

★ Roll Call Number  
12-0240

Agenda Item Number  
57

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Date February 13, 2012

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF EAST HARTFORD AVENUE RIGHT-OF-WAY ADJOINING 1938 SE 6<sup>TH</sup> STREET TO NEIGHBORHOOD DEVELOPMENT CORPORATION (NDC) FOR \$3,100**

**WHEREAS**, on January 9, 2012, by Roll Call No. 12-0028, the City Council received the recommendation from the Plan and Zoning Commission that an irregularly shaped segment of East Hartford Avenue right-of-way adjoining the real property locally known as 1938 SE 6<sup>th</sup> Street, hereinafter more fully described, be vacated and conveyed to Neighborhood Development Corporation (NDC), subject to reservation of easements for all public utilities in place; and

**WHEREAS**, NDC is the owner of 1938 SE 6<sup>th</sup> Street, and has offered to the City of Des Moines the purchase price of \$3,100 for the purchase of the City right-of-way more specifically described below for incorporation with mixed-use redevelopment of the adjoining property, subject to reservation of public utilities in place across the right-of-way, which price reflects the encumbered fair market value of the property as currently estimated by the City's Real Estate Division; and

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

**WHEREAS**, on January 23, 2012, by Roll Call No. 12-0083, 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 February 13, 2012, 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.

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

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 an irregularly shaped segment of East Hartford Avenue right-of-way adjoining 1938 SE 6<sup>th</sup> Street, more specifically described as follows:

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PARCEL "E" BEING A PART OF THE EAST HARTFORD AVENUE RIGHT-OF-WAY IS DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 10, T78N, R24W OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA; THENCE, N00°11'38"W ALONG THE WEST LINE OF SOUTHEAST 1/4 OF SAID SECTION 10 A DISTANCE OF 39.80 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUING N00°11'38"W ALONG THE WEST LINE OF SOUTHEAST 1/4 OF SAID SECTION 10 A DISTANCE OF 26.02 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST HARTFORD AVENUE AND TO THE SOUTHWEST CORNER OF LOT 3 IN SEVASTOPOL, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE, S89°57'03"E ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID EAST HARTFORD AVENUE A DISTANCE OF 119.50 FEET; THENCE, SOUTHWESTERLY ALONG A 356.01 FOOT RADIUS CURVE CONCAVE SOUTHERLY A DISTANCE OF 122.80 FEET, SAID CURVE HAVING A CHORD BEARING OF S77°45'19"W AND A CHORD LENGTH OF 122.19 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 1,127 SQUARE FEET, MORE OR LESS

3. The proposed sale of such vacated right-of-way to the Neighborhood Development Corporation for \$3,100, subject to easement reservation, is hereby approved and described as follows:

VACATED PARCEL "E" BEING A PART OF THE EAST HARTFORD AVENUE RIGHT-OF-WAY IS DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SECTION 10, T78N, R24W OF THE 5TH P.M., DES MOINES, POLK COUNTY, IOWA; THENCE, N00°11'38"W ALONG THE WEST LINE OF SOUTHEAST 1/4 OF SAID SECTION 10 A DISTANCE OF 39.80 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUING N00°11'38"W ALONG THE WEST LINE OF SOUTHEAST 1/4 OF SAID SECTION 10 A DISTANCE OF 26.02 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST HARTFORD AVENUE AND TO THE SOUTHWEST CORNER OF LOT 3 IN SEVASTOPOL, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE, S89°57'03"E ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID EAST HARTFORD AVENUE A DISTANCE OF 119.50 FEET; THENCE, SOUTHWESTERLY ALONG A 356.01 FOOT RADIUS CURVE CONCAVE SOUTHERLY A DISTANCE OF 122.80 FEET, SAID CURVE HAVING A CHORD BEARING OF S77°45'19"W AND A CHORD LENGTH OF 122.19 FEET TO THE POINT OF BEGINNING.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and 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 the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed

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to forward the original of the said 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 grantees.

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

APPROVED AS TO FORM:

Moved by Meyer to adopt.

Glenna K. Frank  
 Glenna K. Frank, Assistant City Attorney

*bn*

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