



Roll Call Number

13-0714

Agenda Item Number

20

Date May 6, 2013

RESOLUTION SCHEDULING PUBLIC HEARING ON THE VACATION OF  
PORTIONS OF THE 6th AVENUE, MULBERRY STREET AND ALLEY RIGHTS-  
OF-WAY ADJOINING THE MIDLANDS BUILDING AT 206 6th AVENUE AND  
THE CONVEYANCE OF AN EASEMENT UPON SUCH VACATED RIGHTS-OF-  
WAY TO LEGALIZE THE EXISTING BUILDING ENCROACHMENT

WHEREAS, the Midland Building at 206 6th Avenue was constructed in 1913 with a basement that extends under the adjoining public sidewalks along 6th Avenue and Mulberry Streets and under a portion of the adjoining alley to the north, with building encroachments at the ground level that extend into the adjoining public rights-of-way, and with architectural projections that encroach into the air rights over the adjoining public rights-of-way; and,

WHEREAS, the building encroachments have previously been allowed under authority of a series of temporary areaway permits that require annual administration and renewal; and,

WHEREAS, the Midland Building is currently owned by Community State Bank, NA, and it has requested that the City vacate the rights-of-way occupied by the building encroachments, and convey it an easement for the continued use, maintenance and repair of the existing building encroachments for the remaining life of the building; and,

WHEREAS, the portions of the public right-of-way occupied by the building encroachments have not been used for public purposes for approximately 100 years, and the vacation of those areas will have no impact upon the continued use of the adjoining public rights-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 those portions of the 6th Avenue, Mulberry Street and alley rights-of-way occupied by the existing encroachments from the adjoining the Midland Building at 206 6th Avenue and more specifically described in the accompanying Exhibit "A"

2. That if the City Council decides to vacate the above described rights-of-way, the City of Des Moines proposes to convey an easement to Community State Bank, N.A., or its designee, for the continued use, maintenance and repair of the existing encroachments from the Midland Building into the vacated rights-of-way, for the remaining life of the Midland Building.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement is to be considered shall be on May 20, 2013, said meeting to be held at 5:00 p.m., in the Council Chambers.

( continued )



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-2-

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

MOVED by Mahaffey to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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Attachments:

Exhibit "A" - Description of Easement Areas

Exhibit "B" - Notice of Hearing

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

MOTION CARRIED

APPROVED

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