

★ Roll Call Number

13-0069

Agenda Item Number

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Date January 14, 2013

**HOLD HEARING ON VACATION, CONVEYANCE, AND LEASE OF A PORTION OF
EAST GRATIS AVENUE AND SE 14TH STREET RIGHT-OF-WAY TO KATNING, L.L.C.
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 14th Street, subject to conditions; and

WHEREAS, Katning, L.L.C. (formally identified as Katning, Inc.) is the owner of the real property locally known as 2102 SE 14th 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; and

WHEREAS, on December 17, 2012, by Roll Call No. 12-1932, it was duly resolved by the City Council that the proposed vacation, conveyance, and lease of such right-of-way be set down for hearing on January 14, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate, convey, and lease 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 vacation, conveyance, and lease, 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation, conveyance, and lease of public right-of-way as described herein are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of Gratis Avenue and SE 14th Street right-of-way adjoining the property locally known as 2102 SE 14th 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, EASTERLY A DISTANCE OF 92.30 FEET ALONG THE CURVE CONCAVE TO THE NORTH, HAVING A RADIUS

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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.

3. The proposed sale and conveyance of a portion of such vacated right-of-way, described as follows, to Katning, L.L.C. for \$2,580.00 and in accordance with the requirements of the Plan and Zoning Commission recommendations, be and is hereby approved:

ALL THAT PART OF VACATED 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, EASTERLY 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.

4. The proposed lease of the remaining portion of such vacated right-of-way, described as follows, to Katning, L.L.C. 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, be and is hereby approved:

ALL THAT PART OF VACATED 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, PARALLEL 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.

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5. The Mayor is authorized and directed to sign the Offer to Purchase, Lease Agreement, and, prior to closing, the Quit Claim Deed and any related real estate documents for the sale and lease identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and, upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, to deliver the aforementioned documents to the Real Estate Division Manager for recording and closing purposes, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing.

6. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Offer to Purchase and the Lease Agreement to confirm compliance; to approve and execute documents pertaining to minor or unsubstantial changes to said Offer and Lease Agreement, except for renewals or extensions of the Lease Agreement, following approval of the City's Legal Department as to form; to proceed to closing in accordance with the terms set forth herein and in the Offer; and, if needed, to proceed with and execute documents pertaining to the termination of the Offer and/or Lease Agreement if Katning, L.L.C. fails to fulfill the terms required therein or if the Lease Agreement needs to be terminated for a City public improvement project or for any other purpose, pursuant to the provisions of the Offer and/or Lease Agreement as applicable and following approval of the City's Legal Department as to form.

7. 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.

(Council Communication No. 13-011)

Moved by Meyer to adopt.

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, and TOTAL. Includes handwritten initials 'RSW' and a checkmark in the TOTAL row.

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