

★ Roll Call Number

13-0924

Agenda Item Number

44

Page 1

Date June 10, 2013

**HOLD HEARING FOR VACATION OF THREE SEGMENTS OF STREET RIGHT-OF-WAY
FOR RAILROAD CROSSING CLOSURES AT THE HULL AVENUE, SCOTT
AVENUE AND SE 34TH STREET CROSSINGS**

WHEREAS, Union Pacific Railroad has requested vacation of the following City-owned right-of-way for permanent railroad crossing closures to address train and automobile movement constraints and to create rail capacity to support the growth of existing and new rail development business in Des Moines: Hull Avenue (also known as East Hull Avenue) between Delaware Avenue and Dixon Street; Scott Avenue between Southeast 20th Street and Southeast 22nd Street; and Southeast 34th Street between Scott Avenue and East Court Avenue; and

WHEREAS, on January 28, 2013, by Roll Call No. 13-0166, the City Council of the City of Des Moines received and filed a report and recommendation from the City Plan and Zoning Commission regarding the proposal by the Union Pacific Railroad to close the three street crossings identified above; and

WHEREAS, there is no known current or future public need or benefit for the right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said right-of-way, subject to approval of the terms of agreement being negotiated between the City and Union Pacific Railroad regarding the construction of a series of infrastructure, crossing notification and buffering improvements to offset the impacts of the crossing closures; and

WHEREAS, on April 8, 2013, by Roll Call No. 13-0579, it was duly resolved by the City Council that the proposed vacation of such right-of-way be set down for hearing on June 10, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, thereafter it was determined that a scrivener's error existed in the legal description of the Hull Avenue right-of-way as included in Roll Call No. 13-0579, which error was corrected in the publication of notice of this hearing and is corrected as set forth herein below; and

WHEREAS, due notice of said proposal to vacate public right-of-way 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 vacation, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the public hearing on the vacation of City-owned right-of-way located at Hull Avenue between Delaware Avenue and Dixon Street; Scott Avenue between Southeast 20th Street and Southeast 22nd Street; and Southeast 34th Street between Scott Avenue and East Court Avenue, all legally described as follows, is hereby closed, and that all comments and objections made during said hearing are hereby received and filed:

★ **Roll Call Number**

13-0924

Agenda Item Number

44

Date June 10, 2013

EAST HULL AVENUE (Following legal description correcting and amending the legal description of the Hull Avenue right-of-way as set forth in Roll Call No. 13-0579)

THAT PORTION OF EAST HULL AVENUE RIGHT-OF-WAY THAT CROSSES THE UNION PACIFIC RIGHT-OF-WAY BETWEEN DIXON STREET AND DELAWARE AVENUE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA;

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 25, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M.; THENCE SOUTH 89°(DEGREES)57'(MINUTES) 28"(SECONDS) WEST, 351.37 FEET ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25 TO THE POINT OF BEGINNING AT THE EAST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 00°09'40" EAST, 25.00 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD TO THE SOUTH RIGHT-OF-WAY LINE OF EAST HULL AVENUE; THENCE SOUTH 89°57'28" WEST, 100.00 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF EAST HULL AVENUE TO THE WEST RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD; THENCE NORTH 00°09'40" WEST, 50.00 FEET ALONG THE WEST RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD TO THE NORTH RIGHT-OF-WAY OF EAST HULL AVENUE; THENCE NORTH 89°57'28" EAST, 100.00 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF EAST HULL AVENUE TO THE EAST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 00°09'40" EAST, 25.00 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD TO THE POINT OF BEGINNING.

SCOTT AVENUE NEAR SOUTHEAST 22ND STREET

THAT PORTION OF SCOTT AVENUE RIGHT-OF-WAY THAT CROSSES THE UNION PACIFIC RAILROAD RIGHT-OF-WAY BETWEEN SOUTHEAST 20TH STREET AND SOUTHEAST 22ND STREET IN THE CITY OF DES MOINES, POLK COUNTY, IOWA;

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL "D", THE VACATED SCOTT AVENUE RIGHT-OF-WAY AS SHOWN ON THE PLAT OF SURVEY RECORDED AS BOOK 14161, PAGES 49-50 IN THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA; THENCE SOUTH 89°(DEGREES) 47'(MINUTES) 36"(SECONDS) EAST, 103.37 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SCOTT AVENUE TO THE EASTERLY LINE OF THE UNION PACIFIC RIGHT-OF-WAY; THENCE SOUTH 13°35'41" EAST, 81.98 FEET ALONG THE EASTERLY RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD TO THE SOUTH RIGHT-OF-WAY LINE OF SCOTT AVENUE; THENCE NORTH 89°48'35" WEST, 103.31 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SCOTT AVENUE TO THE SOUTHEAST CORNER OF SAID PARCEL "D" ON THE WESTERLY RIGHT OF WAY OF THE UNION PACIFIC RAILROAD; THENCE NORTH 13°37'44" WEST, 82.03 FEET ALONG THE WESTERLY RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD AND ALSO THE EASTERLY LINE OF SAID PARCEL "D" TO THE POINT OF BEGINNING.

SOUTHEAST 34TH STREET AT LAUREL HILL DRIVE

THAT PORTION OF SOUTHEAST 34TH STREET RIGHT-OF-WAY THAT CROSSES THE UNION PACIFIC RAILROAD RIGHT-OF-WAY BETWEEN SCOTT AVENUE AND EAST COURT AVENUE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA;

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF SOUTHEAST 34TH STREET AND THE SOUTHERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE NORTH 0°(DEGREES) 06'(MINUTES) 26"(SECONDS) EAST, 107.02 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF SOUTHEAST 34TH

★ Roll Call Number
13-0924

Agenda Item Number
44

Date June 10, 2013

STREET TO THE NORTHERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 70°05'09" EAST, 53.33 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD TO THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 34TH STREET; THENCE SOUTH 0°12'09" WEST, 106.13 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 34TH STREET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE NORTH 70°55'59" WEST, 52.87 FEET ALONG THE SOUTHERLY RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD TO THE POINT OF BEGINNING ON THE WEST RIGHT-OF-WAY LINE OF SOUTHEAST 34TH STREET.

(Council Communication No. 13-230)

APPROVED AS TO FORM:

Moved by Coleman to adopt.

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

ou

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER		✓		
MOORE		✓		
TOTAL	5	2		

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.

T. M. Franklin Mayor

Diane Rauh City Clerk