

★ Roll Call Number  
08-251

Agenda Item Number  
46

Date February 11, 2008

Dispositions – Parcel 223 – Chinh Dao: Page 1

**HOLD HEARING FOR THE CONVEYANCE OF THE VACATED EAST/WEST ALLEY RIGHT-OF-WAY ABUTTING 3024 HIGH STREET TO CHINH DAO FOR \$1.00**

**WHEREAS**, in November 1906, under Polk County District Court Decree, Equity Case No. 14,666E, Petition of John G. Myerly et. al. (“Court Decree”), it was ordered that the North six feet of High Street as it extends through McCain Place from the West line of 28<sup>th</sup> Street to the East line of 31<sup>st</sup> Street should be and is vacated and shall revert to and become a part of the abutting lots and that the respective owners of such abutting lots and property are vested with title to such portion of the vacated parts of High Street as abut and are contiguous to such lots and property; and

**WHEREAS**, Chinh Dao is the current owner of 3024 High Street, which abuts a portion of the aforementioned vacated right-of-way; and

**WHEREAS**, due to a conveyance error by previous owners of Mr. Dao’s property, the aforementioned vacated right-of-way was not properly conveyed to successive owners of 3024 High Street as required by the Court Decree, and this error has created a title defect on Mr. Dao’s property that requires the issuance of a Quit Claim Deed from the City of Des Moines to clear such defect; and

**WHEREAS**, Chinh Dao has offered to the City of Des Moines the purchase price of \$1.00 plus closing costs in exchange for the Quit Claim Deed to such property more specifically described below; and

**WHEREAS**, on January 28, 2008, by Roll Call No. 08 - \_\_\_\_\_, it was duly resolved by the City Council that the proposed conveyance of the vacated East/West alley right-of-way abutting 3024 High Street be set down for hearing on February 11, 2008, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to convey this real property 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 this proposed 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:

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1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of this property as described below are hereby overruled and the hearing is closed.
2. There is no public need for the property described below and the public would not be inconvenienced by reason of the conveyance of this vacated right-of-way abutting 3024 High Street, more specifically described as follows:

Except the West 5.0 feet, the South 6.0 feet of vacated High Street right-of-way lying North of and adjoining Lot 14, Block 3, McCAIN PLACE, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa. (Vacated by Order of the Polk County District Court dated November 26, 1906).

DESCRIPTION APPROVED  
*[Signature]*  
 1/18/08 09:00

3. That the sale and conveyance of such right-of-way to Chinh Dao for \$1.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved.
4. The Mayor is authorized and directed to sign 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. The City Clerk is authorized and directed to forward the original of this 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 forwarded to the property owner.

Moved by *Hensley* to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*  
 Glenna K. Frank, Assistant City Attorney

RSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

**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.

*J. M. Franklin* Mayor

*Diane Rauh* City Clerk