

★ Roll Call Number

08-990

Agenda Item Number

30

Dispositions: Page 1

Date June 9, 2008

**SET HEARING ON THE VACATION OF PORTIONS OF SOUTHEAST 2<sup>ND</sup> STREET AND RACCOON STREET RIGHT-OF-WAY AND CONVEYANCE TO MIDAMERICAN ENERGY COMPANY FOR \$1**

**WHEREAS**, on April 25, 2005, by Roll Call No. 05-969, the City Council of the City of Des Moines authorized the acquisition, by gift, negotiation, or condemnation, of the right-of-way required to construct the Southeast Connector Project – SW 2<sup>nd</sup> to SE 6<sup>th</sup> Street Phase (“Project”); and

**WHEREAS**, on September 24, 2007, by Roll Call No. 07-1829, the City Council established the fair market value of property interests located at 200 SE 3<sup>rd</sup> Street, Des Moines, Iowa 50309, and owned by MidAmerica Development Company and leased by MidAmerican Energy Company; and

**WHEREAS**, on March 10, 2008, by Roll Call No. 08-378, the City Council approved a Right-of-Way acquisition settlement agreement and accepted easements from MidAmerica Development Company and Mid American Energy Company, which settlement included the agreement that upon approval by the City Planning & Zoning Department, the City will vacate and convey to MidAmerican Energy a portion of SE 2<sup>nd</sup> Street valued at \$20,000.00 to be used by MidAmerican Energy for internal site access in lieu of MidAmerican Energy’s request of compensation in the amount of \$90,247.00 for gates with card readers and a chain link fence; and

**WHEREAS**, the vacation of the portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, hereinafter more fully described, and conveyance of a part thereof to MidAmerican Energy, will eliminate the need for public or private vehicular access to Southeast 2<sup>nd</sup> Street between Market Street and Raccoon Street and to Raccoon Street between Southeast 2<sup>nd</sup> Street and Southeast 4<sup>th</sup> Street, which allows for expansion and increased security of the City’s Fleet Services operation; and

**WHEREAS**, on June 9, 2008, by Roll Call No. \_\_\_\_\_, the City Council adopted a recommendation from the City Plan and Zoning Commission that portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, hereinafter more fully described, be vacated, including the part thereof to be transferred to MidAmerican Energy; and

**WHEREAS**, following said recommendation from the City Plan and Zoning Commission, the City may now vacate portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, and convey the agreed-upon part thereof to MidAmerican Energy pursuant to the terms of the Right-of-Way acquisition settlement agreement.

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NOW THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating portions of Southeast 2<sup>nd</sup> Street and Raccoon Street, more specifically described as follows:

All that part of Southeast 2<sup>nd</sup> Street right-of-way lying North of the easterly extension of the North right-of-way line of Raccoon Street and South of the easterly extension of the South right-of-way line of vacated East Elm Street vacated by Ordinance 9187, October 4<sup>th</sup>, 1976 and lying East of and adjoining Block A, Scott and Dean's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

and

All that part of Southeast 2<sup>nd</sup> Street right-of-way lying East of and adjoining Block A, Scott and Dean's Addition, an Official Plat, and all that part of Raccoon Street right -of-way lying East of the East Bank of the Des Moines and Raccoon Rivers and West of the southerly extension of the West right -of-way line of Southeast 4<sup>th</sup> Street, and lying South of and adjoining Blocks R, A, M, and Block 6, of said Scott and Dean's Addition, and lying South of Southeast 1<sup>st</sup> Street , Southeast 2<sup>nd</sup> Street and lying South of vacated Southeast 3<sup>rd</sup> Street, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to sell a portion of such right-of-way as described below, to the grantees and for the consideration identified below:

To: MidAmerican Energy Company for \$1.00

A portion of vacated Southeast 2nd Street and Elm Street right-of-way between Blocks A and M, Scott and Dean's Addition, an Official Plat, Polk County, Iowa, and more particularly described as:

Beginning at the northwest corner of said Block M; thence South 18° (Degrees) 39' (Minutes) 32" (Seconds) West, 119.23 feet, to the westerly right-of-way line of Southeast 2<sup>nd</sup> Street, as presently established; thence North 14°57'04" West, on said westerly right-of-way line and its northerly extension, 147.00 feet; thence North 74°47'20" East, 66.00 feet, to the easterly right-of-way line of Southeast 2<sup>nd</sup> Street, as presently established;

DESCRIPTION APPROVED  
*[Signature]*  
5/29/08 11:41 AM

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thence South 14°57'04" East, on the northerly extension of said easterly right-of-way line, 48.00 feet, to the point of beginning. Containing 0.15 acres.

Subject to an easement upon the property described above for the continued use and maintenance of any utilities now in place, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such real estate is to be considered shall be on June 23, 2008, said meeting to be held at 5:00 p.m., in the Council Chamber.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. The costs associated with the vacation and conveyance of this property will be charged to the following: 2007-08 CIP, Street Improvements, SE Connector – SW 2<sup>nd</sup> to SE 6<sup>th</sup>, STR214, Page – Streets 41.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

*Ron*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
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.

T. M. Franklin  
Mayor

Diane Rauh City Clerk