

Date February 25, 2008

HEARING ON ADOPTION OF THE PROPOSED RESOLUTION
OF NECESSITY FOR STREET IMPROVEMENTS

WHEREAS, on January 28, 2008, under Roll Call No. 08-095, the City Council set this time and place for a hearing to receive and consider both written and oral objections and endorsements to the adoption of the proposed Resolution of Necessity for the construction of the following street improvements:

- Street paving twenty-one (21) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving twenty-six (26) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on E. 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)
- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)

and authorized notice of this hearing be duly published and mailed to property owners and other persons having an interest in the matter as required by law; and

WHEREAS, this City Council now meets as specified in the published notice to receive and consider all field, written and oral objections and endorsements to the proposed Resolution of Necessity.

WHEREAS, on January 17, 1983, under Roll Call Number 83-333, the City Council adopted a formal policy regarding adoption of the Resolution of Necessity which stated that

1. The City Council shall require 60% or more of the preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.
2. Where it is determined by the City Engineering Department that a street has drainage problems that can only be corrected by street paving, the City Council shall require 65% or more of the

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preliminary assessment cost of properties included in the assessment district represented by property owners being opposed to the street improvement before the street is deleted from the program.

WHEREAS, the Engineering Department received several petitions from property owners subject to assessment on E 21st Street from Milton Avenue to dead end north petitioning against the paving improvement; and

WHEREAS, the City Engineer has verified the names on the petition and determined that those people petitioning against the paving improvements on E 21st Street represent 75% of the property owners on the assessment schedule and 74% of the amount to be assessed; and

WHEREAS, since the petition submitted by the property owners against the improvements on E 21st Street representing 74% of the amount to be assessed exceeds the Council's policy of 60%, the City Engineer recommends that E 21st Street from Milton Avenue to dead end north be deleted from the Resolution of Necessity.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA: That all filed, written and oral objections and endorsements having been fully reviewed and considered, the hearing on the adoption of the proposed Resolution of Necessity for the construction of said street improvements is now concluded and closed.

BE IT FURTHER RESOLVED: That the special assessments have been prepared in accordance with Council policy approved on June 26, 2000, under Roll Call No. 00-1876; therefore, Default Fund was not included in these special assessments.

BE IT FURTHER RESOLVED: That the City Council approves the recommendation of the City Engineer and hereby deletes E 21st Street from Milton Avenue to dead end north, Activity ID 06-2008-012, Schedule No. 2008-02, from the Resolution of Necessity.

BE IT FURTHER RESOLVED: That the proposed Resolution of Necessity described above for construction of the following street improvement:

- Street paving twenty-one (21) feet wide B/B with Portland Cement Concrete six (6) inches thick with integral curb, or with Hot Mix Asphalt eight (8) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on S.W. 5th Street from Broad Street to Virginia Avenue, Activity ID 06-2008-011, Schedule No. 2008-01.
- Street paving thirty-one (31) feet wide B/B with Portland Cement Concrete eight (8) inches thick with integral curb, or with Hot Mix Asphalt ten (10) inches thick with Portland Cement Concrete curb and gutter, driveway approaches, surface restoration and other incidental items, together with the necessary drainage facilities on Maine

★ Roll Call Number
08-337

Agenda Item Number
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Street from University Avenue to Indiana Avenue, Activity ID 06-2008-013, Schedule No. 2008-03. (Property owners will only be assessed for paving 26 feet wide and 6" thick PCC or 8" thick HMA.)

is hereby:

_____ Adopted, without further amendment, and all objections filed or may have been duly considered are overruled.
X _____ Adopted, as amended by the Schedule of Amendments attached hereto as Exhibit A, and made a part hereof by reference. All objections filed or made having been duly considered are overruled; delete Maine St. from University to Indiana.
_____ Closed regarding the Hearing and Action Deferred for later consideration to a Council meeting to be held on _____, 2008, next at 5:00 o'clock P.M., at this meeting place, with jurisdiction retained for further consideration and action at the adjourned meeting.
_____ Abandoned.

Moved by Vlassis to adopt.

(Council Communication Number 08-088 attached)

FORM APPROVED: Kathleen Vanderpool
Kathleen Vanderpool, Deputy City Attorney

DEB

Funding: 2007-2008 CIP, Page Street-8, City-wide Paving Program, STR013, being \$52,887.88 from Special Assessments against benefited property owners and \$152,342.12 in G. O. Bonds

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|----------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| HENSLEY | ✓ | | | |
| KIERNAN | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MEYER | ✓ | | | |
| VLASSIS | ✓ | | | |
| TOTAL | 7 | | | |
| MOTION CARRIED | | APPROVED | | |

T. M. Franklin 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