



Roll Call Number

21-0263

Agenda Item Number

18

Date February 22, 2021

Page 1

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF EAST 38TH STREET RIGHT-OF-WAY BETWEEN HUBBELL AVENUE AND EAST DOUGLAS AVENUE AND CONVEYANCE TO GIT-N-GO CONVENIENCE STORES, INC. FOR \$69,440

WHEREAS, the Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project required the partial acquisition and demolition of the Git-N-Go convenience store located at 3765 Hubbell Avenue; and

WHEREAS, as part of the terms of the purchase agreement with Git-N-Go Convenience Stores, Inc., the City agreed to present an offer to vacate and convey a dead-end segment of E. 38th Street adjoining their remaining property, subject to all statutory requirements and processes for approval, in order to provide Git-N-Go with an adequate site to rebuild a new convenience store after completion of the City’s project; and

WHEREAS, on February 4, 2021, the City Plan and Zoning Commission voted to recommend approval of a City-initiated request to vacate a segment of East 38th Street from Hubbell Avenue to East Douglas Avenue (“Property”), subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the purchaser’s expense; and

WHEREAS, Git-N-Go Convenience Stores, Inc., the owner of 3765 Hubbell Avenue, which is located west of and adjoining the Property, has executed the offer presented by the City of Des Moines, Iowa (“City”) for the purchase of the portion of vacated East 38th Street adjoining its property for the purchase price of \$69,440, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation of a no-build easement over a portion of the Property, which price reflects the restricted fair market value of said portion of street right-of-way as determined by an independent appraisal approved 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.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a segment of East 38th Street right-of-way from Hubbell Avenue to East Douglas Avenue, legally described as follows, subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated:

A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 20; THENCE NORTH 0°(DEGREES) 21'(MINUTES) 31"(SECONDS) EAST ALONG THE EAST LINE OF SAID SECTION, 25.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°38'16" WEST ALONG A LINE BEING 25.00 FEET NORTH



Roll Call Number

21-0263

Agenda Item Number

18 ✓

Date February 22, 2021

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A SEGMENT OF EAST 38TH STREET RIGHT-OF-WAY BETWEEN HUBBELL AVENUE AND EAST DOUGLAS AVENUE AND CONVEYANCE TO GIT-N-GO CONVENIENCE STORES, INC. FOR \$69,440

WHEREAS, the Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project required the partial acquisition and demolition of the Git-N-Go convenience store located at 3765 Hubbell Avenue; and

WHEREAS, as part of the terms of the purchase agreement with Git-N-Go Convenience Stores, Inc., the City agreed to present an offer to vacate and convey a dead-end segment of E. 38th Street adjoining their remaining property, subject to all statutory requirements and processes for approval, in order to provide Git-N-Go with an adequate site to rebuild a new convenience store after completion of the City’s project; and

WHEREAS, on February 4, 2021, the City Plan and Zoning Commission voted to recommend approval of a City-initiated request to vacate a segment of East 38th Street from Hubbell Avenue to East Douglas Avenue (“Property”), subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the purchaser’s expense; and

WHEREAS, Git-N-Go Convenience Stores, Inc., the owner of 3765 Hubbell Avenue, which is located west of and adjoining the Property, has executed the offer presented by the City of Des Moines, Iowa (“City”) for the purchase of the portion of vacated East 38th Street adjoining its property for the purchase price of \$69,440, subject to the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to reservation of a no-build easement over a portion of the Property, which price reflects the restricted fair market value of said portion of street right-of-way as determined by an independent appraisal approved 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.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a segment of East 38th Street right-of-way from Hubbell Avenue to East Douglas Avenue, legally described as follows, subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated:

A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 20; THENCE NORTH 0°(DEGREES) 21'(MINUTES) 31"(SECONDS) EAST ALONG THE EAST LINE OF SAID SECTION, 25.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°38'16" WEST ALONG A LINE BEING 25.00 FEET NORTH

★ Roll Call Number

21-0263

Agenda Item Number

18

Date February 22, 2021

Page 2

OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION, 30.00 FEET; THENCE NORTH 0°21'31" EAST ALONG A LINE BEING 30.00 FEET WEST OF AND PARALLEL TO SAID EAST LINE, 230.46 FEET TO A POINT BEING 53.00 FEET SOUTHEASTERLY OF AND PERPENDICULAR TO THE CENTERLINE OF HUBBELL AVENUE, AS PRESENTLY ESTABLISHED; THENCE NORTH 54°52'02" EAST ALONG A LINE BEING 53.00 FEET SOUTHEASTERLY OF AND PARALLEL TO SAID CENTERLINE, 36.85 FEET TO A POINT ON THE EAST LINE OF SAID SECTION; THENCE SOUTH 0°21'31" WEST ALONG SAID EAST LINE, 251.48 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.17 ACRES (7229 SQ. FT.)

AND

A PART OF LOT "B", AQUARIUS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT "B"; THENCE NORTH 0°(DEGREES) 21'(MINUTES) 31"(SECONDS) EAST ALONG THE WEST LINE OF SAID LOT, 25.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 0°21'31" EAST ALONG SAID WEST LINE, 251.48 FEET TO A POINT BEING 53.00 FEET SOUTHEASTERLY OF AND PERPENDICULAR TO THE CENTERLINE OF HUBBELL AVENUE, AS PRESENTLY ESTABLISHED; THENCE NORTH 54°52'02" EAST ALONG A LINE BEING 53.00 FEET SOUTHEASTERLY OF AND PARALLEL TO SAID CENTERLINE, 40.53 FEET TO A POINT ON THE EAST LINE OF SAID LOT "B"; THENCE SOUTH 0°21'31" WEST ALONG SAID EAST LINE, 274.85 FEET TO THE NORTHWEST CORNER OF LOT "A" OF SAID AQUARIUS; THENCE NORTH 89°55'22" WEST ALONG THE EXTENDED NORTH LINE OF SAID LOT "A", 33.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.20 ACRES (8646 SQ. FT.).

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated street right-of-way, as legally described above, to Git-N-Go Convenience Stores, Inc. for \$69,440, subject to the reservation of easements therein, and further subject to the reservation of a no-build easement over a portion of the Property.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on March 8, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. 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 February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given 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 the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

★ **Roll Call Number**

21-0263

Agenda Item Number

18

Date February 22, 2021

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/85881529685?pwd=ajZLTTC81UFpwc29JK1NZTkdlSVRqUT09>
 Passcode: 336793

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 858 8152 9685

International numbers available: <https://dmgov-org.zoom.us/j/keppKi73OX>

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. March 4, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

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. The proceeds from this sale shall be deposited to the Hubbell Avenue Improvements – East 33rd Street to East 38th Street Project, ST259.

Moved by *Gatto* to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

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

MOTION CARRIED

APPROVED

L. M. Frank 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.

P. Kay Cmelik

City Clerk