

Date July 24, 2017

HOLD HEARING TO CORRECT THE VACATION OF A SEGMENT OF INGERSOLL AVENUE RIGHT-OF-WAY LOCATED NORTH OF AND ADJOINING 539 POLK BOULEVARD AND CONVEYANCE TO ELIZABETH J. CARTER AND JARED M. CARTER FOR \$150.00

WHEREAS, on May 22, 2017, by Roll Call No. 17-0902, the City Council passed Ordinance No. 15,584, intending to vacate a segment of Ingersoll Avenue located north of and adjoining 539 Polk Boulevard (“City Right-of-Way”); and

WHEREAS, on May 22, 2017, by Roll Call No. 17-0902, the City Council further intended to approve the conveyance of such vacated City Right-of-Way to adjoining owners Elizabeth J. Carter and Jared M. Carter, for \$150.00, to allow for construction of a 4-foot tall, 75% open fence at the perimeter of the side yard to within one (1) foot of the public sidewalk; which price reflects the fair market value of the City Right-of-Way as determined by the City’s Real Estate Division; and

WHEREAS, upon recording the Quit Claim Deed transferring the property to Elizabeth J. Carter and Jared M. Carter, the Polk County Auditor determined that the legal description of the City Right-of-Way as 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 Elizabeth J. Carter and Jared M. Carter; and

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

WHEREAS, on July 10, 2017, by Roll Call No. 17-1155, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on July 24, 2017, at 5:00 p.m., in the Council Chamber; 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 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of public right-of-way, 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 a segment of Ingersoll Avenue located north of and adjoining

★ Roll Call Number

17.1284

Agenda Item Number

58

Page 2

Date July 24, 2017

539 Polk Boulevard, more specifically described as follows, for the purpose of correcting the legal description included in Ordinance No. 15,584:

A PORTION OF INGERSOLL AVENUE RIGHT OF WAY LYING NORTH OF AND ADJACENT TO LOT 13, INGERSOLL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 13, THENCE N0°00'00"W ALONG THE EXTENDED WEST LINE OF SAID LOT 13, A DISTANCE OF 4.08 FEET; THENCE NORTHEASTERLY 10.94 FEET ALONG A 15.00 FOOT RADIUS CURVE NOT TANGENT TO THE PREVIOUS COURSE, CONCAVE NORTHWESTERLY, WHOSE CHORD LENGTH IS 10.70 FEET AND WHOSE CHORD BEARS N69°18'01"E; THENCE NORTHEASTERLY 8.84 FEET ALONG A 12.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, WHOSE CHORD LENGTH IS 8.64 FEET AND WHOSE CHORD BEARS N69°31'12"E; THENCE S89°22'03"E, 115.09 FEET TO A POINT THAT IS ON THE EXTENDED EAST LINE OF SAID LOT 13; THENCE S0°11'00"W, 10.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 13; THENCE N89°33'45"W ALONG THE NORTH LINE OF SAID LOT 13, A DISTANCE OF 133.16 FEET TO THE POINT OF BEGINNING, CONTAINING 1380 SQUARE FEET AND SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

3. That the conveyance of such City-owned property to Elizabeth J. Carter and Jared M. Carter, for \$150.00, to allow for construction of a 4-foot tall, 75% open fence at the perimeter of the side yard to within one (1) foot of the public sidewalk, and for the purpose of correcting the legal description included in Roll Call No. 17-0902, be and is hereby approved:

A PORTION OF THE VACATED INGERSOLL AVENUE RIGHT OF WAY LYING NORTH OF AND ADJACENT TO LOT 13, INGERSOLL PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 13, THENCE N0°00'00"W ALONG THE EXTENDED WEST LINE OF SAID LOT 13, A DISTANCE OF 4.08 FEET; THENCE NORTHEASTERLY 10.94 FEET ALONG A 15.00 FOOT RADIUS CURVE NOT TANGENT TO THE PREVIOUS COURSE, CONCAVE NORTHWESTERLY, WHOSE CHORD LENGTH IS 10.70 FEET AND WHOSE CHORD BEARS N69°18'01"E; THENCE NORTHEASTERLY 8.84 FEET ALONG A 12.00 FOOT RADIUS CURVE, CONCAVE SOUTHEASTERLY, WHOSE CHORD LENGTH IS 8.64 FEET AND WHOSE CHORD BEARS N69°31'12"E; THENCE S89°22'03"E, 115.09 FEET TO A POINT THAT IS ON THE EXTENDED EAST LINE OF SAID LOT 13; THENCE S0°11'00"W, 10.63 FEET TO THE NORTHEAST CORNER OF SAID LOT 13; THENCE N89°33'45"W ALONG THE NORTH LINE OF SAID LOT 13, A DISTANCE OF 133.16 FEET TO THE POINT OF BEGINNING, CONTAINING 1380 SQUARE FEET AND SUBJECT TO EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD.

★ Roll Call Number

Agenda Item Number

17-1284

58

Date July 24, 2017

4. The Mayor is authorized and directed to sign the Corrected Quit Claim Deed 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 the ordinance vacating the said right-of-way, the City Clerk is authorized and directed to forward the original of said 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 following closing.
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 Corrected Quit Claim Deed 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.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

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

T. M. Franklin Cooney 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