

★ Roll Call Number

18-0612

Agenda Item Number

53

Date April 9, 2018

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF SOUTHEAST 30TH STREET RIGHT-OF-WAY ADJOINING 308 SOUTHEAST 30TH STREET AND 244 SOUTHEAST 30TH STREET, AND VACATION OF A SEGMENT OF EAST ELM STREET RIGHT-OF-WAY ADJOINING 244 SOUTHEAST 30<sup>TH</sup> STREET, AND CONVEYANCE TO SERGIO COLIN FOR \$100.00 AND TO MANUEL AND LISA HERNANDEZ FOR \$225.00**

**WHEREAS**, on February 5, 2018, by Roll Call No. 18-0192, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission recommending approval of a request from Sergio Colin (owner) for vacation of undeveloped excess right-of-way adjoining 308 Southeast 30<sup>th</sup> Street, to allow for development in accordance with a Site Plan for a use permitted in the "M-1" Light Industrial District or for assemblage with the adjoining property following Zoning Board of Adjustment approval, and of a request from Lisa and Manuel Hernandez (owners) for vacation of undeveloped excess right-of-way adjoining 244 Southeast 30<sup>th</sup> Street and a segment of East Elm Street right-of-way to the south of 244 Southeast 30<sup>th</sup> Street, to allow for assemblage with the adjoining residential property, all subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated; and

**WHEREAS**, Sergio Colin, the owner of 308 Southeast 30<sup>th</sup> Street, has offered to the City of Des Moines, Iowa ("City") the purchase price of \$100.00 for the purchase of a portion of the excess Southeast 30<sup>th</sup> Street right-of-way adjoining 308 Southeast 30<sup>th</sup> Street, for development in accordance with a Site Plan for a use permitted in the "M-1" Light Industrial District or for incorporation into his adjoining property following Zoning Board of Adjustment approval, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of the right-of-way as determined by the City's Real Estate Division; and

**WHEREAS**, Lisa Hernandez and Manuel Hernandez, the owners of 244 Southeast 30<sup>th</sup> Street, have offered to the City the purchase price of \$225.00 for the purchase of excess Southeast 30<sup>th</sup> Street right-of-way adjoining the north and south sides of 244 Southeast 30<sup>th</sup> Street, and a segment of East Elm Street right-of-way, to allow for assemblage with the adjoining residential property, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, which price reflects the fair market value of the right-of-way as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

**WHEREAS**, on March 19, 2018, by Roll Call No. 18-0458, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the street right-of-way be set for hearing on April 9, 2018, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate and convey a portion of the undeveloped excess



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Southeast 30th Street right-of-way located north of and adjoining 308 Southeast 30th Street, and located north of and adjoining 244 Southeast 30th Street, and a segment of East Elm Street right-of-way located south of and adjoining 244 Southeast 30th Street, 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.

**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 a portion of the undeveloped excess Southeast 30<sup>th</sup> Street right-of-way located north of and adjoining 308 Southeast 30<sup>th</sup> Street, and located north of and adjoining 244 Southeast 30<sup>th</sup> Street, and a segment of East Elm Street right-of-way located south of and adjoining 244 Southeast 30<sup>th</sup> Street, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said street right-of-way, legally described as follows, and said vacation is hereby approved:

-EXCEPT THE EAST 6 FEET-, THE SOUTH 40 FEET OF THE NORTH 80 FEET OF LOT 2, PINEGAR PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

AND

THE WEST 65 FEET OF LOTS 28, 29 AND 30, R.W. WEST'S SUB-DIVISION OF LOT 11 OF THE OFFICIAL PLAT OF THE SOUTH HALF (1/2) OF SECTION 1, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.;

AND

ALL THAT PART OF EAST ELM STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING A PART OF LOT 26 IN SAID R.W. WEST'S SUB-DIVISION AND LYING WEST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF THE EAST 6 FEET OF LOT 2 IN PINEGAR PLACE, AN OFFICIAL PLAT, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 26;

AND

-EXCEPT THE EAST 6 FEET-, THE NORTH 40 FEET OF LOT 2 IN SAID PINEGAR PLACE;



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

3. The proposed sale of such vacated street right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

Grantee: Sergio Colin

Consideration: \$100.00

Legal Description: -EXCEPT THE EAST 6 FEET-, THE SOUTH 40 FEET OF THE NORTH 80 FEET OF LOT 2, PINEGAR PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING APPROXIMATELY 0.14 ACRES (5,907 SQUARE FEET).

Grantee: Lisa Hernandez and Manuel Hernandez

Consideration: \$225.00

Legal Description: THE WEST 65 FEET OF LOTS 28, 29 AND 30, R.W. WEST'S SUB-DIVISION OF LOT 11 OF THE OFFICIAL PLAT OF THE SOUTH HALF (1/2) OF SECTION 1, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M.;

AND

ALL THAT PART OF THE VACATED EAST ELM STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING A PART OF LOT 26 IN SAID R.W. WEST'S SUB-DIVISION AND LYING WEST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF THE EAST 6 FEET OF LOT 2 IN PINEGAR PLACE, AN OFFICIAL PLAT, AND LYING EAST OF THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 26;

AND

-EXCEPT THE EAST 6 FEET-, THE NORTH 40 FEET OF LOT 2 IN SAID PINEGAR PLACE;

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING APPROXIMATELY 0.39 ACRES (17,156 SQUARE FEET).

4. The Mayor is authorized and directed to sign the Offers to Purchase and Quit Claim Deeds for the conveyances 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 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 documents to be recorded.

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6. The Real Estate Division Manager is authorized and directed to forward the original of the 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 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 Deeds and a copy 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. 18- 180 )

Moved by Gatto to adopt.

APPROVED AS TO FORM:

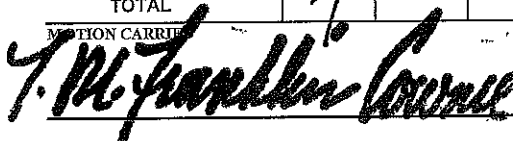
  
Lisa A. Wieland, Assistant City Attorney

rsn

COUNCIL ACTION	YEAS	NAVS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATO	✓			
GRAY	✓			
MANDELBAUM	✓			
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.

  
T. M. Franklin, Mayor

  
Diane Rauh, City Clerk