



Roll Call Number

16-1665

Agenda Item Number

62

Date September 26, 2016

**HOLD HEARING FOR CONVEYANCE OF A PERMANENT EASEMENT FOR
SANITARY SEWER RIGHT OF WAY ON CITY-OWNED PROPERTY LOCATED AT
7401 SW 9TH STREET TO FDM DEVELOPMENT PARTNERSHIP LLLP, IN
CONDISIDERATION OF FDM DEVELOPMENT PARTNERSHIP LLLP'S
DEVELOPMENT OF THE ADJOINING PROPERTY**

WHEREAS, the City of Des Moines, Iowa ("City"), is the owner of the real property located at 7401 SW 9th Street, in Des Moines, Iowa, a portion of which is currently being leased to the Blank Park Zoo Foundation, Inc.; and

WHEREAS, Fort Des Moines Restoration, LLC, an Iowa limited liability company, entered in to an Urban Renewal Development Agreement with the City filed for record on March 12, 2015, at Book 15496, Page 980 in the office of the Polk County Recorder and any amendments thereto ("Development Agreement"), and

WHEREAS, on August 22, 2016, by Roll Call No. 16-1412, the City Council of the City of Des Moines, Iowa, approved an amended and restated version of said Development Agreement, which approves and allows the transfer of the land, and the assignment of said Development Agreement, to FDM Development Partnership, LLLP, an Iowa limited liability limited partnership; and

WHEREAS, FDM Development Partnership, LLLP has requested a Sanitary Sewer Right-of-Way under, over, through, and across a portion of said City-owned property located at 7401 SW 9th Street, as legally described below ("Easement Area"), in order to construct and maintain a private sanitary sewer as part of a development project on the adjoining property; and

WHEREAS, the City's Real Estate Division has negotiated a Permanent Easement for Sanitary Sewer Right-of-Way to FDM Development Partnership, LLLP in consideration of FDM Development Partnership, LLLP's undertakings pursuant to said Development Agreement as assignee of Fort Des Moines Restoration, LLC; and

WHEREAS, the conveyance of said Permanent Easement for Sanitary Sewer Right-of-Way to FDM Development Partnership, LLLP is contingent upon FDM Development Partnership, LLLP first obtaining title to the land adjoining the Easement Area; and

WHEREAS, the Blank Park Zoo Foundation, Inc. has provided its consent to the Permanent Easement for Sanitary Sewer Right of Way, and the City will not be inconvenienced by the conveyance of the proposed Permanent Easement for Sanitary Sewer Right of Way to FDM Development Partnership, LLLP.

WHEREAS, on September 12, 2016, by Roll Call No. 16-1511, it was duly resolved by the City Council of the City of Des Moines, Iowa, that consideration of the proposed conveyance of a Permanent Easement



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for Sanitary Sewer Right of Way be set down for hearing on September 26, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of the proposal to convey said Permanent Easement for Sanitary Sewer Right of Way was given as provided by law, setting forth the time and place for hearing on the proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed Permanent Easement for Sanitary Sewer Right of Way, 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 conveyance of a Permanent Easement for Sanitary Sewer Right of Way from the City of Des Moines, Iowa, to FDM Development Partnership, LLLP, as described below, are hereby overruled and the hearing is closed.

2. The public would not be inconvenienced by reason of the City of Des Moines, Iowa, granting a Permanent Easement for Sanitary Sewer Right of Way to FDM Development Partnership, LLLP in consideration of FDM Development Partnership's undertakings as assignee of Fort Des Moines Restoration, LLC, pursuant the Amended and Restated Development Agreement approved by the City Council of the City of Des Moines, Iowa, by Roll Call No. 16-1412 and any amendments thereto, under, over, through, and across a portion of City-owned property located at 7401 SW 9th Street, legally described as follows, for the purpose of constructing and maintaining a private sanitary sewer, and said Permanent Easement for Sanitary Sewer Right of Way is hereby approved, subject to FDM Development Partnership, LLLP first obtaining title to the land adjoining the Easement Area:

A PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 33, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

THE NORTHERLY TWENTY-ONE FEET (21') OF THE WESTERLY NINETY FEET (90') OF PARCEL 'B' AND THE NORTHERLY TWENTY-ONE FEET (21') OF THE EASTERLY FOUR HUNDRED ONE FEET (401') OF PARCEL 'A', BOTH AS DESCRIBED ON THE PLAT OF SURVEY FILED ON OCTOBER 23, 1998 AS INSTRUMENT NO. 036385 IN BOOK 8041, PAGE 37 IN THE RECORDS OF THE POLK COUNTY RECORDER, CONTAINING 10,405.36 SQUARE FEET



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3. The Mayor is authorized and directed to sign the Permanent Easement for Sanitary Sewer Right of Way identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the Permanent Easement for Sanitary Sewer Right of 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 for the purpose of causing the documents to be recorded.
5. Upon receipt of the recorded documents from the Polk County Recorder, the Real Estate Division Manager is authorized and directed to mail the original of the Permanent Easement for Sanitary Sewer Right of Way and copies of the other documents to FDM Development Partnership LLLP.
6. There are no proceeds associated with this transaction.

Moved by Gatto to adopt.

APPROVED AS TO FORM:


Lisa A. Wieland, Assistant City Attorney

Rau

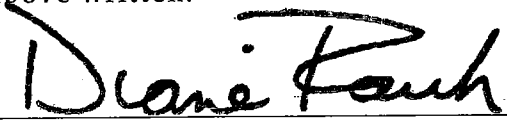
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY				✓
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED 7. M. Franklin APPROVED
7. 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