

## GENERAL INFORMATION ON PURCHASING VACATED RIGHT-OF-WAY

In conjunction with submitting an Application for Vacation, many adjacent property owners often desire to purchase the vacated right-of-way. This memo provides general information regarding the procedure you must follow to make such a purchase and the factors the City Council considers when determining whether to accept your purchase offer and convey the vacated property to you.

In order for the City Council to consider conveying the vacated right-of-way to you, you must first submit a purchase offer to the City Attorney's office. This purchase offer is in addition to the Application for Vacation and will be considered separately. Once the City Attorney's office has received your offer, the City Council will consider a "Resolution of Intent to Convey" the vacated right-of-way. A public hearing on the offer and resolution will be set, ideally on a date that coincides with the Council's final reading of the proposed ordinance to vacate the property. If, after public hearing, the Council agrees that your offer reflects fair market value and the conveyance is in the public interest, it may pass a "Resolution Authorizing Conveyance." All of these steps are necessary for the City to pass clear title of the former right-of-way to a private party.

It is important to recognize that the City holds property "in trust" for the use and benefit of the public, and thus, City property can be disposed of only in accordance with the public interest. As "trustee" of public property, the City Council must dispose of such property in good faith, upon adequate consideration, and upon reasonable and lawful terms. Generally, "adequate consideration" has meant the City must obtain fair market value for the property to be conveyed, assuming the transaction does not entail other public benefit.

Determining "adequate consideration" or fair market value for parcels of public property, particularly former right-of-way property, can be difficult. The City Council considers the specific facts of each situation when determining the appropriate payment for conveyance of such property. In past conveyances, the amount of consideration has been based on the assessed value of neighboring property or recent sales of neighboring or comparable property (on a price per square foot basis). Although an appraisal is not necessary, when one is available, appraised value of neighboring property can also serve as a basis for determining the appropriate consideration. The existence of easements which limit the buildable area or use of the property may support a lower valuation.

These figures of course do not take into account any "public benefit" or other unique circumstances you may believe exist in relationship to your proposal to acquire the parcel from the City. Please take all of these factors into consideration when submitting your offer, as prospective purchasers are often asked to explain how their offer was arrived at and how this relates to the fair market value of the property.

For more information on making an offer to purchase a vacated right-of-way, please contact Assistant City Attorney Sara Greenwood Hektoen at (319)356-5030 or [sara-hektoen@iowa-city.org](mailto:sara-hektoen@iowa-city.org).