



Roll Call Number

13-0338

Agenda Item Number

35

Page 1

Date February 25, 2013

**HOLD HEARING FOR VACATION AND CONVEYANCE OF THE
WEST 15 FEET OF 24TH DRIVE BETWEEN FRANKLIN AVENUE
AND WASHINGTON AVENUE TO ERICH J. RIESENBERG,
TRUSTEE OF THE ERICH J. RIESENBERG LIVING TRUST, FOR \$350**

WHEREAS, on November 5, 2012, by Roll Call No. 12-1699, the City Council received a recommendation from the City Plan and Zoning Commission that the west 15 feet of 24th Drive lying between Franklin Avenue and Washington Avenue be vacated, subject to reservation fence location and design requirements; and

WHEREAS, Erich J. Riesenber, as Trustee of the Erich J. Riesenber Living Trust Dated June 8, 2002, is the owner of the real property locally known as 1700 24th Drive that abuts said right-of-way, and has offered to the City of Des Moines the purchase price of \$350.00 for the vacation and purchase of a fee simple interest in such excess right-of-way as legally described below, for fence construction and residential side yard expansion, which purchase price reflects the restricted use 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, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on February 11, 2013, by Roll Call No. 13-0204, 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 February 25, 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:

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 excess City-owned right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the west 15 feet of 24th Drive between Franklin Avenue and Washington Avenue, more specifically described as follows:

THE WEST 15.0 FEET OF 24TH DRIVE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOTS 37 THROUGH 48, KIRKWOOD GLEN, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated right-of-way, as described below, to Erich J. Riesenber, as Trustee of the Erich J. Riesenber Living Trust Dated June 8, 2002, for \$350.00 and in accordance with the requirements of the Plan and Zoning Commission recommendation, is hereby approved:

★ Roll Call Number

13-0338

Agenda Item Number

35

Dispositions: Page 2

Date February 25, 2013

THE VACATED WEST 15.0 FEET OF 24TH DRIVE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOTS 37 THROUGH 48, KIRKWOOD GLEN, AN OFFICIAL PLAT, 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 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.

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 Quit Claim 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: Property Maintenance Fund, FUND: SP767, ORG: ENG980500.

(Council Communication No. 13-080)

Moved by Giess to adopt.

APPROVED AS TO FORM:

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

BSW

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