

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	February 8, 2010
	Agenda Item No. 52 Roll Call No. <u>10-</u> Communication No. <u>10-062</u> Submitted by: Jeb E. Brewer, P.E. City Engineer	

AGENDA HEADING:

Hold hearing on the intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property interests thereof for the Des Moines and Raccoon Rivers Birdland Levee Project by gift, negotiation, or eminent domain.

SYNOPSIS:

Recommend Council approval on the intent to acquire property for recreational trail purposes and authorize acquisition of the necessary property interests thereof for the Des Moines and Raccoon Rivers Birdland Levee Project by gift, negotiation, or eminent domain. This action is required by Iowa law before the City can initiate the acquisition of property under eminent domain for the purpose of constructing recreation trails. The trail will be located on property that will be acquired for the primary purpose of reconstructing and maintaining the Birdland Levee. No additional property acquisition costs will be associated with this action, but it is required before the City can include a secondary use of the property for recreation trail purposes, if eminent domain is necessary.

FISCAL IMPACT: NONE

Amount: N/A

Funding Source: N/A

ADDITIONAL INFORMATION:

On November 23, 2009, by Roll Call No. 09-2143, the City Council approved plans for construction of a multi-use trail connection to McHenry Park as part of the Des Moines and Raccoon Rivers Project (“the Project”), which proposed recreational trail is further described as follows:

A 12 foot wide multipurpose recreational trail approximately 2,200 feet long from the Neal Smith Trail west of 6th Avenue atop the Birdland Levee through Riverview (Kiwanis Nature Island) to McHenry Park.

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 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.

PREVIOUS COUNCIL ACTION(S):

Date: November 23, 2009

Roll Call: 09-2143

Action: Recommendation to construct a trail connection to McHenry Park as part of the rebuild of the Birdland Levee. (Council Communication No. 09-828) Moved by Mahaffey to adopt. Motion Carried 6-1. Pass: Cownie.

Date: October 12, 2009

Roll Call: 09-1834

Action: Authorization to proceed with acquisition of the necessary right-of-way and easements. Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: October 12, 2009

Roll Call: 09-1833

Action: Approving Project Partnership Agreement with Department of the Army for construction. Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: October 12, 2009

Roll Call: 09-1832

Action: Approving Memorandum of Understanding with Federal Highway Administration, Polk County and Iowa Department of Transportation (Iowa DOT) designating roles and responsibilities as Joint Lead Agencies in the Environmental Review Process in the preparation of an Environmental Impact Statement for the North-South Metro Connector (IA415 to I-235) Polk County, IA Project. (Council Communication No. 09-717) Moved by Vlassis to adopt. City Manager to keep the Citizen Committee informed regarding this project. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: Park and Recreation Board

Date: November 19, 2009

Roll Call No: 09-110

Action: Unanimously approved staff recommendation with the consideration that the Army Corps of Engineers look to remove the beavers before construction starts, and ask if a complete loop around the lake can be completed as part of the project, can a trail detour during construction be setup and require that the City tree policy be followed related to tree protection for trees that will be saved during the construction process.

Board: Park and Recreation Board

Date: October 27, 2009

Roll Call No: 09-103

Action: Motion by Feltner to support the overall plan of marrying the bike trail and the flood project, but understanding that the Corp and the Park staff has agreed to work together to mitigate the environmental damages. Our park board subcommittee would like to review the result of those collaborations before it becomes final action, and if necessary, call a special board meeting, before moving forward.

Board: Park and Recreation Board

Date: September 22, 2009

Roll Call No: 09-094

Action: Receive and File Recommendation to move forward with a trail connection between McHenry Park and Kiwanis Nature Island.

Board: Park and Recreation Board

Date: July 28, 2009

Action: Presentation to Park Board on Levee Impacts to Park and Recreation Facilities.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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