



Roll Call Number

15-1958

Agenda Item Number

17

Page 1

Date November 23, 2015

**SET HEARING FOR VACATION OF A PORTION OF EAST 5<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 407 EAST 5<sup>TH</sup> STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO TEACHOUT PROPERTIES, L.L.C. FOR \$885.00**

**WHEREAS**, Teachout Properties, L.L.C. is the owner of the real property locally known as 407 East 5<sup>th</sup> Street; and

**WHEREAS**, Teachout Properties, L.L.C. has requested the vacation of a 6 foot by 12.75 foot segment of East 5<sup>th</sup> Street adjoining 407 East 5<sup>th</sup> Street ("City Right-of-Way"), hereinafter more fully described, and has requested that the City of Des Moines, Iowa ("City") convey a Permanent Easement for Building Encroachment in the vacated City Right-of-Way to Teachout Properties, L.L.C. for constructing, using, repairing, and maintaining a ramp for handicap access to the building currently situated on the property; and

**WHEREAS**, Teachout Properties, L.L.C. has offered to the City the purchase price of \$885.00 for the vacation and purchase of the Permanent Easement for Building Encroachment in the City Right-of-Way, 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**, on November 5, 2015, the City Plan and Zoning Commission voted to approve a request from Teachout Properties, L.L.C. for the vacation of a 6 foot by 11 foot segment of East 5<sup>th</sup> Street adjoining 407 East 5<sup>th</sup> Street, which segment to be vacated was subsequently determined to be 6 foot by 12.75 foot; and

**WHEREAS**, there is no current or future City need or benefit for the City Right-of-Way to be vacated, the City will not be inconvenienced by the vacation of the City Right-of-Way and the conveyance of a Permanent Easement for Building Encroachment to Teachout Properties, L.L.C., and City staff recommends approval of the vacation and conveyance as in the best interests of the City.

**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 6 foot by 12.75 foot segment of East 5<sup>th</sup> Street adjoining 407 East 5<sup>th</sup> Street, more specifically described as follows:

A PART OF EAST 5<sup>TH</sup> STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, H.E. TEACHOUT PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:  
 COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 21 FEET AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID WEST LINE, 12.75 FEET; THENCE WESTERLEY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET; THENCE NORTHERLY AND PARALLEL TO SAID WEST LINE, 12.75 FEET; THENCE EASTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET TO THE POINT OF BEGINNING.



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17

Page 2

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2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines proposes to convey a Permanent Easement for Building Encroachment in the vacated right-of-way, all legally described as follows, to Teachout Properties, L.L.C. for \$885.00, subject to the requirements of the Offer to Purchase:

A PART OF VACATED EAST 5TH STREET RIGHT OF WAY LYING WEST OF AND ADJOINING LOT 1, H.E. TEACHOUT PLACE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 21 FEET AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH ALONG SAID WEST LINE, 12.75 FEET; THENCE WESTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET; THENCE NORTHERLY AND PARALLEL TO SAID WEST LINE, 12.75 FEET; THENCE EASTERLY AND PERPENDICULAR TO SAID WEST LINE, 6 FEET TO THE POINT OF BEGINNING.

3. That the meeting of the City Council of the City of Des Moines, Iowa, at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be held on December 7, 2015, 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 proposals in the form hereto attached, all in accordance with §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 Gatto to adopt; refer to the City Manager to provide a status report on other APPROVED AS TO FORM: city-related matters Mr. Blunck is involved with.

Lisa A. Wieland, Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GREY, HENSLEY, MAHAFFEY, MOORE, and 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.
Diane Rauh
City Clerk

7. M. Franklin Council Mayor