



Roll Call Number

14-1414

Agenda Item Number

46A ✓

Date September 8, 2014

RESOLUTION APPROVING THE RELEASE OF UTILITY EASEMENTS ON THE VACATED RIGHTS-OF-WAY WITHIN THE BLOCK BORDERED BY E. LOCUST, E. WALNUT, E. 2nd, and E. 3rd STREETS

WHEREAS, by the following ordinances the City has vacated a portion of the Walnut Street right-of-way and all of the alley rights-of-way now contained within the block bounded by E. Locust, E. Walnut, E. 2nd, and E. 3rd Streets subject to the reservation of right-of-way easements for any public utilities in place at the time of vacation and a right-of-entry for servicing said utilities:

- Ordinance No. 68 passed on July 13, 1875
Ordinance No. 7,106 passed on July 13, 1964
Ordinance No. 11,440 passed on March 5, 1990, and recorded in Book 6720, at Page 924
Ordinance No. 15,276 passed on April 21, 2014

WHEREAS, at various times the City of Des Moines has conveyed the rights-of-way vacated by such ordinances to the adjoining property owners subject to the reservation of right-of-way easements for any public utilities in place at the time of conveyance and a right-of-entry for servicing said utilities; and,

WHEREAS, in the accompanying affidavit, Matthew J. Thomas, an Iowa licensed professional Land Surveyor, has verified that there are no public utilities currently located within the block bounded by E. Locust, E. Walnut, E. 2nd, and E. 3rd Streets, except a buried electric line owned by MidAmerican Energy Company and a buried phone line owned by CenturyLink, which are proposed to be relocated; and,

WHEREAS, 201 East Locust, LLC, is the current owner or contract purchaser of all the rights-of-way vacated by such ordinances, and has requested that the reserved easements be abandoned and released to allow the block to be redeveloped with a mixed use project containing a hotel, apartment building and parking structure; and

WHEREAS, subject to the relocation of the buried electric line owned by MidAmerican Energy Company and the buried phone line owned by CenturyLink, the City of Des Moines has no known current or future need for the existing easements reserved upon such vacated rights-of-way.

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

- 1. Subject to the reservation of a temporary easement for the buried electric power line and the buried phone line until such time as they are relocated, there is no public need for the reserved utility easements and easements for right-of-entry encumbering the rights-of-way vacated by the ordinances identified above, and the public would not be inconvenienced by reason of the release of said easements.



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- 2. Subject to the reservation of a temporary easement for the buried electric power line and the buried phone line until such time as they are relocated, the abandonment and release of the reserved utility and right-of-entry easements in the rights-of-way vacated by the ordinances identified above, being specifically described as follows, is hereby approved:

All the vacated north/south and east/west alley rights-of-way in Block G, Scott and Dean's Addition to Fort Des Moines, an Official Plat, including but not limited to the East 8.0 feet of Lots 3 and 4 in said Block G; AND, the adjoining vacated portion of East Walnut Street right-of-way lying South of and adjoining said Lot G, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

- 3. The Release of Easements prepared by the City Legal Department releasing such reserved utility and right-of-entry easements, while reserving a temporary easement for the buried electric power line and buried phone line until such time as they are relocated, is hereby approved.
- 4. The Mayor and City Clerk are hereby authorized and directed to sign the Release of Easements on behalf of the City of Des Moines.
- 5. The City Clerk is further directed to forward the original of the Release of Easements to the Real Estate Division of the Engineering Department for the purpose of causing said document to be released to 201 East Locust, LLC, for recording at its expense.

MOVED by Gatto to adopt.

FORM APPROVED:

Roger K Brown
 Roger K. Brown, Assistant City Attorney
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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