

★ Roll Call Number

14-1054

Agenda Item Number

29A

Date July 14, 2014

SET HEARING FOR VACATION OF PORTIONS OF ELM STREET AND SW 6TH STREET RIGHT-OF-WAY ADJOINING 300 SW 5TH STREET AND CONVEYANCE OF SUCH RIGHT-OF-WAY AND OTHER ADJOINING CITY-OWNED PROPERTY TO HARBACH BUILDING, LLC FOR \$54,000

WHEREAS, on July 17, 2014, the City's Plan and Zoning Commission will consider a request by Harbach Building, LLC (purchaser), represented by Kent Mauck, and by Ricon LLC (owner), that portions of Elm Street and SW 6th Street right-of-way adjoining 300 SW 5th Street ("City Right-of-Way"), legally described below, be vacated subject to reservation of an easement for any existing utilities and an easement for public access for pedestrian traffic between SW 6th Street and West Martin Luther King Jr. Parkway sidewalk, site plan review and approval, fencing requirements for parking lot frontage, and any other conditions deemed appropriate by the Commission; and

WHEREAS, Harbach Building, LLC is the purchaser of the property locally known as 300 SW 5th Street that abuts such City Right-of-Way and has offered to the City of Des Moines the purchase price of \$54,000.00 for the vacation and purchase of the City Right-of-Way and other adjoining City-owned property, as described below, for construction of a parking lot, which price reflects the restricted-use fair market value of the property as determined by an independent appraisal; and

WHEREAS, Harbach Building, LLC and the City Real Estate Division are negotiating the terms of the proposed sale, which will include, among other terms, provisions that: (1) the use of the City Right-of-Way and City-owned property is subject to easement for existing public utilities; (2) closing is subject to demonstration by Harbach Building, LLC of closing on the purchase and ownership of 300 SW 5th Street; (3) the property is subject to a no-build restriction prohibiting improvements other than parking lot and associated improvements, which restriction can be removed, upon resolution of the City Council, following appraisal of the property and payment by the buyer of the unrestricted fair market value thereof less the purchase price already paid; and (4) any conditions set forth in the Plan and Zoning Commission recommendation, which may include but are not limited to the conditions first stated above; and

WHEREAS, there is no known current or future public need or benefit for the City Right-of-Way and adjoining City-owned property proposed to be sold, and the City will not be inconvenienced by the sale of said property.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating portions of Elm Street and SW 6th Street right-of-way adjoining 300 SW 5th Street, as legally described below:

AN IRREGULAR SHAPED PORTION OF SW 6TH STREET RIGHT OF WAY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK



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COUNTY, IOWA; THENCE SOUTH 15°(DEGREES)19'(MINUTES)55"(SECONDS) EAST (ASSUMED BEARING FOR THE PURPOSE OF THIS DESCRIPTION) ALONG THE SOUTHERLY EXTENSION OF SAID LOT 4, 28.01 FEET; THENCE SOUTH 74°14'51" WEST, 33.00 FEET TO THE CENTERLINE OF SAID SW 6TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 15°19'55" WEST ALONG SAID CENTERLINE OF SW 6TH STREET, 71.95 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°58'05" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 33.15 FEET TO THE WESTERLY LINE OF SAID LOT 4; THENCE SOUTH 15°19'55" EAST ALONG THE WESTERLY LINE OF SAID LOT 4, 40.60 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 2,319 SQUARE FEET.

AND

AN IRREGULAR SHAPED PORTION OF ELM STREET RIGHT OF WAY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 12, FACTORY ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING THE INTERSECTION OF THE PRESENT SOUTHERLY RIGHT OF WAY LINE OF ELM STREET AND THE PRESENT WESTERLY RIGHT OF WAY LINE OF SW 5TH STREET; THENCE SOUTH 74°(DEGREES) 14'(MINUTES) 51" (SECONDS) WEST (ASSUMED BEARING FOR THE PURPOSE OF THIS DESCRIPTION) ALONG THE NORTHERLY LINE OF SAID LOT 12, AND BEING THE PRESENT SOUTHERLY RIGHT OF WAY LINE OF ELM STREET, 133.56 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 12; THENCE NORTH 15°45'10" WEST, 29.00 FEET; THENCE SOUTH 74°14'51" WEST, 149.32 FEET; THENCE NORTH 15°19'55" WEST, 9.00 FEET; THENCE NORTH 74°18'06" EAST, 283.08 FEET; THENCE SOUTH 15°20'24" EAST, 37.84 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 6,401 SQUARE FEET.

2. That if the City Council decides to vacate the above described City right-of-way, the City of Des Moines proposes to convey such vacated right-of-way and other adjoining City-owned property, as legally described below, to Harbach Building, LLC for \$54,000.00, subject to the conditions set forth herein and in the recommendation of the Plan and Zoning Commission:

ALL THAT PART OF LOTS 4 AND 5, BLOCK 17, FORT DES MOINES, AN OFFICIAL PLAT, AND PART OF THE VACATED RIGHT OF WAY OF ELM STREET, AND THE INTERVENING ALLEYS IN SAID PARCEL, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 5, AND BEING THE INTERSECTION OF THE PRESENT NORTHERLY RIGHT OF WAY LINE OF ELM STREET AND THE PRESENT WESTERLY RIGHT OF WAY LINE OF SOUTHWEST 5TH STREET; THENCE SOUTH 15°(DEGREES) 20'(MINUTES) 24" (SECONDS) EAST (ASSUMED BEARING FOR THE PURPOSE OF THIS DESCRIPTION) ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE

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OF SAID LOT 5, 28.00 FEET; THENCE NORTH 74°18'06" WEST, 283.08 FEET; THENCE NORTH 15°19'55" WEST, 28.01 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH 74°09'37" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 4, 133.30 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 15°20'12" WEST ALONG THE EASTERLY LINE OF SAID LOT 4, 20.82 FEET; THENCE SOUTH 75°02'29" WEST, 133.29 FEET TO THE WEST LINE OF SAID LOT 4; THENCE NORTH 15°19'55" WEST ALONG THE WEST LINE OF SAID LOT 4, 17.73 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°58'05" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 235.40 FEET; THENCE SOUTH 10°01'55" EAST, 12.05 FEET; THENCE NORTH 79°58'05" EAST 50.00 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 11,932 SQUARE FEET.

AND

AN IRREGULAR SHAPED PORTION OF VACATED SW 6TH STREET RIGHT OF WAY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°(DEGREES)19'(MINUTES)55"(SECONDS) EAST (ASSUMED BEARING FOR THE PURPOSE OF THIS DESCRIPTION) ALONG THE SOUTHERLY EXTENSION OF SAID LOT 4, 28.01 FEET; THENCE SOUTH 74°14'51" WEST, 33.00 FEET TO THE CENTERLINE OF SAID SW 6TH STREET AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 15°19'55" WEST ALONG SAID CENTERLINE OF SW 6TH STREET, 71.95 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF WEST MARTIN LUTHER KING JR PARKWAY AS IT IS PRESENTLY ESTABLISHED; THENCE NORTH 79°58'05" EAST ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 33.15 FEET TO THE WESTERLY LINE OF SAID LOT 4; THENCE SOUTH 15°19'55" EAST ALONG THE WESTERLY LINE OF SAID LOT 4, 40.60 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 2,319 SQUARE FEET.

AND

AN IRREGULAR SHAPED PORTION OF VACATED ELM STREET RIGHT OF WAY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 12, FACTORY ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND BEING THE INTERSECTION OF THE PRESENT SOUTHERLY RIGHT OF WAY LINE OF ELM STREET AND THE PRESENT WESTERLY RIGHT OF WAY LINE OF SW 5TH STREET; THENCE SOUTH 74°(DEGREES) 14'(MINUTES) 51" (SECONDS) WEST (ASSUMED BEARING FOR THE PURPOSE OF THIS DESCRIPTION) ALONG THE NORTHERLY LINE OF SAID LOT 12, AND BEING THE PRESENT SOUTHERLY RIGHT OF WAY LINE OF ELM STREET, 133.56 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 12; THENCE NORTH 15°45'10" WEST, 29.00 FEET; THENCE SOUTH 74°14'51" WEST, 149.32

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FEET; THENCE NORTH 15°19'55" WEST, 9.00 FEET; THENCE NORTH 74°18'06" EAST, 283.08 FEET; THENCE SOUTH 15°20'24" EAST, 37.84 FEET TO THE POINT OF BEGINNING. CONTAINING APPROXIMATELY 6,401 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such property is to be considered shall be on July 28, 2014, said meeting to be held at 5:00 p.m., in the City Council Chamber, 400 Robert D. Ray Drive, Des Moines, Iowa.

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

5. The proceeds associated with the sale of this property will be deposited into the following accounts:

- (a) 2014-15 CIP, Street Improvements, Fed Title-23 Land Sales, Page Street Improvements – 15, ST500 - \$31,200
- (b) Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090 - \$22,800

Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

rw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

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 Mayor

Diane Rauh City Clerk