

★ Roll Call Number

08.254

Agenda Item Number

49

Date February 11, 2008

HOLD HEARING ON THE INTENT TO ACQUIRE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF SE 7TH STREET AND RACCOON STREET AND AUTHORIZE ACQUISITION OF PRIVATE PROPERTY INTERESTS THEREOF FROM MULTIPLE PROPERTY OWNERS FOR THE SE CONNECTOR PROJECT – SE 6TH TO SE 14TH STREET PHASE BY GIFT, NEGOTIATION OR EMINENT DOMAIN

WHEREAS, under the provisions of Section 6B.2D of the Iowa Code, a governmental body which proposes to acquire private property by eminent domain for municipal purposes not expressly necessary for street, sewer, or municipal utilities and/or related services 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 prior to the date of the meeting at which such proposed authorization will be considered; and

WHEREAS, on March 2, 2001, by Roll Call No. 01-643, the City Council approved the 2001-2002/2006-2007 Capital Improvements Program, including the proposed improvement to be known as the SE Connector Project – SW 2nd to SE 6th Phase, which is further described as follows:

The phased construction of the SE Connector Project provides for four-lane extension of the east/west segment of Martin Luther King Jr. Parkway across the Des Moines River to S.E. Sixth Street. The project will improve access to the central business district, reduce traffic congestion, noise, and pollution, and provide better access for industrial areas in the central city.

and

WHEREAS, on March 7, 2005, by Roll Call No. 05-530, the City Council approved the execution of an Iowa Department of Transportation Agreement for the SE Connector Project; and

WHEREAS, on March 7, 2005, by Roll Call No. 05-531, the City Council approved a Professional Services Agreement between the City of Des Moines and Kirkham Michael & Associates for professional services in connection with the design of the SE Connector from SW 2nd Street to SE 14th Street; and

WHEREAS, on April 25, 2005, by Roll Call No. 05-969, the City Council provided authorization to proceed with the acquisition of the necessary right-of-way and easements for the SE Connector Project from SW 2nd Street to SW 14th Street; and

WHEREAS, on January 28, 2008, by Roll Call No. _____, it was duly resolved by the City Council that the proposed authorization of acquisition of property for the SE Connector Project – SW 2nd to SE 6th Phase by gift, negotiation or eminent domain be set down for hearing on February 11, 2008, at 5:00 p.m. in the Council Chambers; and

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WHEREAS, approved notice of this hearing has been mailed to the property owners as provided by law, including the time and place for hearing on the proposal; and

WHEREAS, the City Council has met as provided in the notice to receive and consider input regarding the acquisition of private property by gift, negotiation or eminent domain, and those interested in this proposed property acquisition, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. That all objections and endorsements having been fully reviewed and considered, the hearing providing the opportunity for public input on the question of acquisition or condemnation of private property and property interests is now concluded and closed.
2. That acquisition of private property needed, including acquisition by eminent domain (condemnation) if necessary, is hereby authorized.
3. That the City of Des Moines Real Estate Division be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by gift, negotiation, or condemnation the necessary property interests for construction of the SE Connector – SW 2nd to SE 6th Phase, subject to approval by this Council, or approval of the City Manager in accordance with Section 2-201(c) and (d), of the Municipal Code of the City of Des Moines, Iowa, as appropriate.
4. That the properties will be acquired in accordance with the guidelines of 49 CFR Part 24 of the Uniform Relocation and Real Property Acquisition Act, as revised, and that relocation assistance is hereby authorized.
5. That the Fair Market Value of these parcels will be approved in accordance with established City policy. If the property owners agree to convey the property to the City in an amount based on the established fair market value, including an approved administrative settlement, or if a condemnation award is based on the established fair market value or falls within an approved settlement amount, the Finance Director is authorized and directed to issue checks in the amounts necessary to carry out these transactions and to pay any unforeseen additional costs certified by the Legal Department and the Engineering Department; the Real Estate Division Manager is authorized and directed to complete these transactions in accordance with standard real estate practices and state law requirements.

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(Council Communication No. 08-061)

Moved by Meyer to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

Funding Source: 2007-08 CIP, Page Street - 40, Street Improvements, Southeast Connector - SE Sixth to SE Fourteenth Street, STR219.

RSN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
KIERNAN	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

T. M. Franklin Council 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.

Diane Rauh City Clerk