

Date November 24, 2008

**HOLD HEARING FOR VACATION AND CONVEYANCE OF BIRCH LANE FROM THORNTON DRIVE TO SOUTHWEST 24<sup>TH</sup> STREET AND SOUTHWEST 24<sup>TH</sup> STREET FROM THORNTON AVENUE TO WATROUS AVENUE TO LEONARD AND SHERYL BALLARD FOR \$650, TO STEVEN CURTIS AND PHILIP MURRELL FOR \$250 , AND TO DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT FOR \$1**

**WHEREAS**, on October 27, 2008, by Roll Call No. 08-1840, the City Council adopted a recommendation from the City Plan and Zoning Commission that Birch Lane right-of-way from Thornton Drive to Southwest 24<sup>th</sup> Street and Southwest 24<sup>th</sup> Street right-of-way from Thornton Avenue to Watrous Avenue, hereinafter more fully described, be vacated and sold; and

**WHEREAS**, the grantees identified below are the owners of property abutting such right-of-way and have offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the portions of such right-of-way described below; and

**WHEREAS**, on November 10, 2008, by Roll Call No. 08- 1961 , it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on November 24, 2008, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in said proposed vacation and 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of Birch Lane right-of-way from Thornton Drive to Southwest 24<sup>th</sup> Street and Southwest 24<sup>th</sup> Street right-of-way from Thornton Avenue to Watrous Avenue, more specifically described as follows:

All of Lot A, (Birch Lane), Wakonda Club Knolls Plat 2, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

DESCRIPTION REVIEWED  
*[Signature]*  
11/25/08 14:10

Date November 24, 2008

All of Lot C, (Southwest 24<sup>th</sup> Street) Wakonda Club Knolls, an Official Plat, (except the South 9.0 feet of said Lot C), and lying South of the South right-of-way line of Thornton Avenue extended southeasterly to the South right-of-way line of Thornton Drive, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the sale and conveyance of such right-of-way, as described below, and to the grantees and for the consideration identified below, together with payment by such grantees of the estimated publication and recording costs for this transaction, be and is hereby approved:

To: Leonard B. and Sheryl K. Ballard for \$650

The North 1/2 of Vacated Lot A (Birch Lane), Wakonda Club Knolls Plat 2, an Official Plat, lying South of and adjoining Lot 6, of said Wakonda Club Knolls, and that part of vacated Lot C, (Southwest 24<sup>th</sup> Street) Wakonda Club Knolls, an Official Plat, lying South of the South right-of-way line of Thornton Avenue extended southeasterly to the South right-of-way line of Thornton Drive and lying East of and adjoining the East 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 (Except Street), of Section 20, Township 78 North, Range 24 West of the 5<sup>th</sup> P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

To: Steven J. Curtis and Philip L. Murrell for \$250

The South 1/2 of Vacated Lot A (Birch Lane), Wakonda Club Knolls Plat 2, an Official Plat, and lying North of and adjoining Lot 7 of said Wakonda Club Knolls Plat 2, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

To: Des Moines Independent Community School District for \$1

All that part of Vacated Lot C, (Southwest 24<sup>th</sup> Street) Wakonda Club Knolls, an Official Plat, (except the South 9.0 feet of said Lot C), lying East of and adjoining the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of the Northwest 1/4 (Except Street), of Section 20, Township 78 North, Range 24 West of the 5<sup>th</sup> P.M., all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Offers to Purchase and the Quit Claim Deeds for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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5. Upon final passage of an ordinance vacating the said right-of-way and 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 originals of the said 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 originals of the Deeds, 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 originals of the Quit Claim Deeds and copies of the other documents to the grantees.

8. The proceeds from the sale of this property will be deposited into the following account: CDM Index: 950287, Fund: SP767, ORG: ENG980500, Fund Description: Property Maintenance Fund.

(Council Communication No. )

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*  
 \_\_\_\_\_  
 Glenna K. Frank  
 Assistant City Attorney

PCV

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
 Mayor

**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.

\_\_\_\_\_  
 City Clerk