

★ Roll Call Number

13-0397

Agenda Item Number

18

Date March 11, 2013

**SET HEARING TO CORRECT VACATION AND CONVEYANCE OF A PORTION OF EXCESS  
SE 18<sup>TH</sup> STREET RIGHT-OF-WAY TO AMEND PACKING COMPANY FOR \$5,450**

**WHEREAS**, on January 28, 2013, by Roll Call No. 13-0147, the City Council passed Ordinance No. 15,158, intending to vacate a portion of Southeast 18<sup>th</sup> Street right-of-way adjoining 410 SE 18<sup>th</sup> Street; and

**WHEREAS**, on January 28, 2013, by Roll Call No. 13-0145, the City Council further intended to approve the sale and conveyance of such vacated Southeast 18<sup>th</sup> Street right-of-way to adjoining owner 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, as part of a property acquisition settlement between the City and Amend Packing Company for the Southeast Connector project and for the purpose of resolving an existing parking area encroachment; and

**WHEREAS**, upon recording of Ordinance No. 15,158, the Polk County Auditor determined that the legal description of the Southeast 18<sup>th</sup> Street right-of-way included in Ordinance No. 15,158 contained an error which must be corrected in order to effectuate the proposed vacation and conveyance to Amend Packing Company; and

**WHEREAS**, the portion of City-owned SE 18<sup>th</sup> Street right-of-way proposed to be vacated and conveyed has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of the remaining SE 18<sup>th</sup> 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**, 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.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of Southeast 18th Street right-of-way adjoining the real property locally known as 410 SE 18<sup>th</sup> Street, which proposed vacation area is more specifically described as follows, for the purpose of correcting the legal description included in Ordinance No. 15,158:

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, 36.37 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.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines further proposes to sell such vacated right-of-way, as specifically described below, to Amend Packing Company for \$5,450.00, subject to retention by the City of a permanent easement for access to retaining wall and underground

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utilities north of said right-of-way, and for the purpose of correcting the legal description included in Roll Call No. 13-0145:

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, 36.37 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.

3. That a public hearing will be held on March 25, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposals and any other(s) submitted prior to or during the public hearing.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
5. 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 14<sup>th</sup> Street to SE 30<sup>th</sup> Street, STR 249.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

*rsu*

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

T. M. Franklin 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