

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> August 26, 2013
	<b>Agenda Item No.</b> 40 <b>Roll Call No.</b> <u>13-1349</u> <b>Communication No.</b> <u>13-444</u> <b>Submitted by:</b> <b>Jeb E. Brewer, P.E., City Engineer and Phillip Delafield, Community Development Director</b>

**AGENDA HEADING:**

Second Reading of Ordinance vacating City owned right-of-way located at Hull Avenue between Delaware Avenue and Dixon Street; Scott Avenue between Southeast 20th Street and Southeast 22nd Street; and Southeast 34th Street between Scott Avenue and East Court Avenue.

**SYNOPSIS:**

Union Pacific Railroad Company (Union Pacific) has proposed the permanent closure of the Hull Avenue, Scott Avenue and SE 34<sup>th</sup> Street crossings. The purpose of the proposal is to address train and automobile movement constraints and to create rail capacity to support the growth of existing and new rail dependent businesses in Des Moines. A series of infrastructure, crossing notification, and buffering improvements are proposed to offset the impacts of the closures. In addition, Union Pacific has withdrawn their request to vacate the SE 36<sup>th</sup> Street crossing in order to maintain greater north-south connectivity within the Laurel Hill Neighborhood.

On April 8, 2013, the City Council set the date for the public hearing on vacation of said crossings and first reading of the vacation ordinance for June 10, 2013 and approved the preliminary terms of agreement. Staff and Union Pacific are negotiating an agreement based upon the preliminary terms of agreement. The finalized agreement will be presented to the City Council for approval concurrently with the third reading of the vacation ordinance. The third reading of the vacation ordinance is scheduled for September 23, 2013.

**FISCAL IMPACT:**

Amount: \$2,100,000

Funding Source: Union Pacific Railroad Company (\$1,600,000) and State of Iowa Grant (\$500,000)

**ADDITIONAL INFORMATION:**

On April 8, 2013, the City Council set the date for the first hearing of the vacation ordinance for June 10, 2013 and approved the preliminary terms of agreement based on the following mitigation improvements:

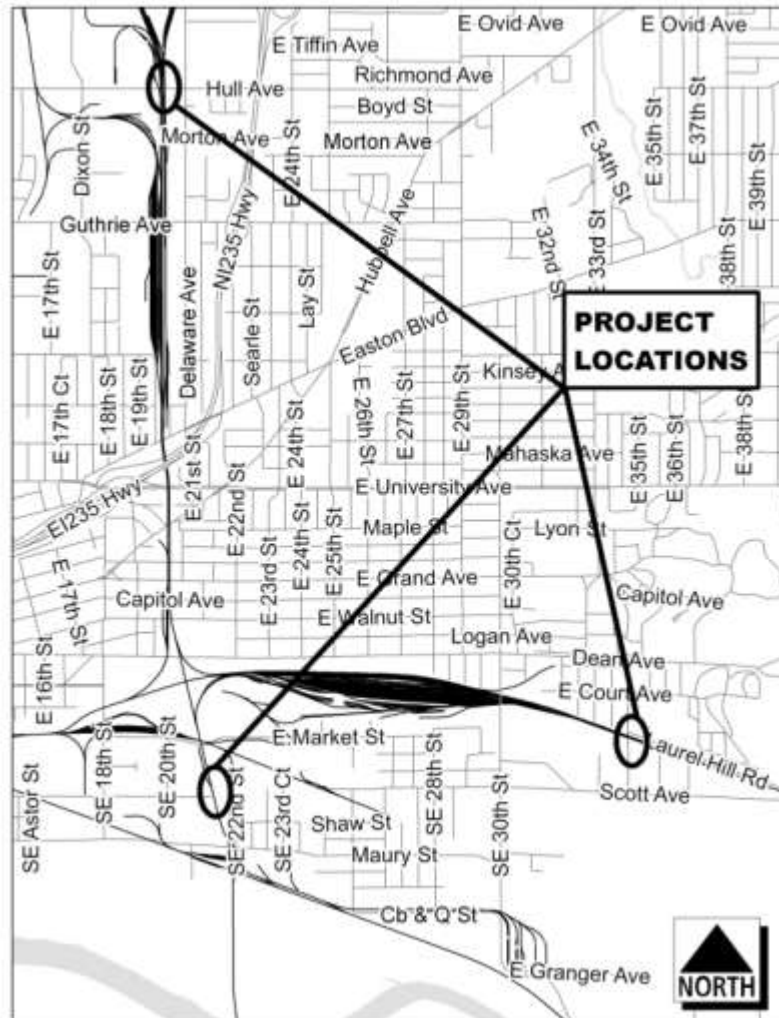
1. Guthrie Avenue - Flashing notification signal near Dixon Street intersection (Dixon Crossing)
2. East University Avenue - Flashing notification signal east of Hubbell Avenue intersection (Hubbell Crossing)

3. East Euclid Avenue turning lane extension and left turn light installation at Dixon intersection
4. Dixon Street and Hull Avenue intersection enlargement
5. Hull Avenue widening - Dixon Street to Archer Daniels Midland (ADM) campus
6. Hull Avenue Cul-de-Sac
7. Hull Avenue street tree, traffic island and overlay improvements
8. Dean Avenue and East 30<sup>th</sup> Street intersection turning lane and traffic light improvements
9. SE 36<sup>th</sup> Street railroad crossing improvements
10. Laurel Hill Road pavement overlay from SE 34<sup>th</sup> Street to SE 36<sup>th</sup> Street
11. Emergency access road - SE 34<sup>th</sup> Street to SE 36<sup>th</sup> Street - south perimeter of tracks
12. SE 34<sup>th</sup> Street Cul-de-Sac

Staff and Union Pacific are currently negotiating an agreement based on these mitigation improvements with two (2) modifications. Concerns regarding the potential impact of the proposed Hull Avenue traffic island on resident drivers were expressed at previous meetings. An alternate design has been prepared that would utilize the funds identified for the traffic island to construct a sidewalk along the east side of Delaware Avenue from Hull Avenue to Morton Avenue. There are no sidewalks in this area currently. The new sidewalk would also extend east from Delaware Avenue along the south side of Hull Avenue until it joined the existing public sidewalk.

The second change is regarding the emergency access road between SE 34<sup>th</sup> Street and SE 36<sup>th</sup> Street. The preliminary terms of agreement require Union Pacific to provide a property interest in its property for an emergency access road between SE 34<sup>th</sup> Street and SE 36<sup>th</sup> Street. During the review of existing easement rights it was determined that adequate property interest could not be granted by Union Pacific to the City. An alternative route has been identified that would connect SE 35<sup>th</sup> Street to SE 36<sup>th</sup> Street along the southern perimeter of the railroad property. This alternative would require the raising of a portion of SE 35<sup>th</sup> Street and the acquisition of land from three (3) property owners. This new road would be dedicated as public right-of-way and available to the public at all times. It would be paved with an asphalt surface. The road on railroad property would have been gated and only open during emergency events. It would have consisted of gravel. The finalized agreement as negotiated between City staff and Union Pacific will be presented to the City Council at the third reading of the ordinance on September 23, 2013.

A project summary presentation will be given at the August 26, 2013 Council meeting.



**PREVIOUS COUNCIL ACTION(S):**

Date: August 12, 2013

Roll Call Number: [13-1284](#)

Action: [On](#) vacation of three segments of street right-of-way for railroad crossing closures at the Hull Avenue, Scott Avenue and SE 34<sup>th</sup> Street crossings. ([Council Communication No. 13-418](#)) Moved by Mahaffey that second consideration of this ordinance be continued to August 26, 2013. Motion Carried 7-0.

Date: June 10, 2013

Roll Call Number: [13-0924](#) and [13-0925](#)

Action: [On](#) vacation of three segments of street right-of-way for railroad crossing closures at the Hull Avenue, Scott Avenue and SE 34<sup>th</sup> Street Crossings. ([Council Communication No. 13-300](#)) Moved by Coleman to adopt. Motion Carried 5-2. Nays: Meyer and Moore.

- (A) [First](#) consideration of ordinance above. Moved by Coleman that this ordinance be considered and given first vote for passage, and that this ordinance be submitted for second consideration at the City Council meeting scheduled for August 12, 2013. Motion Carried 5-2. Nays: Meyer and Moore.

Date: April 8, 2013

Roll Call Number: [13-0578](#) and [13-0579](#)

Action: [Approving](#) preliminary terms of agreement with Union Pacific Railroad for the vacation of three (3) segments of street right-of-way at the Hull Avenue, Scott Avenue and SE 34<sup>th</sup> Street crossings. ([Council Communication No. 13-165](#)) Moved by Mahaffey to adopt; refer to the City Manager to continue to work on the terms of the agreement with the residents, businesses and the UPRR. Motion Carried 5-2. Nays: Meyer and Moore.

- (A) [Setting](#) date of hearing on vacation of three (3) segments of street right-of-way for railroad crossing closures at the Hull Avenue, Scott Avenue and SE 34<sup>th</sup> Street crossings, (6-10-13). Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: January 28, 2013

Roll Call Number: [13-0166](#)

Action: [Receive](#) and file Plan and Zoning Commission recommendation regarding request from Union Pacific Railroad to vacate the following four (4) segments of street right-of-way where the railroad right-of-way intersects, subject to conditions: ([Council Communication No. 13-040](#)). Moved by Mahaffey to receive and file. Motion Carried 6-1. Nays: Meyer.

- (A) Hull Avenue between Delaware Avenue and Dixon Street.
- (B) Scott Avenue between SE 20<sup>th</sup> Street and SE 22<sup>nd</sup> Street.
- (C) SE 34<sup>th</sup> Street between Scott Avenue and E. Court Avenue.
- (D) SE 36<sup>th</sup> Street at a point north of Scott Avenue.

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

Board: Plan and Zoning Commission

Date: January 3, 2013

Resolution Number: 11-2012-1.21; 11-2012-1.22; 11-2012-1.23; and 11-2012-1.24

Action: A motion to approve the requested vacation of public right-of-ways failed by a vote of 5-8. No further motions were made.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

- (1) Third reading of the vacation ordinance.
- (2) Council consideration of the finalized agreement between the City and Union Pacific Railroad Company.
- (3) Council consideration of authorization to acquire property interests for the alternate emergency access road.
- (4) Council consideration of an ordinance amending Sections 114-99 and 114-104 addressing the railroad crossings at SE 34th Street and at Hull Avenue, following fulfillment by the Union Pacific Railroad Company of the conditions set forth in the crossing closure agreement identified herein.

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