



**Roll Call Number**

16-0341

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**Date** February 22, 2016

**CONTINUED HEARING FOR VACATION AND CONVEYANCE OF AN ESTIMATED 0.61 ACRES OF ALLEN PARK TO EAGLE VIEW LOFTS, LLC FOR \$1.00 IN EXCHANGE FOR A PERPETUAL EASEMENT FOR PUBLIC INGRESS-EGRESS, PARKING AND DUMPSTER SPACE DEDICATED FOR ALLEN PARK USERS**

**WHEREAS**, on February 25, 2014, the Park and Recreation Board approved a recommendation that the City Council of the City of Des Moines, Iowa, vacate and convey a portion of Allen Park located at 504 SE 6<sup>th</sup> Street, and dedicate approximately 2.8 acres of City-owned property at Maury Street and SE 6<sup>th</sup> Street as parkland as a replacement of the Allen Park parkland to be vacated; and

**WHEREAS**, on April 7, 2014, by Roll Call 14-0563, the City Council of the City of Des Moines, Iowa, approved the sale of vacated Allen Park to Christopher S. Buchanan in accordance with the requirements of the Park and Recreation Board that the City-owned property at Maury Street and SE 6<sup>th</sup> Street be dedicated as parkland for relocation of Allen Park; and

**WHEREAS**, Eagle View Lofts, LLC is negotiating an Offer to Purchase with the City of Des Moines for purchase of the property adjoining relocated Allen Park upon which they intend to construct 100-120 market rate residential dwelling units in multiple structures; and

**WHEREAS**, Eagle View Lofts, LLC has requested the vacation and conveyance of approximately 0.61 acres (estimated \$45,281 fair market value) of Allen Park in consideration of \$1.00 and the construction and maintenance of a paved parking lot, and a perpetual easement for the exclusive right to ten parking spaces in the parking lot during park hours, adjacent space for dumpster and enclosing structure, and ingress-egress thereto (estimated value of \$58,904) for users of Allen Park and the new community garden therein, with the remaining parking spaces of said parking lot to be used by the Eagle View Loft residents; and

**WHEREAS**, the conveyance documents shall be drafted in such a way to preserve the City's reversionary ownership interest in the property, so if Eagle View Lofts, LLC fails to construct or maintain the improvements as described above or otherwise fails to abide by the terms and conditions set forth in the conveyance documents, ownership in the property shall revert back to the City; and

**WHEREAS**, the construction of said parking lot shall be completed no later than July 1, 2017; and

**WHEREAS**, in addition to the perpetual easement for public ingress-egress, parking and dumpster space, the City shall also receive a permanent easement for access and connection to all existing utilities currently within the property to be conveyed; and

**WHEREAS**, closing on the conveyance to Eagle View Lofts, LLC must occur concurrently with Eagle View Lofts, LLC's closing on the purchase of the adjacent properties currently owned by the City and the Des Moines Metropolitan Wastewater Reclamation Authority; and

**WHEREAS**, there is no current or future City need for the Property to be sold, the City will not be inconvenienced by the sale of the Property, the City will benefit from the perpetual easement for public



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ingress-egress, parking and dumpster space and will save on maintenance costs, and City staff recommends approval of the sale as in the best interests of the City; and

**WHEREAS**, on January 25, 2016, by Roll Call No. 16-0123, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed vacation and conveyance of the City parkland be set down for hearing on February 8, 2016, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, on February 8, 2016, by Roll Call No. 16-0229, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed vacation and conveyance of the City parkland be continued to allow Eagle View Lofts, Inc. additional time for procurement of financing for the project, to February 22, 2016, at 5:00 p.m. in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate and convey the City parkland was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the 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 the proposed vacation and conveyance of the City parkland, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City parkland proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of approximately 0.61 acres of Allen Park, as legally described below, and said vacation is hereby approved:

A PART OF VACATED MAURY STREET SOUTH OF BLOCK 58 IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 58, TOWN OF DE MOINE; THENCE SOUTH 14°57'04" EAST, 80.00 FEET TO THE NORTHEAST CORNER OF BLOCK 66, TOWN OF DE MOINE; THENCE SOUTH 74°59'11" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 66, A DISTANCE OF 297.50 FEET; THENCE NORTH 14°57'04" WEST, 14.88 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 45.00 FEET, WHOSE ARC LENGTH IS 73.02 FEET AND WHOSE CHORD BEARS NORTH 61°26'13" WEST, 65.27 FEET; THENCE NORTH 14°57'04" WEST, 20.13 FEET TO THE SOUTH LINE OF SAID BLOCK 58 AND THE WESTERLY EXTENSION THEREOF; THENCE NORTH 74°59'11" EAST ALONG SAID SOUTH LINE, 344.83 FEET TO THE POINT OF BEGINNING AND

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CONTAINING 0.61 ACRES (26,449 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

3. The proposed sale of such vacated parkland, as legally described below, to Eagle View Lofts, LLC for \$1.00 and the construction and maintenance of a paved parking lot, and a perpetual easement for the exclusive right to ten parking spaces in the parking lot during park hours, adjacent space for dumpster and enclosing structure, and ingress-egress thereto for users of Allen Park and the new community garden therein, subject to the reservation of a permanent easement for access and connection to current utilities, and further subject to the City's reversionary interest in the property, together with payment by said grantee of the estimated publication and recording costs for this transaction, is hereby approved:

A PART OF VACATED MAURY STREET SOUTH OF BLOCK 58 IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 58, TOWN OF DE MOINE; THENCE SOUTH 14°57'04" EAST, 80.00 FEET TO THE NORTHEAST CORNER OF BLOCK 66, TOWN OF DE MOINE; THENCE SOUTH 74°59'11" WEST ALONG THE NORTHERLY LINE OF SAID BLOCK 66, A DISTANCE OF 297.50 FEET; THENCE NORTH 14°57'04" WEST, 14.88 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 45.00 FEET, WHOSE ARC LENGTH IS 73.02 FEET AND WHOSE CHORD BEARS NORTH 61°26'13" WEST, 65.27 FEET; THENCE NORTH 14°57'04" WEST, 20.13 FEET TO THE SOUTH LINE OF SAID BLOCK 58 AND THE WESTERLY EXTENSION THEREOF; THENCE NORTH 74°59'11" EAST ALONG SAID SOUTH LINE, 344.83 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.61 ACRES (26,449 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. The Mayor is authorized and directed to sign the Quit Claim Deed, Perpetual Easement for Public Ingress-Egress, Parking and Dumpster Space and Offer to Purchase for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed and Perpetual Easement for Public Ingress-Egress, Parking and Dumpster Space, 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed and Perpetual Easement for Public Ingress-Egress, Parking and Dumpster Space, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.



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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and Perpetual Easement for Public Ingress-Egress, Parking and Dumpster Space and copies of the other documents to the grantees.

8. There are no proceeds associated with this transaction.

(Council Communication No. 16-086)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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

T. M. Franklin Council 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