



Date December 19, 2011

**RESOLUTION CORRECTING AND RATIFYING VACATION AND CONVEYANCE OF EXCESS CITY-OWNED PROPERTY LOCATED AT 3136 SW 9TH STREET TO PAUL A. & DONNA J. STEFFENSEN FOR \$5,000**

**WHEREAS**, on April 8, 1982, the City of Des Moines acquired real property locally known as 3136 SW 9<sup>th</sup> Street for right-of-way purposes for the widening of SW 9<sup>th</sup> Street and reconstruction of the intersection with Park Avenue; and

**WHEREAS**, on November 18, 1985, by Roll Call No. 5991, City Council adopted a recommendation from the City Plan and Zoning Commission determining that said right-of-way was remnant property following the City's widening and reconstruction project, and authorizing the right-of-way to be conveyed on a competitive bidding basis for a "C-1" zoning use; and

**WHEREAS**, Paul A. and Donna J. Steffensen are the owners of property locally known as 3138 SW 9<sup>th</sup> Street abutting said excess City-owned property, and offered to the City of Des Moines the purchase price of \$5,000 plus closing fees of \$113 for the conveyance of such City-owned property, more specifically described below, which price reflects the restricted fair market value of the property subject to use and no-build restrictions as currently estimated by the City's Real Estate Division; and

**WHEREAS**, on November 7, 2011, by Roll Call No. 11-1864, it was duly resolved by the City Council that the proposed conveyance of said excess City-owned property be set down for hearing on November 21, 2011 at 5:00 p.m., in the City Council Chambers, which resolution contained the correct legal description for the property to be vacated and conveyed; and

**WHEREAS**, due notice of said proposal to convey this property was given as provided by law, setting forth the time and place for hearing on said proposal, which published notice contained the correct legal description for the property to be vacated and conveyed; and

**WHEREAS**, on November 21, 2011, by Roll Call No. 11-1990, in accordance with City Council direction, a public hearing was held and those interested in the proposed vacation and conveyance, both for and against, were given an opportunity to be heard with respect thereto and have presented their views to the City Council, and no objections were made; and

**WHEREAS**, by said Roll Call No. 11-1990, the City Council determined that there is no public need or benefit for the City-owned right-of-way proposed to be vacated and that the public would not be inconvenienced by the vacation of excess right-of-way locally known as 3136 SW 9<sup>th</sup> Street, and Council further approved the sale and conveyance of such excess right-of-way to Paul A. and Donna J. Steffensen, subject to use and no-build restrictions, for \$5000, together with payment by such grantees of the estimated publication and recording costs for the transaction; and

**WHEREAS**, on November 21, 2011, by Roll Call No. 11-1992, the City Council approved Ordinance No. 15,069, intending to vacate the excess right-of-way locally known as 3136 SW 9<sup>th</sup> Street; and

**WHEREAS**, thereafter it was determined that Roll Call Nos. 11-1990 and 11-1992 contain a scrivener's error in the legal description of the property to be vacated and conveyed, and said description needs to be corrected and the prior resolutions ratified by Council action.

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

1. The determination that there is no public need or benefit for the City-owned right-of-way to be vacated, and that the public would not be inconvenienced by the vacation of excess right-of-way locally known as 3136 SW 9<sup>th</sup> Street, is hereby ratified as to the following corrected legal description of said property:

EXCEPT STREET, THE NORTH 100.00 FEET OF THE EAST 118.00 FEET OF LOT 20, SOUTHGATE, AN OFFICIAL PLAT, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE NORTHEAST CORNER OF SAID LOT 20; THENCE SOUTH 89° (DEGREES) 47' (MINUTES) 45" (SECONDS) WEST, ALONG THE NORTH LINE OF SAID LOT 20, A DISTANCE OF 12.68 FEET TO POINT OF BEGINNING; THENCE SOUTH 05° 06' 15" WEST, 35.89 FEET; THENCE SOUTH 16° 43' 43" WEST, 60.03 FEET; THENCE SOUTH 3°42'59" WEST, 6.70 FEET; THENCE SOUTH 89° 41' 29" WEST, 85.51 FEET; THENCE NORTH 00° 37' 36" EAST, 100.00 FEET TO THE NORTH LINE OF SAID LOT 20; THENCE NORTH 89° 47' 45" EAST, ALONG THE NORTH LINE OF SAID LOT 20, A DISTANCE OF 105.32 FEET TO THE POINT OF BEGINNING. AS SURVEYED BY ELMER L. MILLER JR. LICENSED SURVEYOR NO. 13975. ALL NOW INCLUDED IN, AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. CONTAINING BY SURVEY 9,701 SQUARE FEET OR 0.22 ACRES.

3. Approval of the sale and conveyance of such excess City-owned property to Paul A. and Donna J. Steffensen, subject to use and no-build restrictions, for \$5000.00, together with payment by such grantees of the estimated publication and recording costs for this transaction, be and is hereby ratified.

4. Upon final passage of an ordinance vacating said right-of-way, the Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and 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 the prior hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded with the Polk County Recorder and providing said documents to the grantees.

8. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Fund, SP767, ENG980500.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

BSW

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

MOTION CARRIED 7 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