

★ Roll Call Number  
09-2041

Agenda Item Number  
46

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Date November 9, 2009

**CONTINUED HEARING FOR VACATION AND CONVEYANCE OF THE  
NORTH / SOUTH ALLEY ADJOINING 101 SOUTHWEST 5<sup>TH</sup> STREET TO RUMELY  
LOFTS LIMITED PARTNERSHIP FOR \$13,959**

**WHEREAS**, on September 14, 2009, by Roll Call No. 09-1637, the City Council adopted a recommendation from the City Plan and Zoning Commission that the North/South alley right-of-way adjoining 101 Southwest 5<sup>th</sup> Street, hereinafter more fully described, be vacated and sold; and

**WHEREAS**, the grantee identified below is the purchaser of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of such right-of-way described below; and

**WHEREAS**, on September 14, 2009, by Roll Call No. 09-1635, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on September 28, 2009, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, on September 28, 2009, by Roll Call No. 09-1791, Council opened the public hearing, received comments and continued the public hearing to October 26, 2009, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, on October 26, 2009, by Roll Call No. 09-1965, Council opened the public hearing, received comments and continued the public hearing to November 9, 2009, at 5:00 p.m., in the Council Chamber; 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.

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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 the North/South alley right-of-way adjoining 101 Southwest 5<sup>th</sup> Street, more specifically described as follows:

All that part of the North/South alley right-of-way lying East of and adjoining the South 28.0 feet of Lot 2 of the Official Plat of Lot 1, Block 19, Fort Des Moines, an Official Plat, and lying East of and adjoining Lot 2, Block 19, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

3. That the sale and conveyance of such right-of-way to Rumely Lofts Limited Partnership for \$13,959, together with payment by such grantee of the estimated publication and recording costs for this transaction, and subject to the prior condition that the grantee close on the purchase and demonstrate ownership of the abutting property, be and is hereby approved:

All that part of the vacated North/South alley right-of-way lying East of and adjoining the South 28.0 feet of Lot 2 of the Official Plat of Lot 1, Block 19, Fort Des Moines, an Official Plat, and lying East of and adjoining Lot 2, Block 19, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor'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 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 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.

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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 grantee.

8. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

(Council Communication No. 09- 782 )

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

*RW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN				✓
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	6			1
MOTION CARRIED		APPROVED		

T. M. Franklin Mayor

**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 Fauh City Clerk