



Roll Call Number

23-1364

Agenda Item Number

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Date October 2, 2023

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HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF EAST 16TH STREET RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO GEORGE M. CLAYTON FOR \$550.00

WHEREAS, on April 10, 2023, by Roll Call No. 23-0479, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from George M. Clayton to vacate a portion of surface right-of-way adjoining 1601 East Grand Avenue to allow the encroachment of an existing staircase within the East 16th Street right-of-way; and

WHEREAS, George M. Clayton, owner of 1910 Ingersoll Avenue, has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$550.00 for the purchase of a Permanent Easement for Building Encroachment under, over, through, and across a small segment of East 16th Street right-of-way located west of and adjoining 1601 East Grand Avenue, Des Moines, Iowa (hereinafter “Property”); and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be vacated, and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Building Encroachment therein; and

WHEREAS, on September 11, 2023, by Roll Call No. 23-1244, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and conveyance of the Permanent Easement for Building Encroachment be set for hearing on October 2, 2023, 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 the street right-of-way and convey the 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 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 segment of East 16th Street right-of-way located west of and adjoining 1601 East Grand Avenue and conveyance of a Permanent Easement for Building Encroachment, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a segment of East 16th Street right-of-

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way located west of and adjoining 1601 East Grand Avenue, legally described as follows, and said vacation is hereby approved:

A parcel of land being a part of the East 16th Street right of way lying west of and adjoining Lot 20, Block 9, Stewart’s addition to the City of Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, and described as follows:

COMMENCING at the Northwest corner of said Lot 20; THENCE South 14°59’49” east, along the west line of Lot 20, a distance of 28.22 feet to the POINT OF BEGINNING; THENCE continuing southerly along the west line South 14°59’49” East, a distance of 38.00 feet; THENCE South 75°00’11” West, a distance of 6.00 feet; THENCE North 14°59’49” West, a distance of 38.00 feet; THENCE North 75°00’11” East, a distance of 6.00 feet to the POINT OF BEGINNING, containing 228.0 square feet, more or less.

- 3. The proposed sale of a Permanent Easement for Building Encroachment, as legally described below to George M. Clayton, for \$550.00, subject to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

A parcel of land being a part of the VACATED East 16th Street right of way lying west of and adjoining Lot 20, Block 9, Stewart’s addition to the City of Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, and described as follows:

COMMENCING at the Northwest corner of said Lot 20; THENCE South 14°59’49” east, along the west line of Lot 20, a distance of 28.22 feet to the POINT OF BEGINNING; THENCE continuing southerly along the west line South 14°59’49” East, a distance of 38.00 feet; THENCE South 75°00’11” West, a distance of 6.00 feet; THENCE North 14°59’49” West, a distance of 38.00 feet; THENCE North 75°00’11” East, a distance of 6.00 feet to the POINT OF BEGINNING, containing 228.0 square feet, more or less.

- 4. 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.

- 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, 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



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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 grantee.

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

Moved by Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			
MOTION CARRIED		APPROVED		
<u>J. M. Franklin Cownie</u> Mayor				

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Laura Baumgartner

Laura Baumgartner, City Clerk