

★ Roll Call Number

18-0730

Agenda Item Number

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Date April 23, 2018

HOLD HEARING FOR CONVEYANCE OF PERMANENT EASEMENTS ON CITY-OWNED PROPERTY LOCATED NORTH OF AND ADJOINING 440 EAST GRAND AVENUE TO RE3, LLC FOR \$350.00

WHEREAS, on February 23, 2004, by Roll Call No. 04-418, the City Council of the City of Des Moines, Iowa, passed Ordinance No. 14,320 vacating the east-west alley right-of-way in the block bounded by East Grand Avenue and Des Moines Street and by East 4th Street and East 5th Street, and adjoining 440 East Grand Avenue, Des Moines, Iowa (hereinafter "City Property"); and

WHEREAS, RE3,LLC, owner of the property at 440 East Grand Avenue, has offered to the City the purchase price of \$350.00 for the purchase of a Permanent Easement for Building Encroachment, a Permanent Easement for Building Setback, and a Permanent Easement for Ingress and Egress (hereinafter collectively "Easements") in said City Property, hereinafter more fully described, to allow for encroachment into the City Property of a concrete stoop and door swing, to assure that a minimum ten (10) foot separation distance is maintained between the improvements located on 440 East Grand Avenue, Des Moines, Iowa and any future improvements constructed on the property located north of and adjoining 440 East Grand Avenue, and to allow emergency exit from the rear of the improvements located on 440 East Grand Avenue, Des Moines, Iowa; which price reflects the fair market value of the Easements as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the Easements proposed to be conveyed, and the public would not be inconvenienced by reason of the Permanent Easement for Building Encroachment, a Permanent Easement for Building Setback, and a Permanent Easement for Ingress and Egress within said City Property; and

WHEREAS, on April 9, 2018, by Roll Call No. 18-0570, it was duly resolved by the City Council of the City of Des Moines, Iowa, that said proposed conveyance be set down for hearing on April 23, 2018, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of the proposal to convey said Easements 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 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.

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 the Permanent Easement for Building Encroachment, a Permanent Easement for Building Setback, and a Permanent Easement for Ingress and Egress, as described below, are hereby overruled and the hearing is closed.



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2. That the conveyance of a Permanent Easement for Building Encroachment, a Permanent Easement for Building Setback, and a Permanent Easement for Ingress and Egress within said City Property, as described below, to RE3, LLC, for \$350.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

Easement Building Encroachment

COMMENCING AS A POINT OF REFERENCE AT THE NORTHEAST CORNER OF LOT 8, BLOCK 10 EAST FORT DES MOINES, AN OFFICIAL PLAT, THENCE S74°50'43"W, 40.68 FEET ALONG THE NORTH LOT LINE OF SAID LOT 8 TO THE POINT OF BEGINNING; THENCE N15°12'58"W, 5.00 FEET TO A POINT; THENCE S74°50'43"W, 5.00 FEET TO A POINT; THENCE S15°12'58"E, 5.00 FEET TO A POINT ON SAID NORTH LOT LINE OF LOT 8; THENCE N74°50'43"E, 5.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING. ALL CONTAINING 25 SQUARE FEET MORE OR LESS

Easement for Building Setback

The south ten (10) feet of the vacated east-west alley right-of-way lying North of and adjoining Lot 8, Block 10, East Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Easement for Ingress and Egress

The south ten (10) feet of the vacated east-west alley right-of-way lying North of and adjoining Lot 8, Block 10, East Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. The Mayor is authorized and directed to sign the Offer to Purchase, Permanent Easement for Building Encroachment, Permanent Easement for Building Setback, and Permanent Easement for Ingress and Egress for the conveyance 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 Building Encroachment, Permanent Easement for Building Setback, and Permanent Easement for Ingress and Egress, 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, Permanent Easement for Building Setback, and Permanent Easement for Ingress and Egress, 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.



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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, a Permanent Easement for Building Setback, and a Permanent Easement for Ingress and Egress 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. 18-209)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

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

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