



**Roll Call Number**

15-2055

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**Date** December 7, 2015

**SET HEARING FOR VACATION OF A PORTION OF 35<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 3501 INGERSOLL AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO THE ESTATE OF DAVID L. BARNES, MICHAEL D. BARNES AND EVIE J. BARNES FOR \$100.00**

**WHEREAS**, the Estate of David L. Barnes, Michael D. Barnes and Evie J. Barnes are the owners of the real property locally known as 3501 Ingersoll Avenue; and

**WHEREAS**, David Elkin, attorney representing the Estate of David L. Barnes, Michael D. Barnes and Evie J. Barnes, has requested the vacation of a .27 foot segment of 35<sup>th</sup> Street adjoining 3501 Ingersoll Avenue ("City Right-of-Way"), hereinafter more fully described, and has requested that the City of Des Moines, Iowa ("City") convey a Permanent Easement for Building Encroachment in the vacated City Right-of-Way to the Estate of David L. Barnes, Michael D. Barnes and Evie J. Barnes in order to mitigate the existing encroachment into City right-of-way; and

**WHEREAS**, the estate of David L. Barnes, Michael D. Barnes and Evie J. Barnes have offered to the City the purchase price of \$100.00 for the vacation and purchase of the Permanent Easement for Building Encroachment in the City Right-of-Way, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

**WHEREAS**, such portion of City-owned 35<sup>th</sup> Street right-of-way has been determined by the City Engineer and City Traffic Engineer to have a de minimis impact upon the public use of 35<sup>th</sup> Street thereby obviating the required Plan and Zoning Commission review; and

**WHEREAS**, the City will not be inconvenienced by the vacation of said segment of 35<sup>th</sup> Street adjoining 3501 Ingersoll Avenue and conveyance of a Permanent Easement for Building Encroachment therein.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a segment of 35<sup>th</sup> Street adjoining 3501 Ingersoll Avenue, more specifically described as follows:

A PORTION OF THE 35TH STREET RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 29 IN THE OFFICIAL PLAT OF LOT 1 OF THE OFFICIAL PLAT OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 6, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., NOW LOCATED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 29; THENCE N00°06'12"W, ALONG THE EAST LINE OF SAID LOT 29, A DISTANCE OF 12.07 FEET TO THE POINT OF BEGINNING;



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THENCE CONTINUING N00°06'12"W, ALONG SAID EAST LINE, A DISTANCE OF 108.23 FEET TO THE NORTH LINE OF SAID LOT 29; THENCE S89°56'06"E, ALONG SAID NORTH LINE, A DISTANCE OF 0.27 FEET TO AN EXISTING BUILDING WALL; THENCE S00°00'54"W, ALONG SAID BUILDING WALL, A DISTANCE OF 108.23 FEET; THENCE N89°47'21"W, A DISTANCE OF 0.05 FEET TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 17.179 SQUARE FEET.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Building Encroachment in the vacated right-of-way, all legally described as follows, to the estate of David L. Barnes, Michael D. Barnes and Evie J. Barnes for \$100.00, subject to the requirements of the Offer to Purchase:

A PORTION OF THE VACATED 35TH STREET RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 29 IN THE OFFICIAL PLAT OF LOT 1 OF THE OFFICIAL PLAT OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 6, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., NOW LOCATED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 29; THENCE N00°06'12"W, ALONG THE EAST LINE OF SAID LOT 29, A DISTANCE OF 12.07 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N00°06'12"W, ALONG SAID EAST LINE, A DISTANCE OF 108.23 FEET TO THE NORTH LINE OF SAID LOT 29; THENCE S89°56'06"E, ALONG SAID NORTH LINE, A DISTANCE OF 0.27 FEET TO AN EXISTING BUILDING WALL; THENCE S00°00'54"W, ALONG SAID BUILDING WALL, A DISTANCE OF 108.23 FEET; THENCE N89°47'21"W, A DISTANCE OF 0.05 FEET TO THE POINT OF BEGINNING, CONTAINING APPROXIMATELY 17.179 SQUARE FEET.

3. That the meeting of the City Council of the City of Des Moines, Iowa, at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be held on December 21, 2015, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.

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

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

*BN*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
COLEMAN	✓			
GATTO	✓			
GREY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	6			1
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