



**Roll Call Number**

17-0139

**Agenda Item Number**

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**Date** January 23, 2017

**HOLD HEARING FOR AMENDMENT TO ORDINANCE NO. 15,524, VACATION OF A SEGMENT OF INGERSOLL AVENUE STREET RIGHT-OF-WAY AND CONVEYANCE OF A CORRECTED EASEMENT FOR BUS SHELTER ENCROACHMENT IN THE VACATED INGERSOLL AVENUE STREET RIGHT-OF-WAY TO DES MOINES AREA REGIONAL TRANSIT AUTHORITY**

**WHEREAS**, on October 24, 2016, by Roll Call No. 16-1854 and Ordinance No. 15,524, the City Council of the City of Des Moines voted to vacate a portion of City right-of-way located on Ingersoll Avenue west of Martin Luther King, Jr. Parkway, and to convey an Easement for Bus Shelter Encroachment on City-owned Property (hereinafter "Original Easement") in said vacated right-of-way to Des Moines Area Regional Transit Authority (hereinafter "DART") for \$200.00, for the purpose of constructing, operating and maintaining a DART bus stop shelter; and

**WHEREAS**, said Original Easement was filed in the Office of the Polk County Recorder on December 1, 2016, in Book 16290, Page 568; and

**WHEREAS**, the legal description used for Ordinance No. 15,524 and the Original Easement contained a scrivener's error, which error now must be corrected by amending Ordinance No. 15,524 to vacate the correct portion of City street right-of-way located on Ingersoll Avenue west of Martin Luther King, Jr. Parkway, as legally described below, and granting a Corrected Easement for Bus Shelter Encroachment on City-Owned Property in said vacated street right-of-way to DART for no additional consideration; and

**WHEREAS**, such portion of City street right-of-way located on Ingersoll Avenue west of Martin Luther King, Jr. Parkway, 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 Ingersoll Avenue, and the City will not be inconvenienced by the vacation and conveyance of said Corrected Easement for Bus Shelter Encroachment on City-Owned Property; and

**WHEREAS**, on January 9, 2017, by Roll Call No. 17-0037, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed amendment to Ordinance No. 15,524, the proposed vacation and proposed conveyance of a Corrected Easement for Bus Shelter Encroachment on City-Owned Property be set for hearing on January 23, 2017, at 5:00 p.m., in the City Council Chamber; and

**WHEREAS**, due notice of said proposal to consider adoption of an ordinance amending Ordinance No. 15,524, permanently vacating a portion of City street right-of-way located on Ingersoll Avenue west of Martin Luther King, Jr. Parkway and proposed conveyance of a Corrected Easement for Bus Shelter Encroachment on City-Owned Property therein 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 said proposals, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed amendment to Ordinance No. 15,524, proposed vacation and proposed conveyance of the Corrected Permanent Easement for Bus Shelter Encroachment on City-Owned Property in such vacated street right-of-way as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the street right-of-way proposed to be vacated and the public would not be inconvenienced by reason of amending Ordinance No. 15,524 to permanently vacate a portion of City street right-of-way located on Ingersoll Avenue west of Martin Luther King, Jr. Parkway, legally described as follows, and said vacation and corresponding amendment to Ordinance No. 15,524 is hereby approved:

A PART OF THE INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF NORTH RIGHT OF WAY LINE OF INGERSOLL AVENUE AND THE WEST LINE OF LOT 9 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 5; THENCE EAST ALONG THE SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 103 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 8 FEET TO THE POINT OF BEGINNING; THENCE EAST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 14 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 14 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 6 FEET TO THE POINT OF BEGINNING; GENERALLY DEPICTED ON ATTACHED EXHIBIT "A".

3. That the conveyance of a Corrected Easement for Bus Shelter Encroachment on City-Owned Property in such vacated street right-of-way, as described below, to Des Moines Area Regional Transit Authority for no additional consideration be and is hereby approved:

A PART OF THE VACATED INGERSOLL AVENUE RIGHT OF WAY IN THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF NORTH RIGHT OF WAY LINE OF INGERSOLL AVENUE AND THE WEST LINE OF LOT 9 OF THE OFFICIAL PLAT OF THE SOUTHWEST QUARTER (1/4) OF SAID SECTION 5; THENCE EAST ALONG THE SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 103 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 8 FEET TO THE POINT OF BEGINNING; THENCE EAST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 14 FEET; THENCE SOUTH



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AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 6 FEET; THENCE WEST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 14 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 6 FEET TO THE POINT OF BEGINNING; GENERALLY DEPICTED ON ATTACHED EXHIBIT "A".

4. The Mayor is authorized and directed to sign the Corrected Easement for Bus Shelter Encroachment on City-Owned Property for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating said right-of-way, the City Clerk is authorized and directed to forward the original Corrected Permanent Easement for Bus Shelter Encroachment on City-Owned Property, 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 following closing.

6. The Real Estate Division Manager is authorized and directed to forward the original Corrected Permanent Easement for Bus Shelter Encroachment on City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of 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 Corrected Permanent Easement for Bus Shelter Encroachment on City-Owned Property and copies of the other documents to the grantee.

8. There are no proceeds associated with this transaction.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

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