

★ Roll Call Number  
11-1706

Agenda Item Number  
16

Date October 10, 2011

Disposition

**RESOLUTION OF INTENT TO VACATE AND CONVEY PROPERTY INTERESTS IN CERTAIN SANITARY SEWER FACILITIES TO THE DES MOINES METROPOLITAN WASTEWATER RECLAMATION AUTHORITY**

**WHEREAS**, pursuant to Article VI, Section 1 of the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority ("WRA Agreement"), approved and authorized for execution by this City Council on April 19, 2004, pursuant to Roll Call No. 04-844, the existing wastewater conveyance facilities described in Exhibit 1 to said Agreement, acquired by and held in the name of the Participating Communities, shall be deemed transferred to the WRA upon the date the WRA issues bonds to defease bonds issued by the City of Des Moines for the construction or improvement of such facilities; and

**WHEREAS**, said provision of the WRA Agreement further provides that upon request of the WRA Board, the City of Des Moines and other Participating Communities shall transfer legal titles to the wastewater conveyance facilities described in Exhibit 1 by quit claim deed, bill of sale or other instrument of title as requested by the Board; and

**WHEREAS**, the WRA issued bonds to defease City of Des Moines bonds issued to fund WRA Improvements and to issue WRA bonds to fund the construction of certain WRA Improvements in October 2004, and as part of said bond issuance is required to hold legal title to all properties and facilities comprising the WRA System; and

**WHEREAS**, additional property interests have been identified by WRA consultants for transfer by certain Participating Communities, including the City of Des Moines, to the WRA of the Communities' interest in existing wastewater interceptor sewer facilities that comprise the WRA System, which property interests now need to be conveyed to the WRA; and

**WHEREAS**, on September 20, 2011, the WRA Board passed Resolution No. 11-130, requesting those Participating Communities including the City of Des Moines to transfer to the WRA by quit claim deed and/or by permanent easement, as appropriate, their respective interests in certain sanitary sewer facilities described in Exhibit 1 to the WRA Agreement; and

**WHEREAS**, on September 12, 2011, by Roll Call No. 11-1573, the City Council received a recommendation from the City Plan and Zoning Commission that various segments of right-of-way near the Wastewater Reclamation Facility be vacated to allow assembly of the properties owned by the City of Des Moines and/or WRA, subject to reservation of easement for utilities, and there is no known current or future public need or benefit for the right-of-way proposed to be vacated and conveyed.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating various segments of right-of-way near the Wastewater Reclamation Facility, more specifically described as follows:

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ALL OF THE EAST / WEST ALLEY RIGHT-OF-WAY IN BLOCK 6, CHESTERFIELD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE EAST / WEST ALLEY RIGHT-OF-WAY IN BLOCK 5, CHESTERFIELD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE HARRIETT STREET RIGHT-OF-WAY LYING SOUTH OF AND ADJOINING LOTS 11 THROUGH 16, INCLUSIVE, BLOCK 5, CHESTERFIELD, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE NORTH / SOUTH ALLEY RIGHT-OF-WAY IN BLOCKS 7, 14 AND 15, LARISON PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE SOUTHEAST 27<sup>TH</sup> STREET RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 18 THROUGH 34, INCLUSIVE, BLOCK 14, LARISON PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE SOUTHEAST 26<sup>TH</sup> COURT RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 21 THROUGH 34, INCLUSIVE, BLOCK 7, LARISON PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE NORTH / SOUTH ALLEY RIGHT-OF-WAY LYING NORTH OF CB & Q STREET, AS PRESENTLY ESTABLISHED, AND LYING SOUTH OF EAST RAILROAD AVENUE, AS PRESENTLY ESTABLISHED, AND LYING WEST OF AND ADJOINING LOTS

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1 THROUGH 17, INCLUSIVE, BLOCK 6, LARISON PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE NORTH / SOUTH ALLEY RIGHT-OF-WAY LYING NORTH OF EAST RAILROAD AVENUE, AS PRESENTLY ESTABLISHED, AND LYING SOUTH OF VALE STREET, AS PRESENTLY ESTABLISHED, AND LYING WEST OF AND ADJOINING LOTS 1 THROUGH 11, INCLUSIVE, BLOCK 5, LARISON PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

ALL OF THE EAST RAILROAD AVENUE RIGHT-OF-WAY LYING NORTH OF AND ADJOINING LOTS 1 THROUGH 10, INCLUSIVE, BLOCK 5, CHESTERFIELD, AN OFFICIAL PLAT, AND LYING NORTH OF AND ADJOINING THE NORTH / SOUTH ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOT 1, BLOCK 6, LARISON PLACE, AN OFFICIAL PLAT, AND LYING NORTH OF AND ADJOINING SAID LOT 1, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That if the City Council decides to vacate the above described right-of-way, the City of Des Moines further proposes to convey such vacated right-of-way to the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), in accordance with Iowa Code Section 364.7(3) and in accordance with the WRA Agreement, by quit claim deed for the WRA Biosolids Storage Facility, as further listed and identified in Exhibit A attached hereto and as on file in the office of the City Clerk.

3. The City of Des Moines, Iowa further declares its intent and proposal to grant to the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), in accordance with Iowa Code Section 364.7(3) and in accordance with the WRA Agreement, by quit claim deed all of its right, title and interest in and to the fee simple interest in additional real property acquired for the WRA Biosolids Storage Facility, subject to reservation of access easement across a portion thereof, and the fee simple interest in real property acquired for the WRA Des Moines River Outfall and Overflow project and the Southwest Equalization Basin, and in and to crossing permits on state highways acquired for the WRA Common Trunk wastewater conveyance facility, all as listed and identified in Exhibit A attached hereto and as on file in the office of the City Clerk.

4. The City of Des Moines, Iowa further declares its intent and proposal to grant to the WRA, in accordance with Iowa Code Section 364.7(3) and in accordance with the WRA Agreement, a permanent easement for the public purposes of operation, maintenance of and access to the sanitary sewer facilities for

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the Southern Tier Interceptor (Phase 10, Segment 3), Westside Interceptor (Segment 1; Segment 4, Contracts A-F), East 20<sup>th</sup> Street Trunk Connector Sewer, Beaver Creek Interceptor (Phase 6, Segment 5), Saylor Creek Interceptor (Phase 7, Segment 3), Southwest Outfall Sewer (Phases 1-2), and Des Moines River Outfall and Overflow (Phase 17, Segment 1, Stages 1-2), all as listed and identified in Exhibit A attached hereto and as on file in the office of the City Clerk, which are located on properties owned by the City of Des Moines, including but not limited to public streets, alleys, parks or other City properties.

- 5. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of said property interest is to be considered shall be on October 24, 2011 at 5:00 p.m. in the City Council Chamber.
- 6. The City Clerk is hereby authorized and directed to publish notice of the proposal and hearing in the form hereto attached all in accordance with Section 362.3 of the Iowa Code.
- 7. There will be no proceeds associated with the conveyance of these property interests.

Moved by Mahahey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

*RW*

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