

★ Roll Call Number
10-846

Agenda Item Number
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Date May 24, 2010

**HOLD HEARING FOR AMENDMENT TO AN EXISTING ELECTRIC LINE
EASEMENT WITH MIDAMERICAN ENERGY COMPANY**

WHEREAS, on September 13, 1999, by Roll Call 99-2748, the City Council of the City of Des Moines, Iowa, entered into agreement with the Department of the Army for the Des Moines and Raccoon Rivers Feasibility Study; and

WHEREAS, on October 12, 2009, by Roll Call No. 09-1833, the City Council approved a Project Partnership Agreement between the City and the Department of the Army for construction of the Des Moines and Raccoon Rivers Project; and

WHEREAS, on November 23, 2009, by Roll Call No. 09-2143, the City Council approved plans for construction of a multi-use trail connection to McHenry Park as part of the Des Moines and Raccoon Rivers; and

WHEREAS, the City of Des Moines granted an Electric Line Easement (“original Easement”) for electric transmission lines to Iowa Power and Light Company, now known as MidAmerican Energy Company, as recorded on October 1, 1970 in Book 4153, Page 394 in the Polk County Recorder’s Office, Polk County, Iowa, which original Easement is being impacted by the City’s levee and trail connection projects described above; and

WHEREAS, an amendment to the legal description of Parcel 2 included in said original Easement, which Amendment to Electric Line Easement is now on file in the office of the City Clerk, is necessary as part of the Des Moines and Raccoon Rivers Project to allow MidAmerican Energy Company to relocate its electric transmission lines as required by the City’s projects; and

WHEREAS, on May 10, 2010, by Roll Call No. 10-715, it was duly resolved by the City Council that the proposed conveyance of replacement areas of electric line easement contained within said Amendment to the original Easement, be set down for hearing on May 24, 2010, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey an easement in this public real property 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, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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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 replacement easement areas as set forth in the Amendment to Electric Line Easement as described below are hereby overruled and the hearing is closed.
2. The City will not be inconvenienced by the conveyance of replacement areas of electric line easement contained within said Amendment to the original Easement, in exchange and as consideration for the replacement of Parcel 2 in the original Easement as required for the City's levee and trail connection projects, as follows:

To: MidAmerican Energy Company

Legal Description: **Parcel 2:** Commencing as a point of reference at the intersection of the West line of the Northwest Quarter (NW 1/4) of Section 27, Township 79 North, Range 24 West of the 5th P.M., City of Des Moines, Polk County, Iowa and the centerline of the main track of the abandoned Des Moines and Central Iowa Railroad, thence North 89°22' East along said centerline and said centerline extended, 2810.32 feet to a point; thence North 00°38' West, 14.30 feet to an existing power pole; thence North 89°56'00" East, 90.00 feet to a point; thence North 00°04'00" West, 10.00 feet to the point of beginning; thence North 65°29'30" West, 172.38 feet to a point; thence South 46°12'14" West, 18.22 feet to a point; thence South 43°47'46" East, 14.50 feet to a point; thence South 49°05'00" West, 66.49 feet to a point on the northerly right-of-way line of the abandoned Des Moines and Central Iowa Railroad; thence Southeasterly along said right-of-way line along a curve to the right, whose chord bears South 69°16'47" East, 224.84 feet, an arc length of 225.66 feet to a point; thence North 00°04'00" West, 54.67 feet to a point; thence North 89°56'00" East, 40.00 feet to a point; thence North 00°04'00" West, 20.00 feet to a point; thence South 89°56'00" West, 40.00 feet to the point of beginning and containing 0.325 acres, more or less.

3. That the Amendment to Electric Line Easement, and the conveyance of replacement areas of electric line easement to MidAmerican Energy Company as described in said Amendment, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Amendment to 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 Amendment to Electric Line Easement, together with a certified copy of this resolution and of the affidavit of publication of the

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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 Amendment to 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 Amendment to Electric Line Easement and copies of the other documents to the grantees.
8. There are no proceeds from this easement amendment.

Moved by Meyer to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

BW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GRIESS	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	6			1
MOTION CARRIED		APPROVED		
<u>T. M. Franklin Course</u> 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