



Roll Call Number

22-0724

Agenda Item Number

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Date May 9, 2022

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT IN CITY PROPERTY LOCATED SOUTH OF AND ADJOINING 2811 INGERSOLL AVENUE TO PEACHTREE PROPERTIES, L.C. FOR 2,475.00**

WHEREAS, on November 21, 2005, by Roll Call No. 05-2806, the City Council of the City of Des Moines, Iowa passed Ordinance No. 14,512 vacating a strip of right-of-way on the north side of Ingersoll Avenue adjoining the property at 2811 Ingersoll Avenue, as legally described below, (hereinafter "Easement Area"; and

WHEREAS, Peachtree Properties, L.C., owner of 2811 Ingersoll Avenue, has offered to the City of Des Moines ("City") the purchase price of \$2,475.00 for the purchase of a Permanent Easement for Building Encroachment (hereinafter "Easement") in said property to allow for the use, repair, renovation, and maintenance of an attached raised platform and surface encroachments, from the adjoining building into the Easement Area, which price reflects the fair market value of the City Property as determined by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the Easement proposed to be conveyed, and the City will not be inconvenienced by the conveyance of said Permanent Easement for Building Encroachment; and

WHEREAS, on April 18, 2022 by Roll Call No. 22-0599, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on May 9, 2022, 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 Easement 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 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 for Building Encroachment in the vacated City right-of-way lying south of and adjoining 2811 Ingersoll Avenue, Des Moines, Iowa, 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 Easement proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of said Permanent Easement for Building Encroachment, as legally described, to Peachtree Properties, L.C., for \$2,475.00, subject to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

THE NORTH 6.0 FEET OF VACATED INGERSOLL AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE EAST 28.0 FEET OF LOT 14, BLOCK 4, MCCAIN PLACE, AN OFFICIAL PLAT, AND LYING SOUTH OF AND ADJOINING THE WEST 27.0 FEET OF LOT 15 IN SAID BLOCK 4, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 330 SQUARE FEET.

Vacated by Ordinance No. 14,512, passed November 21, 2005

3. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. 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, 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 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 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 Boesen to adopt. Second by Gatto

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

John Fubelli MAYOR PRO TEM

CERTIFICATE

I, P. Kay Cmelik, 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.

P. Kay Cmelik

City Clerk