

★ Roll Call Number

13-1023

Agenda Item Number

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Date June 24, 2013

**HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF THE
NORTH/SOUTH AND EAST/WEST ALLEY RIGHT-OF-WAY ADJOINING
501 GRAND AVENUE TO POLK COUNTY FOR \$1**

WHEREAS, Polk County, Iowa ("Polk County") is the owner of the real property locally known as 501 Grand Avenue, formerly used as the Polk County Convention Center; and

WHEREAS, Polk County has requested the vacation of the north/south and east/west alley right-of-way adjoining 501 Grand Avenue, and requested that the City convey said right-of-way in fee simple to Polk County in accordance with Iowa Code Section 364.7(3) for the public purposes of property assemblage for public health and welfare, redevelopment, and use as consideration for property acquisition for County Courthouse operations; and

WHEREAS, Polk County and the City have negotiated the following conditions of the proposed conveyance:

- (1) as a condition precedent to closing, the City will receive, by donation to the City, a storm sewer easement across real property locally known as 541 6th Avenue, Des Moines, in exchange and as partial consideration for the conveyance to Polk County, which easement shall be in form approved by the City Real Estate Division and Legal Department; and
- (2) the City will reserve a storm sewer easement across a portion of the property conveyed to Polk County; and
- (3) the deed conveying the property to Polk County will include a usage restricting limiting use of the property to redevelopment for public health and welfare, with such redevelopment to include but not be limited to construction of curblin bumpouts and a community room for use by civic groups; and
- (4) the deed conveying the property to Polk County also will include a reversionary interest by which the property will revert to the City in the event that the property is not redeveloped for such public purposes within five (5) years of the date of said deed; and

WHEREAS, the City alley 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 on public access, and the City will not be inconvenienced by the vacation and sale of said alley right-of-way; and

WHEREAS, on June 10, 2013, by Roll Call No. 13-0894, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-way be set down for hearing on June 24, 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

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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 and all 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 the north/south and east/west alley right-of-way adjoining 501 Grand Avenue, more specifically described as follows:

ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING SOUTH OF EASTERLY EXTENSION OF THE NORTH LINE OF LOT 3 IN C.H. ATKIN'S SUBDIVISION OF LOT 13 IN THE OFFICIAL PLAT OF BLOCK 1, GRIMMEL'S ADDITION, AND LYING NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NORTH 9 FEET OF LOT 1, ALHAMBRA NO.2, AN OFFICIAL PLAT;

AND

A TRIANGULAR PIECE OF LAND LOCATED AT THE SOUTHEAST CORNER OF LOT 2, ALHAMBRA NO.2, HAVING A BEGINNING POINT ON THE SOUTH LINE OF SAID LOT 2 AND 5 FEET WEST OF THE SOUTHEAST CORNER, THENCE EAST 5 FEET TO THE SOUTHEAST CORNER, THENCE NORTH 8 FEET ON THE EAST LINE OF SAID LOT 2, THENCE SOUTHWEST IN A STRAIGHT LINE TO THE POINT OF BEGINNING OF SAID TRIANGULAR PIECE OF LAND;

AND

ALL THAT PART OF THE EAST/WEST ALLEY LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 2, ALHAMBRA NO.2, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 2;

AND

A PORTION OF LOT 1, ALHAMBRA NO.2, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTHERLY A DISTANCE OF 9 FEET ALONG THE EAST LINE OF SAID LOT 1, THENCE SOUTHWESTERLY A DISTANCE OF 40 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID LOT 1, THENCE WESTERLY TO A POINT ON THE NORTH LINE OF SAID LOT 1, POINT BEING 72 FEET SOUTHWESTERLY FROM THE NORTHEAST CORNER OF SAID LOT 1, THENCE NORTHEASTERLY A DISTANCE OF 72 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING;

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ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the conveyance of such City-owned property to Polk County, in accordance with Iowa Code Section 364.7(3) for the public purposes of property assemblage for public health and welfare, redevelopment, and use as consideration for property acquisition for County Courthouse operations, be and is hereby approved subject to the conditions set forth herein above:

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING SOUTH OF EASTERLY EXTENSION OF THE NORTH LINE OF LOT 3 IN C.H. ATKIN'S SUBDIVISION OF LOT 13 IN THE OFFICIAL PLAT OF BLOCK I, GRIMMEL'S ADDITION, AND LYING NORTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NORTH 9 FEET OF LOT 1, ALHAMBRA NO.2, AN OFFICIAL PLAT;

AND

A VACATED TRIANGULAR PIECE OF LAND LOCATED AT THE SOUTHEAST CORNER OF LOT 2, ALHAMBRA NO.2, HAVING A BEGINNING POINT ON THE SOUTH LINE OF SAID LOT 2 AND 5 FEET WEST OF THE SOUTHEAST CORNER, THENCE EAST 5 FEET TO THE SOUTHEAST CORNER, THENCE NORTH 8 FEET ON THE EAST LINE OF SAID LOT 2, THENCE SOUTHWEST IN A STRAIGHT LINE TO THE POINT OF BEGINNING OF SAID TRIANGULAR PIECE OF LAND;

AND

ALL THAT PART OF THE VACATED EAST/WEST ALLEY LYING WEST OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 2, ALHAMBRA NO.2, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 2;

AND

A PORTION OF VACATED LOT 1, ALHAMBRA NO.2, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTHERLY A DISTANCE OF 9 FEET ALONG THE EAST LINE OF SAID LOT 1, THENCE SOUTHWESTERLY A DISTANCE OF 40 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID LOT 1, THENCE WESTERLY TO A POINT ON THE NORTH LINE OF SAID LOT 1, POINT BEING 72 FEET SOUTHWESTERLY FROM THE NORTHEAST CORNER OF SAID LOT 1, THENCE NORTHEASTERLY A DISTANCE OF 72 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. That the voluntary acquisition by donation to the City of a permanent storm sewer easement upon the real property locally known as 541 6th Avenue, Des Moines, is hereby authorized and approved.

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5. The Mayor is authorized and directed to sign the Quit Claim Deed and any other necessary real estate documents for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to endorse the approval and acceptance of the City Council upon the conveyance documents to the City of the easement for storm sewer upon 541 6th Avenue, and upon all related real estate documents.

6. Upon final passage of an ordinance vacating said right-of-way, the City Clerk is authorized and directed to forward the original of 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.

7. Upon fulfillment by Polk County of the closing condition as set forth herein above, 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 following closing.

8. 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.

9. There will be no proceeds associated with the conveyance of this property.

(Council Communication No. 13- 319)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

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

MOTION CARRIED 7 APPROVED T.M. Franklin Council 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