

★ Roll Call Number

13-0072

Agenda Item Number

51

Date January 14, 2013

**HOLD HEARING ON LAND EXCHANGE AGREEMENT BETWEEN THE
JERRY JAY MILLER FAMILY TRUST AND THE CITY OF DES MOINES
FOR COMPARABLE PARCELS IN THE CENTRAL PLACE BUSINESS PARK
BETWEEN OHIO STREET AND THE DES MOINES RIVER LEVEE**

WHEREAS, Jacqueline Miller and Donald Steele, as Trustees of the Jerry Jay Miller Family Trust (herein "Miller Trust"), are the owners of property located along the north side of Jefferson Avenue between Ohio Street and the Central Place levee, locally known as 19, 21, 23 and 95 Jefferson Avenue (herein "Miller Trust parcels"), which property would be beneficial to the City for assemblage within the Central Place Business Park; and

WHEREAS, the City of Des Moines needs to acquire a permanent easement (previously referred to as a corrected permanent easement) for the Central Place levee upon property owned by Miller Trust; and

WHEREAS, the City of Des Moines also owns excess property in the vicinity of the Miller Trust parcels along the north side of and within Jefferson Avenue as vacated by Ordinance No. 13,822 and along the Central Place levee; and

WHEREAS, City staff and Miller Trust have negotiated a land exchange agreement by which Miller Trust will convey the Miller Trust parcels to the City for assemblage for the Central Place Business Park, and the permanent easement required for the Central Place levee, in exchange and as consideration for the City's conveyance to Miller Trust of the real property locally known as 17 Jefferson Avenue, a portion of the real property locally known as 13 Jefferson Avenue, a portion of Polk County District/Parcel Nos. 080/05836-000-000 and 080/05837-000-000, and previously vacated Jefferson Avenue, subject to reservation by the City upon a portion of said property of a permanent easement for the Central Place levee, with all properties being exchanged "as-is" and closing subject to environmental review if desired by either party; and

WHEREAS, the properties to be exchanged have been determined by the City's Real Estate Division to be comparable in value, condition, and use; and

WHEREAS, there is no known current or anticipated public need for the property proposed to be conveyed to Miller Trust, and the City will not be inconvenienced by the sale of said property, subject to reservation upon a portion thereof of permanent easement for levee purposes, and will benefit from acquisition and acceptance of the Miller Trust parcels and permanent easement; and

WHEREAS, on December 17, 2012, by Roll Call No. 12-1931, it was duly resolved by the City Council that the proposed conveyance and land exchange agreement be set down for hearing on January 14, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to convey said excess City-owned property pursuant to land exchange agreement was given as provided by law, setting forth the time and place for hearing on said proposal; and

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WHEREAS, in accordance with said notice, those interested in said proposed conveyance and agreement, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed conveyance of excess City-owned property pursuant to land exchange agreement as described herein are hereby overruled and the hearing is closed.

2. The conveyance of excess City-owned real property locally known as 17 Jefferson Avenue, a portion of the real property locally known as 13 Jefferson Avenue, a portion of Polk County District/Parcel Nos. 080/05836-000-000 and 080/05837-000-000, and vacated Jefferson Avenue, more specifically described as follows and subject to reservation upon a portion thereof of a permanent easement for levee purposes, to Jacqueline Miller and Donald Steele, as Trustees of the Jerry Jay Miller Family Trust, in exchange and as consideration for conveyance to the City of the real property locally known as 19, 21, 23 and 95 Jefferson Avenue as owned by Miller Trust, and a permanent easement for the Central Place levee upon property owned by Miller Trust, is hereby approved:

ALL OF LOT 13, BLOCK 4, ROLLINSON'S GARDEN ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA

AND

A PART OF VACATED JEFFERSON AVENUE AND A PART OF LOTS 15, 16 AND 17, BLOCK 4, ROLLINSON'S GARDEN ADDITION TO NORTH DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 15; THENCE NORTH 0°(DEGREES) 16'(MINUTES) 15"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT 15, A DISTANCE OF 103.74 FEET; THENCE SOUTH 51°06'20" EAST, 177.46 FEET; THENCE SOUTH 46°43'59" EAST, 61.12 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF VACATED JEFFERSON AVENUE; THENCE SOUTH 89°52'08" WEST ALONG THE SOUTH LINE OF SAID VACATED RIGHT OF WAY, 131.84 FEET TO A POINT OF INTERSECTION WITH THE PROJECTED EAST LINE OF SAID LOT 15; THENCE NORTH 0°17'57" WEST ALONG SAID PROJECTED EAST LINE, 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 15; THENCE SOUTH 89°52'08" WEST ALONG THE SOUTH LINE OF SAID LOT 15, A DISTANCE OF 50.04 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.27 ACRES (11894 S.F.)

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3. The Mayor is authorized and directed to sign the Land Exchange Agreement and, prior to closing, the Quit Claim Deed for the exchange as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to deliver the aforementioned documents to the Real Estate Division Manager for recording and closing purposes, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing.
4. The City Clerk is authorized and directed to endorse the approval and acceptance of this Council upon the deed and easement conveyance to the City from Miller Trust, and upon other related real estate documents in the form approved by the City's Legal Department, and to deliver the aforementioned documents to the Real Estate Division Manager for recording and closing purposes.
5. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Land Exchange Agreement to confirm compliance prior to closing; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreement, following approval of the City's Legal Department as to form; to proceed to closing in accordance with the terms set forth herein and in the Agreement; and, if needed, to proceed with and execute documents pertaining to the termination of the Agreement, following approval of the City's Legal Department as to form.
6. There are no proceeds associated with this land exchange.

(Council Communication No. 13-008)

Moved by Griess to adopt

APPROVED AS TO FORM:

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

AW

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

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