

★ Roll Call Number
18-1368

Agenda Item Number
51

Date August 6, 2018

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HOLD HEARING FOR VACATION OF A PORTION OF WOODLAND AVENUE RIGHT-OF-WAY LOCATED NORTH OF AND ADJOINING 616 10TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO PRINCIPAL LIFE INSURANCE COMPANY F/K/A PRINCIPAL MUTUAL LIFE INSURANCE COMPANY FOR \$630.00

WHEREAS, Principal Life Insurance Company f/k/a Principal Mutual Life Insurance Company, owner of 616 10th Street, Des Moines, Iowa, has offered to the City the purchase price of \$630.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") within a portion of Woodland Avenue right-of-way located north of and adjoining 616 10th Street, hereinafter more fully described, to allow for an existing building overhang encroachment into said right-of-way; 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 air rights proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of the vacation of said right-of-way and conveyance of the Easement within said City Property; and

WHEREAS, on July 23, 2018, by Roll Call No. 18-1244, 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 Air Space Above City-Owned Property be set for hearing on August 6, 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 a .4-foot by 84.0-foot segment of the south side of Woodland Avenue right-of-way located north of and adjoining 616 10th Street, Des Moines, Iowa, and convey a Permanent Easement for Air Space Above 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of a .4-foot by 84.0-foot segment of the south side of Woodland Avenue right-of-way located north of and adjoining 616 10th Street, Des Moines, Iowa and conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

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

A PARCEL OF LAND LOCATED IN THE RIGHT-OF-WAY OF WOODLAND AVENUE, ALSO BEING LOCATED IN HOLCOMB'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. COMMENCING AT THE NORTHEAST CORNER OF LOT 5 OF SAID HOLCOMB'S ADDITION TO FORT DES MOINES; THENCE S79°55'09"W, 4.90 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF WOODLAND AVENUE TO THE POINT OF BEGINNING AT THE INTERSECTION OF AN EXISTING BUILDING AT 616 10TH STREET AND SAID RIGHT-OF-WAY LINE; THENCE N15°44'01"W, 0.47 FEET; THENCE S79°50'02"W, 83.91 FEET; THENCE S15°46'05"E, 0.35' FEET TO THE INTERSECTION OF SAID BUILDING LINE AND SAID RIGHT-OF-WAY LINE; THENCE N79°55'09"E, 83.92 FEET ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

SAID DESCRIPTION CONTAINING 35 SQUARE FEET WHICH CONTAINS THE EXISTING BUILDING AND ALL OVERHANGS AND APPURTENANCES THAT EXTEND INTO WOODLAND AVENUE RIGHT-OF-WAY, WHICH IS BELOW A PLANE ELEVATION OF 91.4 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 59.3 FEET CITY DATUM. GROUND ELEVATION BEING BETWEEN 59.3 AND 61.2 FEET CITY DATUM.

3. The proposed conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated 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: Principal Life Insurance Company f/k/a Principal Mutual Life Insurance Company

Consideration: \$630.00

Legal Description:

A PARCEL OF LAND LOCATED IN THE VACATED RIGHT-OF-WAY OF WOODLAND AVENUE, ALSO BEING LOCATED IN HOLCOMB'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. COMMENCING AT THE NORTHEAST CORNER OF LOT 5 OF SAID HOLCOMB'S ADDITION TO FORT DES MOINES; THENCE S79°55'09"W, 4.90 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF WOODLAND AVENUE TO THE POINT OF BEGINNING AT THE INTERSECTION OF AN EXISTING BUILDING AT 616 10TH STREET AND SAID RIGHT-OF-WAY LINE; THENCE N15°44'01"W, 0.47 FEET; THENCE S79°50'02"W, 83.91 FEET; THENCE S15°46'05"E, 0.35' FEET TO THE INTERSECTION OF SAID BUILDING LINE AND SAID RIGHT-OF-WAY LINE; THENCE N79°55'09"E, 83.92 FEET ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

SAID DESCRIPTION CONTAINING 35 SQUARE FEET WHICH CONTAINS THE EXISTING BUILDING AND ALL OVERHANGS AND APPURTENANCES THAT EXTEND INTO WOODLAND AVENUE RIGHT-OF-WAY, WHICH IS BELOW A PLANE ELEVATION OF 91.4 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 59.3 FEET CITY DATUM. GROUND ELEVATION BEING BETWEEN 59.3 AND 61.2 FEET CITY DATUM.

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4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Air Space Above 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 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 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 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 Building Encroachment 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.

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

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

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