

13-2004

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Date December 23, 2013

HOLD HEARING TO CORRECT VACATION AND CONVEYANCE OF A DEAD END SEGMENT OF SOUTHWEST 11TH 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 11th 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; and

WHEREAS, on December 9, 2013, by Roll Call No. 13-1892, 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 December 23, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey the City 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 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 dead end segment of Southwest 11th Street from

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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 11TH 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 5TH P.M., SAID AREA ALSO BEING THE WEST 25' OF SW 11TH 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.

3. That the conveyance of such City-owned property to Des Moines Independent Community School District in accordance with Iowa Code Section 364.7(3), for the public purpose of property assemblage with Lincoln High School's Hutchens Stadium, and for the purpose of correcting the legal description included in Roll Call No. 13-1681, be and is hereby approved:

ALL THAT PART OF THE VACATED EAST 25 FEET OF SW 11TH 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 VACATED 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 5TH P.M., SAID AREA ALSO BEING THE WEST 25' OF SW 11TH 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.

4. The Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance 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, 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.

6. 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.

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- 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.
- 8. 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

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

MOTION CARRIED T. M. Franklin APPROVED 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