

★ **Roll Call Number**

12-0336

**Agenda Item Number**

45

Dispositions: Page 1

**Date** February 27, 2012

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A PERMANENT EASEMENT  
WITHIN A PORTION OF EXCESS SW 8TH STREET RIGHT-OF-WAY ADJOINING 729 BELL  
AVENUE TO KRISTIN KONCHALSKI FOR \$200**

**WHEREAS**, on October 24, 2011, by Roll Call No. 11-1778, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of Southwest 8<sup>th</sup> Street east of and adjoining the real property locally known as 729 Bell Avenue and west of the travelled, improved portion of the street, hereinafter more fully described, be vacated subject to provision of easements for any existing utilities until relocation at the applicant's expense, and the requirement that the applicant obtain relief from Zoning Board of Adjustment for fence construction within the required front yard setback; and

**WHEREAS**, Kristin Konchalski is the applicant and owner of 729 Bell Avenue adjoining the City-owned excess right-of-way of SW 8<sup>th</sup> Street, and has offered to the City of Des Moines the purchase price of \$200 for the vacation and conveyance of a permanent easement within such excess right-of-way described below for existing fence and building encroachments, which purchase price reflects the fair market value of the easement 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 proposed easement area within the excess City right-of-way of Southwest 8<sup>th</sup> Street adjoining 729 Bell Avenue, and the City will not be inconvenienced by the conveyance of the proposed easement subject to the conditions set forth in the Plan and Zoning Commission recommendation; and

**WHEREAS**, on February 13, 2012, by Roll Call No. 12-0184, it was duly resolved by the City Council that the proposed vacation and conveyance of the proposed easement across such right-of-way be set down for hearing on February 27, 2012, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey a permanent easement as described above 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 of the permanent easement, 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of a permanent easement within a portion of excess SW 8<sup>th</sup> Street right-of-way adjoining the real property locally known as 729 Bell Avenue, as legally described below, are hereby overruled and the hearing is closed.
2. There is no known current or future public need or benefit for the portion of Southwest 8<sup>th</sup> Street east of and adjoining 729 Bell Avenue and west of the travelled, improved portion of the street, and the City will not be inconvenienced by the conveyance of the easement, more specifically described as follows:

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ALL THAT PART OF SW 8<sup>TH</sup> STREET RIGHT OF WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 46 FEET EAST OF THE NORTHWEST CORNER OF LOT 6 HATTON ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA; THENCE SOUTHWESTERLY TO A POINT 50 FEET SOUTH OF AND 48 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 6; THENCE CONTINUING SOUTH TO A POINT ON THE SOUTH LOT LINE 48 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 6; THENCE CONTINUING WEST ON SAID SOUTH LOT LINE, TO A POINT 60 FEET WEST OF SAID SOUTHEAST CORNER OF LOT 6; THENCE CONTINUING NORTH, APPROXIMATELY 202 FEET TO A POINT THAT IS 26 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 6; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 6 TO THE POINT OF BEGINNING.

3. That the sale and conveyance of a permanent easement for existing fence and building encroachments upon such vacated right-of-way, as described below, to Kristin Konchalski for \$200, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

ALL THAT VACATED PART OF SW 8<sup>TH</sup> STREET RIGHT OF WAY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 46 FEET EAST OF THE NORTHWEST CORNER OF LOT 6 HATTON ACRES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA; THENCE SOUTHWESTERLY TO A POINT 50 FEET SOUTH OF AND 48 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 6; THENCE CONTINUING SOUTH TO A POINT ON THE SOUTH LOT LINE 48 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 6; THENCE CONTINUING WEST ON SAID SOUTH LOT LINE, TO A POINT 60 FEET WEST OF SAID SOUTHEAST CORNER OF LOT 6; THENCE CONTINUING NORTH, APPROXIMATELY 202 FEET TO A POINT THAT IS 26 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 6; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 6 TO THE POINT OF BEGINNING.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement 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 to forward the original of the said Permanent Easement, 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 Permanent Easement, 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.

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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement and copies of the other documents to the grantee.

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

(Council Communication No. 12-079)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

*asm*

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

**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.

T. M. Franklin Mayor

Diane Rauh City Clerk