



Council Communication

Office of the City Manager

Date

August 10, 2009

Agenda Item No. 25
Roll Call No. 09-
Communication No. 09-562
Submitted by: **Jeb E. Brewer, P.E.**
City Engineer

AGENDA HEADING:

Authorization to acquire the necessary right-of-way and easements for the East Diehl Avenue Turn Lane at S.E. 14th Street Project by gift, negotiation, or eminent domain.

SYNOPSIS:

Recommend Council authorization to acquire necessary right-of-way for the East Diehl Avenue Turn Lane at S.E. 14th Street Project by gift, negotiation, or eminent domain. This action is required by Iowa law before the City can initiate the right-of-way acquisition process under eminent domain. Due to the expected increased traffic volume from the Melbourne Apartments project by Hubbell Realty Company, the City is requiring traffic signalization, street widening, and associated street improvements on East Diehl Avenue, immediately east of the intersection of S.E. 14th Street. The construction of these improvements will require additional right-of-way from the Tasty Tacos property at 5853 S.E. 14th Street.

FISCAL IMPACT:

Amount: \$50,000 Estimated for right-of-way acquisition costs (an independent appraisal will be completed after final design plans are complete).

Funding Source: 2009-2010 CIP, Page Traffic Control-5, City-wide Signals, Channelization, and School Crossing Protection Program, TFC091 with a transfer of \$50,000 in G. O. Bonds from Army Post Widening – SE 5th to SW 9th Streets, Page Street-4, STR229, due to receipt of Federal Stimulus Funds from the American Recovery and Reinvestment Act (ARRA) of 2009 for Army Post Widening.

ADDITIONAL INFORMATION:

On May 18, 2009, by Roll Call No. 09-886, the City Council approved Ordinance No. 14,854, rezoning property located in the vicinity of 5525 S.E. 14th Street from Limited R-3 Multiple-Family Residential to R-3 Multiple-Family Residential, removing the limitation of senior residential housing. The property is owned by Hubbell Realty Company who is developing the site with apartments. Due to the expected increased traffic volume, the City is requiring traffic signalization, street widening, and associated street improvements on East Diehl Avenue, immediately east of the intersection of S.E. 14th Street as detailed below:

- The City will acquire up to 20 feet of right-of-way along the north side of East Diehl Avenue along the Tasty Taco's property. The site plan for the Tasty Taco's development accommodated a future right-of-way acquisition by the City of up to 20 feet. Final design of the street

improvements by Hubbell Realty Company will determine the actual amount of additional right-of-way needed from Tasty Tacos.

- Hubbell Realty Company will widen the north side of the east leg of East Diehl Avenue, east of S.E. 14th Street, to accommodate a dedicated left turn lane. Hubbell Realty Company will be solely responsible for the construction of this street improvement, at an estimated cost of \$48,000.
- The City will improve the signal detection for the left turn lane at an estimated cost of \$12,000.
- The City will resurface E. Diehl Avenue from S.E. 14th Street from approximately 400 feet east of SE 14th Street to SE 19th Street, during the 2009 construction season at an estimated cost of \$100,000.

PREVIOUS COUNCIL ACTION(S):

Date: May 18, 2009

Roll Call Number: 09-886

Action:Final consideration of ordinance above. Moved by Coleman that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage, and that the ordinance do now pass, #14,854. Motion Carried 6-1. Nays: Meyer.

Date: May 18, 2009

Roll Call Number: 09-885

Action: On request from Hubbell Realty Company to rezone 5525 SE 14th Street from Ltd. “R-3” (Multiple-Family Residential) to “R-3”, removing limitation of senior residential housing on multiple-family dwellings and allowing up to 216 multiple-family residential units, subject to Developer’s agreement upon terms set forth in the Council Communication (6 Council votes are required to approve the rezoning). (Council Communication No. 09-349

) Moved by Coleman that this ordinance be considered and given second vote for passage, subject to Developer’s agreement upon terms set forth in Council Communication No. 09-349, and refer to the City Manager to ensure the conditions approved by Council related to the final passage of zoning amendments are implemented. These conditions include: 1) to refer the water issues along Diehl, and other infrastructure needs in the area to the City Manager for further review in conjunction with TIF review and other possible funding sources; 2) no site plan is to be approved for the property contrary to Council Communication Number 09-349 or the Hubbell letter submitted on this item; 3) the City Clerk, Legal, and Community Development Departments to immediately notify Council and put an item on the agenda for a Council-initiated rezoning of the property if a site plan is submitted contrary to the Council Communication or Hubbell letter; if a site plan is submitted by someone other than Hubbell, or if there is a change in ownership of the property; and 4) to direct that Council Member Meyer be kept in the loop on any communication on this project. Motion Carried 6-1. Nays: Meyer.

BOARD/COMMISSION ACTION(S):

Date: January 15, 2009

Roll Call Number: Plan and Zoning Commission

Action: Plan and Zoning Commission denied the rezoning application by voting 5 members in favor and 5 members opposed on a motion to approve the application. No further motion on this matter was brought forward.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Establish fair market value of the property interests to be acquired.

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