

★ Roll Call Number
10-314

Agenda Item Number
52

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Date February 22, 2010

**HOLD HEARING FOR CONVEYANCE OF AN UNDERGROUND ELECTRIC LINE EASEMENT
TO MIDAMERICAN ENERGY COMPANY FOR SERVICE TO THE EXISTING CELL TOWER
LOCATED ON WAVELAND GOLF COURSE**

WHEREAS, on April 20, 2009, by Roll Call No. 09-675, the City Council approved a Lease Amendment Agreement with Verizon Wireless (VAW) LLC (Assignee of Des Moines MSA General Partnership) ("Lease Agreement") and Use Authorization and Consent Agreement with American Tower Delaware Corporation for a cellular phone service tower located on Waveland Golf Course ("Use Agreement"); and

WHEREAS, co-located antennas have been recently placed on the existing cell tower for which rent is being paid to the City in accordance with the terms of said Agreements and the Council authorization thereof; and

WHEREAS, in order for the co-located antennas to operate, MidAmerican Energy Company must supply electrical service and has requested an underground electric line easement across City-owned property located at 5000 Observatory Road to provide service to the cell tower located on Waveland Golf Course; and

WHEREAS, if approved, the underground electric line easement will be terminable and conditional upon the use of said easement by MidAmerican Energy Company to provide electricity to City lessees and/or co-locatees for the existing cell tower, and the nominal fair market value attributable to said easement was contemplated and is included in the rent payments to the City from the lessee and co-locatees pursuant to terms of the Lease Agreement and Use Agreement; and

WHEREAS, on, February 8, 2010, by Roll Call No. 10- 134, it was duly resolved by the City Council that the proposed conveyance of said underground electric line easement on City-owned property located at 5000 Observatory Road, be set down for hearing on February 22, 2010, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey this underground electric line easement was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in this proposed conveyance of underground electric line easement, 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. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of this easement as described below are hereby overruled and the hearing is closed.
2. There is no current public need for the property described below and the public would not be inconvenienced by reason of the conveyance of this terminable and conditional underground electric line easement, for the purpose of serving the City lessees and co-locatees of the existing cell tower in Waveland

Golf Course, upon the following described property located at 5000 Observatory Road, more specifically described as follows and for the consideration identified below:

A 10-foot wide underground electric easement being 5.0 feet on each side of the following described centerline, in the Northwest ¼ of Section 1, Township 78 North, Range 25 West of the 5th P.M.;

Beginning at the Southwest corner of Lot 40, Cummins Woods, an Official Plat; thence Northwesterly 110 feet to a point being 45.0 feet North and 100.0 feet West of the Southwest corner of said Lot 40, to the point of terminus, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the conveyance of such easement to MidAmerican Energy Company, with fair market value for said easement being paid to the City as included in the rent payments from the lessee and co-locatees under the Lease Agreement and Use Agreement, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Underground Electric Line Easement for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of this Underground Electric Line Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Underground Electric Line Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Underground Electric Line Easement and copies of the other documents to the grantees.

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Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

RFN

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
GRIESS	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.

T. M. Franklin Mayor

Diane Rauh City Clerk