

June 16, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Disposition of vacated Right-of-Way (Holy Trinity Alley)



ACTION: Approve Resolution Disposing Vacated Right-of-Way to Holy Trinity Parish

Brief History

Holy Trinity Parish has requested vacation of the remaining portion of alley located west of what was previously the Phillips Middle School Gymnasium and east of North 10th Street between 4th Avenue North and 3rd Avenue North. See attached map. The Parish intends to use the vacated alley as a driveway to a proposed private parking area.

The public hearing and first reading of the ordinance to vacate the right-of-way should first be approved, and second and third readings waived prior to considering this request for disposition. Following requests for vacation of public property, the property is disposed of to the requesting property owners.

Analysis of Issue

When analyzing requests for the vacation of public rights-of-way, City Staff considers the following:

- abutting property owners' access, support and other impacts;
- parking and transportation;
- liability, safety and maintenance;
- existing or proposed utilities and potential city improvement projects; and
- consistency with the City's Land Use Plan.

Each consideration noted above was explored; no concerns in regards to access, parking, safety, utilities or land use was found. Under its previous use, the alley was blocked off to the public by a chain link fence. The north half of the alley was paved for basketball courts and the south portion was graveled as part of the track. Holy Trinity is proposing to use the existing alley's curb cut for vehicular access to the existing basketball courts, which will be converted into a private parking area for use of the gymnasium and field. Holy Trinity anticipates that the fence will be replaced with a closeable gate, to be opened for use of the gymnasium and field. Holy Trinity has obtained a Special Exception from the Board of Adjustment to allow these changes.

If vacated, disposition of the lands will be necessary in ensuring that Holy Trinity may use the property for the above-stated purposes.

No utilities currently existing within the alley; therefore, no utility easements are necessary at this time.

Budget Impact

Disposal of right-of-way will incur a recording cost.

Strategic Plan Impact

N/A

Existing Plan Impact

N/A

Subcommittee or Commission Review / Recommendation

The Plan & Zoning Commission considered the request for right-of-way vacation at their meeting on June 10, 2014. The Commission voted unanimously to recommend approval of the alley vacation and disposition.

Staff Conclusions / Recommendations

Staff recommends approving the disposition of the vacated public right-of-way to Holy Trinity Parish.

Alternatives

The alternative would be to not approve the disposition of the vacated public right-of-way as requested. The ROW property would remain in the City's Ownership.

Implementation and Accountability

If the disposition is approved, the City will execute the appropriate documents to complete the disposition to Holy Trinity Parish.

Signed



Carissa Miller
Associate Planner
Department of Business Affairs &
Community Growth

Approved



David R. Fierke
City Manager

Request for Vacation of Alley - Holy Trinity

Plan and Zoning Commission Case 2201.14



40 20 0 40 Feet

Map created 6/2/14

Prepared By: Carissa Miller, City of Fort Dodge, 819 1st Ave S, Fort Dodge, Iowa 515-576-8191
Return To: Carissa Miller, City of Fort Dodge, 819 1st Ave S., Fort Dodge, Iowa 50501, 515-576-8191

RESOLUTION NO. _____

**RESOLUTION DIRECTING THE DISPOSAL OF AN INTEREST
IN REAL PROPERTY FOLLOWING PUBLIC HEARING**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE,
IOWA:

WHEREAS, a Public Hearing was held on the 23rd day of June, 2014, at 6:00 p.m., to consider the proposed disposal of the following described real estate, to wit:

THAT PORTION OF ALLEY WHICH EXTENDS FROM NORTH 10TH STREET EASTERLY AND INCLUDES ALL OF SAID ALLEY WHICH ABUTS LOTS FIVE (5), FOUR (4), TEN (10) AND NINE (9) IN SAID BLOCK 25, EAST FORT DODGE ADDITION TO FORT DODGE, WEBSTER COUNTY, IOWA.

WHEREAS, the City Council of the City of Fort Dodge, Iowa, has made the following findings:

1. The above-described real estate is no longer needed for public purposes.
2. The proposed disposal of the above-described portion of public right-of-way does not negatively impact transportation, public utilities, or access onto public rights-of-way.
3. That the new adjacent landowner is desirous of obtaining said property. Said adjacent landowners will be Holy Trinity.

NOW THEREFORE, BE IT RESOLVED, that the above-described real estate be conveyed by deed to the abutting landowners.

BE IT FURTHER RESOLVED that the Mayor shall execute on behalf of the City deeds to the above described real estate and the City Clerk shall co-sign said deeds and deliver same to said abutting property owner within thirty days after the date of this Resolution in consideration of fifty (\$50) and other valuable consideration. Action on this Resolution shall be final upon completion of recording of the deed by the City Clerk and such fact noted on the official record of said Resolution.

PASSED AND APPROVED by the City Council of the City of Fort Dodge, Iowa
this ____ day of _____, 2014.

AYES _____

NAYES _____

OTHER _____

CITY OF FORT DODGE

BY: _____
Matt Bemrich, Mayor

ATTEST:

Jeff Nemmers, City Clerk

(CITY SEAL)

STATE OF IOWA, WEBSTER COUNTY, ss:

On this ____ day of _____, 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public

Prepared by: Carissa Miller, Business Affairs & Community Growth, 819 1st Ave South, Fort Dodge, IA 50501 (515)573-8321
Send Taxes To: Holy Trinity Parish, 2220 4th Ave N, Fort Dodge, IA 50501
Mail Recorded Document To: City of Fort Dodge, 819 1st Ave. S., Fort Dodge, IA 50501

QUIT CLAIM DEED

For the consideration of Fifty and no/100----- Dollar(s) and other valuable consideration, City of Fort Dodge, Iowa, a Municipal Corporation, organized and existing under the laws of The State Of Iowa does hereby Quit Claim to Holy Trinity Parish the following described real estate in Webster County, Iowa:

THAT PORTION OF ALLEY WHICH EXTENDS FROM NORTH 10TH STREET EASTERLY AND INCLUDES ALL OF SAID ALLEY WHICH ABUTS LOTS FIVE (5), FOUR (4), TEN (10) AND NINE (9) IN SAID BLOCK 25, EAST FORT DODGE ADDITION TO FORT DODGE, WEBSTER COUNTY, IOWA.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number; according to the context.

CITY OF FORT DODGE

Dated: _____

By _____
Matt Bemrich, Mayor

(SEAL)

By _____
Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this _____ day of _____, 2014 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of said corporation, that the seal affixed thereto is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dawn M. Siebken, Notary Public

**REAL ESTATE TRANSFER - GROUNDWATER HAZARD STATEMENT
TO BE COMPLETED BY TRANSFEROR**

TRANSFEROR:

Name City of Fort Dodge

Address 819 1st Avenue South Fort Dodge IA 50501
Number and Street or RR City, Town or PO State Zip

TRANSFeree:

Name Holy Trinity Parish

Address 2220 4th Ave N Fort Dodge IA 50501
Number and Street or RR City, Town or PO State Zip

Address of Property Transferred:

N/A - Vacated ROW

Number and Street or RR City, Town or PO State Zip

Legal Description of Property: (Attach if necessary)

See Attached Legal Description (Exhibit A)

1. Wells (check one)

- There are no known wells situated on this property.
- There is a well or wells situated on this property. The type(s), location(s) and legal status are stated below or set forth on an attached separate sheet, as necessary.

2. Solid Waste Disposal (check one)

- There is no known solid waste disposal site on this property.
- There is a solid waste disposal site on this property and information related thereto is provided in Attachment #1, attached to this document.

3. Hazardous Wastes (check one)

- There is no known hazardous waste on this property.
- There is hazardous waste on this property and information related thereto is provided in Attachment #1, attached to this document.

4. Underground Storage Tanks (check one)

- There are no known underground storage tanks on this property. (Note exclusions such as small farm and residential motor fuel tanks, most heating oil tanks, cisterns and septic tanks, in instructions.)
- There is an underground storage tank on this property. The type(s), size(s) and any known substance(s) contained are listed below or on an attached separate sheet, as necessary.

5. Private Burial Site (check one)

- There are no known private burial sites on this property.
- There is a private burial site on this property. The location(s) of the site(s) and known identifying information of the decedent(s) is stated below or on an attached separate sheet, as necessary.

6. Private Sewage Disposal System (check one)

- All buildings on this property are served by a public or semi-public sewage disposal system.
- This transaction does not involve the transfer of any building which has or is required by law to have a sewage disposal system.
- There is a building served by private sewage disposal system on this property or a building without any lawful sewage disposal system. A certified inspector's report is attached which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the Department of Natural Resources. A certified inspection report must be accompanied by this form when recording.
- There is a building served by private sewage disposal system on this property. Weather or other temporary physical conditions prevent the certified inspection of the private sewage disposal system from being conducted. The buyer has executed a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. A copy of the binding acknowledgment is attached to this form.
- There is a building served by private sewage disposal system on this property. The buyer has executed a binding acknowledgment with the county board of health to install a new private sewage disposal system on this property within an agreed upon time period. A copy of the binding acknowledgment is provided with this form.
- There is a building served by private sewage disposal system on this property. The building to which the sewage disposal system is connected will be demolished without being occupied. The buyer has executed a binding acknowledgment with the county board of health to demolish the building within an agreed upon time period. A copy of the binding acknowledgment is provided with this form. [Exemption #9]
- This property is exempt from the private sewage disposal inspection requirements pursuant to the following Exemption [Note: for exemption #9 use prior check box]: _____
- The private sewage disposal system has been installed within the past two years pursuant to permit number _____

Information required by statements checked above should be provided here or on separate sheets attached hereto:

I HEREBY DECLARE THAT I HAVE REVIEWED THE INSTRUCTIONS FOR THIS FORM AND THAT THE INFORMATION STATED ABOVE IS TRUE AND CORRECT.

Signature: Carissa Miller
(Transferor or Agent)

Telephone No.: (515) 576-8191

EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF ALLEY WHICH EXTENDS FROM NORTH 10TH STREET
EASTERLY AND INCLUDES ALL OF SAID ALLEY WHICH ABUTS LOTS FIVE
(5), FOUR (4), TEN (10) AND NINE (9) IN SAID BLOCK 25, EAST FORT
DODGE ADDITION TO FORT DODGE, WEBSTER COUNTY, IOWA.