

★ Roll Call Number

11-0061

✓
Agenda Item Number

53

Date January 10, 2011

HOLD HEARING FOR THE VACATION OF VARIOUS CITY-OWNED RIGHT-OF-WAY PARCELS AND CONVEYANCE OF SAID PARCELS AND ADDITIONAL EXCESS CITY-OWNED PROPERTY LOCATED NEAR I-235 AND MARTIN LUTHER KING JR PARKWAY TO HATCH DEVELOPMENT GROUP LLC FOR \$51,500

WHEREAS, on November 8, 2010, by Roll Call No. 10-1834, the City Council of the City of Des Moines received a letter and Memo from Hatch Development Group LLC requesting that the City Council initiate the vacation of various City-owned right-of-way parcels, located near I-235 and Martin Luther King Jr. Parkway, to be used for infill development of single-family affordable housing, and City Council further referred this request to the City Plan and Zoning Commission and staff for review and recommendation; and

WHEREAS, on December 20, 2010, by Roll Call Nos. 10-2071, 10-2072, 10-2073, 10-2074 and 10-2076, the City Council received the recommendations from the Plan and Zoning Commission that said right-of-way parcels, hereinafter listed and more fully described, be vacated and sold subject to certain conditions including reservation of adequate right-of-way for street and sidewalk usage and of easement for existing utilities, and provision of one street tree per dwelling unit constructed; and

WHEREAS, Hatch Development Group LLC has offered to the City of Des Moines the total purchase price of \$51,500 for the vacation and conveyance of the City-owned right-of-way parcels and conveyance of an excess City-owned parcel, all as described below, which price reflects the total fair market value of the properties as appraised by an independent appraiser; and

WHEREAS, Hatch Development Group LLC, the City Real Estate Division and Legal Department have negotiated the Offer to Purchase Real Estate from the City of Des Moines and Acceptance ("Offer") on file in the office of the City Clerk, which includes, among other terms, provisions that (1) the sale of these properties shall close on or before December 31, 2011, subject to the due diligence period of the Buyer and Zoning Board of Adjustment and Iowa Finance Authority review and approval, and (2) that the Buyer shall be required to obtain and provide to City surveys for those parcels listed below that include street and pedestrian right-of-way, of which parcels a portion of the full parcel shall be conveyed to the buyer for development and the remainder shall be retained by the City and rededicated for right-of-way usage; and

WHEREAS, there is no known current or future public need or benefit for the right-of-way and excess property proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said properties; and

WHEREAS, on December 20, 2010, by Roll Call No. 10-2077, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way and conveyance of said excess property be set down for hearing on January 10, 2011, at 5:00 p.m., in the Council Chamber; and

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WHEREAS, due notice of said proposal to vacate and convey public right-of-way and convey excess City-owned property 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 and conveyance of excess City-owned property, all as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City-owned right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of said right-of-way parcels, more specifically described as follows:

Property I:

1120 Martin Luther King Jr. Parkway, Polk County Assessor District/Parcel No. 030/00763-001-000

Legally Described as: Lot 27 of T.K. Clarkes Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

Property II:

No Address Assigned, Polk County Assessor District/Parcel No. 030/00768-001-000

Legally Described as: Lots 32 and 33 of T.K. Clarkes Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

Property III:

1055 Martin Luther King Jr. Parkway, Polk County Assessor District/Parcel No. 030/04836-001-000

Legally Described as: Lot 37 of Tidricks Addition, an Official Plat, in and forming a part of the City of Des Moines, Polk County, Iowa

AND

No Address Assigned, Polk County Assessor District/Parcel No. 030/04837-000-000

Legally Described as: A portion of Lot 38 Tidricks Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

Property IV:

1037 18th Street, Polk County Assessor District/Parcel No. 030/01668-001-000

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Legally Described as: Lots 31 and 32 of Block 2, Glendale, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

AND

No Address Assigned, Polk County Assessor District/Parcel No. 030/01666-001-000

Legally Described as: A portion of Lot 30 of Block 2, Glendale, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

Property V:

No Address Assigned, Polk County Assessor District/Parcel No. 030/00986-000-000

Legally Described as: A portion of Lots 28 and 29 and the South 10 feet of Lot 27 of Curl and Smouses Addition, an Official Plat, 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 parcels and of excess City-owned property as described below to Hatch Development Group LLC for total consideration of \$51,500.00, for the consideration set forth below per parcel, together with payment by such grantee of the estimated publication and recording costs for this transaction and all in accordance with the requirements of the Plan and Zoning Commission recommendations and the terms of the Offer on file with the City Clerk, be and is hereby approved:

Property I:

1120 Martin Luther King Jr. Parkway, Polk County Assessor District/Parcel No. 030/00763-001-000

Legally Described as: Lot 27 of T.K. Clarkes Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

Portion of Purchase Price for this Parcel: \$6,000.00

Property II:

No Address Assigned, Polk County Assessor District/Parcel No. 030/00768-001-000

Legally Described as: Lots 32 and 33 of T.K. Clarkes Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa

(Subject to survey; a portion of this parcel to be retained by City as right-of-way for roadway and pedestrianway purposes)

Portion of Purchase Price for this Parcel: \$6,500.00

Property III:

1055 Martin Luther King Jr. Parkway, Polk County Assessor District/Parcel No. 030/04836-001-000

Legally Described as: Lot 37 of Tidricks Addition, an Official Plat, in and forming a part of the City of Des Moines, Polk County, Iowa

AND

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No Address Assigned, Polk County Assessor District/Parcel No. 030/04837-000-000
Legally Described as: A portion of Lot 38 Tidricks Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa
(Subject to survey; a portion of this parcel to be retained by City as right-of-way for roadway and pedestrianway purposes)
Portion of Purchase Price for this Parcel: \$7,500.00

Property IV:

1037 18th Street, Polk County Assessor District/Parcel No. 030/01668-001-000
Legally Described as: Lots 31 and 32 of Block 2, Glendale, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa
AND

No Address Assigned, Polk County Assessor District/Parcel No. 030/01666-001-000
Legally Described as: A portion of Lot 30 of Block 2, Glendale, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa
(Subject to survey; a portion of this parcel to be retained by City as right-of-way for roadway and pedestrianway purposes)
Portion of Purchase Price for this Parcel: \$7,500.00

Property V:

No Address Assigned, Polk County Assessor District/Parcel No. 030/00986-000-000
Legally Described as: A portion of Lots 28 and 29 and the South 10 feet of Lot 27 of Curl and Smouses Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa
(Subject to survey; a portion of this parcel to be retained by City as right-of-way for roadway and pedestrianway purposes)
Portion of Purchase Price for this Parcel: \$7,500.00

Property VI:

No Address Assigned, Polk County Assessor District/Parcel No. 030/03265-001-000
Legally Described as: Disposal Parcel 7, as Recorded in Book 12736, Page 582 in the office of the Polk County, Iowa Recorder.
Portion of Purchase Price for this Parcel: \$16,500.00

4. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the deposit plus \$113.00 for publication and recording costs, the Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed(s) for the conveyance as identified above, the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said Offer and Deed(s), 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 the

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Deed(s) to be recorded following closing, and the Real Estate Division Manager is authorized and directed to forward the Deed(s) following closing to the Polk County Recorder for recording.

5. The City Manager and/or his designee is hereby authorized and directed to administer and monitor the Offer to Purchase; to approve and execute documents pertaining to any minor or unsubstantial changes to said Offer, following approval of the City Legal Department as to form; to proceed to closing in accordance with the terms of the Offer; and, if needed, to approve, proceed with and execute documents pertaining to termination of the Offer if Hatch Development Group LLC fails to fulfill the contract terms required, following approval of the City Legal Department.

6. The proceeds from the sale of this property shall be deposited into the following account: \$35,000 Property Maintenance Endowment Fund, SP767, ENG980500, and \$16,500 2010/11 CIP, Street Improvements, Fed Title-23 Land Sales, STR500, Page Street Improvements - 24.

(Council Communication No. 11-020)

Moved by Hensley to vacate all properties listed, and convey properties I, II, IV and V, and continue conveyance of properties III and VI to the January 24 Council meeting at 5:00 PM.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
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.

Diane Rauh
City Clerk

T. M. Franklin
Mayor