

★ Roll Call Number  
11-0549

Agenda Item Number  
45

Date March 28, 2011

**HOLD 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 63<sup>RD</sup> STREET TRAIL CONNECTOR PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN**

**WHEREAS**, on March 14, 2011, by Roll Call No. 11-0440, the City Council of the City of Des Moines, Iowa, approved an agreement with the City of West Des Moines for design and construction of the 63<sup>rd</sup> Street Recreational Trail from Railroad Avenue to Tyler Avenue for the 63<sup>rd</sup> Street Trail Connector Project; and

**WHEREAS**, the City of Des Moines Engineering and Parks Department have identified portions of private real property in which easement interests will be needed for construction of the public improvement as part of the 63<sup>rd</sup> Street Trail Connector Project; and

**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 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**, on March 14, 2011, by Roll Call No. 11-0441, the City Council ratified the statutory notice and set the time and place for a hearing at which persons affected by the 63<sup>rd</sup> Street Trail Connector Project may present their views regarding the proposed acquisition of private property for recreational trail purposes by gift, negotiation or eminent domain; and

**WHEREAS**, authorized notice of this hearing was given as provided by law, setting forth 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 for recreational trail purposes for the 63<sup>rd</sup> Street Trail Connector Project 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 input from affected property owners on the question of acquisition or condemnation of private property and property interests for the 63<sup>rd</sup> Street Trail Connector Project is now concluded and closed.
2. That acquisition of private property needed for this Project, including acquisition by eminent domain (condemnation) if necessary, is hereby authorized.
3. That the City Manager 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 63<sup>rd</sup> Street Trail Connector Project 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.

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4. That the property 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 the 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.

6. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.

7. That the City Clerk is hereby authorized and directed to endorse upon the real estate documents listed above the approval and acceptance of this Council, the Mayor is authorized and directed to sign all necessary real estate documents, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

8. That the Real Estate Division Manager is hereby authorized and directed to execute Maintain Vacancy Agreements and Rental Agreements, if necessary.

(Council Communication No. 11-173)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank, Assistant City Attorney

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

MOTION CARRIED

APPROVED

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