

★ Roll Call Number

19-1099

Agenda Item Number

25

Date July 15, 2019

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 8<sup>TH</sup> STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING ENOS AVENUE AND CONVEYANCE TO DES MOINES AREA COMMUNITY COLLEGE FOR \$11,250.00**

**WHEREAS**, on March 11, 2019 the Plan and Zoning Commission voted to recommend approval of a request from Des Moines Area Community College to vacate a 50-foot wide by 60-foot wide segment of 8<sup>th</sup> Street right-of-way located west of and adjoining 1144 7<sup>th</sup> Street, Des Moines, Iowa, to allow for assemblage and redevelopment with a student life center, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the applicant's expense;
- (2) Provision of an access easement from the eastern terminus of Enos Avenue to either University Avenue or to 7<sup>th</sup> Street; and
- (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and

**WHEREAS**, Des Moines Area Community College (DMACC), owner of 1144 7<sup>th</sup> Street, has offered to the City of Des Moines ("City") the purchase price of \$11,250.00 for the purchase of the portion of vacated 8<sup>th</sup> Street right-of-way located west of and adjoining 1144 7<sup>th</sup> Street, Des Moines, Iowa (hereinafter "Property"), to allow for assemblage with its adjoining property for redevelopment with a student life center as part of the DMACC Urban Campus, subject to the following conditions:

- (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the DMACC's expense;
- (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8<sup>th</sup> Street north to University Avenue;
- (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and
- (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur: (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense; (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and (c) Written release of said no-build restriction by the City;

which price reflects the restricted fair market value as determined by the City's Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property proposed to be sold, subject to the conditions stated above, and the City will not be inconvenienced by the vacation and sale of said Property.



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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a 50-foot wide by 60-foot wide segment of 8<sup>th</sup> Street right-of-way located west of and adjoining 1144 7<sup>th</sup> Street, Des Moines, Iowa, legally described as follows:

THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID 8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated street right-of-way, as legally described and to the grantees and for the consideration identified below, subject to the following conditions:
  - (1) Reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated at the DMACC's expense;
  - (2) Conveyance by DMACC to City of a Permanent Easement for Vehicular Ingress and Egress from vacated 8<sup>th</sup> Street north to University Avenue;
  - (3) Any development that incorporates the subject 8<sup>th</sup> Street right-of-way shall comply with all site plan requirements; and
  - (4) A no-build restriction, which restriction will be included in the Quit Claim Deed from the City to DMACC, which prohibits DMACC from erecting any structure, building or other improvement over or within the Property. This restriction shall not preclude the construction of a sidewalk or parking area and associated sidewalk and parking area improvements, so long as such improvements are both above ground and do not interfere in any way with the utilities on the Property. This no build restriction shall be lifted at any time after all of the following occur: (a) Relocation of all utilities by Buyer off the Property at Buyer's sole expense; (b) Payment to City by Buyer of \$11,250.00, said amount being the difference between the full Fair Market Value of the Property and the restricted Fair Market Value paid by Buyer through this offer; and (c) Written release of said no-build restriction by the City;

Grantee: Des Moines Area Community College

Consideration: \$11,250.00



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Legal Description: THAT PART OF LOTS 8 AND 9 OF THE OFFICIAL PLAT OF THE NORTHEAST FRACTIONAL QUARTER (NE FRL 1/4) OF THE NORTHWEST FRACTIONAL QUARTER (NW FRL 1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND THE VACATED WEST 25 FEET OF 8TH STREET, WEST OF AND ADJACENT TO SAID LOTS 8 AND 9, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 4; THENCE N.89°53'43"W., 678.02 FEET, ALONG THE NORTH LINE OF SAID SECTION 4, TO THE WEST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°05'11"E., 386.55 FEET, ALONG THE WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING; THENCE S.89°53'43"E., 50.00 FEET, TO THE EAST LINE OF VACATED 8TH STREET AS PRESENTLY ESTABLISHED; THENCE S.00°03'37"E., 60.00 FEET, ALONG SAID EAST LINE OF VACATED 8TH STREET; THENCE N.89°53'43"W., 50.00 FEET, TO THE WEST LINE OF SAID VACATED 8TH STREET; THENCE N.00°03'37"E., 60.00 FEET, ALONG SAID WEST LINE OF VACATED 8TH STREET, TO THE POINT OF BEGINNING. CONTAINING 3000.00 SQUARE FEET MORE OR LESS, AND SUBJECT TO ALL EASEMENTS OF RECORD.

- 3. That the meeting of the City Council at which the adoption of said ordinance and the vacation and conveyance of such street right-of-way is to be considered shall be August 5, 2019, said meeting to be held 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 proposal 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.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

[Signature of Lisa A. Wieland]

Lisa A. Wieland, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and 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 7 APPROVED [Signature of J.M. Frankin Cownie]

[Signature of Diane Rauh] City Clerk