

★ Roll Call Number

13-0937

Agenda Item Number

49

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Date June 10, 2013

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF SCOTT AVENUE  
RIGHT-OF-WAY TO KEMIN HOLDINGS, LC FOR \$10,587**

**WHEREAS**, on May 20, 2013, by Roll Call No. 13-0793, the City Council received a recommendation from the City Plan and Zoning Commission that the north twelve feet (12') of Scott Avenue adjoining the properties at 1830, 1900, 1916, and 1920 Scott Avenue between a point approximately 300 feet east of Southeast 18<sup>th</sup> Street to Southeast 20<sup>th</sup> Street ("City right-of-way") be vacated, subject to reservation of easement for any existing utilities currently located therein; and

**WHEREAS**, Kemin Holdings, LC ("Kemin") is the owner of the real properties locally known as 1830, 1900, 1916 and 1920 Scott Avenue which abut the City right-of-way, and Kemin has offered to the City of Des Moines the purchase price of \$10,587.00 for the vacation and purchase of a fee simple interest in the City right-of-way, as legally described below, 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, and the City will not be inconvenienced by the vacation and sale of said right-of-way; and

**WHEREAS**, on May 20, 2013, by Roll Call No. 13-0794, 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 June 10, 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, any 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 the north twelve feet (12') of Scott Avenue adjoining the properties at 1830, 1900, 1916, and 1920 Scott Avenue between a point approximately 300 feet east of Southeast 18<sup>th</sup> Street to Southeast 20<sup>th</sup> Street, more specifically described as follows, and said vacation is hereby approved:

THE NORTH TWELVE (12) FEET OF THE EXISTING EIGHTY (80) FOOT RIGHT-OF-WAY AS PRESENTLY ESTABLISHED OF SCOTT AVENUE LYING BETWEEN THE EXTENSION OF THE EAST RIGHT-OF-WAY LINE OF THE VACATED SE 18TH COURT AS PREVIOUSLY ESTABLISHED AND THE EXTENSION OF THE WEST RIGHT-OF-WAY LINE OF SE 20TH STREET AS PRESENTLY ESTABLISHED MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Date June 10, 2013

BEGINNING AT THE SOUTHEAST CORNER OF LOT 11, CHARTER OAK ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE NORTH 89°(DEGREES)47'(MINUTES)15"(SECONDS) WEST, A DISTANCE OF 882.26 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SCOTT AVENUE AS PRESENTLY ESTABLISHED TO THE SOUTHWEST CORNER OF LOT 54 OF SAID CHARTER OAK ADDITION; THENCE SOUTH 00°05'02" EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 89°47'15" EAST, A DISTANCE OF 882.24 FEET; THENCE NORTH 00°00'02" EAST A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10,587 SQUARE FEET OR 0.243 ACRES OF LAND MORE OR LESS.

3. That the sale and conveyance of such vacated right-of-way as described below to Kemin Holdings, LC for \$10,587, together with payment by Kemin Holdings, LC of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to reservation of easement for existing utilities:

THE VACATED NORTH TWELVE (12) FEET OF THE EXISTING EIGHTY (80) FOOT RIGHT-OF-WAY AS PRESENTLY ESTABLISHED OF SCOTT AVENUE LYING BETWEEN THE EXTENSION OF THE EAST RIGHT-OF-WAY LINE OF THE VACATED SE 18TH COURT AS PREVIOUSLY ESTABLISHED AND THE EXTENSION OF THE WEST RIGHT-OF-WAY LINE OF SE 20TH STREET AS PRESENTLY ESTABLISHED MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 11, CHARTER OAK ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE NORTH 89°(DEGREES)47'(MINUTES)15"(SECONDS) WEST, A DISTANCE OF 882.26 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SCOTT AVENUE AS PRESENTLY ESTABLISHED TO THE SOUTHWEST CORNER OF LOT 54 OF SAID CHARTER OAK ADDITION; THENCE SOUTH 00°05'02" EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 89°47'15" EAST, A DISTANCE OF 882.24 FEET; THENCE NORTH 00°00'02" EAST A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10,587 SQUARE FEET OR 0.243 ACRES OF LAND MORE OR LESS.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance to Kemin Holdings, LC, as 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 proceed 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.

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

(Council Communication No.13- 289 )

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          | 7    |          |      |        |
| MOTION CARRIED |      | APPROVED |      |        |

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