

★ Roll Call Number

12-0742

Agenda Item Number

56

Dispositions – Create 319, LLP: Page 1

Date May 7, 2012

HOLD HEARING FOR THE CONVEYANCE BY INSTALLMENT CONTRACT OF THE VACATED EAST/WEST AND NORTH/SOUTH ALLEY RIGHT-OF-WAYS ADJOINING 319 SW 5TH STREET, TO CREATE 319, L.L.P. FOR \$8,000.00

WHEREAS, on September 27, 1993, by Roll Call No. 93-3628, the City Council of the City of Des Moines adopted an ordinance vacating all of the 16.5 foot north/south alley right-of-way lying west of and adjoining Lots 54 through 63, Railroad Addition, and the 16.5 foot east/west alley right-of-way lying south of and adjoining Lot 6, Factory Addition, and a portion of said vacated right-of-way was thereafter conveyed pursuant to Roll Call No. 93-3626; and

WHEREAS, the partners of Create 319, L.L.P., are the titleholders and contract purchasers of real property locally known as 319 SW 5th Street and other adjoining land, and Create 319, L.L.P. is the contract purchaser of the eastern portion of 319 SW 5th Street, which property abuts the remaining portion of the vacated right-of-way, and Create 319, L.L.P. has offered to the City of Des Moines the purchase price of \$8000.00 for incorporation of the remaining vacated right-of-way into their adjoining commercial property, subject to a no-build restriction, which purchase price reflects the fair market value of the restricted property as currently estimated by the City's Real Estate Division; and

WHEREAS, City Real Estate Division staff and Create 319, L.L.P. have negotiated the terms of a real estate purchase installment contract for the proposed conveyance, as on file in the office of the City Clerk, which terms include purchase price of \$8000.00 plus interest per annum and bi-annual installment payments through May 2017; and

WHEREAS, there is no known current or future public need for the right-of-way proposed to be sold, and the City will not be inconvenienced by the sale of said property; and

WHEREAS, on April 23, 2012, by Roll Call No. 12-0604, it was duly resolved by the City Council that the conveyance of such right-of-way be set down for hearing on May 7, 2012, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to convey vacated public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

★ Roll Call Number

Agenda Item Number

12-0742

56

Dispositions – Create 319, LLP: Page 2

Date May 7, 2012

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed conveyance of vacated public right-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the vacated right-of-way and the public would not be inconvenienced by the sale and conveyance of the vacated east/west and north/south alley right-of-ways adjoining 319 SW 5th Street, legally described below, to Create 319, L.L.P. for \$8,000.00, payable in 10 equal bi-annual installments, and drawing interest at the rate of three and one-half percent (3.5%) per annum, together with payment by such grantee of the estimated publication and recording costs for this transaction and in accordance with the terms of the Real Estate Purchase Installment Contract on file in the office of the City Clerk, and said sale and conveyance be and is hereby approved:

ALL OF THE VACATED EAST/WEST ALLEY RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOT 6, FACTORY ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL THAT PART OF THE VACATED NORTH/SOUTH ALLEY RIGHT-OF-WAY LYING BETWEEN THE NORTHEASERLY EXTENTION OF NORTH LINE OF LOT 6, FACTORY ADDITION, AN OFFICIAL PLAT, AND THE SOUTHWESTERLY EXTENTION OF THE SOUTH LINE OF LOT 63, RAILROAD ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. The Mayor is authorized and directed to sign the Real Estate Purchase Installment Contract from the City of Des Moines for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. Upon proof of down payment of \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of said Real Estate Purchase Installment Contract, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded immediately.

5. Upon confirmation by the City's Real Estate Division Manager of the buyer's compliance with the Contract terms and proof of payment of the consideration of \$8,000.00 plus interest, the Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said Quit Claim Deed to the Real Estate Division Manager of the Engineering Department for the purpose of causing said document to be recorded.

★ Roll Call Number

12-0742

Agenda Item Number

56

Dispositions – Create 319, LLP: Page 3

Date May 7, 2012

6. The City Real Estate Division Manager is hereby authorized and directed to administer and monitor the terms of and receipt of payment for the Real Estate Purchase Installment Contract; to approve and execute documents pertaining to any minor or unsubstantial changes to said Contract, following approval of the City Legal Department as to form; and, if needed, to approve, proceed with and execute documents pertaining to forfeiture, foreclosure, or termination of the Contract if Create 319, L.L.P. fails to fulfill the contract terms required, following approval of the City Legal Department.

7. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

(Council Communication No. 12-219)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, KIERNAN, HENSLEY, MAHAFFEY, BROOKS, VLASSIS, and TOTAL (7). Includes 'MOTION CARRIED' and 'APPROVED' labels.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

T. M. Franklin Council Mayor

Diane Rauh City Clerk