

Date October 7, 2013

**SET HEARING FOR VACATION AND CONVEYANCE OF A SEGMENT OF UNDEVELOPED FRANKLIN AVENUE BETWEEN 24<sup>TH</sup> DRIVE AND 26<sup>TH</sup> STREET TO ERICH J. RIESENBERG, TRUSTEE OF THE ERICH J. RIESENBERG LIVING TRUST, FOR \$375**

**WHEREAS**, on July 29, 2013, by Roll Call No. 13-1196, the City Council received a recommendation from the City Plan and Zoning Commission that a segment of undeveloped Franklin Avenue from a point approximately 90 feet west of 24<sup>th</sup> Drive to a point approximately 25 feet east of 26<sup>th</sup> Street (“City Right-of-Way”) be vacated, subject to the provision of any necessary easements for existing utilities until such time as they are relocated; 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 2519 Franklin Avenue, 2521 Franklin Avenue and Tax Parcel 080/00282-001-000 that adjoins said City Right-of-Way, and has offered to the City of Des Moines the purchase price of \$375.00 for the vacation and purchase of a fee simple interest in such excess Right-of-Way as legally described below, in order to incorporate the property into the buyer’s adjoining properties, which purchase price reflects the fair market value of the City Right-of-Way 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 City Right-of-Way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

**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 segment of undeveloped Franklin Avenue from a point approximately 90 feet west of 24<sup>th</sup> Drive to a point approximately 25 feet east of 26<sup>th</sup> Street, more specifically described as follows:

ALL THAT PART OF FRANKLIN AVENUE RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOTS 16 AND 17, ALICE BRIAR, AN OFFICIAL PLAT, AND LYING SOUTH OF AND ADJOINING THE WEST ½ OF LOT 4 AND ALL OF LOT 5 IN C. H. ATKIN’S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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 legally described below, to Erich J. Riesenber, as Trustee of the Erich J. Riesenber Living Trust Dated June 8, 2002, for \$375.00:

ALL THAT PART OF VACATED FRANKLIN AVENUE RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOTS 16 AND 17, ALICE BRIAR, AN OFFICIAL PLAT, AND LYING SOUTH OF AND ADJOINING THE WEST ½ OF LOT 4 AND ALL OF LOT 5 IN C. H. ATKIN’S SUBDIVISION OF LOT 31 OF THE OFFICIAL PLAT OF SECTION 33, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

★ Roll Call Number

13-1556

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3. That a public hearing will be held on October 21, 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. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Mahaflay to adopt.

APPROVED AS TO FORM:

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

*BN*

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

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