★ **Roll Call Number**
13-0145

Agenda Item Number
46

Date January 28, 2013

HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF EXCESS SE 18TH STREET RIGHT-OF-WAY TO AMEND PACKING COMPANY FOR $5,450

WHEREAS, on October 25, 2010, by Roll Call No. 10-1786, the City Council of the City of Des Moines authorized the acquisition of the necessary right-of-way for a portion of the Southeast Connector Project; and

WHEREAS, the City, pursuant to the use of eminent domain and settlement, has acquired real property interests needed for the Southeast Connector project from Amend Packing Company, owner of the real property locally known as 410 SE 18th Street; and

WHEREAS, a portion of City-owned SE 18th Street right-of-way immediately east of and adjoining the Amend Packing Company property has been and is currently used by Amend Packing Company for parking and customer access purposes to its property; and

WHEREAS, such portion of City-owned SE 18th Street right-of-way has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of the remaining SE 18th Street right-of-way, to be excess right-of-way, and to be no longer needed for City or public purposes or for the Southeast Connector project improvements; and

WHEREAS, Amend Packing Company has offered to the City of Des Moines the purchase price of $5,450 for the vacation and purchase of a fee simple interest in the excess SE 18th Street right-of-way adjoining 410 SE 18th Street, which excess right-of-way is legally described below, as part of the property acquisition settlement and for the purpose of resolving the existing parking area encroachment, which purchase price reflects the 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 sold, the City will not be inconvenienced by the vacation and sale of said right-of-way subject to retention by the City of a permanent easement for access to retaining wall and underground utilities north of said right-of-way, and City staff report and recommend that the proposed vacation be approved; and

WHEREAS, on January 14, 2013, by Roll Call No. 13-0028, 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 January 28, 2013, 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:

Date January 28, 2013

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 a portion of excess SE 18th Street right-of-way adjoining the real property locally known as 410 SE 18th Street, more specifically described as follows:

A PORTION OF SOUTHEAST 18TH STREET RIGHT OF WAY ADJOINING LOT 3 OF THE OFFICIAL PLAT OF LOT 45, BROOKS & COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH 00°(DEGREES) 08'(MINUTES) 48"(SECONDS) WEST, 183.75 FEET ON THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°34'03" EAST, 37.37 FEET; THENCE SOUTH 00°08'48" EAST, 157.56 FEET; THENCE NORTH 89°37'10" WEST, 25.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES MORE OR LESS.

3. That the sale and conveyance of such right-of-way, as vacated and as described below, to Amend Packing Company for $5,450, subject to retention by the City of a permanent easement for access to retaining wall and underground utilities north of said right-of-way, be and is hereby approved:

A VACATED PORTION OF SOUTHEAST 18TH STREET RIGHT OF WAY ADJOINING LOT 3 OF THE OFFICIAL PLAT OF LOT 45, BROOKS & COS ADDITION TO THE CITY OF DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 3; THENCE NORTH 00°(DEGREES) 08'(MINUTES) 48"(SECONDS) WEST, 183.75 FEET ON THE WEST RIGHT OF WAY LINE OF SOUTHEAST 18TH STREET; THENCE SOUTH 43°34'03" EAST, 37.37 FEET; THENCE SOUTH 00°08'48" EAST, 157.56 FEET; THENCE NORTH 89°37'10" WEST, 25.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.10 ACRES MORE OR LESS; AND THE NORTH 3.35 FEET OF THE ABOVE DESCRIBED PARCEL IS SUBJECT TO A PERMANENT EASEMENT FOR A RETAINING WALL AND UNDERGROUND UTILITIES.

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.

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5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration, 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.

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 Deed and copies of the other documents to the grantee.

8. The proceeds from the sale of this property shall be deposited into the following account: 2012-13 CIP, Street Improvements - Page 36, SE Connector – SE 14th Street to SE 30th Street, STR249.

(Council Communication No. 13- 023)

Moved by Meyer 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	6			1

MOTION CARRIED APPROVED

T. M. Franklin Cownie 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