



Roll Call Number

18-1553

Agenda Item Number

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Date September 10, 2018

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF 6TH AVENUE STREET RIGHT-OF-WAY AND EAST-WEST ALLEY RIGHT-OF-WAY ADJOINING 206 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO 206 6TH AVENUE, LLC FOR \$4,920.00

WHEREAS, on July 9, 2018, by Roll Call No. 18-1152, 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 206 6th Avenue, LLC for the vacation of a portion of east-west alley right-of-way and 6th Avenue right-of-way adjoining 206 6th Avenue (hereinafter "City Right-of-Way") to allow for the permanent encroachment of mechanical exhaust ducts, generator exhaust ducts, and a door swing 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; and

WHEREAS, 206 6th Avenue, LLC further requested the vacation of a portion of air rights within the City Right-of-Way to allow an entrance canopy encroachment subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, which request has been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

WHEREAS, 206 6th Avenue, LLC, owner of the adjoining property at 206 6th Avenue, has offered to the City the purchase price of \$4,920.00 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 the mechanical exhaust ducts, generator exhaust ducts, door swing, 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 the 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 August 20, 2018, by Roll Call No. 18-1402, 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 September 10, 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 to all necessary parties 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,



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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 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 a portion of east-west alley right-of-way and 6th Avenue right-of-way adjoining 206 6th Avenue, 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:

Part of the East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 37.72 feet along the North line of said Lot 6 to the Point of Beginning; thence continuing South 74°13'29" West, 4.00 feet along the North line of said Lot 6; thence North 15°46'31" West, 4.00 feet; thence North 74°13'29" East, 4.00 feet; thence South 15°46'31" East, 4.00 feet to the point of beginning.

Containing 16 square feet, more or less,

and;

Part of the East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 53.35 feet along the North line of said Lot 6 to the Point of Beginning; thence continuing South 74°13'29" West, 8.43 feet along the North line of said Lot 6; thence North 15°46'31" West, 3.00 feet; thence North 74°13'29" East, 8.43 feet; thence South 15°46'31" East, 3.00 feet to the point of beginning.

Containing 25 square feet, more or less,

and;



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Part of the East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 16.03 feet along the North line of said Lot 6 to the Point of Beginning; thence continuing South 74°13'29" West, 18.67 feet along the North line of said Lot 6; thence North 15°46'31" West, 3.00 feet; thence North 74°13'29" East, 18.67 feet; thence South 15°46'31" East, 3.00 feet to the point of beginning.

Containing 56 square feet, more or less,

and;

That part of 6th Avenue right-of-way adjoining Lots 5 and 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said Lot 5 in Block 11 of FORT DES MOINES; thence North 15°25'50" West, 58.69 feet along the West right-of-way line of said 6th Avenue, also being East line of said Block 11, to the Point of Beginning; thence continuing North 15°25'50" West, 15.83 feet along the West right-of-way line of said 6th Avenue; thence North 74°34'10" East, 9.58 feet; thence South 15°25'50" East, 15.83 feet; thence South 74°34'10" West, 9.58 feet to the point of beginning.

Lying above elevation 43.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 33.57 feet, City of Des Moines Vertical Datum).

Horizontally containing 152 square feet, more or less.

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-west alley right-of-way and 6th Avenue right-of-way, as described below, to 206 6th Avenue, LLC, for \$4,920.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

Building Encroachment Easement

Part of the Vacated East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 37.72 feet along the North line of said Lot 6 to the Point of Beginning; thence



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continuing South 74°13'29" West, 4.00 feet along the North line of said Lot 6; thence North 15°46'31" West, 4.00 feet; thence North 74°13'29" East, 4.00 feet; thence South 15°46'31" East, 4.00 feet to the point of beginning.

Containing 16 square feet, more or less,

and;

Part of the Vacated East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 53.35 feet along the North line of said Lot 6 to the Point of Beginning; thence continuing South 74°13'29" West, 8.43 feet along the North line of said Lot 6; thence North 15°46'31" West, 3.00 feet; thence North 74°13'29" East, 8.43 feet; thence South 15°46'31" East, 3.00 feet to the point of beginning.

Containing 25 square feet, more or less,

and;

Part of the Vacated East-West Alley lying North of and adjoining Lot 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 6 in Block 11 of FORT DES MOINES; thence South 74°13'29" West, 16.03 feet along the North line of said Lot 6 to the Point of Beginning; thence continuing South 74°13'29" West, 18.67 feet along the North line of said Lot 6; thence North 15°46'31" West, 3.00 feet; thence North 74°13'29" East, 18.67 feet; thence South 15°46'31" East, 3.00 feet to the point of beginning.

Containing 56 square feet, more or less.

Air Space Easement

That part of Vacated 6th Avenue right-of-way adjoining Lots 5 and 6 in Block 11 of FORT DES MOINES, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southeast corner of said Lot 5 in Block 11 of FORT DES MOINES; thence North 15°25'50" West, 58.69 feet along the West right-of-way line of said 6th Avenue, also being East line of said Block 11, to the Point of Beginning; thence continuing North 15°25'50" West, 15.83 feet along the West right-of-way line of said 6th Avenue; thence North 74°34'10" East, 9.58



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feet; thence South 15°25'50" East, 15.83 feet; thence South 74°34'10" West, 9.58 feet to the point of beginning.

Lying above elevation 43.00 feet, City of Des Moines Vertical Datum (reference ground level elevation of 33.57 feet, City of Des Moines Vertical Datum).

Horizontally containing 152 square feet, more or less;

(VACATED BY ORDINANCE NO. 15-706 , PASSED September 10, 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.
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.



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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

[Signature]

Lisa A. Wieland, Assistant City Attorney

row

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

MOTION CARRIED

APPROVED

[Signature] 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.

[Signature] City Clerk