



Roll Call Number

15-1542

Agenda Item Number

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Date September 14, 2015

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**HOLD HEARING TO CORRECT CONVEYANCE OF PREVIOUSLY VACATED  
CARPENTER AVENUE AND VACATION AND CONVEYANCE OF SEGMENTS OF 27TH  
STREET, CARPENTER AVENUE AND THE NORTH/SOUTH ALLEY RIGHT-OF-WAY  
ADJOINING 1300 25TH STREET TO DRAKE UNIVERSITY FOR \$116,500**

**WHEREAS**, on May 17, 1993, by Roll Call 93-1842, the City Council of the City of Des Moines, Iowa, passed Ordinance No. 11,984 vacating a portion of Carpenter Avenue in the vicinity of 26th Street; and

**WHEREAS**, on July 13, 2015, by Roll Call No. 15-1187, the City Council of the City of Des Moines, Iowa, passed Ordinance No. 15,383 intending to vacate 27th Street from Forest Avenue to Carpenter Avenue, and Carpenter Avenue from 25th Street to 27th Street, and the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south ("City Right-of-Way"); and

**WHEREAS**, on July 13, 2015, by Roll Call No. 15-1185, the City Council of the City of Des Moines, Iowa, further intended to approve the conveyance of such vacated City Right-of-Way to adjoining owner Drake University for \$116,500, in order to allow Drake University to assemble the City Right-of-Way with its adjoining property in the surrounding block for renovation and expansion of existing facilities; and

**WHEREAS**, upon receiving the recorded Quit Claim Deed transferring the City Right-of-Way to Drake University back from the Polk County Recorder, it was determined that the legal description of the City Right-of-Way 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 Drake University; and

**WHEREAS**, Drake University, owner of all of the adjoining property, has paid the City of Des Moines \$116,500.00 for the vacation and purchase of 27th Street from Forest Avenue to Carpenter Avenue, the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, and Carpenter Avenue from 25th Street to 27th Street (collectively "City Right-of-Way"), subject to a permanent no-build restriction, a 20-foot wide access easement reserved by the City of Des Moines for fire department access, a permanent easement reserved by the City of Des Moines for the continued use and maintenance of the existing utilities, and conditions included in the City Plan and Zoning Commission recommendation, and subject to the special conditions contained in the Offer to Purchase Real Estate to the City of Des Moines and Acceptance executed by the City of Des Moines and Drake University on July 13, 2015, which price reflects the appraised value of the City Right-of-Way; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

**WHEREAS**, on August 24, 2015, by Roll Call No. 15-1427, it was duly resolved by the City Council

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of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set for hearing on September 14, 2015, at 5:00 p.m., in the City Council Chambers; 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 the direction of the City Council of the City of Des Moines, Iowa, 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 of 27th Street from Forest Avenue to Carpenter Avenue, and of Carpenter Avenue from 25th Street to 27th Street, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of 27th Street from Forest Avenue to Carpenter Avenue, and of Carpenter Avenue from 25th Street to 27th Street, and of the 16 foot wide north/south alley from Forest Avenue to a point approximately 320.5 feet to the south, as legally described below, and said vacation is hereby approved:

-EXCEPT A PORTION OF VACATED CARPENTER AVE RIGHT OF WAY (ORDINANCE 11,984) LYING BETWEEN 25TH STREET AND 27TH STREET MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 75 FEET WEST OF THE SOUTHEAST CORNER OF LOT 91 IN UNIVERSITY PLACE, AN OFFICIAL PLAT, SAID POINT ALSO LYING ON THE NORTH RIGHT OF WAY LINE OF CARPENTER AVENUE AS IT IS PRESENTLY ESTABLISHED; THENCE EAST ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 216 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 14 FEET; THENCE WEST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, 216 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 14 FEET TO THE POINT OF BEGINNING-, ALL THAT PART OF CARPENTER AVENUE RIGHT OF WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF 27TH STREET AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 65 IN SAID UNIVERSITY PLACE; AND

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ALL THAT PART OF THE NORTH/SOUTH ALLEY RIGHT OF WAY LYING BETWEEN THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 104 AND THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 42.5 FEET OF LOT 109, ALL IN UNIVERSITY PLACE, AN OFFICIAL PLAT; AND

ALL THAT PART OF THE 27TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 104 THROUGH 116 IN SAID UNIVERSITY PLACE;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The proposed sale of such vacated right-of-way and a portion of previously vacated Carpenter Avenue right-of-way, all as legally described below, to Drake University, for \$116,500.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to a no-build restriction and conditions included in the City Plan and Zoning Commission recommendation, and subject to the special conditions contained in the Offer to Purchase Real Estate to the City of Des Moines and Acceptance executed by the City of Des Moines and Drake University on July 13, 2015, is hereby approved:

ALL THAT PART OF VACATED CARPENTER AVENUE RIGHT OF WAY LYING BETWEEN THE SOUTHERLY EXTENSION OF THE WEST RIGHT OF WAY LINE OF 27TH STREET AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 65 IN SAID UNIVERSITY PLACE; AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING BETWEEN THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 104 AND THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 42.5 FEET OF LOT 109, ALL IN SAID UNIVERSITY PLACE; AND

ALL THAT PART OF THE VACATED 27TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 104 THROUGH 116 IN SAID UNIVERSITY PLACE;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 1.37 ACRES (59,833 SQUARE FEET).

4. The Mayor of the City of Des Moines, Iowa, is authorized and directed to sign the Corrected Quit Claim Deed for the conveyance as identified above, and the City Clerk of the City of Des Moines, Iowa, is authorized and directed to attest to the Mayor's signature.

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5. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk of the City of Des Moines, Iowa, is authorized and directed to forward the original of the Corrected Quit Claim 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 Corrected Quit Claim 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 Corrected Quit Claim Deed and copies of the other documents to the grantees.

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

(Council Communication No. 15-488)

Moved by Gray to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL (YEAS: 7).

MOTION CARRIED APPROVED T.M. Franklin Council Mayor