



Roll Call Number

16-0797

Agenda Item Number

52

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Date May 9, 2016

**HOLD HEARING FOR VACATION AND CONVEYANCE OF A SEGMENT OF
MARTIN LUTHER KING, JR. PARKWAY ADJOINING 2120 INGERSOLL AVENUE
TO DJ INGERSOLL PROPERTIES L.L.C. FOR \$5,115.00**

WHEREAS, on April 7, 2016, the City Plan and Zoning Commission voted to recommend to the City Council of the City of Des Moines, Iowa, that a segment of Martin Luther King, Jr. Parkway adjoining 2120 Ingersoll Avenue, hereinafter more fully described, be vacated, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to the reservation of a no-build easement; and

WHEREAS, DJ Ingersoll Properties L.L.C., owner of 2120 Ingersoll Avenue, has offered to the City of Des Moines, Iowa, (herein "City") the purchase price of \$5,115.00 for the vacation and purchase of a segment of Martin Luther King, Jr. Parkway right-of-way adjoining 2120 Ingersoll Avenue (herein "City Right-of-Way") for construction of an outdoor seating area and patio for the restaurant and lounge located at 2120 Ingersoll Avenue, 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, there is no known current or future public need or benefit for the portion of 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 April 25, 2016, by Roll Call No. 16-0673, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on May 9, 2016, 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 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 of the City of Des Moines, Iowa.

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 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 the segment of Martin Luther King, Jr. Parkway right-of-way adjoining 2120 Ingersoll Avenue, as legally described below, and said vacation is hereby approved:



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Part of Lot 9 of the Official Plat of The Southwest ¼ of Section 5, Township 78 North, Range 24 West of the 5th P.M., described as follows:

The West 13.75 feet of the North 62.0 feet of the East 100.0 feet of said Lot 9, lying South of and adjoining Ingersoll Avenue, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 852.5 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to DJ Ingersoll Properties L.L.C. for \$5,115.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the requirements of the Plan and Zoning Commission recommendation and the Offer to Purchase, including the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated and the reservation of a no-build easement, is hereby approved:

A vacated part of Lot 9 of the Official Plat of The Southwest ¼ of Section 5, Township 78 North, Range 24 West of the 5th P.M., described as follows:

The West 13.75 feet of the North 62.0 feet of the East 100.0 feet of said Lot 9, lying South of and adjoining Ingersoll Avenue, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 852.5 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 plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the 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 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 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. 16-240)

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

psv

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MOORE | ✓ | | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 7 | | | |

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.

MOTION CARRIED
T. M. Franklin Mayor

Diane Rauh City Clerk