



Roll Call Number

14-1164

Agenda Item Number

43 B

Date July 28, 2014

HEARING FOR VACATION OF PORTIONS OF SW 6TH STREET
RIGHT-OF-WAY ADJOINING 300 SW 6TH STREET AND CONVEYANCE OF SUCH
RIGHT-OF-WAY AND OTHER ADJOINING CITY-OWNED PROPERTY TO
JB DOORS PARTNERSHIP FOR \$71,000

WHEREAS, on July 28, 2014, by Roll Call No. 14-1163, the City Council received and filed a recommendation from the City's Plan and Zoning Commission to deny a request by JB Doors Partnership (owner) that portions of SW 6th Street right-of-way adjoining 300 SW 6th Street be vacated; and

WHEREAS, JB Doors Partnership is the owner of the property locally known as 300 SW 6th Street that abuts portions of SW 6th Street right-of-way ("City Right-of-Way"), and has offered to the City of Des Moines the purchase price of \$71,000.00 for the vacation and purchase of the City Right-of-Way and other adjoining City-owned property, as described below, for construction of a parking lot, which price reflects the restricted-use fair market value of the property as determined by an independent appraisal; and

WHEREAS, the terms of the proposed sale include, among other terms, provisions that: (1) use of the property is subject to easement for existing public utilities; (2) the property is subject to a no-build restriction prohibiting improvements other than parking lot and associated improvements, which restriction can be removed, upon resolution of the City Council, following appraisal of the property and payment by the buyer of the unrestricted fair market value thereof less the purchase price already paid; (3) provision of a public access easement upon the property for pedestrian traffic generally connecting SW 6th Street with the West Martin Luther King Jr. Parkway sidewalk; (4) use of the property is undertaken in accordance with the conceptual site sketch attached to the Offer to Purchase and a site plan approved administratively by the City; and (5) any parking lot frontage along SW 5th Street, West Martin Luther King Jr. Parkway and SW 7th Street on the property shall have a perimeter ornamental metal fence; 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, or for the adjoining City-owned property proposed to be sold, and the City will not be inconvenienced by the sale of said property; and

WHEREAS, on July 14, 2014, by Roll Call No. 14-1055, it was duly resolved by the City Council that the proposed vacation of City Right-of-Way and conveyance of the City Right-of-Way and conveyance of the adjoining City-owned property be set down for hearing on July 28, 2014, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate public right-of-way and convey such City Right-of-Way and adjoining City-owned property was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, 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.



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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, the objections to said proposed vacation and conveyance of public right-of-way and conveyance of City-owned property, 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 portions of SW 6th Street right-of-way adjoining 300 SW 6th Street, legally described as follows, and said vacation is hereby approved:

AN IRREGULAR SHAPED PART OF SW 6TH STREET, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 5, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA; THENCE NORTH 15° (DEGREES) 19' (MINUTES) 55" (SECONDS) WEST ALONG THE EASTERLY LINE OF BLOCK 7, 47.35 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR. PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°57'04" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 33.13 FEET TO THE CENTERLINE OF SW 6TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE SOUTH 15°19'55" EAST ALONG SAID CENTERLINE, 71.95 FEET; THENCE SOUTH 74°16'50" WEST, 33.00 FEET; THENCE NORTH 15°19'55" WEST, 27.91 FEET TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 2,428 SQUARE FEET .

3. That the sale and conveyance of such vacated right-of-way and other adjoining City-owned property, as legally described below, to JB Doors Partnership for \$71,000, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved subject to the conditions set forth hereinabove and in the Offer to Purchase:

A PART OF LOTS 3, 4, AND 5, BLOCK 7, FORT DES MOINES, AN OFFICIAL PLAT, AND THE INTERVENING VACATED ALLEY HEREIN DESCRIBED, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 5; THENCE NORTH 15° (DEGREES) 19' (MINUTES) 55" (SECONDS) WEST ALONG THE EASTERLY LINE OF BLOCK 7, 19.81 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°20'52" WEST, 245.56 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SW 7TH ST. AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 15°23'20" WEST ALONG SAID RIGHT OF WAY LINE, 42.08 FEET; THENCE NORTH 41°49'44" EAST ALONG SAID RIGHT OF WAY LINE, 15.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR. PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°59'33" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 233.44 FEET TO THE EASTERLY LINE OF SAID LOT 5; THENCE SOUTH 15°19'55" EAST ALONG THE EASTERLY LINE OF SAID LOT 5, 27.54 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 9,678 SQUARE FEET.

AND

A PART OF VACATED ELM STREET RIGHT OF WAY ADJOINING BLOCK 7, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID BLOCK 7; THENCE SOUTH 15° (DEGREES) 19' (MINUTES) 55" (SECONDS) EAST ALONG THE SOUTHERLY EXTENSION OF THE EASTERLY LINE OF SAID BLOCK 7, 27.91 FEET TO THE



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SOUTHERLY LINE OF THE STREET RIGHT OF WAY VACATED IN ORDINANCE 13,884, BOOK 8663 PAGE 524; THENCE SOUTH 74°16'50" WEST ALONG SAID LINE, 233.51 FEET; THENCE NORTH 60°33'15" WEST, 16.92 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SW 7TH ST. AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 15°23'20" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, 16.00 FEET TO THE SOUTHERLY LINE SAID BLOCK 7; THENCE NORTH 74°18'06" EAST ALONG THE SOUTHERLY LINE OF SAID BLOCK 7, 245.54 FEET, TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 6,791 SQ. FT.

AND

AN IRREGULAR SHAPED PART OF VACATED SW 6TH STREET, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 5, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA; THENCE NORTH 15° (DEGREES) 19' (MINUTES) 55" (SECONDS) WEST ALONG THE EASTERLY LINE OF BLOCK 7, 47.35 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR. PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°57'04" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 33.13 FEET TO THE CENTERLINE OF SW 6TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE SOUTH 15°19'55" EAST ALONG SAID CENTERLINE, 71.95 FEET; THENCE SOUTH 74°16'50" WEST, 33.00 FEET; THENCE NORTH 15°19'55" WEST, 27.91 FEET TO THE POINT OF BEGINNING; CONTAINING APPROXIMATELY 2,428 SQUARE FEET .

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyances 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 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.
6. In accordance with the terms set forth in the Offer to Purchase, the Real Estate Division Manager is authorized and directed to close on the sale and 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.
8. The proceeds associated with the sale of this property will be deposited into the following accounts:
 - (a) 2014-15 CIP, Street Improvements - 15, Fed Title-23 Land Sales, ST500 - \$36,500
 - (b) Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090 - \$34,500

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(Council Communication No. 14-367)

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	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
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