vacation and purchase of the portion of street right-of-way adjoining its property at 1925 24th Street, for incorporation into their respective residential properties and to accommodate existing encroachments into the right-of-way, which prices reflect the fair market values of the City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, the east 16.5 feet of the 33-foot wide half street right-of-way adjoining 2327 Franklin Avenue and 1915, 1921 and 1925 24th Street will remain dedicated street right-of-way and will satisfy the City Plan and Zoning Commission's requirement for a shared vehicular access for the benefit of the adjoining properties; and

WHEREAS, there is no known current or future public need or benefit for the portion of the City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on October 9, 2017, by Roll Call No. 17-1738, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on October 23, 2017, 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

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have presented their views to the City Council of the City of Des Moines, Iowa.

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 City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the west 16.5 feet of the 33-foot wide half-street right-of-way adjoining 2327 Franklin Avenue and 1915, 1921 and 1925 24th Street, as legally described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at no cost to the City:

ALL THAT PART OF THE WEST 16.5 FEET OF THE NORTH-SOUTH STREET RIGHT OF WAY IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1 IN SAID C.H. ATKIN'S SUBDIVISION, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated right-of-way, as legally described and to the grantees and for the consideration identified below, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated is hereby approved:

Grantee: David Dale Lohner
Consideration: \$200.00

Legal Description: ALL THAT PART OF THE WEST 16.5 FEET OF THE VACATED NORTH-SOUTH STREET RIGHT OF WAY IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1 IN ADLOG PLACE, AN OFFICIAL PLAT, AND LYING NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1 IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 2558 SQUARE FEET.

Grantee: Martin Stoner
Consideration: \$100.00

Legal Description: ALL THAT PART OF THE WEST 16.5 FEET OF THE VACATED NORTH-SOUTH STREET RIGHT OF WAY IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING EAST OF AND ADJOINING LOT 1, ADLOG PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING

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A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1275 SQUARE FEET.

Grantee: Ronald M. Delaney IRA Guaranty Bank and Trust Company as Trustee

Consideration: \$100.00

Legal Description: ALL THAT PART OF THE WEST 16.5 FEET OF THE VACATED NORTH-SOUTH STREET RIGHT OF WAY IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING EAST OF AND ADJOINING LOT 2, ADLOG PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 1023 SQUARE FEET.

Grantee: Preferred Property Enterprises, LLC

Consideration: \$50.00

Legal Description: ALL THAT PART OF THE WEST 16.5 FEET OF THE VACATED NORTH-SOUTH STREET RIGHT OF WAY IN THE C.H. ATKIN'S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., LYING EAST OF LOT 1 IN SAID C.H. ATKIN'S SUBDIVISION AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 2 IN ADLOG PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 254 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyances as identified above, and the Deputy City Clerk is authorized and directed to attest to the Mayor's signature.
5. 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 Quit Claim Deeds, 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 Quit Claim Deeds, 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 Quit Claim Deed and copies of the other documents to the grantees.
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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(Council Communication No. 17-758)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|----------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GATTO | | | | |
| GRAY | | | | |
| HENSLEY | | | | |
| MOORE | | | | |
| WESTERGAARD | | | | |
| 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.

Chief Deputy City Clerk