



Roll Call Number

15-1604

Agenda Item Number

19

Date September 28, 2015

SET HEARING FOR THE VACATION OF A SEGMENT OF WEST MARTIN LUTHER KING, JR. PARKWAY (ALSO KNOWN AS ELM STREET) ADJOINING 300 WEST MARTIN LUTHER KING, JR. PARKWAY, AND VACATION AND CONVEYANCE OF A PORTION OF SOUTHWEST 4TH STREET LYING SOUTH OF WEST MARTIN LUTHER KING, JR. PARKWAY TO EYCHANER HOLDINGS, INC. FOR \$45,000.00

WHEREAS, on July 27, 2015, by Roll Call No. 15-1237, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission that a 46-foot by 112.5-foot segment of SW 4th Street, hereinafter more fully described, be vacated, subject to the reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or relocated; and

WHEREAS, on July 27, 2015, by Roll Call No. 15-1238, the City Council of the City of Des Moines, Iowa, requested that a segment of SW 4th Street lying south of West Martin Luther King, Jr. Parkway and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway, hereinafter more fully described, be vacated, subject to prior review and recommendation of the City's Plan and Zoning Commission; and

WHEREAS, on September 14, 2015, by Roll Call No. 15-1506, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission that a segment of SW 4th Street lying south of West Martin Luther King, Jr. Parkway and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway, hereinafter more fully described, be vacated, subject to the following:

1. Reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.
2. Provision of private drive connections to West Martin Luther King, Jr. Parkway and Southwest 5th Street from 300 West Martin Luther King, Jr. Parkway, if determined necessary following further discussion with the City Traffic Engineer regarding the need and requirements for provision of private access easements for separately owned private properties adjoining to the west.
3. The access from remaining Elm Street to the west shall be closed with a permanent barrier, including a curb and a landscaped berm.
4. Restoration of the vacated Elm Street right-of-way by the purchaser in accordance with an administratively approved site plan; and

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WHEREAS, Eychaner Holdings, Inc., owner of the adjoining property, has offered to the City of Des Moines the purchase price of \$45,000.00 for the vacation and purchase of the 46-foot by 112.5-foot segment of SW 4th Street right-of-way, and a segment of SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway (herein "City Right-of-Way"), in order to create direct access to both West Martin Luther King, Jr. Parkway and Southwest 5th Street as part of the redevelopment of their adjoining property, which price reflects the fair market value of the City Right-of-Way 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 portion of the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property.

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, Iowa, shall consider adoption of an ordinance permanently vacating a 46-foot by 112.5-foot segment of SW 4th Street right-of-way, and a segment of SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway, legally described as follows:

All that part of SW 4th Street lying East of and adjoining Lots 54 through 63 inclusive in Railroad Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

And

That part of West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Beginning at the Northeast corner of Lot 54 in Railroad Addition, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 54.40 feet along the northerly extension of the West right-of-way line of SW 4th Street; thence North 80°01'27" East, 122.41 feet; thence South 15°44'55" East, 32.08 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence South 74°15'05" West, 76.13 feet along the North line of said previously vacated right-of-way to the northerly extension of the East right-of-way line of SW 4th Street; thence South 15°19'11" East, 10.00 feet along the northerly extension of the East right-of-way line of SW 4th Street to the Northwest corner of Lot 1 in Green Colonial Place

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Plat 2, an Official Plat; thence South 74°15'05" West, 46.00 feet to the point of beginning. All now included in and forming a part of the City of Des Moines, Polk County, Iowa.

2. That if the City Council of the City of Des Moines, Iowa, decides to vacate the above described right-of-way, the City of Des Moines further proposes to sell such vacated right-of-way, as legally described below, to Eychaner Holdings, Inc. for \$45,000.00, subject to the requirements of the Plan and Zoning Commission recommendation and the Offer to Purchase:

All that part of vacated SW 4th Street lying East of and adjoining Lots 54 through 63 inclusive in Railroad Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

And

That part of vacated West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Beginning at the Northeast corner of Lot 54 in Railroad Addition, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 54.40 feet along the northerly extension of the West right-of-way line of SW 4th Street; thence North 80°01'27" East, 122.41 feet; thence South 15°44'55" East, 32.08 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence South 74°15'05" West, 76.13 feet along the North line of said previously vacated right-of-way to the northerly extension of the East right-of-way line of SW 4th Street; thence South 15°19'11" East, 10.00 feet along the northerly extension of the East right-of-way line of SW 4th Street to the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence South 74°15'05" West, 46.00 feet to the point of beginning. All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 18,028 square feet.

3. A public hearing shall be held on October 12, 2015, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council of the City of Des Moines, Iowa, will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
4. 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. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

PTW

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