

★ Roll Call Number

12.0935

Agenda Item Number

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Date June 11, 2012

**HOLD HEARING FOR CONVEYANCE OF  
VACATED SW 42<sup>ND</sup> STREET AND VACATED MAHASKA PARKWAY  
LOCATED SOUTH OF GLENVIEW DRIVE AND RIVER OAKS DRIVE TO  
SUE ANN CORNICK, TRUSTEE OF THE SUE ANN CORNICK REVOCABLE TRUST FOR \$200,  
TO KELLY S. STILES FOR \$400, AND TO SARAH R. WELLS FOR \$400**

**WHEREAS**, on February 22, 1982, by Roll Call No. 712, the City Council of the City of Des Moines passed Ordinance No. 10,076 vacating all of the Mahaska Parkway right-of-way in the vicinity of S.W. 33<sup>rd</sup> and S.W. 42<sup>nd</sup> Streets, and portions thereof have been sold to adjoining property owners as approved by City Council; and

**WHEREAS**, on March 15, 1982, by Roll Call No. 951, the City Council passed Ordinance No. 10,089 vacating all that part of Southwest 42<sup>nd</sup> Street in the vicinity of Glenview Drive and River Oaks Drive, and said property was thereafter leased to an adjoining property owner for driveway purposes as approved by City Council; and

**WHEREAS**, the owners of the real property abutting said vacated SW 42<sup>nd</sup> Street and vacated Mahaska Parkway located south of Glenview Drive and River Oaks Drive, more particularly described below ("Property"), have offered to the City of Des Moines the cumulative purchase price of \$1,000.00 for the purchase of such Property in order to incorporate it into their residential lots, which price reflects the fair market value of the Property as currently estimated by the City's Real Estate Division; and

**WHEREAS**, the City of Des Moines has no current or anticipated public need for the Property and the City will not be inconvenienced by the sale of said Property; and

**WHEREAS**, on May 21, 2012, by Roll Call No. 12-0781, it was duly resolved by the City Council that the conveyance of the Property be set down for hearing on June 11, 2012, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to convey the Property 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 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; and

**WHEREAS**, the existing lease agreements between the City and the adjoining owners for the Property, as approved on March 18, 2002 by Roll Call Nos. 02-741 and 02-742, must also be terminated effective upon closing on the sale of the Property.

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

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1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed conveyance of vacated 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 Property and the public would not be inconvenienced by conveyance of vacated Southwest 42<sup>nd</sup> Street and vacated Mahaska Parkway located south of Glenview Drive and River Oaks Drive, and said sale and conveyances to the adjoining owners and for the purchase prices listed below are hereby approved:

Parcel "A" (Additional property to 624 Glenview Dr), to Sue Ann Cornick, Trustee of the Sue Ann Cornick Revocable Trust for \$200:

Part of the vacated Right-of-Way of Southwest 42nd Street of Linden Heights, an Official Plat in the City of Des Moines, adjacent and east of Lot 43 of Linden Heights, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

COMMENCING at the Southeast corner of Section 12, Township 78 North, Range 25 West; THENCE N 89°43'22" W along the South line of said Section 12 a distance of 33.00 feet; THENCE N 00°12'18" E a distance of 86.85 feet to the POINT OF BEGINNING, said point also being on the East line of said Lot 43; THENCE N 00°12'18" E a distance of 174.71 feet to the point of curvature of a curve to the left with a radius of 30.00 feet, that has a long chord with bearing N 44°45'47" W and a length of 42.40 feet, THENCE on and along the arc 47.09 feet to the point of tangency, said point also being on the North line of said Lot 43; THENCE S 89°43'53" E a distance of 47.97 feet; THENCE S 00°12'18" W a distance of 204.62 feet; THENCE N 89°53'50" W a distance of 18.00 feet to the POINT OF BEGINNING, and containing 3,877 square feet, more or less.

Parcel "B" (Additional property to 736 SW 42nd St), to Kelly S. Stiles for \$400.00:

Part of the vacated Right-of-Way for Southwest 42nd Street of Linden Heights, an Official Plat in the City of Des Moines, also part of the vacated Right-of-Way of Southwest 42nd Street in Lot 15 of the Official Plat of Section 7-78-24, except W ½ of the NW ¼, W ½ of the E ½ of the NW ¼, SW ¼ of the SE ¼ and Lots 1, 3, 4 & 5 Pierce's Subdivision of the N ½ of the NE ¼, also part of Lot 15 of the Official Plat of Government Lots 3 and 4 in Section 18, Township 78 North, Range 24 West, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

COMMENCING at the Southeast corner of Section 12, Township 78 North, Range 25 West; THENCE S 89°21'34" E along the South line of said Section 7 a distance of 10.00 feet to the POINT OF BEGINNING; THENCE S 00°00'00" E a distance of 74.17 feet to the North Right-of-Way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; THENCE S 73°22'02" W along said North Right-of-Way line a distance of 10.44 feet to the West line of said Section 18; THENCE S 73°22'02" W a distance of 34.44 feet to the Southeast corner of Lot "C" of Linden Heights; THENCE N 00°00'00" E along the East line of said Lot "C" a distance of 87.28 feet to the South line of said Section 12; THENCE N 00°12'18" E a distance of 86.85 feet; THENCE S 89°53'50" E a distance of 18.00 feet; THENCE N 00°12'18" E a distance of 204.62 feet; THENCE S 89°43'53" E a distance of 15.00 feet to the West line of said Section 7; THENCE S 89°43'53" E

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a distance of 10.00 feet; THENCE S 00°12'18" W a distance of 291.60 feet to the POINT OF BEGINNING, and containing 12,325 square feet, more or less.

Parcel "C" (Additional property to 4130 River Oaks Drive) to Sarah R. Wells for \$400.00:

Part of the vacated Right-of-Way of Southwest 42nd Street in Lot A of River Oaks, an Official Plat of the City of Des Moines, and also part of the vacated Right-of-Way of Southwest 42nd Street in Lot 15 of the Official Plat of Section 7-78-24, except W ½ of the NW ¼, W ½ of the E ½ of the NW ¼, SW ¼ of the SE ¼ and Lots 1, 3, 4 & 5 Pierce's Subdivision of the N ½ of the NE ¼, and also part of Lot 15 of the Official Plat of Government Lots 3 and 4 in Section 18, Township 78 North, Range 24 West, and also part of Vacated Mahaska Parkway, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

COMMENCING at the Southeast corner of Section 12, Township 78 North, Range 25 West; THENCE S 89°21'34" E along the South line of said Section 7 a distance of 10.00 feet to the POINT OF BEGINNING; THENCE N 00°12'18" E a distance of 291.60 feet; THENCE S 89°43'53" E a distance of 30.00 feet to a point on the West line of Lot 19 of said River Oaks; THENCE S 00°12'18" W a distance of 273.15 feet to the Southwest corner of said Lot 19, THENCE N 73°22'02" E along the South line of said Lot 19 a distance of 52.24 feet; THENCE S 00°12'00" W a distance of 34.16 feet to a point on the South line of said Section 7, Township 78 North, Range 24 West; THENCE S 00°00'00" E a distance of 49.37 feet to the North Right-of-Way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; THENCE S 73°22'02" W along said North Right-of-Way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad a distance of 83.49 feet; THENCE N 00°00'00" W a distance of 74.17 feet to the POINT OF BEGINNING, and containing 15,012 square feet, more or less.

3. The Mayor is authorized and directed to sign the Offers to Purchase and the Quit Claim Deeds for each of the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. Upon proof of payment of publication and recording costs and consideration, the City Clerk is authorized and directed to forward the original of said Offers and Deeds, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded after closing.

5. Upon closing, the Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deeds, 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.

6. 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 Deeds and copies of the other documents to the grantees. After the receipt of the recorded documents from the Polk County Recorder, the Real Estate Division Manager shall mail the original Quit Claim Deeds to the grantees.

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7. The lease agreement between Sue Ann Cornick, Trustee of the Sue Ann Cornick Revocable Trust (formerly James M. Cornick and Sue A. Cornick) and the City of Des Moines, as approved on March 18, 2002 by Roll Call No. 02-742, and the lease agreement between Kelly Stiles and the City of Des Moines, as approved on March 18, 2002 by Roll Call No. 02-741 with assignment to Kelly Stiles thereafter approved by the City Properties Administrator in accordance with said agreement, shall both terminate effective immediately upon the respective closings on the sale of the Property to Sue Ann Cornick, Trustee of the Sue Ann Cornick Revocable Trust and Kelly Stiles; in the event that one or both closings does not occur, the applicable lease agreement(s) shall remain in full force and effect in accordance with the terms set forth in said agreement(s).

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

(Council Communication No. 12280)

Moved by Hensley to adopt

APPROVED AS TO FORM:

Glenna K. Frank
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, HENSLEY, GRIESS, MAHAFFEY, MEYER, MOORE, and 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 Council Mayor

Diane Rauh City Clerk