

Date July 26, 2010

SET HEARING ON THE INTENT TO ACQUIRE PROPERTY FOR RECREATIONAL TRAIL PURPOSES AND AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS FROM VARIOUS PROPERTY OWNERS FOR THE DES MOINES RIVER REGIONAL TRAIL PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN

WHEREAS, on May 18, 2009, by Roll Call No. 09-822, City Council approved the professional services agreement between the City of Des Moines and AECOM, INC. for professional services in connection with the Des Moines River Regional Trail, Phase I Project; and

WHEREAS, on January 11, 2010, by Roll Call No. 10-043, the City Council accepted a \$300,000 Iowa Department of Natural Resources Enhancement and Protection Grant, and approved the grant agreement for the Des Moines River Regional Trail, Phase I Project; and

WHEREAS, on January 11, 2010, by Roll Call No. 10-044, the City Council accepted a \$73,474 Iowa Department of Transportation State Recreational Trail Grant, and approved the grant agreement for the Des Moines River Regional Trail, Phase I Project; and

WHEREAS, under the provisions of Chapter 6B.2D of the Iowa Code, a governmental body which proposes to acquire private property by eminent domain for recreational trail purposes is required to give notice of a proposed resolution, motion, or other document authorizing such acquisition of property to each property owner, contract purchaser of record and any tenant known to be occupying the property at least fourteen (14) days prior to the date of the meeting at which such proposed authorization will be considered; and

WHEREAS, in accordance with Section 6B.2D of the Iowa Code, before the City can proceed with acquisition of property by eminent domain for the aforementioned Project, the City Council must:

- (a) Give affected persons the opportunity to attend the Council meeting and present their views and objections regarding the proposed acquisition of private property for the recreational trail by gift, negotiation or eminent domain.
- (b) Adopt a resolution to authorize acquisition of private property for the recreational trail by eminent domain.
- (c) Mail notices to all property owners, contract purchasers of record, and any known tenants with any potential for any form of property acquisition activity for the project.

Date July 26, 2010

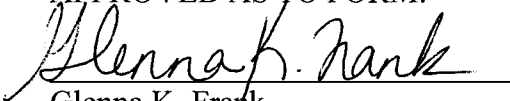
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That a public hearing shall be held on August 9, 2010, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal to authorize acquisition of private property by eminent domain for recreational trail purposes for the Des Moines River Regional Trail, Phase I Project.

2. That the actions of the City Engineer and City Clerk in mailing notice as required by law of the pendency of this resolution, and of the time and place of the hearing at which persons receiving the notice may present their views and objections regarding the acquisition of private property for recreational trail by gift, negotiation or eminent domain, said Notice of Intent in substantially the attached form, are hereby ratified and approved.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Glenna K. Frank
Assistant City Attorney

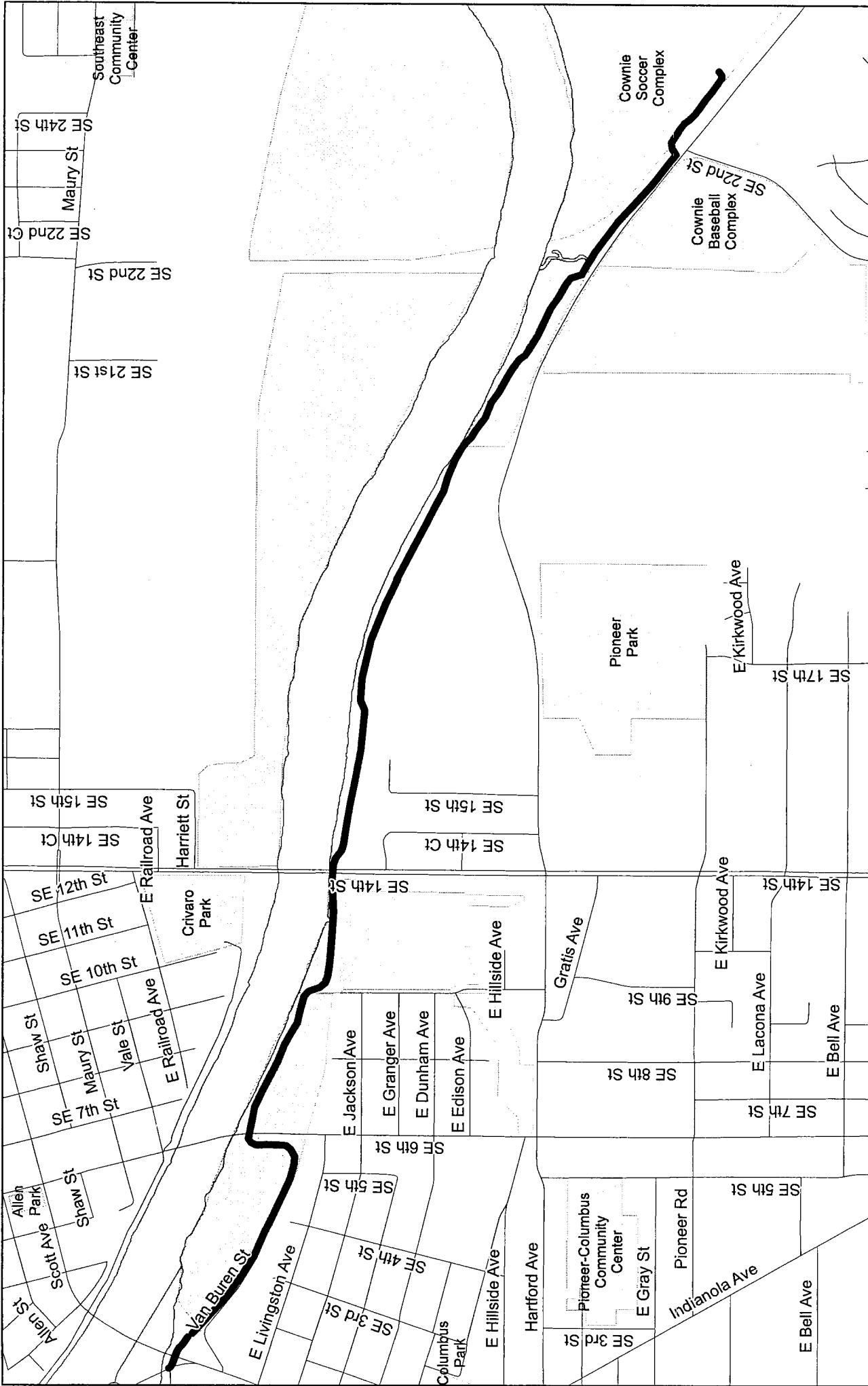
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk



DES MOINES REGIONAL TRAIL - PHASE 1

Legend

 PROJECT LOCATION

Roll Call # _____

**NOTICE OF HEARING ON THE INTENT TO ACQUIRE PROPERTY FOR
RECREATIONAL TRAIL PURPOSES AND AUTHORIZE ACQUISITION OF THE
NECESSARY PROPERTY INTERESTS FROM VARIOUS PROPERTY OWNERS FOR
THE DES MOINES RIVER REGIONAL TRAIL PROJECT BY GIFT, NEGOTIATION,
OR EMINENT DOMAIN**

TO:

<u>Property Owner</u>	<u>Mailing Address</u>	<u>Location of Affected Property</u>	<u>County</u>
Randy Gillespie	6200 SE 4 th Street Des Moines, IA 50315	1601 Hartford Avenue Des Moines, IA 50320	Polk
The Academy	100 45 th Street Des Moines, IA 50312	Geo Parcel 7824-11-452-002 Des Moines, IA 50320	Polk

and other Polk County Property Owners.

Under the provisions of 6B.2D of the Iowa Code, a governmental body which proposes to acquire private property by eminent domain for recreational trail purposes shall send notice of a proposed resolution, motion, or other document authorizing acquisition of such property to each property owner whose property is proposed to be acquired by eminent domain, to any contract purchaser of record of the property, and to any tenant known to be occupying the property prior to the date of the meeting at which such proposed authorization will be considered for adoption by the acquiring agency.

1. DES MOINES CITY COUNCIL INTENDS TO APPROVE ACQUISITION OF PRIVATE PROPERTY FOR RECREATIONAL TRAIL PURPOSES BY PURCHASE OR CONDEMNATION.

NOTICE IS HEREBY GIVEN to the above-identified property owners, contract purchasers of record and tenants known to be occupying the property (collectively, "Property Owners") that the Des Moines City Council will consider authorizing acquisition of property by gift, negotiation or eminent domain for the Des Moines River Regional Trail, Phase I project. The location of this phase of the project is from Meredith Trail at the Scott Street Bridge, following the south side of the Des Moines River to the James W. Cownie Soccer and Baseball Parks.

The project approved by the City Council will require acquisition of property interests for the project improvements. Upon review of Polk County property records, it appears that private property interests owned, leased or rented by the above-identified persons may have to be acquired in whole or in part for the Des Moines River Regional Trail, Phase I project. The City of Des Moines will attempt to purchase the required private property interests by good faith negotiations, and it may condemn those properties that it is unable to purchase.

2. DATE, TIME AND PLACE OF THE PUBLIC MEETING AT WHICH PROPOSED AUTHORIZATION TO ACQUIRE PROPERTY BY EMINENT DOMAIN WILL BE CONSIDERED FOR ADOPTION BY THE DES MOINES CITY COUNCIL.

The public hearing on acquisition of private property interests for the Des Moines River Regional Trail, Phase I project will be held during the City Council's regularly scheduled meeting on the 9th day of August, 2010, in the Council Chambers, 400 Robert D. Ray Drive, Des Moines, Iowa, commencing at 5:00 p.m. Persons receiving this notice have a right to attend the meeting and to voice objection to the proposed acquisition of the private property for recreational trail purposes.

In addition, in order for the City of Des Moines to proceed with the above-described project and commence the acquisition of private property for the Des Moines River Regional Trail, Phase I project, the City Council will be required to authorize such property acquisition by gift, negotiation or eminent domain by City Council resolution. The City of Des Moines is required to send a copy of the enclosed resolution that will be considered for adoption by the City Council authorizing the acquisition of the private property for recreational trail purposes by purchase or eminent domain. The City Council is scheduled to consider adoption of the enclosed resolution following the public hearing on August 9, 2010.

If the project is approved by the City Council, an independent appraiser retained by the City of Des Moines will determine the compensation to be paid for property or property interests that are needed for the project. The City of Des Moines will offer no less than the appraised value and will attempt to purchase the property or property interests needed for the project by good faith negotiations. If the City of Des Moines is unable to acquire property needed for the project by negotiation, the City of Des Moines will acquire that property by condemnation.

3. STATEMENT OF RIGHTS.

Just as the law grants certain entities the right to acquire private property, you as the owner of property have certain rights. You have the right to:

- a. Receive just compensation for the taking of property. (Iowa Const., Article I, Section 18)
- b. An offer to purchase that may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code Section 6B.45; Iowa Code Section 6B.54)
- c. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than 10 days before being contacted by the acquiring agency's acquisition agent. (Iowa Code Section 6B.45)
- d. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code Section 6B.54)
- e. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code Section 6B.54(1) and Iowa Code Section 6B.2B)
- f. A determination of just compensation by an impartial compensation commission and the right to appeal its award to district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code Section 6B.4; Iowa Code Section 6B.7; and Iowa Code Section 6B.18)

- g. Payment of the agreed upon purchase price, or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code Section 6B.25; Iowa Code Section 6B.26; Iowa Code Section 6B.54(11))
- h. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code Section 6B.33; Iowa Code Section 6B.54(10))
- i. Reimbursement of certain litigation expenses: (1) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (2) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code Section 6B.33)
- j. At least 90 days written notice to vacate occupied property. (Iowa Code Section 6B.54(4))
- k. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of payments. (Iowa Code Section 316.9; Iowa Code Section 6B.42)

The rights set out in this Statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code Chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

This Notice is given by authority of the City Council of the City of the City of Des Moines.

/s/ Diane Rauh,
City Clerk

Mailed to all affected Property Owners on July 20, 2010.