

★ Roll Call Number

11-1309

Agenda Item Number

39

Date July 25, 2011

HOLD HEARING FOR THE VACATION AND CONVEYANCE OF THE NORTH-SOUTH ALLEY BETWEEN 6TH AVENUE AND 7TH STREET AND BETWEEN HIGH STREET AND WATSON POWELL JR. WAY TO THE ROMAN CATHOLIC DIOCESE OF DES MOINES, \$1000, AND TO PRINCIPAL LIFE INSURANCE COMPANY, \$1000

WHEREAS, on July 11, 2011, by Roll Call No. 11-1195, the City Council received a recommendation from the City Plan and Zoning Commission that the north/south alley between 6th Avenue and 7th Street running from Watson Powell Jr. Way to High Street be vacated, and a portion thereof be conveyed to the Roman Catholic Diocese of Des Moines, and the remainder thereof be conveyed to Principal Life Insurance Company ("Principal"), subject to reservation of easement for utilities and public access; and

WHEREAS, the Roman Catholic Diocese of Des Moines is the owner of the property locally known as 623 High Street that abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$1,000 for the vacation and purchase of a portion of such right-of-way as described below for the purpose of future expansion, which price reflects the restricted use fair market value of the property as currently estimated by the City's Real Estate Division; and

WHEREAS, Principal is the owner of the property locally known as 575 7th Street that also abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$1,000 for the vacation and purchase of the remaining portion of such right-of-way as described below for the purpose of incorporation into its existing site, which price reflects the restricted use fair market value of the property as currently estimated by the City's Real Estate Division; and

WHEREAS, Roman Catholic Diocese of Des Moines and Principal, with the City Real Estate Division, have negotiated their respective Offers to Purchase Real Estate from the City of Des Moines and Acceptance ("Offers") on file in the office of the City Clerk, which Offers include, among other terms, provisions that (1) the use of the right-of-way is subject to easement for existing public utilities; (2) the conveyance is subject to a public access easement across the vacated property for vehicular and pedestrian travel, with buyer responsibility for snow, ice and obstruction removal to allow for such access; (3) the property is subject to a no-build, no-parking and no-obstruction restriction; and (4) the public access easement and no-build restrictions can be removed, upon resolution of the City Council, following appraisal of the property and payment by the buyer of the unrestricted fair market value thereof; and

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

WHEREAS, on July 11, 2011, by Roll Call No. 11-1194, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way and conveyance be set down for hearing on July 25, 2011, 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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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, 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 the north/south alley between 6th Avenue and 7th Street running from Watson Powell Jr. Way to High Street, more specifically described as follows:

ALL THAT PART OF THE 16.5 FOOT NORTH-SOUTH ALLEY LYING EAST OF AND ADJOINING THE EAST LOT LINE OF LOT 4 AND 5 OF CHESTNUT ROW, AN OFFICIAL PLAT, AND ALL THAT PART OF THE NORTH-SOUTH ALLEY IN BLOCK H OF GRIMMEL'S ADDITION TO THE TOWN OF 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 a portion of such alley right-of-way to the Roman Catholic Diocese of Des Moines for \$1000.00, and the remaining portion thereof to Principal for \$1,000.00, together with payment by such grantees 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 Offers on file with the City Clerk, be and is hereby approved:

TO: Roman Catholic Diocese of Des Moines, \$1000.00 (Corrected Legal Description)

ALL THAT PART OF THE VACATED 16.5 FOOT NORTH-SOUTH ALLEY LYING EAST OF AND ADJOINING THE EAST LINE OF LOT 5 OF CHESTNUT ROW, AN OFFICIAL PLAT, LYING SOUTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF THE VACATED 15 FOOT EAST-WEST ALLEY LYING SOUTH OF LOT 3 OF SAID CHESTNUT ROW, AND ALL THAT PART OF THE NORTH-SOUTH ALLEY IN BLOCK H OF GRIMMEL'S ADDITION TO THE TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, LYING SOUTH OF SAID CHESTNUT ROW, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

TO: Principal Life Insurance Company, \$1000.00

ALL THAT PART OF THE VACATED 16.5 FOOT NORTH-SOUTH ALLEY LYING EAST OF AND ADJOINING THE EAST LINE OF LOTS 4 AND 5 OF CHESTNUT ROW, AN OFFICIAL PLAT, LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF THE VACATED 15 FOOT EAST-WEST ALLEY LYING SOUTH OF LOT 3 OF SAID CHESTNUT ROW, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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 Offers to Purchase and the Quit Claim Deeds for the conveyances as identified above, the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said Offers and Deeds, together with a certified copy of this

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

5. The proceeds from the sale of this property shall be deposited into the following account: \$2,000 Property Maintenance Endowment Fund, GE001, ENG040700 EN-139.

(Council Communication No. 11-490)

Moved by Coleman 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