

★ Roll Call Number

13-0422

Agenda Item Number

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Date March 11, 2013

**HOLD HEARING FOR CONVEYANCE OF CITY-OWNED REAL ESTATE LOCATED IN  
THE VICINITY OF U.S. HIGHWAY 65 AND THE SKUNK RIVER TO POLK COUNTY  
CONSERVATION BOARD PURSUANT TO 28E AGREEMENT**

**WHEREAS**, on May 5, 2008, by Roll Call No. 08-835, the City Council approved a Chapter 28E Intergovernmental Agreement by and between the City of Des Moines and the Polk County Conservation Board for the joint exercise of powers to acquire, develop, and maintain a wetlands area, as part of a wetlands mitigation project resulting from the City's Euclid Avenue Detention Basin construction project and U.S. Army Corps of Engineers Section 404 permits related thereto; and

**WHEREAS**, pursuant to this 28E Agreement, the Polk County Conservation Board has been maintaining as wetlands 84.9 acres of land acquired and developed by the City in the vicinity of U.S. Highway 65 and the Skunk River within the Chichaqua Wildlife Area, and in exchange and as consideration for this maintenance work, the City is now required to grant said property to the Polk County Conservation Board for perpetual use as wetlands in compliance with the requirements of the Section 404 permit and other applicable State and Federal laws and regulations; and

**WHEREAS**, the conveyance of the City-owned property to Polk County Conservation Board will be subject to certain conditions including a permanent easement for use, management, operation and maintenance of the property as wetlands by the Board, reversion of the property to the City in the event that the Board fails to fulfill these obligations, a temporary easement upon the property for ingress and egress by the U.S. Army Corps of Engineers for access to its wetlands mitigation area, and the Board's indemnification of the City for future use and occupancy of the property; and

**WHEREAS**, there is no known current or future public need for the real property proposed to be conveyed, and the City will not be inconvenienced by the conveyance of said property; and

**WHEREAS**, on February 25, 2013, by Roll Call No. 13-0306, it was duly resolved by the City Council that the proposed conveyance of the City-owned property be set down for hearing on March 11, 2013, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to convey public real property 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 conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

Date March 11, 2013

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

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

2. There is no public need for the property described below and the public would not be inconvenienced by reason of the conveyance of the wetlands mitigation site located in the vicinity of U.S. Highway 65 and the Skunk River within the Chichaqua Wildlife Area, more specifically described as follows, to Polk County Conservation Board, pursuant to the above-referenced Chapter 28E Intergovernmental Agreement and in accordance with Iowa Code Section 364.7(3)(2013) and subject to the conditions set forth above, and such conveyance is hereby approved:

PART OF SECTION 11, TOWNSHIP 80 NORTH, RANGE 22 WEST OF THE 5<sup>TH</sup> P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST ONE QUARTER CORNER OF SAID SECTION 11, BEING A FOUND CONCRETE MONUMENT; THENCE NORTH 0°(DEGREES) 58' (MINUTES) 55" (SECONDS) EAST ALONG THE WEST LINE OF THE NORTHWEST ONE QUARTER OF SAID SECTION 11, A DISTANCE OF 1,175.71 FEET; THENCE SOUTH 88°49'21" EAST, 2,318.46 FEET; THENCE SOUTH 0°27'04" WEST, 749.19 FEET TO A FOUND REROD WITH CAP NO. 11804 AND THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY 65; THENCE SOUTH 43°18'19" WEST ALONG SAID RIGHT OF WAY LINE 2,180.03 FEET TO THE CENTERLINE OF THE EXISTING DRAINAGE CHANNEL; THENCE NORTH 25°16'29" WEST, 776.40 FEET ALONG SAID CENTER LINE; THENCE NORTH 42°37'02" WEST 687.10 FEET ALONG SAID CENTER LINE; THENCE NORTH 89°59'36" WEST, 40.25 FEET TO THE POINT OF BEGINNING, ALL NOW INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA AND CONTAINING 84.9 ACRES AS SURVEYED.

3. The Mayor is authorized and directed to sign the Special Warranty Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. The City Clerk is authorized and directed to forward the original of this Deed, together with a certified copy 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 causing said documents to be recorded.

5. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and copies of the other documents to the grantee.
7. There shall be no monetary proceeds associated with the conveyance of this property.

(Council Communication No. 13- 111 )

Moved by Moore to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

*RAW*

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

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.

Y. M. Franklin  
 Mayor

Diane Rauh  
 City Clerk