



Roll Call Number

18-1624

Agenda Item Number

46

Date September 24, 2018

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT ON CITY-OWNED PROPERTY ADJOINING 3764 HUBBELL AVENUE TO 2KEY, L.L.C. FOR THE HUBBELL AVENUE IMPROVEMENTS – E. 33RD STREET TO E. 38TH STREET PROJECT

WHEREAS, on May 22, 2017, by Roll Call No. 17-0859, the City Council of the City of Des Moines, Iowa authorized the acquisition by gift, negotiation, or eminent domain, of the necessary property interests required for the Hubbell Avenue Improvements – E. 33rd Street to E. 38th Street Project (hereinafter “Project”); and

WHEREAS, acquisition of a portion of the property located at 3764 Hubbell Avenue currently owned by 2KEY, L.L.C. will require closing their existing access to Hubbell Avenue; and

WHEREAS, the City of Des Moines, Iowa, (“City”) is the owner of certain real estate located north of Hubbell Avenue, and west of and adjoining 3764 Hubbell Avenue (hereinafter “Property”), more particularly described below; and

WHEREAS, the City proposes to grant 2KEY, L.L.C. a Permanent Easement for \$1.00 upon said Property to allow permanent ingress and egress as well as all other uses related to the operation, maintenance and expansion needs of the adjoining property at 3746 Hubbell Avenue, which price reflects said easement is necessary in order to resolve the lack of access created by the Project; and

WHEREAS, the Permanent Easement will require 2KEY, L.L.C. to be solely responsible for all activities related to and the costs of maintenance of the Property and all adjoining right-of-way border areas and sidewalks in accordance with all applicable Municipal Codes of the City of Des Moines, Iowa; and

WHEREAS, the City has no known current or anticipated public need for the Property, and the public would not be inconvenienced by reason of the conveyance of a Permanent Easement within said Property; and

WHEREAS, on September 10, 2018 by Roll Call No. 18-1501, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of Property be set down for hearing on September 24, 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 convey the Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and



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

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 conveyance of a Permanent Easement upon City-owned property located north of Hubbell Avenue and west of and adjoining 3764 Hubbell Avenue, as described herein, are hereby overruled and the hearing is closed.

2. There is no anticipated public need or benefit for the City-owned property, and the public would not be inconvenienced by reason of the conveyance of a Permanent Easement to allow permanent ingress and egress as well as all other uses related to the operation, maintenance and expansion needs of the adjoining property at 3764 Hubbell Avenue, upon said property located north of Hubbell Avenue and west of and adjoining 3764 Hubbell Avenue, legally described as follows, to 2KEY, L.L.C. for \$1.00, which price reflects said easement is necessary in order to resolve the lack of access created by the Hubbell Avenue Improvements – E. 33rd Street to E. 38th Street Project, and said conveyance is hereby approved:

A PART OF THE EAST 15 ACRES OF THE WEST 30 ACRES OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, SECTION 20, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL "A" OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 7173, PAGE 686; THENCE SOUTH 0°(DEGREES) 06'(MINUTES) 06"(SECONDS) EAST ALONG THE WESTERLY LINE OF SAID PARCEL "A", 165.07 FEET TO A CORNER OF SAID PARCEL "A" AND ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°27'11" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL "A", 82.06 FEET; THENCE SOUTH 2°09'48" WEST ALONG SAID PARCEL "A"; 25.38 FEET TO A POINT BEING 55.00 FEET NORTHWESTERLY OF AND PERPENDICULAR TO THE CENTERLINE OF HUBBELL AVENUE, AS PRESENTLY ESTABLISHED; THENCE SOUTH 54°52'02" WEST ALONG A LINE BEING 55.00 FEET NORTHWESTERLY OF AND PARALLEL TO SAID CENTERLINE, 52.15 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 31.00 FEET, WHOSE ARC LENGTH IS 10.16 FEET AND WHOSE CHORD BEARS NORTH 54°34'32" WEST, 10.11 FEET; THENCE NORTH 63°57'47" WEST, 10.00 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 24.00 FEET, WHOSE ARC LENGTH IS 12.08 FEET AND WHOSE CHORD BEARS NORTH 49°32'53" WEST, 11.95 FEET; THENCE NORTH 35°07'58" WEST, 36.90 FEET; THENCE NORTH 54°52'02" EAST, 11.14 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3374 SQ. FT.)



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3. The Mayor is authorized and directed to sign the Permanent Easement for the conveyance as 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, 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.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement, 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.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the grantee.
7. There will be no proceeds associated with the conveyance of this Permanent Easement.

Moved by Westergaard 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	

J. M. Frankhu 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