★ Roll Call Number 09-1966

Agenda Item Number 54

Date October 26, 2009

HOLD HEARING FOR CONVEYANCE OF AN ENCROACHMENT EASEMENT TO ALLOW FOR ENCROACHMENT OF THE EXISTING BUILDING AND IMPROVEMENTS AT 514 FOSTER DRIVE TO GEOFFREY J. INGRAM, TRUSTEE OF THE EARL J. INGRAM REVOCABLE MANAGEMENT TRUST FOR $2,060

WHEREAS, Geoffrey J. Ingram, Trustee of the Earl J. Ingram Revocable Trust, the current titleholder of 514 Foster Drive, has discovered that a portion of the existing residence located on the property currently encroaches slightly into Ashworth Park, and in order to address the situation, the titleholder is requesting that the City grant the Trust an encroachment easement; and

WHEREAS, City Real Estate Division and Parks Department staff have determined that the conveyance of this encroachment easement will have no significant impact upon the public use of the adjoining parkland, subject to the condition that the easement shall terminate and the rights revert to the City in the event of destruction of the existing garage structure; and

WHEREAS, the titleholder of 514 Foster Drive has offered to the City of Des Moines the purchase price identified below for the encroachment easement described below, which purchase price reflects the fair market value of the property as currently estimated by the City's Real Estate Division.

WHEREAS, on October 12, 2009, by Roll Call No. 09-1844, it was duly resolved by the City Council that the proposed conveyance of such easement be set down for hearing on October 26, 2009, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to convey said easement was given 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 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, the objections to said proposed conveyance of an encroachment easement, as described below, are hereby overruled and the hearing is closed.

2. The public would not be inconvenienced by granting an encroachment easement along the southern boundary of Ashworth Park, more specifically described as follows:

AN IRREGULAR SHAPED "ENCROACHMENT EASEMENT" LOCATED IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 12,TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M., BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS; COMMENCING AT THE NORTHEAST CORNER OF LOT 34, LINDEN HEIGHTS, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE NORTH 87°(DEGREES) 05' (MINUTES) 49" (SECONDS) WEST, ALONG THE NORTH LINE OF SAID LOT 34, A DISTANCE OF
19.64 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 87° 05' 49" WEST ALONG THE NORTH LINE OF SAID LOT 34, A DISTANCE OF 102.31 FEET; THENCE NORTH 08° 18' 22" EAST, 17.63 FEET; THENCE SOUTH 81° 41' 38" EAST, 28.73 FEET; THENCE SOUTH 08° 18' 22" WEST, 4.50 FEET; THENCE SOUTH 82° 25' 32" EAST, 27.02 FEET; THENCE NORTH 08° 27' 33" EAST, 14.33 FEET; THENCE SOUTH 81° 42' 43" EAST, 45.03 FEET; THENCE SOUTH 05° 01' 14" WEST, 18.22 FEET TO THE POINT OF BEGINNING.
ENCROACHMENT CONTAINS 1648 SQUARE FEET MORE OR LESS

3. That the sale and conveyance of such encroachment easement to Geoffrey J. Ingram, Trustee of the Earl J. Ingram Revocable Trust, for $2,060.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance 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 said 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the 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.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.

8. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

★ Roll Call Number 09-1966

Agenda Item Number 54

Date October 26, 2009

(Council Communication No. 09-745)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED APPROVED

T. 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