



Roll Call Number

19-0306

Agenda Item Number

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Date February 25, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST SHAWNEE AVENUE RIGHT-OF-WAY ADJOINING 4101 AMHERST STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO TRUE BIBLE BAPTIST CHURCH FOR \$168.00

WHEREAS, on August 20, 2018, by Roll Call No. 18-1401, 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 True Bible Baptist Church for the vacation of a segment of East Shawnee Avenue right-of-way adjoining 4101 Amherst Street (hereinafter "City Right-of-Way") to allow for installation, operation, maintenance, or repair of an ADA accessible entrance ramp with vestibule, and for the continued placement of building mechanical units within 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, True Bible Baptist Church, owner of the adjoining property at 4101 Amherst Street, has offered to the City the purchase price of \$168.00 for the purchase of a Permanent Easement for Building Encroachment, hereinafter more fully described, to allow for encroachment into the City Right-of-Way of an ADA accessible entrance ramp with vestibule and existing building mechanical units, 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 price reflects the fair market value of the Permanent Easement for Building Encroachment 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 within said City Right-of-Way; and

WHEREAS, on February 11, 2019, by Roll Call No. 19-0199, 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 February 25, 2019, 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 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, 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, as described below, are hereby overruled and the hearing is closed.



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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 Shawnee Avenue right-of-way adjoining 4101 Amherst Street, 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:

All that part of East Shawnee Avenue Right-of-Way, lying South of Lot 13 in Block 1 in Official Plat of the NE1/4 of the SW1/4 of Section 23, Township 79 North, Range 24 West of the 5th P.M., except the East 830.4 feet of the S1/2 thereof, now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Southeast Corner of said Lot 13; thence South 89°55'05" West, along the South line of said Lot 13, a distance of 18.87 feet, to the Point of Beginning; thence South 00°07'52" East, a distance of 6.00 feet; thence South 89°55'05" West, a distance of 28.00 feet; thence North 00°07'52" West, a distance of 6.00 feet, to a point on the South line of said Lot 13; thence North 89°55'05" East, along the South line of said Lot 13, a distance of 28.00 feet to the Point of Beginning, and containing 168 square feet of land, more or less.

3. That the conveyance of a Permanent Easement for Building Encroachment within said vacated street right-of-way, as described below, subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated, to True Bible Baptist Church, for \$168.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, is hereby approved:

All that part of Vacated East Shawnee Avenue Right-of-Way, lying South of Lot 13 in Block 1 in Official Plat of the NE1/4 of the SW1/4 of Section 23, Township 79 North, Range 24 West of the 5th P.M., except the East 830.4 feet of the S1/2 thereof, now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows:

Commencing at the Southeast Corner of said Lot 13; thence South 89°55'05" West, along the South line of said Lot 13, a distance of 18.87 feet, to the Point of Beginning; thence South 00°07'52" East, a distance of 6.00 feet; thence South 89°55'05" West, a distance of 28.00 feet; thence North 00°07'52" West, a distance of 6.00 feet, to a point on the South line of said Lot 13; thence North 89°55'05" East, along the South line of said Lot 13, a distance of 28.00 feet to the Point of Beginning, and containing 168 square feet of land, more or less;

(VACATED BY ORDINANCE NO. 15,751, PASSED February 25, 2019);

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



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forward the original of the Permanent Easement for Building Encroachment, 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, 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 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.

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

RSW

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

MOTION CARRIED APPROVED

J. M. Franklin 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