

★ Roll Call Number

12-1046

Agenda Item Number

59B

Date June 25, 2012

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HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING NORTH OF EUCLID AVENUE, BETWEEN 2ND AVENUE AND 3RD STREET, TO IOWA CVS PHARMACY, L.L.C FOR \$20,000

WHEREAS, on June 25, 2012, by Roll Call No. 12- 1045 , the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the north/south alley right-of-way lying north of Euclid Avenue, between 2nd Avenue and 3rd Street (“City Right-of-way”), hereinafter more fully described, be vacated; and

WHEREAS, Iowa CVS Pharmacy, L.L.C. is the purchaser of the properties locally known as 209 Euclid Avenue, 3608 2nd Avenue and 3612 2nd Avenue that abut such City Right-of-way and has offered to the City of Des Moines the purchase price of \$20,000 for the vacation and purchase of such Right-of-way described below for the purpose of allowing the alley to be incorporated with surrounding properties for development, which price reflects the fair market value of the City Right-of-way as currently estimated by the City’s Real Estate Division; and

WHEREAS, Iowa CVS Pharmacy, L.L.C. and the City Real Estate Division have negotiated an Offer to Purchase which includes, among other terms, closing subject to the condition that Iowa CVS Pharmacy, L.L.C. first closes on the purchase of and can demonstrates ownership of the abutting property, as well as other conditions included in the City Plan and Zoning Commission recommendation, if any; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and sold and the City will not be inconvenienced by the sale of said property; and

WHEREAS, on June 11, 2012, by Roll Call No. 12-0883, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-way be set down for hearing on June 25, 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:

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.

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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 a portion of the north/south alley right-of-way lying north of Euclid Avenue, between 2nd Avenue and 3rd Street, more specifically described as follows:

ALL THAT PORTION OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 8, 9, 10, 11 AND 12, BLOCK 19, HIGHLAND PARK, AN OFFICIAL PLAT, AND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 8, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the sale and conveyance of such right-of-way to Iowa CVS Pharmacy, L.L.C. for \$20,000, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the closing conditions set forth above and any Plan and Zoning Commission recommendations:

ALL THAT PORTION OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 8, 9, 10, 11 AND 12, BLOCK 19, HIGHLAND PARK, AN OFFICIAL PLAT, AND LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 8, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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 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 following closing.

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 following closing.

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 grantee.

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

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(Council Communication No. 12- 342)

Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank
Assistant City Attorney

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.

Diane Rauh

City Clerk

T. M. Franklin Council Mayor