

Date December 9, 2013

SET HEARING TO CORRECT VACATION AND CONVEYANCE OF A DEAD END SEGMENT OF SOUTHWEST 11<sup>TH</sup> STREET SOUTH OF KIRKWOOD AVENUE TO DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT FOR \$1

WHEREAS, on October 21, 2013, by Roll Call No. 13-1683, the City Council passed Ordinance No. 15,232, intending to vacate a dead end segment of Southwest 11<sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue ("City Right-of-Way"); and

WHEREAS, on October 21, 2013, by Roll Call No. 13-1681, the City Council further intended to approve the conveyance of such vacated City Right-of-Way to adjoining owner Des Moines Independent Community School District ("Des Moines Public Schools") in accordance with Iowa Code Section 364.7(3) for the public purpose of property assemblage with Lincoln High School's Hutchens Stadium to allow for the stadium's bleachers that currently encroach onto the City Right-of-Way; and

WHEREAS, upon recording the Quit Claim Deed transferring the property to Des Moines Public Schools, the Polk County Auditor determined that the legal description of the City Right-of-Way as set forth in the Ordinance and Deed contained a scrivener's error which must be corrected in order to effectuate the proposed vacation and conveyance to the Des Moines Public Schools; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated and conveyed, and the City will not be inconvenienced by the vacation and conveyance 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 dead end segment of Southwest 11<sup>th</sup> Street from Kirkwood Avenue to a point approximately 137 feet south of Kirkwood Avenue, more specifically described as follows, for the purpose of correcting the legal description included in Ordinance No. 15,232:

ALL THAT PART OF THE EAST 25 FEET OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE) WEST OF AND ADJOINING LOT 63, IN KIRKWOOD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THE EAST 25 FEET OF THE SOUTH 137 FEET OF LOT 19 IN THE OFFICIAL PLAT OF SECTION 16, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., SAID AREA ALSO BEING THE WEST 25' OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That, if the City Council first decides to vacate the above-described right-of-way, the City of Des Moines proposes to convey such vacated right-of-way, legally described as follows, to the Des Moines Independent Community School District in accordance with Iowa Code Section 364.7(3), for the public purpose of property

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assemblage with Lincoln High School's Hutchens Stadium, and for the purpose of correcting the legal description included in Roll Call No. 13-1681:

ALL THAT PART OF THE VACATED EAST 25 FEET OF SW 11<sup>TH</sup> STREET RIGHT OF WAY (FORMERLY KNOWN AS MOON AVENUE) WEST OF AND ADJOINING LOT 63, IN KIRKWOOD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

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3. That a public hearing will be held on December 23, 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. There will be no proceeds associated with the conveyance of this property.

Moved by Hensley 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	✓			
MOORE	✓			
VOSS	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>T. M. Franklin</u> 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