

★ **Roll Call Number**  
15-0103

**Agenda Item Number**  
21

**Date** January 26, 2015

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**SET HEARING FOR VACATION OF A PORTION OF LOCUST STREET RIGHT-OF-WAY ADJOINING 400 LOCUST STREET, AND FOR APPROVAL OF A PERMANENT EASEMENT WITH THE DES MOINES AREA REGIONAL TRANSIT AUTHORITY FOR THE PLACEMENT OF A BUS SHELTER ON THE VACATED CITY RIGHT-OF-WAY**

**WHEREAS**, Des Moines Area Regional Transit Authority (hereinafter "DART") wishes to acquire a permanent easement on a portion of City right-of-way located north of and adjoining 400 Locust Street, as legally described below ("Easement Area"), for the purpose of constructing, operating and maintaining a DART bus stop shelter; and

**WHEREAS**, DART and the City Real Estate Division have negotiated the terms of the permanent easement which include: (1) DART's installation and use of the Bus Shelter shall comply with all City, State and Federal ordinances and regulations; (2) DART, or its contractors, shall obtain, comply with, and pay all related fees for all necessary permits, and provide required insurance and bond, related to excavation and obstruction of City right-of-way upon and above the Easement Area prior to accessing the Easement Area, and, except in the case of emergency, access to the Easement Area shall be limited to the times set forth in such permits; (3) the bus shelter shall be constructed and installed in accordance with plans and specifications approved by the City Engineer or designee, and DART shall certify to the City that the bus shelter has been constructed and located within the Easement Area as shown on the approved plans and specifications; (4) DART shall be solely responsible for all activities related to and costs of maintenance of the Easement Area and installation, operation, maintenance and repair of the bus shelter, in accordance with City ordinances, policies and regulations, and State law; and

**WHEREAS**, such portion of City right-of-way located north of and adjoining 400 Locust Street, as legally described below, has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of Locust Street, and the City will not be inconvenienced by the vacation and conveyance of said permanent easement.

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

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating a portion of City right-of-way located north of and adjoining 400 Locust Street, more specifically described as follows:

A PART OF THE VACATED LOCUST STREET RIGHT OF WAY LYING NORTH OF BLOCK 23, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHWEST CORNER OF LOT 1 OF SAID BLOCK 23; THENCE NORTH ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 1, A DISTANCE OF 11.78 FEET; THENCE EAST AND PARALLEL TO THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 7.13 FEET TO THE POINT OF BEGINNING; THENCE NORTH AND PARALLEL TO SAID NORTHERLY EXTENSION, 10 FEET; THENCE EAST AND PARALLEL TO SAID NORTH LINE OF LOT 1, A DISTANCE OF 42 FEET; THENCE SOUTH AND PARALLEL TO SAID NORTHERLY EXTENSION, 10 FEET; THENCE WEST AND PARALLEL TO SAID NORTH LINE OF LOT 1, A DISTANCE 42 FEET TO THE POINT OF BEGINNING.

2. That if the City Council decides to vacate the above described portion of City right-of-way, the City of Des Moines further proposes to convey a permanent easement for bus shelter encroachment in such vacated City right-of-way along Locust Street adjoining the property locally known as 400 Locust Street, to Des Moines Area Regional Transit Authority, subject to the closing conditions set forth above.

3. That the meeting of the City Council at which the adoption of said ordinance and conveyance of such property interest is to be considered shall be on February 9, 2015, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

[Signature]  
 Cori Kuhn Coleman, Assistant City Attorney

*ron*

| COUNCIL ACTION              | YEAS | NAYS | PASS | ABSENT |
|-----------------------------|------|------|------|--------|
| COWNIE                      | ✓    |      |      |        |
| COLEMAN                     | ✓    |      |      |        |
| GATTO                       | ✓    |      |      |        |
| GRAY                        | ✓    |      |      |        |
| HENSLEY                     | ✓    |      |      |        |
| MAHAFFEY                    | ✓    |      |      |        |
| MOORE                       | ✓    |      |      |        |
| TOTAL                       | 7    |      |      |        |
| MOTION CARRIED              |      |      |      |        |
| <u>[Signature]</u><br>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.

[Signature]  
 City Clerk