



# Council Communication

Office of the City Manager

<b>Date</b>	January 26, 2009
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<b>Agenda Item No.</b>	<b>60</b>
<b>Roll Call No.</b>	<b><u>09-</u></b>
<b>Communication No.</b>	<b><u>09-040</u></b>
<b>Submitted by:</b>	<b>Jeb E. Brewer, P.E. City Engineer</b>

## **AGENDA HEADING:**

Hold hearing on the intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property interests for the Waveland Trail – Phase 1 Project by gift, negotiation, or eminent domain.

## **SYNOPSIS:**

Recommend authorization to acquire property for recreational purposes and authorize acquisition of the necessary property interests for the Waveland Trail – Phase 1 Project by gift, negotiation, or eminent domain. These actions are required by Iowa law before the City can initiate the right-of-way acquisition process under eminent domain.

## **FISCAL IMPACT:**

Amount: Compensation will be based on an independent appraisal and the appraisal will be submitted to Council for approval of fair market value before an offer is made.

Funding Source: Fiscal Year 2008-09 CIP, Park Improvements – Recreational Trails, PKS045, Page – Park Improvements – 22, G. O. Bonds.

## **ADDITIONAL INFORMATION:**

On March 24, 2008, under Roll Call No. 08-531, the City Council approved the Waveland Trail Phase I route (see attached map), which starts just south of the small bridge on the Walnut Creek Trail. This trail will follow a northeasterly route along the east side of what is commonly known as Golf/Cummins Creek along the publicly-owned greenway to Pleasant Street, where it passes under the bridge, which is slated for replacement by the City in 2009. The bridge will be designed with the trail in mind and allow adequate room for the trail to pass beneath. On the east side of the bridge, the route enters onto private property owned by Mike and Nadine Kastner, continuing easterly on a route parallel to Interstate 235 (I-235) along the north edge of the Kastner property to 56<sup>th</sup> Street at the point where it intersects with I-235. The City will need to purchase an easement or a portion of the Kastners' property and request disposition of the Iowa Department of Transportation (IDOT) property located on the west side of 56<sup>th</sup> Street south of I-235 for the trail.

This trail route minimizes the amount of private property needed for the trail. In addition, remaining on the east side of the creek eliminates the need to construct a bridge across the creek and allows for minimal additional disturbance to the environment; the greenway between Pleasant Street and the end of Ronwood Drive is maintained as manicured grass.

It is expected that Phase 1 of the Waveland Trail will start construction in the Spring of 2009 and open by the late Fall of 2009.

Property Needed for Recreational Trail Purposes:

Under the provisions of Chapter 6B of the Iowa Code, a governmental body which proposes to acquire property under power of eminent domain for recreational trail purposes is required to give notice of a proposed resolution, motion, or other document authorizing acquisition of property by eminent domain to each property owner, contract purchaser of record and any tenant known to be occupying the properties that may be acquired in whole or in part for the recreational trail prior to the date of the meeting at which such proposed authorization will be considered. (See Section 6B.2D of the Iowa Code.)

The City has mailed notice regarding the proposed resolution authorizing acquisition of property for recreational trail purposes for this project as required by law. Before further proceeding with the acquisition for the recreational trail, the City must (a) hold a public hearing, giving affected persons the opportunity to attend the hearing and present their views and objections regarding the proposed acquisition of private property for the recreational trail portion of the project by gift, negotiation or eminent domain; and (b) adopt a resolution to authorize acquisition of private property for the recreational trail portion of the project by eminent domain.

Compensation for the property interests to be acquired will be based on an independent appraisal and the appraisal will be submitted to City Council or City Manager, as applicable, for approval of the fair market value before an offer is made.

**PREVIOUS COUNCIL ACTION(S):**

Date: January 5, 2009

Roll Call Number: 09-028

Action: On intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property for the Waveland Trail, Phase 1 Project. Moved by Hensley to continue the public hearing until January 26, 2009, at 5:00 PM, in the Council Chambers. Motion Carried 7-0.

Date: March 24, 2008

Roll Call Number: 08-531

Action: Waveland Trail Phase I recommended trail route. (Council Communication No. 08-156) Moved by Hensley to approve. Motion Carried 6-1. Absent: Meyer.

**BOARD/COMMISSION ACTION(S):**

Board: Parks and Recreation Board

Date: February 26, 2008

Action: Approval of Recommended Route and Public Input Report

Board: Parks and Recreation Board

Date: January 22, 2008

Action: Receive and File Recommended Route and Public Input Report

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:** Establish Fair Market Value

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