

★ Roll Call Number

11-1921

Agenda Item Number

54A

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Date November 7, 2011

**SET HEARING FOR VACATION AND CONVEYANCE OF A SMALL SEGMENT OF THE REMAINING PUBLIC ALLEY RIGHT-OF-WAY LOCATED IN THE BLOCK BOUND BY VINE, WATER, MARKET AND SOUTHWEST 2<sup>ND</sup> STREETS TO WATERFRONT LODGING, INC.**

**WHEREAS**, on July 27, 2009, by Roll Call No. 09-1315, the City Council received a recommendation from the City Plan and Zoning Commission that the remaining intervening public alley right-of-way located in the block bound by Vine, Water, Market and Southwest 2<sup>nd</sup> Streets, hereinafter more fully described, be vacated and sold subject to the site being developed in conformance with the City's Design Guidelines for the Court Avenue Historic Area as approved by the Urban Design Review Board and with a "D-R" District site plan as approved by the Plan and Zoning Commission; and

**WHEREAS**, on June 27, 2011, by Roll Call No. 11-1144, the City Council passed Ordinance No. 15,027, vacating the alley right-of-way described above, and on June 27, 2011, by Roll Call No. 11-1142, approved the sale and conveyance of such vacated alley right-of-way to Waterfront Lodging, Inc. for \$39,856, subject to a no-build restriction and other conditions; and

**WHEREAS**, thereafter it was determined that the prior Council actions and Waterfront Lodging's Offer to Purchase inadvertently excluded a small segment of public alley right-of-way, more specifically described below, which segment is needed for completion of their project, was considered by Plan and Zoning Commission for vacation and conveyance, was intended to be purchased by Waterfront Lodging, Inc., and was included in the purchase price of \$39,856; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a segment of the remaining intervening public alley right-of-way located in the block bound by Vine, Water, Market and Southwest 2<sup>nd</sup> Streets, more specifically described as follows:

All that part of the east-west alley in Block 36 of the Original Town of Fort Des Moines, now included in and forming a part of the City of Des Moines, Iowa, lying between Vine Street and Market Street extending from the east line of Second Avenue to a straight line extending along the west line of the north-south alley in said Block 36 from the southeast corner of Lot 2 to the northeast corner of Lot 3, in said Block 36, except that part previously vacated by Ordinance No. 6333 described as all that part of the east-west alley lying between Vine Street and Market Street extending from the east line of Southwest Second Street (now known as Second Avenue) to a straight line extending from the southeast corner of Lot 2 to a point on the north line of Lot 3,

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which is sixteen and one-tenth (16.1) feet west of the northeast corner thereof, all in Block 36, Original Town of Fort Des Moines, now included in and forming a part of the City of Des Moines, Iowa.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines proposes to convey such vacated right-of-way to Waterfront Lodging, Inc., subject to the conditions set forth in Roll Call No. 11-1142 and pursuant to the existing Offer to Purchase, and as part of the consideration for the approved purchase price of \$39,856.
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such real estate is to be considered shall be on November 21, 2011, said meeting to be held at 5:00 p.m., in the Council Chamber.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with Section 362.3 of the Iowa Code.
5. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Roger K. Brown  
 Roger K. Brown, Assistant City Attorney

rsn

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER		✓		
MOORE	✓			
TOTAL	6	1		

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