

19-0927

57

Date June 3, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF MAINE STREET RIGHT-OF-WAY LOCATED EAST OF AND ADJOINING 100 INDIANA AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT – DOOR SWING TO EMOGINE, INC. FOR \$50.00

WHEREAS, Emogine, Inc., an Iowa corporation, owner of 100 Indiana Avenue, Des Moines, Iowa, has offered to the City the purchase price of \$50.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing (hereinafter “Easement”) upon a portion of vacated Maine Street right-of-way adjoining 100 Indiana Avenue, hereinafter more fully described, to allow for the retention, maintenance and repair of an existing building door entrance and door swing area into and upon said right-of-way, subject to reservation of easements for all public utilities in place, 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 right-of-way proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of vacation of said right-of-way and the conveyance of the Easement within said City Property; and

WHEREAS, on May 20, 2019, by Roll Call No. 19-0795, 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 Building Encroachment – Door Swing be set for hearing on June 3, 2019, 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 4.0 foot by 4.0 foot segment of the west side of Maine Street right-of-way, adjoining 100 Indiana Avenue, Des Moines, Iowa, and convey a Permanent Easement for Building Encroachment – Door Swing 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 4.0 foot by 4.0 foot segment of the west side of Maine Street right-of-way, adjoining 100 Indiana Avenue, Des Moines, Iowa, and conveyance of a Permanent Easement for Building Encroachment – Door Swing in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

Date June 3, 2019

2. 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 of said street right-of-way, legally described as follows, and said vacation is hereby approved:

A PART OF THE MAINE STREET RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 2, BLOCK 23, CENTRAL PLACE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF LOT 1, SAID CENTRAL PLACE; THENCE SOUTH 0°31'08" EAST ALONG THE EAST LINE OF SAID BLOCK 23, A DISTANCE OF 61.78 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°28'52" EAST, 4.00 FEET; THENCE SOUTH 00°31'08" EAST, 4.00 FEET; THENCE SOUTH 89°28'52" WEST, 4.00 FEET TO SAID EAST LINE; THENCE NORTH 00°31'08" WEST ALONG SAID EAST LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

3. The proposed conveyance of a Permanent Easement for Building Encroachment – Door Swing in such vacated 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: Emogine, Inc.
Consideration: \$50.00
Legal Description:

A PART OF THE VACATED MAINE STREET RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 2, BLOCK 23, CENTRAL PLACE, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF LOT 1, SAID CENTRAL PLACE; THENCE SOUTH 0°31'08" EAST ALONG THE EAST LINE OF SAID BLOCK 23, A DISTANCE OF 61.78 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°28'52" EAST, 4.00 FEET; THENCE SOUTH 00°31'08" EAST, 4.00 FEET; THENCE SOUTH 89°28'52" WEST, 4.00 FEET TO SAID EAST LINE; THENCE NORTH 00°31'08" WEST ALONG SAID EAST LINE, 4.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 16 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment – Door Swing 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 Building Encroachment – Door Swing, 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 – Door Swing, together with a certified copy of this resolution and

★ Roll Call Number

19-0927

Agenda Item Number

57

Page 3

Date June 3, 2019

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 Gray to adopt.

APPROVED AS TO FORM:

Ann DiDonato

Ann DiDonato, Assistant City Attorney

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

MOTION CARRIED

APPROVED

J. M. Frankhu Cowrie 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