

★ Roll Call Number

11-1823

Agenda Item Number

54

Disposition

Date October 24, 2011

**HEARING AND RESOLUTION APPROVING VACATION AND CONVEYANCE OF 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; and

**WHEREAS**, on October 10, 2011, by Roll Call No. 11-1706, it was duly resolved by this City Council that the proposed conveyance to the WRA by grant of quit claim deed and permanent easement of all of the City of Des Moines' right, title and interest in and to the existing wastewater conveyance facilities described below, be set down for hearing on October 24, 2011, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate various segments of right-of-way near the Wastewater Reclamation Facility and convey such vacated right-of-way and other property interests to the WRA was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with said notice, those interested in this proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City

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Council.

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

1. Upon due consideration of the facts and the statements of interested persons, if any, all objections to the proposed vacation and conveyance of the properties described below are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the City-owned right-of-way proposed to be vacated and the public would not be inconvenienced by the vacation of various segments of right-of-way near the Wastewater Reclamation Facility, more specifically described as follows:

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

★ Roll Call Number

11-1823

Agenda Item Number

54

Disposition

Date October 24, 2011

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 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.

3. That the conveyance by the City of Des Moines of the above described 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, be and is hereby approved.

4. That the conveyance by the City of Des Moines 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 of all 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, be and is hereby approved.

5. That the conveyance by the City of Des Moines 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 permanent easement for the public purposes of operation, maintenance of and access to the sanitary sewer facilities for 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, be and is hereby approved.

★ Roll Call Number

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6. Upon final passage of an ordinance vacating the above described right-of-way, the Mayor is authorized and directed to sign the Quit Claim Deed and Permanent Easement for the conveyances as identified above, the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said documents, together with certified copies 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 having said documents accepted by the WRA and causing the documents to be recorded, and the Real Estate Division Manager is authorized and directed to forward the documents following WRA acceptance to the Polk County Recorder for recording.

7. There will be no proceeds associated with the conveyance of these property interests.

Moved by Meyer to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank  
Assistant City Attorney

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

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