

October 6, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

Subject: Disposition of vacated Public Right-of-Way



ACTION: Vote on Resolution Disposing Vacated Right-of-Way to Josephson Manufacturing

Background

Josephson Manufacturing requested that the City vacate that portion of 1st Avenue North lying west of North 3rd Street and excluding the east approximate 160 feet. See attached map and legal description. Josephson Manufacturing is currently in the final stages of purchasing the abutting properties to the north and would like to acquire the vacated street as a part of their property. The Company intends to use the vacated street for expansion of their existing business.

Analysis of Issue

When analyzing requests for the vacation of public right-of-way, City Staff and the Plan and Zoning Commission consider 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 of the above items was considered, and as noted in the Staff Report and Ordinance for Vacation of said Public Right-of-Way, Josephson Manufacturing must obtain ownership of all properties abutting the vacated area, resolve all access concerns through an agreement with the property owner abutting the southeast corner of the vacated area, and resolve utility concerns through removal of existing utilities or recording of easements in relation to existing utilities; each of these items is expanded upon below.

Ownership of Abutting Properties

A recorded deed has been provided to the City for abutting properties to the north of the vacated lands.

Access

An easement providing reasonable access for the neighboring property owner to the southeast has been drafted. The neighboring property owner has indicated their approval of this easement. The easement must be signed by both parties and recorded at the Webster County Records Office.

Utilities

Mediacom and Frontier Communications currently have service lines that run through the vacated lands; both utilities have noted they will abandon services within the vacated area upon demolition of the structures to the north of the vacated lands, which will take place prior to development on said lands.

MidAmerican Energy has indicated they have been working with Josephson Manufacturing on relocating utilities and establishing an easement where their new cable and transformer will be on the vacated property. Josephson should continue coordination with MidAmerican; if no changes are made to said utilities, easements must be established for the existing MidAmerican utilities.

The City has a water main that ends within the vacated area. Josephson must coordinate with the City Utility and/or Engineering Department and be responsible for removal of a portion of this main under the vacated lands, as well as capping of said main, east of the vacated lands, within the City's Right-of-Way.

Budget Impact

The disposition of the vacated lands will result in a payment to the City for said lands based on the Fair Market Value, which was determined using the average land value of abutting parcels. Based on the assessed land value of three abutting properties, the average land value came to \$0.64 per square foot. At an area of 5,544 square feet, the Fair Market Value of the vacated lands was determined to equal \$3,581.

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 August 12, 2014 and unanimously recommended approval of this request with contingencies, which have been resolved, as noted above.

Staff Conclusions / Recommendations

Subject to City Council review, staff recommends approving the disposition of the vacated public right-of-way as requested.

Alternatives

The alternative would be to deny the disposition of the vacated public right-of-way, as requested. The ROW property would then 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 Josephson Manufacturing.

Signed



Carissa Miller
Senior Planner
Business Affairs & Community Growth

Approved



David R. Fierke
City Manager

Case 2202.14 - 1st Avenue North ROW Vacation Request

DESCRIBED AS THAT PORTION OF 1ST AVENUE NORTH LYING NORTH OF LOT 4 AND THE WESTERLY MEASURED DIMENSION OF 18.96 FEET OF LOT 3, IN BLOCK 7 OF THE ORIGINAL TOWN OF FORT DODGE, IN WEBSTER COUNTY, IA.



50 25 0 50 Feet

Map created 8/18/14
All locations are approximate.

Prepared By: Carissa Miller, City of Fort Dodge, 819 1st Ave S, Fort Dodge, Iowa 515-576-8191
Return To: 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 8th day of September, 2014, at 6:00 p.m., to consider the proposed disposal of the following described real estate, to wit:

THAT PORTION OF 1ST AVENUE NORTH LYING NORTH OF LOT 4 AND THE WEST 18.96 FEET OF LOT 3, ALL IN BLOCK 7 OF THE ORIGINAL TOWN OF FORT DODGE, IN 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; and
2. The adjacent landowner is desirous of obtaining said property. Said adjacent landowners being JMC Real Estate, LLP; and
3. JMC Real Estate, LLP must provide an easement establishing reasonable access for the neighboring property owner to the southeast of the disposed lands;
4. JMC Real Estate, LLP must continue to work with various private utilities to ensure all utility matters are resolved. Said utilities include MidAmerican Energy, Mediacom and Frontier Communications;
5. Prior to development on the disposed lands, JMC Real Estate, LLP must coordinate with the City of Fort Dodge Utility and Engineering Departments to remove a portion of the water main located under the disposed lands, and cap said main east of the disposed lands;
6. Upon addressing the above-findings (3-5), the proposed disposal of the above-described portion of public right-of-way will not negatively impact transportation, public utilities, or access onto public rights-of-way.

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 three thousand, five hundred and eighty-one dollars (\$3,581) 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: JMC Real Estate, LLP, 216 Central Avenue, 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 One 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 JMC Real Estate, LLP the following described real estate in Webster County, Iowa:

THAT PORTION OF 1ST AVENUE NORTH LYING NORTH OF LOT 4 AND THE WEST 18.96 FEET OF LOT 3, ALL IN BLOCK 7 OF THE ORIGINAL TOWN OF FORT DODGE, IN 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 JMC Real Estate, LLP

Address 216 Central Ave 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)

THAT PORTION OF 1ST AVENUE NORTH LYING NORTH OF LOT 4 AND THE WEST 18.96 FEET OF LOT 3,
ALL IN BLOCK 7 OF THE ORIGINAL TOWN OF FORT DODGE, IN WEBSTER COUNTY, IOWA.

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)

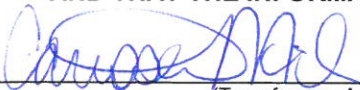
- There are no known private burial sites on this property.
- There is a private burial site on this property. The location(s) of the site(s) and known identifying information of the decedent(s) is stated below or on an attached separate sheet, as necessary.

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:  Telephone No.: (515) 576-8191
 (Transferor or Agent)