

★ Roll Call Number

08-1998

Agenda Item Number

50

Dispositions - Bennett: Page 1

Date November 10, 2008

**HOLD HEARING FOR THE VACATION AND CONVEYANCE OF AN EASEMENT FOR BUILDING ENCROACHMENT WITHIN A SEGMENT OF COTTAGE GROVE AVENUE RIGHT-OF-WAY ADJOINING 1912 COTTAGE GROVE AVENUE TO MONTE AND KRISTA BENNETT FOR \$50.00**

**WHEREAS**, on October 13, 2008, by Roll Call No. 08-1750, the City Council received a recommendation from the City Plan and Zoning Commission that a segment of Cottage Grove Avenue, hereinafter more fully described, be vacated and conveyed to allow encroachment of an elevated stoop for the north entrance to the building located at 1912 Cottage Grove Avenue; and

**WHEREAS**, the grantees identified below are the owners of property abutting such right-of-way, and have offered to the City of Des Moines the purchase price identified below for the purchase of the building encroachment easement described below; and

**WHEREAS**, on October 27, 2008, by Roll Call No. 08-1842, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way and City-owned property be set down for hearing on November 10, 2008, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey said 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:

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 of a segment of Cottage Grove Avenue adjoining 1912 Cottage Grove Avenue, more specifically described as follows:

A triangular shaped portion of the Cottage Grove Avenue Right-of-Way as it is presently established more particularly described as follows:

Commencing at the Southwest corner of Lot 6, Block E, Kuhn's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 00<sup>o</sup> (degrees) 09'(minutes) 11" (Seconds) West along the West line of said Lot 6, a distance of 56.11 feet ; thence North 34<sup>o</sup>50'20" East, a distance of 61.46

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*[Signature]*

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feet to the southerly Right-of-Way line of said Cottage Grove Avenue, as it is presently established; thence North 89°46' 40" East, along the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 57.73 feet, thence North 00° 57' 59" West, along a jog in the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 3.55 feet to the point of beginning, thence North 89°20' 01" East, a distance of 7.50 feet; thence South 00° 57'59" East, a distance of 5.36 feet to the southerly Right-of-Way line of said Cottage Grove Avenue, thence North 55° 24' 43" West along the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 9.22 feet to the point of beginning.

Said tract of land contains 20.1 square feet more or less.

3. That the sale and conveyance of such vacated public right-of-way, as described below, to Monte and Krista Bennett for \$50, together with payment by such grantees of the estimated publication and recording costs for this transaction, be and is hereby approved:

A vacated triangular shaped portion of the Cottage Grove Avenue Right-of-Way as it is presently established more particularly described as follows:

Commencing at the Southwest corner of Lot 6, Block E, Kuhn's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa; thence North 00° (degrees) 09'(minutes) 11" (Seconds) West along the West line of said Lot 6, a distance of 56.11 feet ; thence North 34°50'20" East, a distance of 61.46 feet to the southerly Right-of-Way line of said Cottage Grove Avenue, as it is presently established; thence North 89°46' 40" East, along the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 57.73 feet, thence North 00° 57' 59" West, along a jog in the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 3.55 feet to the point of beginning, thence North 89°20' 01" East, a distance of 7.50 feet; thence South 00° 57'59" East, a distance of 5.36 feet to the southerly Right-of-Way line of said Cottage Grove Avenue, thence North 55° 24' 43" West along the southerly Right-of-Way line of said Cottage Grove Avenue, a distance of 9.22 feet to the point of beginning.

Said tract of land contains 20.1 square feet more or less.

4. The Mayor Pro Tem is authorized and directed to sign the Offer to Purchase and the Building Encroachment Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor Pro Tem'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 Easement, 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.

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6. The Real Estate Division Manager is authorized and directed to forward the original of the Building Encroachment Easement, 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 Building Encroachment Easement and copies of the other documents to the grantees.

8. The proceeds from the sale of this property will be deposited into the following account:  
Account, Fund: GE001, Org: ENG040700, Project: EN-139.

(Council Communication No. 08-673)

Moved by Kiernan to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	9			1
MOTION CARRIED				

Chilton L. Headley  
Mayor Pro Tem

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.

Diane Rauh City Clerk