

★ Roll Call Number

10-1313

Agenda Item Number

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Date August 9, 2010

HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF 13TH STREET NORTH OF KEOSAUQUA WAY TO THE STATE OF IOWA, AND CONVEYANCE OF PREVIOUSLY VACATED 13TH STREET FROM KEOSAUQUA WAY TO SCHOOL STREET AND THE NORTH/SOUTH ALLEY WEST OF 13TH STREET FROM SCHOOL STREET TO KEOSAUQUA WAY TO THE STATE OF IOWA

WHEREAS, on January 26, 2009, by Roll Call No. 09-0888, the City Council received a recommendation from the City Plan and Zoning Commission that 13th Street right-of-way from Keosauqua Way to School Street and the North/South alley right-of-way west of 13th Street from School Street to Keosauqua Way, hereinafter more fully described, be vacated and sold; and

WHEREAS, on March 9, 2009, by Roll Call No. 09-409, the City Council passed Ordinance No. 14,841, vacating 13th Street right-of-way from Keosauqua Way to School Street and the North/South alley right-of-way west of 13th Street from School Street to Keosauqua Way; and

WHEREAS, due to a scrivener's error, the legal description in said Ordinance did not include a small portion of 13th Street right-of-way, more specifically described below, which portion is of no current benefit to the public and now needs to be vacated; and

WHEREAS, in accordance with the Settlement Agreement approved on July 26, 2010 by Roll Call No. 10-1244 and in accordance with Iowa Code Section 364.7(3), the State of Iowa has requested the vacation and conveyance of such right-of-way and the conveyance of the City-owned property previously vacated by Ordinance No. 14,841, all as described below, in order to use such right-of-way for expansion of and incorporation into its existing site; and

WHEREAS, there is no known current or future need of the City for the real property proposed to be vacated and conveyed and the City will not be inconvenienced by the vacation and conveyance of said property; and

WHEREAS, on July 26, 2010, by Roll Call No. 10-1245, 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 August 9, 2010, 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, 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.

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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 known current or future need of the City for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of that portion of 13th Street right-of-way lying north of Keosauqua Way and south of previously vacated 13th Street right-of-way, more specifically described as follows:

ALL THAT PART OF 13TH STREET RIGHT-OF-WAY, AS PRESENTLY ESTABLISHED, LYING NORTH OF KEOSAUQUA WAY, AS PRESENTLY ESTABLISHED, AND LYING WEST OF LOT 7, BLOCK 7 OF GRASS ROOTS 1, AN OFFICIAL PLAT, AND LYING SOUTH OF THAT PART OF 13TH STREET RIGHT-OF-WAY PREVIOUSLY VACATED BY THE CITY OF DES MOINES UNDER ORDINANCE NO. 14,841 AND RECORDED IN THE OFFICE OF THE POLK COUNTY RECORDER UNDER BOOK 13017, PAGES 88 THROUGH 92, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the conveyance of such right-of-way and the City-owned property previously vacated by Ordinance No. 14,841, all as described below, to the State of Iowa, be and is hereby approved:

ALL THAT PART OF VACATED 13TH STREET RIGHT-OF-WAY, AS IT NOW EXISTS, LYING WEST OF AND ADJOINING LOTS 11, 12, 13 AND 14, JONES SUBDIVISION, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING THE SOUTH 26.0 FEET OF LOT 10, OF SAID JONES SUBDIVISION.

AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY, AS IT NOW EXISTS, LYING WEST OF AND ADJOINING THE SOUTH 26.0 FEET OF LOT 1, JONES SUBDIVISION, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING LOT 82, KEOSAUQUA WAY PLAT 3, AN OFFICIAL PLAT, AND LYING WEST OF AND ADJOINING THE NORTH 8.0 FEET OF LOT 81, OF SAID KEOSAUQUA WAY PLAT 3, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

(Vacated by Ordinance No. 14,841, passed March 9, 2009.)

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AND

ALL THAT PART OF 13TH STREET RIGHT-OF-WAY, AS PRESENTLY ESTABLISHED, LYING NORTH OF KEOSAUQUA WAY, AS PRESENTLY ESTABLISHED, AND LYING WEST OF LOT 7, BLOCK 7 OF GRASS ROOTS 1, AN OFFICIAL PLAT, AND LYING SOUTH OF THAT PART OF 13TH STREET RIGHT-OF-WAY PREVIOUSLY VACATED BY THE CITY OF DES MOINES UNDER ORDINANCE NO. 14,841 AND RECORDED IN THE OFFICE OF THE POLK COUNTY RECORDER UNDER BOOK 13017, PAGES 88 THROUGH 92, 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 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, the City Clerk is authorized and directed to forward the original of 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.

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. There will be no proceeds associated with the conveyance of this property.

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

PSW

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GRIESS | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MEYER | ✓ | | | |
| MOORE | ✓ | | | |
| TOTAL | 7 | | | |
| 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 Rauh City Clerk