

★ Roll Call Number

21-0582

Agenda Item Number

35

Date April 5, 2021

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF VACATED EAST/WEST ALLEY RIGHT-OF-WAY ADJOINING 200, 210 AND 216 EAST COURT AVENUE TO 217 E. SECOND, LC FOR \$38,665**

**WHEREAS**, March 1, 1993, by Roll Call No. 93-703, the City Council of the City of Des Moines, Iowa voted to approve the vacation of the east-west alley right-of-way located north of and adjoining Lots 5 through 10 and the vacated alley between Lots 7 and 8, Block H, Scott and Deans Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa; and

**WHEREAS**, on May 22, 2017, by Roll Call No. 17-0900, the City Council of the City of Des Moines, Iowa voted to approve the sale of a portion of the vacated alley right-of-way adjoining 212 E. 3<sup>rd</sup> Street to H. Glass Partners, LLC; and

**WHEREAS**, 217 E. Second, LC, owner of 217 East Second Street, 200 East Court Avenue and 216 East Court Avenue, has offered to the City of Des Moines ("City") the purchase price of \$38,665 for the purchase of the remaining portion of the vacated east-west alley right-of-way adjoining its properties at 217 East Second Street, 200 East Court Avenue and 216 East Court Avenue (hereinafter "Property"), for assemblage and redevelopment of those properties, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or relocated and further subject to a no-build easement, which price reflects the restricted fair market value of the City Property as determined by the City's Real Estate Division; and

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

**WHEREAS**, on March 22, 2021, by Roll Call No. 21-0458, 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 5, 2021, 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 15, 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 and telephonic public access to the meeting location; and



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**WHEREAS**, due notice of said proposal to convey the Property 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 the vacated alley right-of-way as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the excess City-owned property proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the vacated east-west alley right-of-way adjoining 217 East Second Street, 200 East Court Avenue and 216 East Court Avenue, Des Moines, Iowa, legally described as follows, to 217 E. Second, LC for \$38,665, 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, and further subject to a no-build easement:

**-EXCEPT** THE NORTH HALF (1/2) OF THE VACATED SOUTHERN EAST/WEST ALLEY LYING SOUTH OF AND ADJOINING THE EAST 120.6 FEET OF LOT 11-, THE VACATED SOUTHERN EAST/WEST ALLEY, ALL IN BLOCK H, SCOTT AND DEAN’S ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.08 ACRES (3,515 SQUARE FEET).

3. The Mayor is authorized and directed to sign the Offer to Purchase 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 Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.

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 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.



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6. 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.

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 Deed and copies of the other documents to the grantee.

8. 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:**

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

*rsu*

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

*J. M. Franke Cownie*  
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