

★ Roll Call Number

16-1762

Agenda Item Number

58

Date October 10, 2016

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**HOLD HEARING FOR CONVEYANCE OF A PERMANENT EASEMENT TO THE
DES MOINES METROPOLITAN WASTEWATER RECLAMATION AUTHORITY FOR
THE WRA NEW MAIN OUTFALL, PHASE 17, SEGMENTS 5 AND 6 PROJECT**

WHEREAS, on November 15, 2011, by WRA Board Resolution No. 11-168, the Des Moines Metropolitan Wastewater Reclamation (WRA) Board authorized acquisition of property interests for the WRA New Main Outfall, Phase 17, Segments 5 and 6 Project by gift, negotiation or eminent domain; and

WHEREAS, in accordance with Article XV, Section 3 of the Second Amended and Restated Agreement for the WRA, the WRA has requested the City grant a Permanent Easement for Sanitary Sewer Facilities to the WRA across City-owned property located at 462 SE 2nd Street, for the above-described project; and

WHEREAS, in accordance with Iowa Code 364.7(3) no consideration is required for the conveyance of said Permanent Easement for Sanitary Sewer Facilities; and

WHEREAS, conveyance of the Permanent Easement for Sanitary Sewer Facilities will have no significant impact upon the public use of the City-owned property, and the City will not be inconvenienced by the conveyance of said Permanent Easement for Sanitary Sewer Facilities; and

WHEREAS, on September 26, 2016, by Roll Call No. 16-1609, it was duly resolved by the City Council of the City of Des Moines, Iowa that the proposed conveyance of such easement be set down for hearing on October 10, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey this easement was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in this 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.

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, any and all objections to the proposed conveyance of an easement across City-owned property, as described below, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the easement area described below and the public would not be inconvenienced by reason of the conveyance to the Des Moines Metropolitan Wastewater Reclamation

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Authority (WRA) of a Permanent Easement for Sanitary Sewer Facilities across City-owned property located at 462 SE 2nd Street, as legally described below, for public use in accordance with Iowa Code Section 364.7(3), for the WRA New Main Outfall Phase 17, Segments 5 and 6 Project:

A PERPETUAL SANITARY SEWER EASEMENT LOCATED IN THE NORTH ½ OF LOT 2, BLOCK O IN SCOTT AND DEANS ADDITION, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. SAID PERPETUAL EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 46° (DEGREES) 07' (MINUTES) 34" (SECONDS) EAST (ALL BEARINGS ASSUMED FOR PURPOSE OF THIS DESCRIPTION ONLY), 41.90 FEET ALONG THE NORTH LINE OF SAID LOT 2; THENCE SOUTH 55°35'24" EAST, 33.70 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTH ½ OF LOT 2; THENCE SOUTH 46°07'34" WEST, 49.24 FEET ALONG SAID SOUTH LINE TO THE SOUTHWEST CORNER OF SAID NORTH ½ OF LOT 2; THENCE NORTH 43°01'12" WEST, 33.00 FEET ALONG THE WEST LINE OF SAID NORTH ½ OF LOT 2 TO THE POINT OF BEGINNING. CONTAINING 1,503 SQUARE FEET, MORE OR LESS.

3. That the conveyance by the City of Des Moines of said easement to the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), for public use and in accordance with Iowa Code Section 364.7(3), for the WRA new Main Outfall Phase 17, Segments 5 and 6 Project, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Permanent Easement for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of the Easement, 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, 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.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.

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8. There will be no proceeds associated with the conveyance of this easement.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Kathleen Vanderpool
Kathleen Vanderpool, Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED				
<u>T. M. Franklin</u> 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