



Roll Call Number

21-1578

Agenda Item Number

41

Date October 18, 2021

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF VACATED NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED WEST OF AND ADJOINING 4104 AMHERST STREET TO TRUE BIBLE BAPTIST CHURCH FOR \$1.00 AS PART OF THE HAMILTON DRAIN STORM SEWER IMPROVEMENTS PROJECT

WHEREAS, on October 28, 1996, by Roll Call No. 96-3692, the City Council of the City of Des Moines, Iowa voted to pass Ordinance No. 13,389 vacating the north-south alley right-of-way in the block bounded by East Shawnee and East Aurora Avenues and Bowdoin and Amherst Streets; and

WHEREAS, because of an error in the legal description of Ordinance 13,389, on January 6, 1997, by Roll Call No. 97-115, the City Council of the City of Des Moines, Iowa voted to pass Ordinance No. 13,413 repealing Ordinance No. 13,389, and vacating the north-south alley right-of-way in the block bounded by East Shawnee and East Aurora Avenues and Bowdoin and Amherst Streets; and

WHEREAS, on March 25, 2019, by Roll Call No. 19-0459, the City Council of the City of Des Moines, Iowa voted to accept from True Bible Baptist Church a Permanent Easement for Underground Storm Water Detention and Storm Sewer Facilities (“Easement”) under, over, through and across the church property locally known as 4104 Amherst Street as part of the Hamilton Drain Storm Sewer Improvements Project; and

WHEREAS, said Easement was subsequently filed of record with the Recorder of Polk County, Iowa on May 13, 2019 in Book 17323, Page 88; and

WHEREAS, following construction of the basin but prior to restoring the parking lot thereon as required in the Easement, it was determined that additional space was needed in order to fully reconstruct said parking lot in compliance with current site plan requirements; and

WHEREAS, therefore, that portion of the vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street (“Property”) needs to be conveyed to True Bible Baptist Church for incorporation with its adjoining property to complete the parking lot restoration in accordance with current site plan requirements, which will make True Bible Baptist Church whole by fully replacing the same number of parking spaces as existed prior to the Project; and

WHEREAS, in exchange for a settlement of all claims arising from the loss of parking related to the Project, the construction and reconstruction of the parking lot related to the Project, and the restoration requirements related to the parking lot as set forth in the Easement, the City proposes to sell that portion of the vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street to True Bible Baptist Church for \$1.00; 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.



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WHEREAS, on October 4, 2021 by Roll Call No. 21-1472, 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 October 18, 2021, 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 portion of vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for said vacated north-south alley right-of-way proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the portion of vacated north-south alley right-of-way lying west of and adjoining 4104 Amherst Street, as legally described, to True Bible Baptist Church for \$1.00, and in consideration of a settlement and release of certain claims associated with the City's acquisition of a Permanent Easement for Underground Storm Water Detention and Storm Sewer Facilities as part of the Hamilton Drain Storm Sewer Improvements Project, subject to a reservation of easements therein, 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:

ALL OF THE VACATED ALLEY RIGHT OF WAY LYING WEST OF AND ADJOINING LOTS 10, 11 AND 12 IN BLOCK 2 OF THE OFFICIAL PLAT OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER (EXCEPT THE EAST 830.4 FEET OF THE SOUTH HALF (1/2) THEREOF) OF SECTION 23, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 0.06 ACRES (2,400 SQUARE FEET).

3. The Mayor is authorized and directed to sign the Offer to Purchase, Settlement and Release, 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.



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- 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. 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.
- 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. There are no proceeds associated with this conveyance.

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>J. M. Frankin Cownie</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.

P. Kay Cmelik

City Clerk