

★ Roll Call Number

11-1501

Agenda Item Number

64

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Date August 29, 2011

**HEARING FOR VACATION AND CONVEYANCE OF A 20-FOOT SEGMENT OF THE REMAINING NORTH - SOUTH ALLEY LYING WITHIN PROPERTY LOCATED AT 1401 EAST 12<sup>TH</sup> STREET TO THE DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT**

**WHEREAS**, on July 10, 1926, the City Council of the City of Des Moines approved Ordinance No. 3655 vacating the north-south alley right-of-way lying between East Twelfth Street and East Thirteenth Street from Cleveland Avenue north to the Chicago and Northwestern Railway Company's right-of-way, except the north twenty (20) feet thereof, which property was conveyed by the City to the Independent School District of Des Moines n/k/a Des Moines Independent Community School District ("School District") by Quit Claim Deed recorded on December 21, 1953; and

**WHEREAS**, on May 20, 1991, by Roll Call No. 91-2163, the City Council approved Ordinance No. 11,665, vacating a portion of the north-south alley right-of-way directly north of the property described above, lying between East Twelfth Street and East Thirteenth Street from the Chicago and Northwestern Railway Company's right-of-way to the north, which property was conveyed by the City to the School District by Quit Claim Deed recorded on July 29, 1991, as approved by City Council by Roll Call No. 91-2547; and

**WHEREAS**, the School District is the owner of the vacated alleys as described above and all surrounding lots, locally known as 1401 E. 12<sup>th</sup> Street ("School District parcel"), and has requested that the City vacate and convey the remaining portion of the alley described below that is wholly within the School District parcel and has been used for school purposes; and

**WHEREAS**, there is no known current or future public need for the right-of-way proposed to be vacated, the City will not be inconvenienced by the conveyance of said property, and due to the de minimis nature of the vacation and the current location of the property wholly within the School District parcel and its extended use for school purposes, City staff have determined that Plan & Zoning Commission review of the vacation should not be required; and

**WHEREAS**, the City's Real Estate Division has further determined that there is no current or future City need for the conveyance of property from the School District as consideration pursuant to Ordinance No. 3655, which property is also wholly within the School District parcel, and the requirement that said property be conveyed to the City should be waived; and

**WHEREAS**, on August 8, 2011, by Roll Call No. 11-1365, 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 29, 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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**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 public need or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the remaining twenty (20) feet of the north-south alley right-of-way lying within property located at 1401 East 12<sup>th</sup> Street, more specifically described as follows:

The north 20.0 feet of the north-south alley right-of-way running from Cleveland Avenue to the former Chicago and Northwestern Railway Company's right-of-way, immediately east of Lot 178 and immediately west of Lot 252, Capital Park Addition, an Official Plat, 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 to the Des Moines Independent Community School District in accordance with Iowa Code Section 364.7(3) be and is hereby approved:

The vacated north 20.0 feet of the north-south alley right-of-way running from Cleveland Avenue to the former Chicago and Northwestern Railway Company's right-of-way, immediately east of Lot 178 and immediately west of Lot 252, Capital Park Addition, 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 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 said right-of-way, the City Clerk 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 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 Meyer to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

*RTW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

**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.

Y. M. Franklin Mayor

Diane Rauh City Clerk