

★ Roll Call Number

15-1239

Agenda Item Number

15

Page 1

Date July 27, 2015

**SET HEARING FOR VACATION OF A PORTION OF EAST 18TH STREET RIGHT-OF-WAY WEST OF HUBBELL AVENUE, 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 FOR \$200**

**WHEREAS**, Des Moines Area Regional Transit Authority (hereinafter "DART") wishes to acquire a permanent easement on a portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, 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 (5) payment of \$200.00 as consideration for the granting of the easement, which price reflects the fair market value of the City right-of-way as estimated by the City Real Estate Division; and

**WHEREAS**, such portion of City right-of-way located at East 18<sup>th</sup> Street west of Hubbell Avenue, 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 Hubbell Avenue, 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 at East 18<sup>th</sup> Street west of Hubbell Avenue, more specifically described as follows:

A PART OF THE EAST 18TH STREET RIGHT OF WAY LYING WEST OF HUBBELL AVENUE ADDITION, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

★ Roll Call Number

15-1239

Agenda Item Number

15

Page 2

Date July 27, 2015

COMMENCING AT THE SOUTHWEST CORNER OF LOT 1 OF SAID HUBBELL AVENUE ADDITION; THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 17.3 FEET AND TO THE POINT OF BEGINNING; THENCE SOUTHEAST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE SOUTHWEST AND PARALLEL TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 FEET; THENCE NORTHWEST AND PERPENDICULAR TO THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 6 FEET; THENCE NORTHEAST ALONG THE SOUTHWESTERLY EXTENSION OF SAID LOT 1, A DISTANCE OF 14 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 at East 18<sup>th</sup> Street west of Hubbell Avenue, 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 August 10, 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 Gatto to adopt.

APPROVED AS TO FORM:

*Lisa A. Wieland*  
Lisa A. Wieland, Assistant City Attorney

RAW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
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