

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: April 8, 2013
	Agenda Item No. 44 Roll Call No. <u>13-0589</u> Communication No. <u>13-172</u> Submitted by: Benjamin R. Page, Director of Park and Recreation and Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Hold hearing for conveyance of a permanent underground gas easement to MidAmerican Energy Company; conveyance of a fiber optics license agreement to Century Link; and acceptance of a permanent underground fiber optics easement for the "Metro Net" shared communications system; all being relocated in conjunction with the Greater Des Moines Botanical Center Improvements Project.

SYNOPSIS:

Recommend approval of conveyance of a permanent underground gas easement to MidAmerican Energy Company (Jamie Bailey, Manager of Right of Way Services, P.O. Box 657, Des Moines, IA 50306-0657); conveyance of a fiber optics license agreement to Century Link (QWEST Corporation, d/b/a Century Link QC, 1801 California Street, Ste. 5200, Denver, CO 80202, Steve Parker, Director of Engineering and Construction – Iowa); and acceptance of a permanent underground fiber optics easement for the "Metro Net" shared communications system; all being relocated in conjunction with the Greater Des Moines Botanical Center Improvements Project. This action is required by Iowa law prior to making a final determination on the proposed vacation and sale by resolution.

FISCAL IMPACT:

Amount: \$2,000 (Revenue)

Funding Source: There are no proceeds from the conveyance of said permanent easements, and the proceeds from the license agreement will be deposited as follows: 2013-14 CIP, Park Improvements, Page Park Improvements - 13, PKS137.

ADDITIONAL INFORMATION:

The Botanical Center is owned by the City, but currently managed and operated by the Greater Des Moines Botanical Garden (GDMBG) through a lease approved by City Council on May 9, 2011, and beginning January 1, 2013. Development of the Master Plan for the Botanical Center improvement project was approved by City Council on June 11, 2011. The approved Master Plan identified the need to relocate several existing utilities and easements in order for GDMBG to complete expansion of the botanical gardens between the existing facility and the Des Moines River. On December 17, 2012, City Council approved a lease amendment, which included the provision of an established utility corridor closer to the Des Moines River in order to relocate said utilities. The closure of Robert D.

Ray Drive under the Master Plan causes the need for relocation of both the City's "Metro Net" shared communications system infrastructure and the fiber optics network owned by Century Link. Additionally, the existing underground gas line easement granted to MidAmerican Energy Company will be relocated within the same utility corridor in order for GDMBG to complete the outdoor botanic display garden expansion. The current action is necessary to establish the new easements for the use and benefit of the City and Mid American Energy as well as the license agreement for Century Link.

PREVIOUS COUNCIL ACTION(S):

Date: March 25, 2013

Roll Call Number: 13-[0459](#)

Action: [On](#) conveyance of a Permanent Underground Gas Easement to MidAmerican Energy Company; conveyance of a Fiber Optics License Agreement to Century Link; and acceptance of a Permanent Underground Fiber Optics Easement for the "Metro Net" Shared Communication system; all being relocated in conjunction with the Greater Des Moines Botanical Center Redevelopment Project, (4-8-13). Moved by Hensley to adopt. Motion Carried 7-0.

Date: December 17, 2012

Roll Call Number: [12-1971](#), [12-1972](#), [12-1973](#)

Action: Items regarding the Greater Des Moines Botanical Garden ([Council Communication No. 12-625](#)):

[Hearing](#) on amendment to vacation Ordinance No. 15,014, regarding reservation of utility easements on vacated Botanical Center and adjacent grounds, and on amendment of lease of vacated property. Moved by Mahaffey to adopt. Motion Carried 7-0.

[First](#) consideration of vacation ordinance to change the reservation of easements to only easements of record and reserving an easement for the "Metro Net" shared communication system fiber infrastructure. Moved by Mahaffey that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

[Final](#) consideration of ordinance above (waiver requested by Parks and Recreation Department and Legal Department), requires 6 votes. Moved by Mahaffey 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, [#15,152](#). Motion Carried 7-0.

Date: June 11, 2012

Roll Call Number: [12-0935](#)

Action: [Master](#) Plan by the Greater Des Moines Botanical Garden, for the Des Moines Botanical Center. ([Council Communication No. 12-298](#)) Moved by Mahaffey to adopt. Motion Carried 6-1. Nays: Moore.

Date: May 9, 2011

Roll Call Number: [11-0825](#)

Action: [Approving](#) Urban Renewal Development Agreement. ([Council Communication No. 11-266](#))
Moved by Mahaffey to adopt. Motion Carried 6-1. Nays: Moore.

Date: May 9, 2011

Roll Call Number: [11-0822](#), [11-0823](#), [11-0824](#)

Action: [On](#) vacation as parkland and right-of-way and Long-term Lease, Operation, Management and Maintenance Agreement of Des Moines Botanical Center and adjacent grounds to Greater Des Moines Botanical Garden. Moved by Mahaffey to adopt. Motion Carried 6-1. Nays: Moore.

[First](#) consideration of ordinance above. Moved by Mahaffey that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Nays: Moore.

[Final](#) consideration of ordinance above (waiver requested by Greater Des Moines Botanical Garden), requires six votes. Moved by Mahaffey 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, [#15,014](#). Motion Carried 6-1. Nays: Moore.

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: April 7, 2011

Resolution Number: 11-2011-1.04

Action: Commission voted 8-1-3 to recommend APPROVAL of a request from Friends of the Des Moines Botanical Center, represented by Fred Weitz, for the permanent closure of the park road adjacent to the Des Moines Botanical Center to through-access from a point immediately north of I-235 to East 6th Avenue, subject to the development in accordance with proposed master plan and encouraging those in negotiation (the City and the Friends of the Des Moines Botanical Center) to extend every reasonable effort to maintain access to the north trailhead for pedestrian and vehicular traffic.

Board: Park and Recreation Board

Date: December 28, 2010

Resolution Number: 10-105

Action: Approval of Botanical Center lease agreement.

Board: Park and Recreation Board

Date: November 23, 2010

Resolution Number: 10-098

Action: Receive and field Botanical Center lease agreement

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.