



Roll Call Number

18-0311

Agenda Item Number

50

Page 1

Date February 19, 2018

**HOLD HEARING FOR  
APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF EAST 12<sup>TH</sup>  
STREET RIGHT-OF-WAY ADJOINING 623 EAST 12<sup>TH</sup> STREET AND CONVEYANCE  
OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A  
PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO  
CAPITOL VIEW CREDIT UNION FOR \$514.00**

**WHEREAS**, on November 6, 2017, by Roll Call No. 17-1885, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from Capitol View Credit Union for the vacation of a portion of East 12th Street right-of-way adjoining 623 East 12th Street (hereinafter "City Right-of-Way") to allow for permanent encroachment of a concrete stoop and protective bollards into the City Right-of-Way, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated.

**WHEREAS**, subsequent to the City Plan and Zoning Commission recommendation Capitol View Credit Union determined that an entrance canopy would also encroach into the City Right-of-Way; and

**WHEREAS**, Capitol View Credit Union, owner of the adjoining property at 623 East 14<sup>th</sup> Street, has offered to the City the purchase price of \$514.00 for the purchase of a Permanent Easement For Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of a concrete stoop, protective bollards and an entrance canopy, which price reflects the fair market value of the Permanent Easement For Building Encroachment and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

**WHEREAS**, there is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and conveyance of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way; and

**WHEREAS**, on February 5, 2018, by Roll Call No. 18-0194, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed vacation and conveyance be set down for hearing on February 19, 2018, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of the proposal to vacate said City Right-of-Way and convey a Permanent Easement For Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property 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 of the City of Des Moines, Iowa.

Date February 19, 2018

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 vacation and conveyance of the Permanent Easement For Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, as described below, 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 portions of East 12th Street right-of-way adjoining 623 East 12th Street, more specifically described as follows, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated:

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 1.00 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 1.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 6.25 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 5.50 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 18.75 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 1.00 FEET TO THE POINT OF BEGINNING; AND CONTAINING 60.38 SQUARE FEET;

And

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 2.33 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 26.00 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 2.33 FEET TO THE POINT OF BEGINNING; ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 133 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 128 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 120 FEET; AND CONTAINING 60.58 SQUARE FEET;

3. That the conveyance of a Permanent Easement For Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property within said vacated East 12<sup>th</sup> Street right-of-way, as described below, to Capitol View Credit Union, for \$514.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

Building Encroachment Easement



Roll Call Number

18-0311

Agenda Item Number

50

Page 3

Date February 19, 2018

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And

Air Space Easement

COMMENCING AT THE NW CORNER OF LOT 12, BLOCK 18 STEWARTS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE SOUTH 15°02'29" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF EAST 12TH STREET, AS PRESENTLY ESTABLISHED, A DISTANCE OF 35.62 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°02'13" EAST, A DISTANCE OF 26.00 FEET; THENCE SOUTH 74°57'47" WEST, A DISTANCE OF 2.33 FEET; THENCE NORTH 15°02'13" WEST, A DISTANCE OF 26.00 FEET; THENCE NORTH 74°57'47" EAST, A DISTANCE OF 2.33 FEET TO THE POINT OF BEGINNING; ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 133 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 128 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 120 FEET; AND CONTAINING 60.58 SQUARE FEET;

(VACATED BY ORDINANCE NO. \_\_\_\_\_, PASSED \_\_\_\_\_, 2018);

4. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Building Encroachment, and Permanent Easement for Air Space Above City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon final passage of an ordinance vacating said City Right-of-Way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, 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 Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.



Roll Call Number

18-0311

Agenda Item Number

50

Page 4

Date February 19, 2018

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and the Permanent Easement for Air Space Above City-Owned Property and copies of the other documents to the grantee.

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

(Council Communication No. 18-088)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

rw

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

T. M. Franklin Cownie 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