



Roll Call Number

18-0150

Agenda Item Number

40

Date January 22, 2018

**HOLD HEARING TO CORRECT CONVEYANCE OF VACATED ALLEY RIGHT-OF-WAY ADJOINING 4101 AMHERST STREET AND 4112 NORTH UNION STREET TO TRUE BIBLE BAPTIST CHURCH, AND ADJOINING 4110 NORTH UNION STREET TO ERIK DEIBER**

**WHEREAS**, on October 1, 1984, the City Council of the City of Des Moines, Iowa, (“City”) approved Ordinance No. 10,533 vacating all of the north-south alley right-of-way in the block bounded by Northeast Aurora Avenue, East Shawnee Street, Amherst Street, and North Union Street, with a portion of said vacated alley right-of-way lying west of and adjoining 4110 and 4112 North Union Street, and lying east of and adjoining 4101 Amherst Street (“Property”); and

**WHEREAS**, on November 20, 2017, by Roll Call No. 17-2013, the City Council intended to approve the conveyance of portions of such Property to adjoining owners True Bible Baptist Church, for \$125.00, and to Erik Deiber a/k/a Eric Deiber for \$25.00; which price reflects the fair market value of the Property as determined by the City’s Real Estate Division; and

**WHEREAS**, upon recording the Quit Claim Deeds transferring the property to True Bible Baptist Church and to Erik Deiber a/k/a Eric Deiber, the Polk County Auditor determined that the legal description of the Property as set forth in the Quit Claim Deeds contained a scrivener’s error which must be corrected in order to effectuate the proposed conveyance to True Bible Baptist Church and to Erik Deiber a/k/a Eric Deiber; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be sold and the City will not be inconvenienced by the sale of said Property; and

**WHEREAS**, on January 8, 2018, by Roll Call No. 18-0045, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the Property be set down for hearing on January 22, 2018, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to convey the Property 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 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 the proposed conveyance, as described below, are hereby overruled and the hearing is closed.



Roll Call Number

18-0150

Agenda Item Number

40

Date January 22, 2018

2. There is no public need or benefit for the portion of vacated north-south alley right-of-way proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the portion of vacated north-south alley right-of-way located west of and adjoining 4110 and 4112 North Union Street, legally described as follows, to True Bible Baptist Church, for the purpose of correcting the legal description set forth in the Quit Claim Deed filed on November 30, 2017, in Book 16740 Pages 878-885 in the Polk County Recorder's Office, and said conveyance be and is hereby approved, subject to a reservation of easements therein:

THE EAST HALF (1/2) OF THE VACATED ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 9 IN BLOCK 1 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M. EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF,

AND

ALL OF SAID VACATED ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOTS 13 AND 14 IN SAID BLOCK 1,

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

(VACATED BY ORDINANCE NO. 10,533, PASSED OCTOBER 1, 1984).

3. There is no public need or benefit for the portion of vacated north-south alley right-of-way proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the portion of vacated north-south alley right-of-way located east of and adjoining 4101 Amherst Street, legally described as follows, to Erik Deiber a/k/a Eric Deiber, for the purpose of correcting the legal description set forth in the Quit Claim Deed filed on November 30, 2017, in Book 16741 Pages 1-8 in the Polk County Recorder's Office, and said conveyance be and is hereby approved, subject to a reservation of easements therein:

THE EAST HALF (1/2) OF THE VACATED ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 10 IN BLOCK 1 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHWEST QUARTER (1/4) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M. EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

(VACATED BY ORDINANCE NO. 10,533, PASSED OCTOBER 1, 1984).



Roll Call Number

18-0150

Agenda Item Number

40

Date January 22, 2018

- 3. The Mayor is authorized and directed to sign the Corrected Quit Claim Deeds for the conveyances as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
- 4. The City Clerk is authorized and directed to forward the original of the Corrected Quit Claim Deeds, 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 document to be recorded.
- 5. The Real Estate Division Manager is authorized and directed to forward the original of the Corrected Quit Claim Deeds, 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 the document to be recorded.
- 6. Upon receipt of the recorded document back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Corrected Quit Claim Deeds and copies of the other documents to the grantee.
- 7. There are no proceeds associated with this action.

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

*[Signature]*

Lisa A. Wieland, Assistant City Attorney

psw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED

*[Signature]* 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.

*[Signature]* City Clerk