

★ Roll Call Number  
12-1932

Agenda Item Number  
20

Date December 17, 2012

**SET HEARING FOR VACATION, CONVEYANCE, AND LEASE OF A PORTION OF EAST GRATIS AVENUE AND SE 14<sup>TH</sup> STREET RIGHT-OF-WAY TO KATNING, INC. FOR \$2,580 (FEE) AND \$1,245 (LEASE)**

**WHEREAS**, on November 19, 2012, by Roll Call No. 12-1762, the City Council received the recommendation from the Plan and Zoning Commission to vacate a portion of Gratis Avenue and SE 14th Street right-of-way adjoining the property locally known as 2102 SE 14<sup>th</sup> Street, subject to conditions; and

**WHEREAS**, Katning, Inc. is the owner of the real property locally known as 2102 SE 14<sup>th</sup> Street that abuts such right-of-way, and has offered to the City of Des Moines the purchase price of \$2,580.00 for the vacation and purchase of a portion of said right-of-way as legally described below, and the rental price of \$1,245.00 for vacation and lease of a portion of said right-of-way as legally described below, for the purpose of resolving an existing parking lot encroachment and in compliance with the Plan and Zoning Commission recommendations, which purchase price and lease amount reflect the fair market value and fair market rent, respectively, of the property interests as currently estimated by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the right-of-way proposed to be vacated, sold, or leased, and the City will not be inconvenienced by the vacation, sale, and lease of said right-of-way.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of Gratis Avenue and SE 14th Street right-of-way adjoining the property locally known as 2102 SE 14<sup>th</sup> Street, more specifically described as follows:

ALL THAT PART OF GRATIS AVENUE RIGHT-OF-WAY, LYING NORTH AND ADJACENT TO LOTS 1, 2, AND 3 IN NELSON'S SUBDIVISION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 3 IN SAID NELSON'S SUBDIVISION; THENCE SOUTH 75° (DEGREES) 07'(MINUTES) 15"(SECONDS) EAST, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 2.27 FEET TO THE POINT OF BEGINNING; THENCE FROM THE BEGINNING OF A LEFT CURVE, EASTERELY A DISTANCE OF 92.30 FEET ALONG THE CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 340.70 FEET AND A CENTRAL ANGLE OF 15°31'20" AND A CHORD BEARING OF SOUTH 84°51'39" EAST AND A CHORD DISTANCE OF 92.02 FEET; THENCE NORTH 89°37'35" EAST, A DISTANCE OF 26.83 FEET; THENCE SOUTH 45°13'49" EAST, A DISTANCE OF 14.10 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SE 14TH STREET; THENCE SOUTH 00°07'13" EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF SE 14TH STREET, A DISTANCE OF 16.15 FEET; THENCE NORTH 75°07'15" WEST, ALONG THE NORTH LINE OF LOTS 1, 2 AND 3 IN NELSON'S SUBDIVISION, A DISTANCE OF 132.98 FEET TO THE POINT OF BEGINNING. CONTAINING 0.03 ACRES (1275 SQ FT), MORE OR LESS.

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2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines further proposes to sell a portion of such vacated right-of-way, as specifically described below, to Katning Inc. for \$2,580.00 and in accordance with the requirements of the Plan and Zoning Commission recommendations:

ALL THAT PART OF GRATIS AVENUE RIGHT-OF-WAY, LYING NORTH AND ADJACENT TO LOTS 1, 2, AND 3 IN NELSON'S SUBDIVISION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 3 IN SAID NELSON'S SUBDIVISION; THENCE SOUTH 75° (DEGREES) 07'(MINUTES) 15"(SECONDS) EAST, ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 2.27 FEET TO THE POINT OF BEGINNING; THENCE FROM THE BEGINNING OF A LEFT CURVE, EASTERELY A DISTANCE OF 92.30 FEET ALONG THE CURVE CONCAVE TO THE NORTH, HAVING A RADIUS OF 340.70 FEET AND A CENTRAL ANGLE OF 15°31'20" AND A CHORD BEARING OF SOUTH 84 51'39" EAST AND A CHORD DISTANCE OF 92.02 FEET; THENCE NORTH 89°37'35" EAST, A DISTANCE OF 7.01 FEET; THENCE SOUTH 45°13'49" EAST, A DISTANCE OF 22.24 FEET; THENCE SOUTH 00°07'13" EAST, A DISTANCE OF 6.55 FEET; THENCE NORTH 75°07'15" WEST, ALONG THE NORTH LINE OF LOTS 1, 2 AND 3 IN NELSON'S SUBDIVISION, A DISTANCE OF 118.44 FEET TO THE POINT OF BEGINNING. CONTAINING 0.02 ACRES (860 SQ FT), MORE OR LESS.

3. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines further proposes to lease the remaining portion of such vacated right-of-way, as specifically described below, to Katning Inc. for \$1,245.00 as a one-time, upfront lump sum payment for lease until December 31, 2099, subject to termination in the event of public need for the property or by either party upon notice, and in accordance with the requirements of the Plan and Zoning Commission recommendations:

ALL THAT PART OF GRATIS AVENUE RIGHT-OF-WAY, LYING NORTH AND ADJACENT TO LOTS 1 AND 2 IN NELSON'S SUBDIVISION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF LOT 3 IN SAID NELSON'S SUBDIVISION; THENCE SOUTH 75° (DEGREES) 07'(MINUTES) 15"(SECONDS) EAST, ALONG THE NORTH LINE OF SAID LOTS 1, 2 AND 3, A DISTANCE OF 120.71 FEET TO THE POINT OF BEGINNING; NORTH 00°07'13" WEST, PARALELL TO THE WEST RIGHT-OF-WAY LINE OF SE 14TH STREET, A DISTANCE OF 6.55 FEET; THENCE NORTH 45°13'49" WEST, A DISTANCE OF 22.24 FEET; THENCE NORTH 89°37'35" EAST, A DISTANCE OF 19.82 FEET; THENCE SOUTH 45°13'49" EAST, A DISTANCE OF 14.10 FEET, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SE 14TH STREET; THENCE SOUTH 00°07'13" EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF SE 14TH STREET, A DISTANCE OF 16.15 FEET; THENCE NORTH 75°07'15" WEST, ALONG THE NORTH LINE OF LOT 1 IN NELSON'S SUBDIVISION, A DISTANCE OF 14.55 FEET TO THE POINT OF BEGINNING. CONTAINING 0.01 ACRES (415 SQ FT), MORE OR LESS.

4. That a public hearing will be held on January 14, 2013, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposals and any other(s) submitted prior to or during the public hearing.

5. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

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6. The proceeds from the sale and lease of this property shall be deposited into the following account: \$3,825, Property Maintenance Endowment Fund, SP767, ENG980500.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank, Assistant City Attorney

*PSW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

T. M. Franklin Mayor

**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.

Diane Rauh City Clerk