



**Roll Call Number**

16-0385

**Agenda Item Number**

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**Date** March 7, 2016

**SET HEARING FOR VACATION OF AIR SPACE AND SURFACE RIGHTS ADJOINING 110 6<sup>TH</sup> AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE WITHIN 6<sup>TH</sup> AVENUE , AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT WITHIN 6<sup>TH</sup> AVENUE AND CHERRY STREET TO POLK COUNTY FOR \$1**

**WHEREAS**, Polk County, Iowa (“Polk County”) is the owner of the real property locally known as 110 6<sup>th</sup> Avenue, which property previously contained the Polk County Main Jail; and

**WHEREAS**, Polk County has requested the vacation of a portion of the west 0.6 feet of 6th Avenue right-of-way adjoining 110 6th Avenue and a portion of the north 1.9 feet of Cherry Street right-of-way adjoining 110 6th Avenue to accommodate a proposed building encroachment; and has requested the vacation of air rights within the west 3 feet of 6th Avenue right-of-way adjoining 110 6th Avenue to accommodate a proposed entry way canopy; and has further requested that the City convey a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Building Encroachment in the vacated rights-of-way to Polk County for the public purposes of property redevelopment and use for the Polk County Criminal Court Annex renovation project, as consideration for acquisition of said easement interests in accordance with Iowa Code Section 364.7(3); and

**WHEREAS**, on February 18, 2016, the City Plan and Zoning Commission voted to recommend to the City Council of the City of Des Moines, Iowa, that portions of 6<sup>th</sup> Avenue and Cherry Street rights-of-way adjoining 110 6<sup>th</sup> Avenue, hereinafter more fully described, be vacated, subject to reservation of easements for all existing utilities in place; 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, and the City will not be inconvenienced by the vacation of said property and conveyance of easement interests therein.

**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 shall consider adoption of an ordinance permanently vacating portions of 6<sup>th</sup> Avenue and Cherry Street rights-of-way adjoining 110 6<sup>th</sup> Avenue, more specifically described as follows:

A PART OF THE AIR SPACE FOR THAT PART OF 6<sup>TH</sup> AVENUE LYING ADJACENT TO BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 7 OF SAID BLOCK 10 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 15°25'07" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 102.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH



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74°34'53" EAST, 3.00 FEET; THENCE SOUTH 15°25'07" EAST, 18.00 FEET; THENCE SOUTH 74°34'53" WEST, 3.00 FEET TO SAID EASTERLY LINE; THENCE NORTH 15°25'07" WEST ALONG SAID EASTERLY LINE, 18.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 48.00 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 45.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 31.0 FEET.

AND

A PART OF 6TH AVENUE AND CHERRY STREET RIGHT-OF-WAY LYING ADJACENT TO BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 7 OF SAID BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 15°25'07" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 31.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°34'53" EAST, 0.60 FEET; THENCE SOUTH 15°25'07" EAST, 136.02 FEET; THENCE SOUTH 74°13'48" WEST, 24.45 FEET; THENCE SOUTH 15°46'12" EAST, 1.09 FEET; THENCE SOUTH 74°13'48" WEST, 3.00 FEET; THENCE NORTH 15°46'12" WEST, 1.90 FEET; THENCE SOUTH 74°13'48" WEST, 114.75 FEET; THENCE NORTH 15°46'12" WEST, 0.60 FEET TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE NORTH 74°13'48" EAST ALONG SAID SOUTHERLY LINE OF BLOCK 10, A DISTANCE OF 141.60 FEET TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 10; THENCE NORTH 15°25'07" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 135.42 FEET TO THE POINT OF BEGINNING AND CONTAINING 172 S.F

2. That, if the City Council first decides to vacate the above described rights-of-way, the City of Des Moines proposes to convey a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Building Encroachment in the vacated rights-of-way, all as legally described as follows, to Polk County for the public purposes of property redevelopment and use for the Polk County Criminal Court Annex renovation project, as consideration for acquisition of said easement interests in accordance with Iowa Code Section 364.7(3):

PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY:

A PART OF THE AIR SPACE FOR THAT PART OF VACATED 6TH AVENUE LYING ADJACENT TO BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 7 OF SAID BLOCK 10 OF ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 15°25'07" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 102.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°34'53" EAST, 3.00 FEET; THENCE SOUTH 15°25'07" EAST, 18.00 FEET; THENCE SOUTH 74°34'53" WEST, 3.00 FEET TO SAID EASTERLY LINE; THENCE NORTH 15°25'07" WEST ALONG SAID EASTERLY LINE, 18.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 48.00 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 45.00 FEET CITY DATUM, CURRENT GROUND ELEVATION 31.0 FEET.



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PERMANENT EASEMENT FOR BUILDING ENCROACHMENT:

A PART OF VACATED 6TH AVENUE AND VACATED CHERRY STREET RIGHT-OF-WAY LYING ADJACENT TO BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 7 OF SAID BLOCK 10 OF THE ORIGINAL TOWN OF FORT DES MOINES; THENCE SOUTH 15°25'07" EAST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 31.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 74°34'53" EAST, 0.60 FEET; THENCE SOUTH 15°25'07" EAST, 136.02 FEET; THENCE SOUTH 74°13'48" WEST, 24.45 FEET; THENCE SOUTH 15°46'12" EAST, 1.09 FEET; THENCE SOUTH 74°13'48" WEST, 3.00 FEET; THENCE NORTH 15°46'12" WEST, 1.90 FEET; THENCE SOUTH 74°13'48" WEST, 114.75 FEET; THENCE NORTH 15°46'12" WEST, 0.60 FEET TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE NORTH 74°13'48" EAST ALONG SAID SOUTHERLY LINE OF BLOCK 10, A DISTANCE OF 141.60 FEET TO THE SOUTHEASTERLY CORNER OF SAID BLOCK 10; THENCE NORTH 15°25'07" WEST ALONG THE EASTERLY LINE OF SAID BLOCK 10, A DISTANCE OF 135.42 FEET TO THE POINT OF BEGINNING AND CONTAINING 172 S.F.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be on March 21, 2016, said meeting to be held 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. There will be no proceeds associated with the conveyance of this property.



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Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

RSU

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

MOTION CARRIED APPROVED

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