

11-0680

28

April 25, 2011

Date

SETTING DATE OF HEARING FOR THE VACATION AND LEASE OF THE DES MOINES BOTANICAL CENTER AND ADJACENT GROUNDS OF APPROXIMATELY 13.498 ACRES TO GREATER DES MOINES BOTANICAL GARDEN, INCLUDING A PORTION OF ROBERT D. RAY DRIVE

WHEREAS, the City of Des Moines owns and operates the City of Des Moines Botanical Center, including adjacent greenhouses, located at 909 Robert D. Ray Drive, Des Moines, Iowa 50316-2897 ("Botanical Center"), and approximately 13.498 acres of grounds adjacent to the Botanical Center and between the Botanical Center and the Des Moines River, including the park drive known as Robert D. Ray Drive ("Grounds"): and

WHEREAS, the City entered into a Chapter 28E Agreement dated December 12, 2003 with the Board of Water Works Trustees of the City of Des Moines, Iowa for operation and management of the Botanical Center and the adjacent grounds of approximately 14.4 acres, which 28E Agreement expires December 31, 2012; and

WHEREAS, the Greater Des Moines Botanical Garden ("GDMBG") desires to lease from the City the Botanical Center and the Grounds, as described below; and

WHEREAS, a Lease, Operation, Management and Maintenance Agreement with GDMBG has been negotiated in which the GDMBG agrees to be responsible, at its cost, for \$7,500,000 in improvements, including expanded gardens on the Grounds, by June 1, 2015, and an endowment of \$2,000,000 for operational expenses at the Botanical Center and Grounds, and \$500,000 for construction related costs and operating costs during and immediately after construction as consideration for rent, for an initial period of 25 years, with two 25 year renewal options at the option of the GDMBG, beginning on January 1, 2013, a copy of which is on file in the City Clerk's Office; and

WHEREAS, the corridor of land on which the John Pat Dorrian Multi-Use Trail will be relocated will be exempted from the proposed leased premises; and

WHEREAS, such proposed leased premises, which includes a portion of Robert D. Ray Drive, are dedicated as parkland.

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

1. The City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating as parkland and right-of-way the below described Des Moines Botanical Center at 909 Robert D. Ray Drive and approximately 13.498 acres of real estate adjacent to the Botanical Center and between the Botanical Center and the Des Moines River, including the park drive known as Robert D. Ray Drive from north of the Interstate 235 bridge to East 6<sup>th</sup> Street:

Date April 25, 2011

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF EAST UNIVERSITY AVENUE AND THE WEST RIGHT-OF-WAY LINE OF EAST 6<sup>TH</sup> STREET, BOTH RIGHTS-OF-WAY AS PRESENTLY ESTABLISHED; THENCE SOUTH ON THE SAID WEST RIGHT-OF-WAY LINE TO THE INTERSECTION WITH THE NORTH LINE OF LOT 5 OF RIVER HILLS PLAT FOUR, AN OFFICIAL PLAT; THENCE WEST ON THE SAID NORTH LINE TO THE NORTHWEST CORNER OF SAID LOT 5, ALSO BEING ON THE EAST LINE OF LOT 6 OF SAID RIVER HILLS PLAT FOUR; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 6 TO A POINT WHICH IS 72.54 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 6, ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY I-235 AS SHOWN IN BOOK 9703 PAGE 595 OF THE CONVEYANCE QUIT CLAIM DEED IN THE POLK COUNTY RECORDERS OFFICE; THENCE SOUTHWESTERLY 91.06 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID I-235; THENCE WESTERLY ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID I-235 TO THE WESTERLY CURB LINE OF ROBERT D. RAY DRIVE, AS PRESENTLY ESTABLISHED; THENCE NORTHEASTERLY ALONG THE WESTERLY CURB LINE OF SAID ROBERT D. RAY DRIVE A DISTANCE OF 175 FEET; THENCE WESTERLY, PERPENDICULAR TO SAID WESTERLY CURB LINE, TO THE EASTERLY BANK OF THE DES MOINES RIVER; THENCE NORTHEASTERLY ALONG SAID EASTERLY BANK TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE; THENCE EAST ON THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND EXCEPT FOR A 20.0 FOOT WIDE STRIP OF LAND FOR THE RELOCATED ALIGNMENT OF THE MULTI-USE RECREATIONAL TRAIL.

2. That if the City Council decides to vacate the above described parkland and right-of-way, the City of Des Moines proposes to lease such real property, as described below, to the Greater Des Moines Botanic Garden for the above described consideration as rent:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF EAST UNIVERSITY AVENUE AND THE WEST RIGHT-OF-WAY LINE OF EAST 6<sup>TH</sup> STREET, BOTH RIGHTS-OF-WAY AS PRESENTLY ESTABLISHED; THENCE SOUTH ON THE SAID WEST RIGHT-OF-WAY LINE TO THE INTERSECTION WITH THE NORTH LINE OF LOT 5 OF RIVER HILLS PLAT FOUR, AN OFFICIAL PLAT; THENCE WEST ON THE SAID NORTH LINE TO THE NORTHWEST CORNER OF SAID LOT 5, ALSO BEING ON THE EAST LINE OF LOT 6 OF SAID RIVER HILLS PLAT FOUR; THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT 6 TO A POINT WHICH IS 72.54 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 6, ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY I-235 AS SHOWN IN BOOK 9703 PAGE 595 OF THE CONVEYANCE QUIT CLAIM DEED IN THE POLK COUNTY RECORDERS OFFICE; THENCE SOUTHWESTERLY 91.06 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID I-235; THENCE WESTERLY ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID I-235 TO THE WESTERLY CURB LINE OF VACATED ROBERT D. RAY DRIVE, AS PRESENTLY ESTABLISHED; THENCE NORTHEASTERLY ALONG THE WESTERLY CURB LINE OF SAID VACATED ROBERT D. RAY DRIVE A DISTANCE OF 175 FEET; THENCE WESTERLY, PERPENDICULAR TO SAID WESTERLY CURB LINE, TO THE EASTERLY BANK OF THE DES MOINES RIVER; THENCE NORTHEASTERLY ALONG SAID EASTERLY BANK TO THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE; THENCE EAST ON THE SOUTH RIGHT-OF-WAY LINE OF SAID EAST UNIVERSITY AVENUE TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND EXCEPT FOR A 20.0 FOOT WIDE STRIP OF LAND FOR THE RELOCATED ALIGNMENT OF THE MULTI-USE RECREATIONAL TRAIL.

★ Roll Call Number  
11-0680

Agenda Item Number  
28

Date April 25, 2011

3. The meeting of the City Council at which the adoption of said ordinance and the lease of such real estate is to be considered by public hearing shall be held on May 9, 2011 at 5:00 pm in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

4. The City Clerk is authorized and directed to publish notice of said proposal and hearing in the form hereto attached not less than four or more than twenty days from the date of the hearing.

(Council Communication 11-259)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Ann DiDonato  
 Ann DiDonato, Assistant City Attorney

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