



Roll Call Number

25-0365

Agenda Item Number

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Date March 10, 2025

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF VACATED ALLEY RIGHT-OF-WAY ADJOINING 926 40<sup>th</sup> PLACE AND 925 41<sup>ST</sup> STREET TO CAPITAL HOMES II, L.L.C. D/B/A CUTLER CONSTRUCTION COMPANY AND CINDY L. FITCH AND PAUL E. FITCH**

**WHEREAS**, on October 6, 1986, by Roll Call No. 4760, the City Council of the City of Des Moines, Iowa passed Ordinance No. 10,877 vacating the north/south alley right-of-way lying east of and adjoining Lots 17 through 23, Campbell Place, including that portion of alley right-of-way lying west of and adjoining 926 40<sup>th</sup> Place and lying east of and adjoining 925 41<sup>st</sup> Street, subject to the reservation of easements for public utilities then in place with right of entry for servicing same; and

**WHEREAS**, Capital Homes II, L.L.C. d/b/a Cutler Construction Company has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$25.00 for the purchase of the east half of the vacated north/south alley right-of-way located west of and adjoining 926 40<sup>th</sup> Place, and Cindy L. Fitch and Paul E. Fitch have offered to the City the purchase price of \$25.00 for the west half of the vacated north/south alley right-of-way located east of and adjoining 925 41<sup>st</sup> Street (hereinafter collectively “Property”), for incorporation into their adjoining properties for expanded side yard, subject to the reservation of any necessary 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 City Property as determined by the City’s Real Estate Division; and

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

**WHEREAS**, on February 24, 2025, by Roll Call No. 25-0260, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on March 10, 2025, 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 convey the Property was given to all necessary parties 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 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 north/south alley right-of-way lying west of and adjoining 926



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40<sup>th</sup> Place and lying east of and adjoining 925 41<sup>st</sup> Street, Des Moines, Iowa, 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 north/south alley right-of-way lying west of and adjoining 926 40<sup>th</sup> Place and lying east of and adjoining 925 41<sup>st</sup> Street, Des Moines, Iowa, as legally described, to the grantee, and for the consideration identified below, subject to a reservation of easements therein and said conveyance is hereby approved:

Grantee: Capital Homes II, L.L.C. d/b/a Cutler Construction Company

Consideration: \$25.00

Legal Description: THE EAST HALF (E 1/2) OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 31, CAMPBELL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 350 SQUARE FEET.

Grantee: Cindy L. Fitch and Paul E. Fitch

Consideration: \$25.00

Legal Description: THE WEST HALF (W 1/2) OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 18, CAMPBELL PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 350 SQUARE FEET.

3. 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.

4. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreements 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 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.

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



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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 copies of the other documents to the grantees.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Mandelbaum to adopt. Second by Gatto.

APPROVED AS TO FORM:

/s/ Chas M. Cahill  
Chas M. Cahill, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			
<u>Connie Boesen</u> Mayor				

**CERTIFICATE**

I, Laura Baumgartner, 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.

Laura Baumgartner City Clerk