

**June 16, 2014**

**To: Mayor Bemrich and City Council**

**From: David Fierke, City Manager**

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



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

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**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 10<sup>th</sup> Street between 4<sup>th</sup> Avenue North and 3<sup>rd</sup> 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



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Carissa Miller  
Associate Planner  
Department of Business Affairs &  
Community Growth

Approved



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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

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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 23<sup>rd</sup> 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 10<sup>TH</sup> 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 1<sup>st</sup> Ave South, Fort Dodge, IA 50501 (515)573-8321  
Send Taxes To: Holy Trinity Parish, 2220 4<sup>th</sup> Ave N, Fort Dodge, IA 50501  
Mail Recorded Document To: City of Fort Dodge, 819 1<sup>st</sup> 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 10<sup>TH</sup> 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 <u>819 1st Avenue South</u>	<u>Fort Dodge</u>	<u>IA</u>	<u>50501</u>
<small>Number and Street or RR</small>	<small>City, Town or PO</small>	<small>State</small>	<small>Zip</small>

**TRANSFeree:**

Name Holy Trinity Parish

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

Address of Property Transferred:

N/A - Vacated ROW

<small>Number and Street or RR</small>	<small>City, Town or PO</small>	<small>State</small>	<small>Zip</small>
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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:**

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

Signature: \_\_\_\_\_

(Transferor or Agent)

Telephone No.: (515) 576-8191



**EXHIBIT A**

**LEGAL DESCRIPTION**

THAT PORTION OF ALLEY WHICH EXTENDS FROM NORTH 10<sup>TH</sup> 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.