



Roll Call Number

20-1657

Agenda Item Number

21

Date October 19, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT IN A PORTION OF WAVELAND GOLF COURSE LOCATED WEST OF AND ADJOINING 4841 ALGONQUIN ROAD TO CORY L. SCHOOLEY AND KRISTIN K. SCHOOLEY FOR \$3,740.00

WHEREAS, Cory L. Schooley and Kristin K. Schooley (Grantees), owners of 4841 Algonquin Road, have offered to the City of Des Moines ("City") the purchase price of \$3,740.00 for the purchase of a Permanent Easement for Building Encroachment upon a portion of Waveland Golf Course adjoining 4841 Algonquin Road (hereinafter "Easement Area"), for the sole purpose of allowing the Grantees to maintain an existing building and concrete driveway encroachment; and maintain a concrete parking slab encroachment, which price reflects the fair market value of the permanent easement as determined by the City's Real Estate Division; and

WHEREAS, said Permanent Easement for Building Encroachment (Easement) is subject to the following conditions:

- a. In the event the encroaching improvements are ever destroyed by any means whatsoever, to such a degree that the estimated cost of the repairs necessary to restore the improvements to their condition prior to such destruction exceed 50% of the assessed value of the building or concrete improvements prior to such destruction, then the Easement shall terminate with or without recorded release.
- b. Grantees shall erect no structure, building or other improvements over or within the Easement Area except as depicted in the Easement. This restriction shall not preclude the construction or repair of a sidewalk within the right-of-way border area.
- c. Grantees shall not remove any trees or shrubs from the Easement Area and shall not re-route the golf course fence line.
- d. Grantees and Grantee's successors and assigns of 4841 Algonquin Road agree to indemnify, defend, pay on behalf of and hold harmless the City, its elected and appointed officials, employees and volunteers and others working on behalf of the City from any and all property damage or personal injury caused by golf balls hit from Waveland Golf Course onto the Easement Area or the Benefitted Property; and

WHEREAS, there is no known current or anticipated public need or benefit for the City property interest proposed to be conveyed, and the City will not be inconvenienced by the sale of said Permanent Easement for Building Encroachment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:



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20-11657

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1. The City Council of the City of Des Moines, Iowa, proposes to sell a Permanent Easement for Building Encroachment in a portion of Waveland Golf Course located west of and adjoining 4841 Algonquin Road, as legally described, to the grantees, and for the consideration identified below, subject to a reservation of easements therein:

Grantee: Cory L. Schooley and Kristin K. Schooley

Consideration: \$3,740.00

Legal Description: Part of the Northwest Fractional 1/4 of Section 1, Township 78 North, Range 25 West of the 5th P.M. and lying West of and adjoining Lot 8, Sunset Park an official plat, now included in and forming part of the City of Des Moines, Polk County, Iowa and more particularly described as:

Beginning at the Southwest corner of said lot 8: Thence S 0° 00' 00" W, 19.50 Feet; Thence N 45° 00' 00" W, 10.61 Feet; Thence N 0° 00' 00" E, 44.31 Feet; Thence N 34° 00' 00" W, 36.49 Feet; Thence N 36° 00' 00" E, 19.74 Feet; Thence N 10° 00' 00" E, 31.01 Feet; Thence S 90° 00' 00" E, 10.91 Feet; Thence S 0° 00' 00" W, 109.08 Feet to the Point of Beginning and all containing 1,665 square feet more or less.

2. That the meeting of the City Council at which the conveyance of such Permanent Easement for Building Encroachment is to be considered shall be on November 9, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie's March 17, 2020 Proclamation, as amended prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's June 25, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak and the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/94455567318?pwd=eS9USnErWTFpZkFLVERaRmlBYXB4Zz09>

Passcode: 277478

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 944 5556 7318

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International numbers available: <https://dmgov-org.zoom.us/j/kzfspbRwY>

Persons interested in the proposal will be given the opportunity to express their views at that hearing. In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. November 5, 2020 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.

4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Boesen to adopt.

APPROVED AS TO FORM:

/s/ Ann DiDonato
Ann DiDonato, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

J. M. Franke Cownie Mayor

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