



Roll Call Number

15-1726

Agenda Item Number

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Date October 12, 2015

HOLD HEARING FOR VACATION OF CITY STREET AND ALLEY RIGHTS-OF-WAY ADJOINING 915 MULBERRY STREET AND CONVEYANCE OF A SUBSURFACE EASEMENT WITHIN MULBERRY STREET, 9TH STREET, NORTH/SOUTH ALLEY RIGHT-OF-WAY AND EAST/WEST ALLEY RIGHT-OF-WAY ALL ADJOINING 915 MULBERRY STREET TO HUBBELL REALTY COMPANY FOR \$7,000.00

WHEREAS, Hubbell Realty Company is the owner of the real property locally known as 915 Mulberry Street, which property is being developed into the DWELL Apartments; and

WHEREAS, Hubbell Realty Company has offered to the City of Des Moines the purchase price of \$7,000.00 for the vacation and conveyance of permanent subsurface easement interests in portions of Mulberry Street and 9th Street, and north/south and east/west alley rights-of-way adjoining 915 Mulberry Street ("City Right-of-Way"), as legally described below, to allow for building footings for the proposed DWELL Apartments building at 915 Mulberry Street, which price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, such subsurface portion of City-owned Mulberry Street and 9th Street, and north/south and east/west alley rights-of-way adjoining 915 Mulberry Street has been determined by the City Engineer and City Traffic Engineer to have a de minimis impact upon the public use of said rights-of-way thereby obviating the required Plan and Zoning Commission review; and

WHEREAS, on September 28, 2015, by Roll Call No. 15-1605, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such easement be set down for hearing on October 12, 2015, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate said City Right-of-Way and convey the subsurface easement interests 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the subsurface easement 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 subsurface portions of Mulberry Street and 9th Street, and

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north/south and east/west alley rights-of-way adjoining 915 Mulberry Street, more specifically described as follows:

All that portion of 9th Street Right of Way lying between Mulberry Street and Walnut Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa; thence N15°22'47"W along the west right of way line of said 9th Street, a distance of 133.99 feet; thence N74°15'58"E, a distance of 0.63 feet; thence S15°44'02"E, a distance of 136.33 feet; thence S74°15'58"W, a distance of 1.47 feet to the west Right of Way line of said 9th Street; thence N15°22'47"W along said west Right of Way line, a distance of 2.34 feet to the point of beginning.

All that portion of Mulberry Street Right of Way lying between 9th Street and 10th Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S15°22'47"E along the southerly extension of the east line of said Lot 1, a distance of 2.34 feet; thence S74°15'58"W, a distance of 141.20 feet; thence N15°44'02"W, a distance of 2.10 feet to the north Right of Way line of said Mulberry Street; thence N74°10'12"E, a distance of 141.21 feet to the point of beginning.

All that portion of the east – west alley lying adjacent to and north of Lot 2, Block 2, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Beginning at the northeast corner of said Lot 2; thence S74°10'15"W along the north line and the westerly extension of the north line of said Lot 2, a distance of 142.03 feet; thence N15°44'02"W, a distance of 2.23 feet; thence N74°15'58"E, a distance of 142.04 feet to the west Right of Way line of 9th Street as it is presently established; thence S15°22'47"E along the west Right of Way line of said 9th Street, a distance of 2.00 feet to the point of beginning.

All that portion of the north – south alley lying adjacent to and west of Lot 2, Block 2, West Fort Des Moines, an Official Plat, and adjacent to and west of Lots 1 and 2, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat , all in Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S74°10'12"W along the south line of said Lot 1 and along the westerly extension of said Lot 1, a distance of 140.77 feet to the point of beginning; thence continuing S74°10'12"W along the westerly extension of the south line of said Lot 1, a distance of 0.44 feet; thence N15°44'02"W, a distance of 132.00 feet; thence N74°10'15"E along the westerly extension of the north line of Lot 2, Block 12, in said West Fort Des Moines, a distance of 1.30 feet; thence S15°21'26"E, a distance of 132.00 feet to the point of beginning.

3. That the sale and conveyance of permanent subsurface easement interests within such vacated City right-of-way, as described below, to Hubbell Realty Company for \$7,000.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:



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All that portion of vacated 9th Street Right of Way lying between Mulberry Street and Walnut Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa; thence N15°22'47"W along the west right of way line of said 9th Street, a distance of 133.99 feet; thence N74°15'58"E, a distance of 0.63 feet; thence S15°44'02"E, a distance of 136.33 feet; thence S74°15'58"W, a distance of 1.47 feet to the west Right of Way line of said 9th Street; thence N15°22'47"W along said west Right of Way line, a distance of 2.34 feet to the point of beginning.

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All that portion of the vacated east – west alley lying adjacent to and north of Lot 2, Block 2, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Beginning at the northeast corner of said Lot 2; thence S74°10'15"W along the north line and the westerly extension of the north line of said Lot 2, a distance of 142.03 feet; thence N15°44'02"W, a distance of 2.23 feet; thence N74°15'58"E, a distance of 142.04 feet to the west Right of Way line of 9th Street as it is presently established; thence S15°22'47"E along the west Right of Way line of said 9th Street, a distance of 2.00 feet to the point of beginning.

All that portion of the vacated north – south alley lying adjacent to and west of Lot 2, Block 2, West Fort Des Moines, an Official Plat, and adjacent to and west of Lots 1 and 2, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat , all in Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S74°10'12"W along the south line of said Lot 1 and along the westerly extension of said Lot 1, a distance of 140.77 feet to the point of beginning; thence continuing S74°10'12"W along the westerly extension of the south line of said Lot 1, a distance of 0.44 feet; thence N15°44'02"W, a distance of 132.00 feet; thence N74°10'15"E along the westerly extension of the north line of Lot 2, Block 12, in said West Fort Des Moines, a distance of 1.30 feet; thence S15°21'26"E, a distance of 132.00 feet to the point of beginning.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement 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 said subsurface portion of 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 the Easement, together with a certified copy of this resolution and of

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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 Easement, together with a certified copy of this resolution and of the affidavit of publication of 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 Easement and copies of the other documents to the grantee.

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

(Council Communication No. 15-539)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
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