



Council Communication

Office of the City Manager

Date

October 23, 2006

Agenda Item No. 12

Roll Call No. 06-

Communication No. 06-681

Submitted by: William G. Stowe, Assistant City
Manager/Public Works/Engineering

AGENDA HEADING:

Approving Partial Release of Lien in Conjunction with the Easter Lake Sanitary Trunk Sewer Connection Fee Agreement and Covenant, and Direct the Legal Department to Bring Back an Ordinance to Permit the City Manager to Execute Partial Release of Liens associated with any Sewer Connection Fee Agreement and Covenant

SYNOPSIS:

Recommend approval of the Partial Release of Lien in connection with the Easter Lake Sanitary Trunk Sewer Connection Fee Agreement and Covenant, and Direct the Legal Department to Bring Back an Ordinance Authorizing the City Manager to Execute Partial Release of Liens associated with any Sewer Connection Fee Agreement and Covenant.

FISCAL IMPACT:

Amount: \$28,923.29 (Credit)

Funding Source: 2006-2007 Operating, Wastewater Treatment Payment, page 244, EN101, PWK074007, 463510

ADDITIONAL INFORMATION:

The Easter Lake Sanitary Trunk Sewer Connection Fee was established on September 16, 1996 by Roll Call No. 96-3213. The City of Des Moines entered into a Sewer Connection Fee Agreement and Covenant with the developer for Carman Estates Plats on October 6, 2003 by Roll Call No. 03-2317. The Agreement and Covenant were recorded in Book 10207, Page 122-127 with Polk County.

The Sewer Connection Fee Agreement and Covenant set forth the developer's commitments with respect to the deferred payments of the sewer connection fee, which was applicable to the properties described in the agreement. Section 5 of the agreement requires, as security for payment of deferred amounts, that all unpaid sums owed by the developer shall constitute a first lien against the developer's interest in favor of the City of Des Moines. Section 6 of the agreement requires that the City of Des Moines execute and deliver to the developer a release from the lien for properties being platted, upon payment of the applicable connection fee by the developer.

The City of Des Moines has received the applicable connection fees for the Carman Estates Plats, except for Outlot 'Z' of Carman Estates Plat 4 and Outlot 'Y' of Carman Estates Plat 5. Staff recommends approval of a Partial Release of Lien for the above-referenced properties, and direct the Legal

Department to bring back an ordinance authorizing the City Manager to execute Partial Release of Liens associated with any Sewer Connection Fee Agreement and Covenant.

PREVIOUS COUNCIL ACTION(S):

Date: October 6, 2003

Roll Call Number: 03-2317

Action: Sewer Connection Fee Agreement and Covenant with Gerald D. Grubb in conjunction with development of Carman Estates, Plat 1. ([Council Communication No. 03-501](#)). Moved by Vlassis to adopt. Motion Carried 5-2.

Date: September 16, 1996

Roll Call Number: 96-3213

Action: (C) Final consideration of ordinance amending Chapter 21 of the Municipal Code regarding partial deferral of payment of connection fees, to accommodate the phased development of property, and providing for collection of interest upon deferred connection to a trunk sanitary sewer or upon deferred payment of the connection fee in a benefited connection fee district, (Four Mile and Easter Lake Area Trunk Sewers). Moved by Phillips that this ordinance do now pass, #13,379. Motion Carried 6-1. Pass: Flagg.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE