

★ Roll Call Number

16-0718

Agenda Item Number

58

Date April 25, 2016

HOLD HEARING FOR VACATION AND LEASE OF A PORTION OF 14TH STREET RIGHT-OF-WAY ADJOINING 1459 GRAND AVENUE TO LINDEN STREET INVESTMENTS, L.L.C. IN EXCHANGE FOR A PERMANENT EASEMENT FOR PUBLIC PEDESTRIAN WAY ACROSS ADJOINING PROPERTY OWNED BY LINDEN STREET INVESTMENTS, L.L.C.

WHEREAS, on March 21, 2016, by Roll Call No. 16-0462, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission that an irregular portion of right-of-way located in approximately the west 13.5 feet of 14th Street between Grand Avenue and Ingersoll Avenue, adjoining 1459 Grand Avenue ("City Right-of-Way"), hereinafter more fully described, be vacated as requested by Linden Street Investments, L.L.C., subject to reservation of necessary easements for utilities now in place; and

WHEREAS, Linden Street Investments, L.L.C. wishes to lease the City Right-of-Way for private visitor and vendor parking purposes to access the adjoining property of 1459 Grand Avenue; and

WHEREAS, the City's Real Estate Division has negotiated a Lease Agreement with Linden Street Investments, L.L.C. as Lessee for use of the vacated City Right-of-Way, which Agreement will include, among other terms, a fixed lease term commencing from April 1, 2018 until March 31, 2043, with the option to extend this Agreement for one additional twenty-five year period commencing on April 1, 2043, and ending on March 31, 2068; and

WHEREAS, pursuant to the negotiated Lease Agreement, as consideration for the use of the vacated City Right-of-Way Linden Street Investments, L.L.C. shall convey a Permanent Easement for Public Pedestrian Way to the City of Des Moines, Iowa, across their adjoining property at no cost to the City; and

WHEREAS, the City's Real Estate Division has determined the fair market value of the Permanent Easement for Public Pedestrian Way to be equal to the fair market value of the negotiated Lease Agreement; and

WHEREAS, the vacation and lease of the City Right-of-Way for the purposes described herein will not adversely affect the use of adjoining real estate by the City for municipal purposes, and the City will not be inconvenienced by the vacation and lease of said property; and

WHEREAS, on April 11, 2016, by Roll Call No. 16-0563, it was duly resolved by the City Council of the City of Des Moines, Iowa, that consideration of the proposed vacation, Permanent Easement for Public Pedestrian Way, and Lease Agreement be set down for hearing on April 25, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to vacate and lease the City Right-of-Way was given as provided by law, setting forth the time and place for hearing on said proposal; and



Roll Call Number

16-0718

Agenda Item Number

58

Date April 25, 2016

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation, easement, and lease, both for and against, have been given an opportunity to be heard and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and lease of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of an irregular portion of right-of-way located in approximately the west 13.5 feet of 14th Street between Grand Avenue and Ingersoll Avenue, Des Moines, Iowa, adjoining 1459 Grand Avenue, as legally described below, and said vacation is hereby approved:

AN IRREGULAR SHAPED AREA OVER AND ACROSS 14TH STREET RIGHT OF WAY BETWEEN GRAND AVENUE AND INGERSOLL AVENUE AND OVER AND ACROSS LINDEN STREET RIGHT OF WAY BETWEEN 14TH STREET AND 15TH STREET, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 27, FOURTEENTH STREET PLACE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA; THENCE N00°07'39"W ASSUMED BEARING FOR THIS DESCRIPTION, ALONG THE WEST RIGHT OF WAY LINE OF SAID 14TH STREET, A DISTANCE OF 133.96 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID LINDEN STREET; THENCE N89°39'03"W ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 4.00 FEET; THENCE N00°07'39"W, A DISTANCE OF 66.00 FEET TO THE NORTH RIGHT OF WAY LINE OF SAID LINDEN STREET; THENCE S89°39'03"E ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 4.00 FEET TO THE WEST RIGHT OF WAY LINE OF SAID 14TH STREET; THENCE N00°07'39"W ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 158.00 FEET; THENCE S89°39'01"E, A DISTANCE OF 13.50 FEET; THENCE S00°07'39"E, A DISTANCE OF 357.85 FEET; THENCE S89°52'21"W, A DISTANCE OF 13.50 FEET TO THE POINT OF BEGINNING.

3. The proposed lease of such vacated right-of-way with Linden Street Investments, L.L.C., as legally described below, in exchange for Linden Street Investments, L.L.C. conveying to the City of Des Moines a Permanent Easement for Public Pedestrian Way across their adjoining property, and further subject to all terms and conditions contained in the Lease Agreement currently on file in the Office of the City Clerk, is hereby approved.
4. The Mayor is authorized and directed to sign the Lease Agreement identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature, and to the acceptance by the City Council of the City of Des Moines, Iowa, of the Permanent Easement for Public Pedestrian Way.

★ Roll Call Number
16-0718

Agenda Item Number
58


Date April 25, 2016

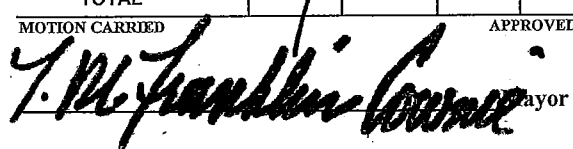
5. The City Clerk is authorized and directed to forward the original of the Lease Agreement and the Permanent Easement for Public Pedestrian Way, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Lease Agreement and the Permanent Easement for Public Pedestrian Way, 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 the documents to be recorded.

(Council Communication No. 16- 209)

Moved by Hensley 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			
MOTION CARRIED	APPROVED			
				

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