

★ Roll Call Number

12-0352

Agenda Item Number

51

February 27, 2012

Date

HOLD HEARING ON AMENDMENT TO LEASE OF 1601 HARRIETT STREET TO ADD AN ADDITIONAL 8.28 ACRES TO METRO WASTE AUTHORITY (MWA) FOR OPERATION OF A PROGRAM FOR THE COLLECTION AND PROCESSING OF YARD WASTE MATERIALS AND APPROVING AND AUTHORIZING EXECUTION OF AN AMENDMENT TO SERVICE AGREEMENT WITH MWA FOR SUCH LEASE AND OPERATION

WHEREAS, on February 13, 2012, by Roll Call 12-0201, it was duly resolved by City Council that the proposed amendment to lease to add an additional 8.28 adjacent acres to the east and west of the original approximately 21.73 acres at 1601 Harriett Street, as described below, be set down for hearing on February 27, 2012 at 5:00 pm in the Council Chamber; and,

WHEREAS, due notice of said proposal to amend said lease of public real property interests 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 said proposed amendment to lease, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council; and

WHEREAS, the Des Moines Metropolitan Area Solid Waste Agency, now known as the Metro Waste Authority (hereinafter "MWA"), was created pursuant to the Amended and Substituted Intergovernmental Agreement Creating the Des Moines Metropolitan Area Solid Waste Agency (hereafter the "Chapter 28E Agreement"), executed by the City in December of 1969 and found of record in the office of the Polk County Recorder at Book 4081, Page 542; and

WHEREAS, the MWA exists for the purpose of serving the needs of its member municipalities in matters involving the collection and disposal of solid waste, as may be agreed upon by and between the MWA and its member entities; and

WHEREAS, the City's Public Works Department presently operates a yard waste collection program for its residential customers within the City; and

WHEREAS, the MWA has established a unified yard waste bag collection and processing program for all of its member entities in the Des Moines metropolitan area; and

WHEREAS, pursuant to the Chapter 28E Agreement, Section II thereof, the MWA is authorized to contract with its member municipalities, including the City of Des Moines, for the provision of solid waste disposal, or collection and disposal services; and

★ Roll Call Number

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Agenda Item Number

51

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WHEREAS, by Roll Call No. 01-763, dated March 12, 2001, the City Council approved the execution of a Service Agreement with MWA, pursuant to which MWA agreed to operate a yard waste collection service within Des Moines with the City of Des Moines acting as its contract agent for collection of yard waste; Des Moines agreed to lease the real property at 1601 Harriett Street, Des Moines, Iowa, consisting of approximately 21.73 acres ("the Harriett Street site") to MWA; and MWA agreed to purchase the City's equipment at said site and to thereafter operate a yard waste processing facility at said site, all for a term of three years ending March 31, 2004; and

WHEREAS, by Roll Call No. 04-609, dated March 22, 2004, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriett Street site, all for a term of three years ending March 31, 2007; and

WHEREAS, by Roll Call No. 07-882, dated May 7, 2007, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriett Street site, all for a term of three years ending March 31, 2010; and

WHEREAS, by Roll Call No. 10-453, dated March 22, 2010, the City Council approved the execution of a new Service Agreement with MWA for lease and operation of the Harriett Street site, for a term of twenty years ending March 31, 2020 for a \$40,000 per year as rental; and

WHEREAS, the City and MWA intended that the leased area be increased by an additional 8.28 adjacent acres to the east and west of the original 21.73 acres, for a total of 30.01 acres, as described below, and discovered that the incorrect Exhibit A showing the area to be leased was attached to the agreement; and

WHEREAS, the MWA and City desire to correct such scrivener's error by amending the Service agreement to substitute the corrected Exhibit A showing the 30.01 acres as the leased premises.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IOWA THAT:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed amendment to lease of public real property as described below are hereby overruled and the hearing is closed.

2. There currently is no municipal need for the property to be leased and the public would not be inconvenienced by reason of the lease of an additional 8.28 acres, as described below, at 1601 Harriett Street to the Metro Waste Authority.

★ Roll Call Number

120352

Agenda Item Number

51

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3. The amendment to lease of an additional 8.28 acres, to the east and west of the original approximately 21.73 acres, for a total of 30.01 acres, at 1601 Harriett Street, Des Moines, Iowa, as described below, to the Metro Waste Authority for an annual rental fee of \$40,000.00, for a period of twenty (20) years from April 1, 2010 through March 31, 2030 be and is hereby approved:

Current leased premises:

A PART OF THE WEST ½ OF SECTION 11, TOWNSHIP 78 NORTH, RANGE 24 WEST, OF THE 5TH P.M., IN THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11.; THENCE S00°50'21"W 60.93' ALONG THE WEST LINE OF SECTION 11; THENCE S89°26'31"E 1175.72' TO THE POINT OF BEGINNING; THENCE N00°04'19"E 103.41'; THENCE N15°59'59"W 231.25'; THENCE N58°55'06"E 444.83'; THENCE 88°51'50"E 192.18'; THENCE N44°36'36"E 146.47'; THENCE N86°22'34"E 295.85'; THENCE S37°41'11"E 153.42'; THENCE S88°01'49"E 638.64'; THENCE S00°28'47"E 555.08'; THENCE N89°25'56"W 1644.40' TO THE POINT OF BEGINNING, CONTAINING 21.73 ACRES MORE OR LESS.

Amended leased premises:

ALL OF LOTS 89 THROUGH 94, A PART OF LOTS 32 THROUGH 36, A PART OF LOTS 79 THROUGH 88, AND A PART OF HARRIET STREET, ALL BEING IN T. M. WALKER'S ADDITION TO THE CITY OF DES MOINES, POLK COUNTY, IOWA AND A PART OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND A PART OF THE NORTH 1/2 OF THE SOUTHEAST 1/4, ALL IN SECTION 11, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 11; THENCE SOUTH 0°50'26" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 11, A DISTANCE OF 60.93 FEET; THENCE SOUTH 89°26'25" EAST, 1027.93 FEET TO THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY WHOSE RADIUS IS 84.37 FEET, WHOSE ARC LENGTH IS 117.95 FEET AND WHOSE CHORD BEARS NORTH 48°28'32" WEST, 108.58 FEET; THENCE NORTH 8°25'27" WEST, 221.23 FEET; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE SOUTHWESTERLY WHOSE RADIUS IS 187.06 FEET, WHOSE ARC LENGTH IS 207.66 FEET AND WHOSE CHORD BEARS NORTH 40°10'24" WEST, 197.16 FEET; THENCE SOUTH 70°10'18" EAST, 345.56 FEET; THENCE NORTH 58°55'11" EAST, 444.83 FEET; THENCE NORTH 88°51'55"

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EAST, 192.18 FEET; THENCE NORTH 44°36'41" EAST, 146.47 FEET; THENCE NORTH 86°22'39" EAST, 295.85 FEET; THENCE SOUTH 37°41'06" EAST, 153.42 FEET; THENCE SOUTH 88°01'44" EAST, 638.64 FEET; THENCE SOUTH 68°59'04" EAST, 603.10 FEET; THENCE SOUTH 44°32'05" EAST, 135.76 FEET; THENCE SOUTH 0°28'42" EAST, 248.52 FEET; THENCE NORTH 89°25'51" WEST, 2300.07 FEET; THENCE NORTH 89°26'25" WEST, 147.79 FEET TO THE POINT OF BEGINNING AND CONTAINING 30.01 ACRES (1,307,364 S.F.).

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

4. That the Amendment to Service Agreement by and between the City of Des Moines, Iowa and the Metro Waste Authority for Operation of a Program for the Collection and Processing of Yard Waste Materials, which includes the lease of the real property at 1601 Harriett Street, now on file in the office of the City Clerk and by this reference made a part hereof, is hereby approved as to form and content.

5. That the Mayor and City Clerk be, and they are hereby authorized and directed to execute and attest, respectively, said Amendment to Service Agreement for and on behalf of the City of Des Moines, Iowa.

Moved by Meyer 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 | 6 | | | 1 |

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