



Roll Call Number

23-0526

Agenda Item Number

56

Date April 10, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PORTION OF VACATED ALLEY RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 835 41ST STREET TO SARAH J. MCCURDY

WHEREAS, on November 21, 1935, the City Council of the City of Des Moines, Iowa passed Ordinance No. 4312 vacating all of the north-south alley right-of-way lying between 41st Street and 40th Place extending from Rollins Avenue to Center Street; and

WHEREAS, Section 2 of Ordinance No. 4312 states, "That said alley or strip of ground above described shall revert to the abutting property owners, one half on each side of the center line thereof;" and

WHEREAS, the City of Des Moines Real Estate Division can find no evidence that a deed from the City to the owner of 835 41st Street was ever filed of record with the Office of the Polk County Recorder; and

WHEREAS, Sarah J. McCurdy, current owner of 835 41st Street, has asked the City of Des Moines ("City") to approve and file of record a quit claim deed conveying to her the west seven (7) feet of the vacated alley right-of-way lying east of and adjoining her property at 835 41st Street in order to correct the chain of title to her property, clear a legal title objection, and allow her to close on the sale of 835 41st Street; 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 27, 2023 by Roll Call No. 23-0391, 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 April 10, 2023, 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:

7. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of the west half of the vacated north-south alley right-of-way lying east of and adjoining 835 41st Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.



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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 west half of the vacated alley right-of-way lying east of and adjoining 835 41st Street, Des Moines, Iowa, as legally described, to Sarah J. McCurdy, in order to correct the chain of title to the property, subject to a reservation of easements therein and said conveyance is hereby approved:

A PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY IN BRYN MAWR HEIGHTS ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 7.0 FEET OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 9, ECKEL'S PLACE, AN OFFICIAL PLAT, AND CONTAINING APPROXIMATELY 292 SQUARE FEET.

3. The Mayor is authorized and directed to sign the 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. Upon proof of payment of the \$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.

5. 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.

6. 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.

7. There are no proceeds associated with his transaction.



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Moved by Mandelbaum to adopt. Second by Boesen.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes signature of J. M. Franklin Cownie, 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
Laura Baumgartner, City Clerk