



Council Communication

Office of the City Manager

Date February 25, 2008

Agenda Item No. 48
Roll Call No. 08-
Communication No. 08-088
Submitted by: Jeb E. Brewer, P.E.
City Engineer

AGENDA HEADING:

Hearing on adoption of the proposed Resolution of Necessity for street improvements.

SYNOPSIS:

Public hearing on the proposed Resolution of Necessity for street improvements, as required by Iowa Code, before the City Council can proceed to utilize special assessments against benefited property owners as part of the method of financing as referenced below. Property owners on the three streets recommended for paving being:

- S.W. 5th Street from Broad Street to Virginia Avenue
- E. 21st Street from Milton Avenue to the dead end north
- Maine Street from University Avenue to Indiana Avenue

These property owners have previously submitted petitions to the City Council requesting that the streets be paved. Engineering staff held an informational meeting on February 4, 2008 for property owners to ask questions and provide input. Staff also informed the property owners about submitting petitions for or against the paving to provide Council with information on the wishes of the neighborhood.

Since the informal meeting, the Engineering Department has received several petitions against the paving improvement from property owners on E 21st Street representing 75% of the property owners and 74% of the amount to be assessed. Since the petition submitted by the property owners against the improvements on E 21st Street exceeds the Council's policy of 60%, the City Engineer recommends that E 21st Street from Milton Avenue to dead end north be deleted from the Resolution of Necessity.

The City Engineer will continue to tabulate any petitions received prior to the public hearing and will report to the City Council. At this time, the City Engineer recommends adoption of the Resolution of Necessity on the following streets:

- S.W. 5th Street from Broad Street to Virginia Avenue
- Maine Street from University Avenue to Indiana Avenue

FISCAL IMPACT:

Amount: \$354,030 City Engineer's Preliminary Estimate for assessment purposes with individual estimates for the three streets as follows:

- SW 5th Street from Broad Street to Virginia Avenue (Total Estimate \$71,130 with \$11,586.29 Assessed and \$59,543.71 City Cost - G.O. Bonds)
- E. 21st Street from Milton Avenue to Dead End North (Total Estimate \$148,800 with \$41,327.76 Assessed and \$107,472.24 City Cost - G.O. Bonds)
- Maine Street from University Avenue to Indiana Avenue (Total Estimate \$134,100 with \$41,301.59 Assessed and \$92,798.41 City Cost - G.O. Bonds)

Funding Source: 2007-2008 CIP, Page Street-8, City-wide Paving Program, STR013, being \$94,215.64 from special assessments against benefited property owners and \$259,814.36 in G. O. Bonds

ADDITIONAL INFORMATION:

On June 26, 2000, by Roll Call 00-1876, the City Council adopted a policy for paving residential streets in an effort to pave the remaining unpaved streets. This policy specifies that the majority of remaining unpaved streets will be paved by private contractors with permanent paving over an improved subbase. Under said Council policy, the permanent paving is assessed based upon 50% of the actual pavement costs, 50% of the driveway approach costs, and design and inspection costs limited to 10% of the total construction cost. This procedure, along with the existing assessment subsidy program, results in residents typically paying approximately 25% of total project costs.

Currently, petitions for paving the following three streets have been submitted to Council:

- S.W. 5th Street – Broad Street to Virginia Avenue
- E. 21st Street – Milton Avenue to the dead end north
- Maine Street – University Avenue to Indiana Avenue

On January 17, 2008 property owners on the three streets subject to special assessments were sent a mailing which contained general information about the street paving procedure and each owner's estimated assessment, and invited the property owner to an informational meeting with Engineering staff. The Informational Meeting was held on February 4, 2008 in the City Council Chambers during which the property owners had the opportunity to ask questions and provide input to staff on the design. Staff also informed the property owners about the City's Special Assessment Subsidy Program and the process to submit petitions for or against the paving to provide Council with information on the wishes of the neighborhood.

On January 28, 2008, under Roll Call Number 08-095, the City Council set February 25, at 5:00 p.m. for the public hearing to receive and consider both written and oral objections and endorsements to the adoption of the proposed Resolution of Necessity for construction of the following improvements:

- Street paving twenty-one (21) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving twenty-six (26) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on E. 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)

- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6” thick PCC or 8” thick HMA.)

Pursuant to Iowa Code, Section 384.51, the City Council shall meet as specified in the published notice to property owners, and after hearing all objections and endorsements and after considering all written objections may consider adoption of resolution of necessity. A resolution of necessity requires for passage the vote of three-fourths of all the members of the council (6 votes for the City of Des Moines); except where a remonstrance has been signed by property owners subject to seventy-five percent or more of the amount of the proposed assessment, which would require a unanimous vote of the council.

On January 17, 1983, under Roll Call Number 83-333, the City Council adopted a formal policy regarding adoption of the Resolution of Necessity, which stated:

1. The City Council shall require 60% or more of the preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.
2. Where it is determined by the City Engineering Department that a street has drainage problems that can only be corrected by street paving, the City Council shall require 65% or more of the preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.

Since the informal meeting, the Engineering Department has received several petitions from property owners subject to assessment on E 21st Street from Milton Avenue to dead end north petitioning against the paving improvement. The City Engineer has verified the names on the petition and determined that those people petitioning against the paving improvements on E 21st Street represent 75% of the property owners on the assessment schedule and 74% of the amount to be assessed. Since the petition submitted by the property owners against the improvements on E 21st Street exceeds the Council’s policy of 60%, the City Engineer recommends that E 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02, be deleted from the Resolution of Necessity.

The City Engineer will continue to tabulate any petitions received prior to the public hearing and will report to the City Council. At this time, the City Engineer recommends adoption of the Resolution of Necessity on the following streets:

- S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03.

PREVIOUS COUNCIL ACTION(S):

Date: January 28, 2008

Roll Call Number: [08-091](#)

Action: Approving residential paving on portions of SW 5th Street from Broad Street to Virginia Avenue, E. 21st Street from Milton Avenue to dead end north, and Maine Street from University Avenue to Indiana Avenue:

- (A) [Communication](#) from City Manager recommending proposed street paving using special assessments. ([Council Communication No. 08-043](#)) Moved by Kiernan to approve, receive and file and accept the recommendation of the City Manager. Motion Carried 7-0.

Date: January 28, 2008

Roll Call Number: [08-095](#)

Action: Approving residential paving on portions of SW 5th Street from Broad Street to Virginia Avenue, E. 21st Street from Milton Avenue to dead end north, and Maine Street from University Avenue to Indiana Avenue:

- (E) [Proposed](#) Resolution of Necessity, Notice to property owners of Hearing and Setting Date of Hearing, (2-25-08). Moved by Kiernan to adopt. Motion Carried 7-0.

Date: September 10, 2007

Roll Call Number: [07-1702](#)

Action: [Authorization](#) to proceed on the 2007-08 Paving Program. ([Council Communication No. 07-549](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: June 26, 2000

Roll Call Number: 00-1876

Action: Approving Assessment Policy for Residential Street Paving. ([Council Communication No. 00-288](#)) Moved by McPherson to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Council Hearing on the Resolution of Necessity on February 25, 2008 and if adopted the normal Council actions to authorize bids, receive and file bids, designate lowest bidder, and approve contract and bond; also partial payments to the contractor and final acceptance of work.