

★ Roll Call Number  
15-0538

Agenda Item Number  
48

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Date March 23, 2015

**HOLD HEARING FOR VACATION AND CONVEYANCE OF THE EAST/WEST ALLEY RIGHT-OF-WAY IN THE BLOCK BOUNDED BY FOREST AVENUE, INDIANA AVENUE, 3<sup>RD</sup> STREET AND 4<sup>TH</sup> STREET TO FOREST AVENUE OUTREACH FOR \$150**

**WHEREAS**, on December 8, 2014, by Roll Call No. 14-1887, the City Council referred a request for vacation of the east-west alley right-of-way in the vicinity of 334 Forest Avenue to the Community Development Department and Plan and Zoning Commission for review and recommendation as a City-initiated vacation request; and

**WHEREAS**, on January 26, 2015, by Roll Call No. 15-0101, City Council adopted a recommendation from the City Plan and Zoning Commission approving a request for the vacation of the east-west alley right-of-way in the vicinity of 334 Forest Avenue, subject to the reservation of easements for all existing utilities in place until such time as they are relocated, and reservation of right of entry for servicing same; and

**WHEREAS**, Forest Avenue Outreach, owner of 334 Forest Avenue, Ralph Chiodo, II, President, has offered to the City of Des Moines the total purchase price of \$150.00 for the purchase of the vacated alley right-of-way for incorporation into the adjoining property in order to allow for driveway access to the south end of 334 Forest Avenue, which price reflects the fair market value of said vacated alley 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; and

**WHEREAS**, on March 9, 2015, by Roll Call No. 15-0385, it was duly resolved by the City Council that the proposed vacation and conveyance of the City alley right-of-way be set down for hearing on March 23, 2015, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate and convey the City alley 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 City Council direction, those interested in the 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of the City alley right-of-way, as described herein, are hereby overruled and the hearing is closed.



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2. There is no public need or benefit for the alley right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of the east-west alley right-of-way in the vicinity of 334 Forest Avenue, legally described as follows, and said vacation is hereby approved:

ALL THAT PART OF THE EAST/WEST ALLEY LYING SOUTH OF AND ADJOINING LOTS 29, 30 AND 31, RUTHERFURD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2005 SQUARE FEET.

3. The proposed sale of such vacated right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, and said conveyance is hereby approved:

To: Forest Avenue Outreach  
For: \$150.00

ALL THAT PART OF THE VACATED EAST/WEST ALLEY LYING SOUTH OF AND ADJOINING LOTS 29, 30 AND 31, RUTHERFURD HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 2005 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the consideration, the City Clerk 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 Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

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.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and a copy of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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(Council Communication No. 15145 )

Moved by Gray to adopt.

APPROVED AS TO FORM:

[Signature]

Cori Kuhn Coleman
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

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.

[Signature: Diane Rauh]

City Clerk

MOTION CARRIED APPROVED
T.M. Franklin Council Mayor