



**Council**  
**Communication**  
Office of the City Manager

**Date**

October 9, 2006

**Agenda Item No.** 59  
**Roll Call No.** 06-  
**Communication No.** 06-636  
**Submitted by:** **Jeb E. Brewer, P.E.,**  
**City Engineer**

**AGENDA HEADING:**

Hearing for the vacation and conveyance of an easement to LB Properties X, L.L.C., for subsurface rights located in a six-foot strip of street and alley rights-of-way adjoining 912 Walnut Street, for \$35,000.

**SYNOPSIS:**

Approval for the vacation and conveyance of said easement to LB Properties X, L.L.C., an Iowa limited liability company (Jon Garnaas, Representative of Managing Member, 6601 Westown Parkway, Suite 240, West Des Moines, Iowa, 50266), for \$35,000. This action is required by Iowa law prior to making a final determination on the proposed sale by resolution. There is no current or anticipated public need for this property, and the easement for underground footings should not affect any current or future use of the street and sidewalk.

**FISCAL IMPACT:**

Amount: \$35,000

Funding Source: 2006-07 Operating Budget, Page 310, Property Maintenance, SP767

**ADDITIONAL INFORMATION:**

On August 21, 2006, by Roll Call No. 06-1666, the City Council adopted a recommendation from the City Plan and Zoning Commission that the subsurface rights-of-way adjoining 912 Walnut Street, within the north six feet of Mulberry Street, the east six feet of 10<sup>th</sup> Street, the south six feet of Walnut Street, and the east six feet of the west 12 feet of the north/south alley (west six feet previously vacated) be vacated and sold to the adjoining property owner, subject to the following conditions:

- 1) The vacation to be limited to the subsurface rights below grade.
- 2) The surface of the right-of-way to be restored by the developer in accordance with an approved site plan.
- 3) Relocation of all existing utilities at the developer's expense necessary for the construction of the foundation.

LB Properties X, L.L.C. desires to purchase an easement for subsurface rights adjoining their property at 912 Walnut Street for installation of the foundation for the new Davis Tower. The subsurface area to be conveyed consists of approximately 4,870 square feet. The conveyance by easement for installation of footings and foundations is for the life of the building and is within the subsurface area. If the building is

ever removed or destroyed to an extent exceeding 60% of its replacement value, the easement will terminate, unless the building is reconstructed within two years.

LB Properties X, L.L.C., an Iowa limited liability company, has submitted an offer to purchase the above referenced property for \$35,000, which is equal to the estimated Fair Market Value.

**PREVIOUS COUNCIL ACTION(S):**

Date: September 25, 2006

Roll Call Number: 06-1869

Action: [On](#) vacation and conveyance of easement to LB Properties X, LLC for subsurface rights located in a six foot strip of street and alley right-of-way adjoining 912 Walnut Street, \$35,000, (10-9-06). Moved by Vlassis to adopt. Motion Carried 6-0.

**BOARD/COMMISSION ACTION(S):**

Date: August 3, 2006

Roll Call Number: City Plan & Zoning Commission

Action: Approved request for vacation and conveyance of the subsurface rights-of-way adjoining 912 Walnut Street, within the north six feet of Mulberry Street, the east six feet of 10<sup>th</sup> Street, the south six feet of Walnut Street, and the east six feet of the west 12 feet of the north/south alley (west six feet previously vacated) subject to relocation of all existing utilities, reservation of any necessary easements for remaining utilities, and restoration of the surface in accordance with an approved site plan.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**