

★ Roll Call Number
18-0148

Agenda Item Number
39

Date January 22, 2018

**HOLD HEARING FOR CONVEYANCE OF A PERMANENT EASEMENT FOR
STORM SEWER RIGHT-OF-WAY, PUMP STATION, AND FLOOD PROTECTION
LEVEE ON CITY-OWNED PROPERTY LOCATED AT 227 63RD STREET TO THE
CITY OF WEST DES MOINES**

WHEREAS, the City of Des Moines is owner of property located at 227 63rd Street (hereinafter "Property"), more particularly described below; and

WHEREAS, the City of West Des Moines, plans to build a storm sewer and storm water pump station on the Property and has requested a permanent easement on the property for a Storm Sewer Right-of-Way, Pump Station and Flood Protection Levee, on the Property to allow said new improvements to be installed and maintained and to allow West Des Moines to maintain the exiting levees and flood walls; and

WHEREAS, a Permanent Easement for Storm. Sewer Right-of-Way, Pump Station and Flood Protection Levee is required by the First Amended and Restated Iowa Code 28E Agreement Between the City of Des Moines, Iowa, and the City of West Des Moines, Iowa. Providing for the Operation, Maintenance, and Security of the Raccoon River and Walnut Creek Flood Protection Improvements Constructed by the U.S. Army Corps of Engineers, which agreement will be presented to Council at the January 22, 2018 meeting; and

WHEREAS, the City will not be inconvenienced by the conveyance of said Permanent Easement for Storm Sewer Right-of-Way, Pump Station and Flood Protection Levee on the Property.

WHEREAS, on January 8, 2018, by Roll Call No. 18-044, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the Property be set down for hearing on January 22, 2018, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey the Property 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 the 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 a Permanent Easement for Storm Sewer Right-of-Way, Pump Station,

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and Flood Protection Levee upon City-owned property located at 227 63rd Street, as described below, are hereby overruled and the hearing is closed.

2. The public would not be inconvenienced by reason of the conveyance of said Permanent Easement for Storm Sewer Right-of-Way, Pump Station and Flood Protection Levee on the Property, legally described as follows, to the City of West Des Moines for \$1.00, and said conveyance be and is hereby approved:

A TRACT OF LAND LOCATED IN OUTLOT X AND ALL OF LOT 6 OF MURROWDALE PLAT 3, AN OFFICIAL PLAT, AS RECORDED IN BOOK X, PAGE 75 AND ALL OF LOT 8 OF MURROWDALE PLAT 2, AN OFFICIAL PLAT, RECORDED IN BOOK Q, PAGE 107 OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 11, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN; THENCE SOUTH 00° 02' 56" WEST, 1409.44 FEET ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 11; THENCE SOUTH 89° 57' 04" EAST 59.39 FEET TO THE NORTHWEST CORNER OF SAID LOT 6 ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89° 57' 56" EAST, 115.60 FEET ALONG THE NORTH LINE OF SAID LOT 6 TO THE EASTERLY LINE OF SAID OUTLOT X; THENCE SOUTH 00° 04' 47" EAST, 132.70 FEET ALONG SAID EASTERLY LINE; THENCE SOUTH 25° 48' 52" EAST, 185.82 FEET CONTINUING ALONG SAID EASTERLY LINE; THENCE SOUTH 89° 57' 57" WEST, 71.52 FEET TO THE SOUTHEAST CORNER OF SAID LOT 8; THENCE SOUTH 89° 57' 57" WEST, 125.00 FEET ALONG THE SOUTH LINE OF SAID LOT 8 TO THE EAST RIGHT-OF-WAY LINE OF 63RD STREET; THENCE NORTH 00° 02' 04" WEST, 300.03 FEET ALONG SAID EAST RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 41,468 SQUARE FEET OR 0.95 ACRES MORE OR LESS.

3. The Mayor is authorized and directed to sign the Permanent Easement for Storm Sewer Right-Of-Way, Pump Station, and Flood Protection Levee for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. The City Clerk is authorized and directed to forward the original of the Permanent Easement for Storm Sewer Right-Of-Way, Pump Station, and Flood Protection Levee, 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.

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5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Storm Sewer Right-Of-Way, Pump Station, and Flood Protection Levee, 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.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall deliver the original of the Permanent Easement for Storm Sewer Right-Of-Way, Pump Station, and Flood Protection Levee to the grantee.
7. Non-project related land sale proceeds are used to support general operating budget expenses:
 Org – EG064090.

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:
Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

RW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
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