

★ Roll Call Number

13-1473

Agenda Item Number

14

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Date September 23, 2013

SET HEARING FOR VACATION AND CONVEYANCE OF EASEMENT FOR USE OF AIR SPACE OVER THE NORTH FOUR FEET OF EAST LOCUST STREET ADJOINING 350 EAST LOCUST STREET TO EAST VILLAGE GROWTH PARTNERS, LLC FOR \$1,000

WHEREAS, on September 23, 2013, by Roll Call No. 13- 1474, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air rights over the north four feet of East Locust Street adjoining 350 East Locust Street, hereinafter more fully described, be vacated to allow for private balconies connected to the building being constructed at 350 East Locust Street; and

WHEREAS, East Village Growth Partners, LLC is the purchaser of the real property locally known as 350 East Locust Street, with closing anticipated on September 25, 2013, which property abuts said City-owned air space, and East Village Growth Partners, LLC has offered to the City of Des Moines the purchase price of \$1,000 for the vacation and purchase of an easement interest in such air space for construction and maintenance of the proposed private balconies, which purchase price reflects the fair market value of the easement 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 air space proposed to be vacated and conveyed by easement, and the City will not be inconvenienced by the vacation and conveyance of said property interest.

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 air space over the north four feet of East Locust Street adjoining 350 East Locust Street, more specifically described as follows:

ALL OF THE AIR SPACE WHICH IS LOCATED ABOVE THE NORTH 4.0 FEET OF EAST LOCUST STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO PARCEL "B" OF THE PLAT OF SURVEY RECORDED IN BOOK 10868, PAGES 275-276 IN THE POLK COUNTY RECORDER'S OFFICE, POLK COUNTY, IOWA; LOCATED BELOW A PLANE WITH AN ELEVATION OF 67.40 FEET (CITY OF DES MOINES DATUM) AND ABOVE A PLANE WITH AN ELEVATION OF 56.40 FEET, ALL INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That if the City Council decides to vacate the above described air space, the City of Des Moines proposes to convey an easement in such vacated air space, as described below, to East Village Growth Partners, LLC for \$1,000, subject to all conditions set forth in the above-described Plan and Zoning Commission recommendation:

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ALL OF THE VACATED AIR SPACE WHICH IS LOCATED ABOVE THE NORTH 4.0 FEET OF EAST LOCUST STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO PARCEL "B" OF THE PLAT OF SURVEY RECORDED IN BOOK 10868, PAGES 275-276 IN THE POLK COUNTY RECORDER'S OFFICE, POLK COUNTY, IOWA; LOCATED BELOW A PLANE WITH AN ELEVATION OF 67.40 FEET (CITY OF DES MOINES DATUM) AND ABOVE A PLANE WITH AN ELEVATION OF 56.40 FEET, ALL INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such air space easement are to be considered shall be on October 7, 2013, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
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 Section 362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Meyer to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

RSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				✓
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	6	1		1

Chris Coleman MAYOR PRO TEM

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