



Roll Call Number

20-1836

Agenda Item Number

58

Date November 9, 2020

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF VACATED SOUTHEAST 24TH STREET RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 2400 EVERGREEN AVENUE TO DONALD DAVIDSON AND SANDRA DAVIDSON IN EXCHANGE AND AS CONSIDERATION FOR THE TEMPORARY EASEMENT FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES CONVEYED BY DONALD DAVIDSON AND SANDRA DAVIDSON TO THE CITY OF DES MOINES

WHEREAS, on September 27, 2004, by Ordinance No. 14,376, the City Council of the City of Des Moines, Iowa vacated a portion of right-of-way in the vicinity of Evergreen Avenue, Southeast 24th Street and East Watrous Avenue located west of and adjoining 2400 Evergreen Avenue; and

WHEREAS, on February 20, 2020, the City of Des Moines Real Estate Division offered to purchase a Temporary Easement for Construction and Construction-Related Activities from Donald Davidson and Sandra Davidson over and across their property located at 2400 Evergreen Avenue for the Evergreen Avenue Reconstruction Project; and

WHEREAS, Donald and Sandra Davidson, owners of 2400 Evergreen Avenue, have offered to the City of Des Moines (“City”) to convey the Temporary Easement for Construction and Construction-Related Activities in exchange and as consideration for the conveyance of the portion of vacated Southeast 24th Street right-of-way lying west of and adjoining their property at 2400 Evergreen Avenue (hereinafter “Property”), subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated, for assemblage with their residential parcel, which represents an equal exchange of value as determined by the City’s Real Estate Division; and

WHEREAS, there is no known current or future public need for the City Property proposed to be conveyed, and the City will not be inconvenienced by the sale of said portion of vacated Southeast 24th Street right-of-way; and

WHEREAS, on October 19, 2020 by Roll Call No. 20-1658, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set for hearing on November 9, 2020, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and given Mayor Cownie’s March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor’s June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location; and



Roll Call Number

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Agenda Item Number

58

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WHEREAS, due notice of said proposal to convey the portion of vacated Southeast 24th Street right-of-way was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of a portion of vacated Southeast 24th Street 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 Property proposed to be conveyed, and the City will not be inconvenienced by the sale of the vacated Southeast 24th Street right-of-way lying west of and adjoining 2400 Evergreen Avenue, Des Moines, Iowa, legally described as follows, to Donald Davidson and Sandra Davidson, in exchange and as consideration for a Temporary Easement for Construction and Construction-Related Activities, and said conveyance is hereby approved, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated:

A PART OF VACATED SE 24TH STREET RIGHT OF WAY, VACATED BY ORDINANCE 14376, SAID ORDINANCE RECORDED IN BOOK 10794 PAGES 437-442 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA, ALL IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., AND DESCRIBED AS FOLLOWS:
 COMMENCING AS A POINT OF REFERENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE NORTH 0° (DEGREES) 37' (MINUTES) 22" (SECONDS) WEST ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24, 122.62 FEET TO THE POINT OF BEGINNING; THENCE NORTHWEST ALONG A 420 FOOT RADIUS CURVE CONCAVE NORTHEAST WITH A CHORD DISTANCE OF 40.47 FEET, A CHORD BEARING OF NORTH 48°27'14" WEST AND AN ARC LENGTH OF 40.49 FEET TO THE CENTERLINE OF THE 60.0 FOOT RIGHT-OF-WAY OF SOUTHEAST 24TH STREET; THENCE NORTH 0°37'22" WEST ALONG SAID CENTERLINE 184.41 FEET TO THE INTERSECTION OF THE CENTERLINE OF EVERGREEN AVENUE; THENCE NORTH 53°14'48" EAST, 37.14 FEET TO THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24, ALSO BEING THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 24TH STREET; THENCE SOUTH 0°37'22" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 233.48 FEET TO THE POINT OF BEGINNING. ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. CONTAINING APPROXIMATELY 0.14 ACRES (6,257 SQUARE FEET), AND BEING THE SAME

★ **Roll Call Number**

20-1836

Agenda Item Number

58

Date November 9, 2020

AREA PREVIOUSLY CONVEYED BY QUIT CLAIM DEED RECORDED IN BOOK 10757 PAGES 272-274 AT THE RECORDER'S OFFICE OF POLK COUNTY, IOWA.

3. The Mayor is authorized and directed to sign the Offer to Purchase, Temporary Easement, 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.
4. 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.
5. 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.
6. 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 grantee.
7. There are no proceeds associated with this transaction.

★ Roll Call Number
20-1836

Agenda Item Number
58

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>P. M. Frank Cownie</u>		<u>[Signature]</u>		
Mayor				

CERTIFICATE

I, P. Kay Cmelik, 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