

★ **Roll Call Number**

10-1761

Agenda Item Number

51

Page 1

Date October 25, 2010

**HOLD HEARING FOR CONVEYANCE OF THE REMAINING ALLEY RIGHT-OF-WAY
ADJOINING 1051 19TH STREET TO RYAN GALLOWAY FOR \$100**

WHEREAS, on May 4, 2009, by Roll Call No. 09-730, it was duly resolved by the City Council that the proposed vacation and conveyance of portions of excess street and alley rights-of-way located between 18th Street and 19th Street from Atkins Street to Day Street to Ryan Galloway for \$5,875 be set down for hearing on May 18, 2009, at 5:00 p.m., in the Council Chamber; and

WHEREAS, on May 18, 2009, by Roll Call No. 09-901, the City Council moved to receive and file a recommendation from the City Plan and Zoning Commission to allow Ryan Galloway (owner), 1039 19th Street to proceed with requested vacation; and

WHEREAS, on May 18, 2009, by Roll Call No. 09-902, the City Council approved the vacation and conveyance of portions of excess street and alley rights-of-way located between 18th and 19th Street from Atkins Street to Day Street; and

WHEREAS, on September 16, 2010 the City Plan and Zoning Commission received a request from Hatch Development Group (developer), represented by Jack Hatch, for review and approval of a Site Plan "MLK Brickstone Apartments Phase 2" under design guidelines in NPC Districts and for Multiple-family Residential, on property located at 1051 19th Street, to allow construction of a three-story residential apartment building with 30 units; and

WHEREAS, thereafter the City Plan and Zoning Commission recommended approval of the submitted site plan under the "NPC" District Design Guidelines and design guidelines for multiple-family dwellings subject to the following conditions:

1. Compliance with all administrative review comments of the City's Permit and Development Center including provision of an additional sheet to the plan entitled "Stormwater Management Facilities Plan".
2. Provision of a pedestrian connection from the east side primary entrances to the public sidewalk in Atkins Street.
3. Provision of an additional two off-street parking spaces in order to comply with the Zoning condition of one space per unit.
4. Compliance with the City's Tree Removal and Mitigation Ordinance.
5. Acquisition of the remaining east half of the vacated north/south alley to allow for planned retaining walls, paving, and necessary bufferyard fencing and plantings.
6. Provision of a solid six-foot fence along the eastern boundary of the off-street parking lot where it abuts residential uses.

★ Roll Call Number

10-1761

Agenda Item Number

51

Page 2

Date October 25, 2010

7. Provision of at least three evergreen tree plantings in lieu of two overstory tree plantings, where there is adequate depth for planting along the east property line.
8. Provision of an additional refuse container enclosure.

WHEREAS, Ryan Galloway is the owner of real property located at 1051 19th Street adjoining excess vacated alley right-of-way, hereinafter more fully described, and has offered to the City of Des Moines the purchase price identified below for the purchase of the portion of the vacated alley right-of-way described below; and

WHEREAS, there is no known current or future public need for the property proposed to be sold and the City will not be inconvenienced by the sale of said property; and

WHEREAS, on, October 11, 2010, by Roll Call No. 10-1642, it was duly resolved by the City Council that the proposed conveyance of vacated alley right-of-way adjoining 1051 19th Street, be set down for hearing on October 25, 2010, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey this portion of vacated alley 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 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:

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 or benefit for the property described below and the public would not be inconvenienced by reason of the conveyance of this portion of vacated alley right-of-way adjoining 1051 19th Street, more specifically described as follows:

The East ½ of the vacated North/South alley right-of-way lying west of and adjoining Lots 2, 3 and 4, of Butler's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

(Vacated by Ordinance No. 14,857, passed May 18, 2009)

3. That the sale and conveyance of such vacated alley right-of-way to Ryan Galloway for \$100.00, 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 Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

★ Roll Call Number
10-1761

Agenda Item Number
51

Date October 25, 2010

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 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 Deed and copies of the other documents to the grantee.
8. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

(Council Communication No. 10-640)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

RCW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
<u>J. M. Franklin</u> Mayor <small>APPROVED</small>				

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