

★ Roll Call Number

16-1253

Agenda Item Number

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Date July 25, 2016

HOLD HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF WEST MARTIN LUTHER KING, JR. PARKWAY (FORMER MARKET STREET) RIGHT-OF-WAY LOCATED WEST OF 16TH STREET AND NORTH OF WEST MARTIN LUTHER KING JR. PARKWAY TO EXILE BREWING COMPANY, LLC FOR \$49,000

WHEREAS, on June 16, 2016, the City Plan and Zoning Commission voted to recommend to the City Council of the City of Des Moines, Iowa, that a portion of West Martin Luther King, Jr. Parkway (former Elm Street) located at the northwest corner of West Martin Luther King, Jr. Parkway west of 16th Street and east of the Meredith Corporation parking lot ("City Right-of-Way"), hereinafter more fully described, be vacated, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated; and

WHEREAS, Exile Brewing Company, LLC has offered to the City of Des Moines ("City") \$49,000 for the purchase of the vacated segment of West Martin Luther King, Jr. Parkway to be used as a surface parking lot for employees and/or patrons of Exile Brewing Company which is located at 1514 Walnut Street, subject to reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and further subject to a no-build easement which will be included in the deed and required in the installment contract, which price reflects the restricted-use fair market value of said portion of street right-of-way as determined by the City's Real Estate Division; and

WHEREAS, Exile Brewing Company, LLC and City staff have negotiated the terms of a Real Estate Purchase Installment Contract, as on file in the office of the City Clerk, for the proposed conveyance, in which the purchase price of \$49,000 would be paid over a seven-year period with the first payment of \$8,088.61.00 being due upon execution of said installment contract by the City and prior to Exile Brewing Company, LLC obtaining possession of the property, with subsequent payments being made annually thereafter; 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, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property; and

WHEREAS, on July 11, 2016, by Roll Call No. 16-1118, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on July 25, 2016, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey the City Right-of-Way 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.



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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 conveyance of City Right-of-Way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the property proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of West Martin Luther King, Jr. Parkway (former Elm Street) located at the northwest corner of West Martin Luther King, Jr. Parkway west of 16th Street and north of West Martin Luther King, Jr. Parkway, as legally described below, and said vacation is hereby approved:

That part of West Martin Luther King Jr. Parkway right-of-way being part of former railroad right-of-way and part of former Market Street right-of-way in the Northeast Quarter of Section 8, Township 78 North, Range 24 West of the 5th P.M., now included in and forming a part of the City of Des Moines, Polk County, Iowa, and being more particularly described as follows:

Commencing at the northeasterly corner of Lot 1 in DICO PLAT NO. 1, an Official Plat in the City of Des Moines, Polk County, Iowa, at the former intersection of the West right-of-way line of SW 17th Street and the North right-of-way line of Market Street, a point on the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 71°(degrees) 19'(minutes) 03"(seconds) East, 24.45 feet (previously recorded as South 71°29'43" East, 24.30 feet) along the present northerly right-of-way line of West Martin Luther King Jr. Parkway to the Point of Beginning; thence North 15°45'44" West, 60.41 feet (previously recorded as North 15°44'12" West, 60.48 feet) along the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 71°33'15" East (previously recorded as South 71°29'44" East), 255.00 feet along the present northerly right-of-way line of West Martin Luther King Jr. Parkway; thence South 72°22'41" West, 100.21 feet; thence North 71°33'15" West, 140.03 feet; thence North 18°26'45" East, 9.04 feet to the point of beginning. Containing 11,500 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to Exile Brewing Company, LLC for \$49,000.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the requirements of the Plan and Zoning Commission recommendation and the Real Estate Purchase Installment Contract, including the reservation of easements for all existing utilities in place, until such time that they are abandoned or relocated, and the reservation of a no-build easement which will be included in the deed and required in said installment contract, is hereby approved.

4. The Mayor is authorized and directed to sign the Real Estate Purchase Installment Contract for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon proof of payment of the first installment of \$8,088.61, plus \$113 for publication and recording costs, and in accordance with the Installment Contract, the City Clerk is authorized and directed to forward the Real Estate Purchase Installment Contract, together with a certified copy of this resolution and of the



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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 hereby authorized and directed to administer and monitor all other terms of, and receipt of payment for, the Real Estate Purchase Installment Contract; to approve and execute documents pertaining to any minor or unsubstantial changes to said Real Estate Purchase Installment Contract, following approval of the City Legal Department as to form; and, if needed, to approve, proceed with and execute documents pertaining to forfeiture, foreclosure, or termination of the Real Estate Purchase Installment Contract if Exile Brewing Company, LLC fails to fulfill the contract terms required, following approval of the City Legal Department.

7. Upon confirmation by the City's Real Estate Division Manager of Exile Brewing Company, LLC's compliance with all the Real Estate Purchase Installment Contract terms and proof of payment of full consideration of \$49,000.00 plus accrued interest, the Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said Quit Claim Deed 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 Manager of the Engineering Department for the purpose of causing said document to be recorded.

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

(Council Communication No. 16- 403)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

PSV

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

T. M. Franklin 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