



Roll Call Number

15-2008

Agenda Item Number

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Date November 23, 2015

HOLD HEARING FOR VACATION OF CITY STREET AND ALLEY RIGHTS-OF-WAY ADJOINING 915 MULBERRY STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY WITHIN MULBERRY STREET, 9TH STREET, AND THE EAST/WEST ALLEY RIGHT-OF-WAY ALL ADJOINING 915 MULBERRY STREET TO HUBBELL TOWER II, LLC FOR \$5,922.00

WHEREAS, Hubbell Tower II, LLC is the owner of the real property locally known as 915 Mulberry Street, which property is being developed into the DWELL Apartments; and

WHEREAS, Hubbell Tower II, LLC has offered to the City of Des Moines the purchase price of \$5,922.00 for the vacation and conveyance of a Permanent Easement for Air Space Above City-Owned Property over portions of Mulberry Street, 9th Street, and east/west alley rights-of-way adjoining 915 Mulberry Street (“City Right-of-Way”), as legally described below, to allow for the construction of a second floor canopy, a first floor awning, light canopies and a pedestrian air bridge as part of the proposed DWELL Apartments building at 915 Mulberry Street, which price reflects the fair market value of the easement as currently estimated by the City’s Real Estate Division; and

WHEREAS, on October 26, 2015, by Roll Call No. 15-1775, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission approving a request from Hubbell Tower II, LLC for the vacation of the City Right-of-Way subject to a City approved site plan; and

WHEREAS, on November 9, 2015, by Roll Call No. 15-1862, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such easement interests be set down for hearing on November 23, 2015, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate said City Right-of-Way and convey the Permanent Easement for Air Space Over City-Owned Property was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council of the City of Des Moines, Iowa.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the subsurface easement as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of air space over portions of Mulberry Street, 9th Street, and east/west alley rights-of-way adjoining 915 Mulberry Street, more specifically described as follows:

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ALL OF THE AIR SPACE FOR THAT PART OF THE EAST-WEST ALLEY LYING NORTH OF AND ADJOINING LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 74°(DEGREES) 10'(MINUTES) 15"(SECONDS) WEST ALONG THE NORTH LINE OF SAID LOT 2 AND ALONG THE SOUTH LINE OF SAID ALLEY AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 27.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°10'15" WEST ALONG SAID SOUTH LINE OF ALLEY, A DISTANCE OF 12.00 FEET; THENCE NORTH 15°44'02" WEST, A DISTANCE OF 16.50 FEET TO THE NORTH LINE OF SAID ALLEY; THENCE NORTH 74°10'15" EAST ALONG SAID NORTH LINE, A DISTANCE OF 12.00 FEET; THENCE SOUTH 15°44'02" EAST, A DISTANCE OF 16.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 198.00 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 64.75 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 48.50 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.50 FEET CITY DATUM,

ALL OF THE AIR SPACE FOR THAT PART OF MULBERRY STREET RIGHT-OF-WAY ADJOINING LOT 1, BLOCK 12, H.M. HOXIE'S ADDITION TO THE TOWN OF FORT DES MOINES, IOWA, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 15°(DEGREES) 22'(MINUTES) 47"(SECONDS) EAST ALONG THE SOUTHERLY PROJECTION OF THE EAST LINE OF SAID LOT 1, A DISTANCE OF 2.00 FEET; THENCE SOUTH 74°10'12" WEST PARALLEL WITH AND 2.00 FEET SOUTH OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 13.00 FEET; THENCE NORTH 15°22'47" WEST, A DISTANCE OF 2.00 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE NORTH 74°10'12" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 26.00 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 97.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 83.00 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.00 FEET CITY DATUM,

ALL OF THE AIR SPACE FOR THAT PART OF 9th STREET RIGHT-OF-WAY ADJOINING LOT 1, BLOCK 12, H.M. HOXIE'S ADDITION TO THE TOWN OF FORT DES MOINES, IOWA, AN OFFICIAL PLAT, AND LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL IN DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 15°(DEGREES) 22'(MINUTES) 47"(SECONDS) WEST ALONG THE EAST LINE OF SAID LOT 1 AND ALONG THE EAST LINE OF SAID LOT 2, AND ALONG THE WEST RIGHT-OF-WAY LINE OF 9TH STREET AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 32.40 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°22'47" WEST ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 71.50 FEET; THENCE NORTH 74°37'13" EAST, A DISTANCE OF 1.80 FEET; THENCE SOUTH 15°42'01" EAST, A DISTANCE OF 71.50 FEET; THENCE SOUTH 74°37'13" WEST, A DISTANCE OF 1.80 FEET TO THE POINT OF BEGINNING AND CONTAINING 128.70 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 46.25 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 45.25 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.00 FEET CITY DATUM.

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COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 74°(DEGREES) 10'(MINUTES) 12"(SECONDS) WEST ALONG THE SOUTH LINE OF SAID LOT 1 AND ALONG THE NORTH RIGHT-OF-WAY LINE OF MULBERRY STREET AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 73.25 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°44'02" EAST, A DISTANCE OF 3.73 FEET; THENCE SOUTH 74°17'46" WEST, A DISTANCE OF 20.00 FEET; THENCE NORTH 15°44'02" WEST, A DISTANCE OF 3.69 FEET; THENCE NORTH 74°10'12" EAST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 74.20 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 59.25 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 58.25 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.00 FEET CITY DATUM.

3. That the sale and conveyance of a Permanent Easement for Air Space Above City-Owned Property within such vacated City right-of-way, as described below, to Hubbell Tower II, LLC for \$5,922.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE EAST-WEST ALLEY LYING NORTH OF AND ADJOINING LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 74°(DEGREES) 10'(MINUTES) 15"(SECONDS) WEST ALONG THE NORTH LINE OF SAID LOT 2 AND ALONG THE SOUTH LINE OF SAID ALLEY AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 27.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°10'15" WEST ALONG SAID SOUTH LINE OF ALLEY, A DISTANCE OF 12.00 FEET; THENCE NORTH 15°44'02" WEST, A DISTANCE OF 16.50 FEET TO THE NORTH LINE OF SAID ALLEY; THENCE NORTH 74°10'15" EAST ALONG SAID NORTH LINE, A DISTANCE OF 12.00 FEET; THENCE SOUTH 15°44'02" EAST, A DISTANCE OF 16.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 198.00 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 64.75 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 48.50 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.50 FEET CITY DATUM,

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4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating said subsurface portion of right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded



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the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.

8. Non-project related land sale proceeds are used to support general operating budget expenses: Org - EG064090.

(Council Communication No. 15-619)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

REN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	6			1

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

MOTION CARRIED

APPROVED

T. M. Franklin Council Mayor