



Roll Call Number

18-1035

Agenda Item Number

64

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Date June 11, 2018

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SUBSURFACE RIGHTS IN A PORTION OF EAST GRAND AVENUE RIGHT-OF-WAY AND A PORTION OF EAST 2ND STREET RIGHT-OF-WAY ALL ADJOINING 111 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO 111 EAST GRAND, LLC FOR \$12,345.00

WHEREAS, on May 3, 2018, the City of Des Moines Plan and Zoning Commission, voted to recommend approval of request from 111 East Grand, LLC, represented by Tim Rypma (officer) for vacation of the subsurface rights in the west 2 feet of East 2nd Street right-of-way, and the subsurface rights in the south 2 feet of East Grand Avenue right-of-way adjoining 111 East Grand Avenue, Des Moines, Iowa (hereinafter "City Property") to allow for building footing encroachments, (hereinafter "City Property"); and

WHEREAS, 111 East Grand, LLC, owner of 111 East Grand Avenue, has offered to the City the purchase price of \$12,345.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-owned Property (hereinafter "Easement") in said City Property, hereinafter more fully described, to allow for construction and maintenance of building footings encroaching into the City Property; which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the subsurface rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property; and

WHEREAS, on May 21, 2018, by Roll Call No. 18-0873, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property be set for hearing on June 11, 2018, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate the subsurface rights in the west 2 feet of East 2nd Street right-of-way, and the subsurface rights in the south 2 feet of East Grand Avenue right-of-way adjoining 111 East Grand Avenue, Des Moines, Iowa, and convey a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated right-of-way, was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the 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.

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



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of the subsurface rights in the west 2 feet of East 2nd Street right-of-way, and the subsurface rights in the south 2 feet of East Grand Avenue right-of-way adjoining 111 East Grand Avenue, Des Moines, Iowa and conveyance of a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the subsurface rights within street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said subsurface rights within street right-of-way, legally described as follows, and said vacation is hereby approved:

THE EAST 2ND STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

THE WEST 2.0 FEET OF SAID VACATED RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE EAST LINE OF SAID PARCEL 2016-20; ALL CONTAINING 566 SQUARE FEET MORE OR LESS.

AND

THE EAST GRAND AVENUE PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

THE SOUTH 2.0 FEET OF SAID VACATED RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE NORTH LINE OF SAID PARCEL 2016-20; ALL CONTAINING 720 SQUARE FEET MORE OR LESS.

3. The proposed conveyance of a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated subsurface rights within street right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

Grantee: 111 East Grand, LLC

Consideration: \$12,345.00

Legal Description: SUBSURFACE RIGHTS EASEMENT IN THE VACATED EAST 2ND STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:



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AND

SUBSURFACE RIGHTS EASEMENT IN THE VACATED EAST GRAND AVENUE PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

THE SOUTH 2.0 FEET OF SAID VACATED RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE NORTH LINE OF SAID PARCEL 2016-20; ALL CONTAINING 720 SQUARE FEET MORE OR LESS.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Subsurface Building Encroachment on City-owned Property for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. 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 Subsurface Building Encroachment on 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 Subsurface Building Encroachment on 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 Polk County Recorder's Office for the purpose of causing these documents to be recorded.
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 Subsurface Building Encroachment on City-owned Property and a copy of the other documents to the grantees.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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(Council Communication No. 18-296)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

P.M.

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

MOTION CARRIED

APPROVED

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