



Roll Call Number

18-1117

Agenda Item Number

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Date June 25, 2018

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF PROPERTY INTERESTS PURCHASED FOR THE EAST 42ND STREET AND HUBBELL AVENUE INTERSECTION IMPROVEMENTS PROJECT TO THE STATE OF IOWA, FOR THE BENEFIT AND USE OF THE IOWA DEPARTMENT OF TRANSPORTATION (IDOT)

WHEREAS, on August 24, 2015, by Roll Call No. 15-1407, the City Council approved and authorized the execution of Iowa Department of Transportation Agreement for the East 42nd Street and Hubbell Avenue Improvements Project (Agreement No. 2016-TS-005); and

WHEREAS, on April 11, 2016, by Roll Call No. 16-0558, the City Council authorized acquisition of the necessary property interests for the East 42nd Street and Hubbell Avenue Intersection Improvements Project by gift, negotiation, or condemnation; and

WHEREAS, in order to effectuate the IDOT agreement, it is necessary for the City of Des Moines to transfer public road jurisdiction and convey certain right-of-way acquired by the City for the Project, as described below, by Permanent Easement for Street Right-of-Way and by Access Rights Deed to the State of Iowa, for the benefit and use of the IDOT, in accordance with Sections 306.42 and 364.7(3) of the Iowa Code; and

WHEREAS, on June 11, 2018, by Roll Call No. 18-0987, it was duly resolved by the City Council that the proposed conveyance of property interests purchased for the East 42nd Street and Hubbell Avenue Intersection Improvements Project, be set down for hearing on June 25, 2018, at 5:00 p.m., in the City Council Chamber; and

WHEREAS, due notice of said proposal to convey this Permanent Easement for Street Right-of-Way and Access Rights Deed was given to all necessary parties 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 jurisdictional transfer and conveyance of this property as described below are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of the transfer of public road jurisdiction and conveyance of property interests in the vicinity of 4200 Hubbell Avenue, Des Moines, Iowa, to the State of Iowa, for the benefit and use of the Iowa Department of Transportation, as required for the East 42nd



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Street and Hubbell Avenue Intersection Improvements Project, which right-of-way was acquired by the City of Des Moines pursuant to a Quit Claim Deed recorded on May 16, 2018, in Book 16922, Page 621 in the office of the Polk County Recorder, and is legally described as follows:

PERMANENT EASEMENT FOR STREET RIGHT-OF-WAY

A PART OF LOT 11, CAPITOL HEIGHTS REPLAT, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH CORNER OF SAID LOT 11; THENCE SOUTH 00°(DEGREES) 10'(MINUTES) 26"(SECONDS) EAST ALONG THE WEST LINE OF SAID LOT, 282.96 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 63°30'40" EAST, 24.40 FEET TO A POINT BEING 16.00 FEET NORTH OF AND PERPENDICULAR TO THE SOUTH LINE OF SAID LOT; THENCE NORTH 54°42'54" EAST ALONG A LINE 16.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE, 150.93 FEET TO A POINT ON THE EAST LINE OF SAID LOT; THENCE SOUTH 35°13'18" EAST ALONG SAID EAST LINE, 14.00 FEET TO A POINT BEING 2.00 FEET NORTH OF AND PERPENDICULAR TO SAID SOUTH LINE; THENCE SOUTH 54°42'54" WEST ALONG A LINE BEING 2.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE, 187.42 FEET TO A POINT ON SAID WEST LINE; THENCE NORTH 0°10'26" WEST ALONG SAID WEST LINE, 43.40 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRES (2842 SQ. FT.)

ACCESS RIGHTS DEED

RESTRICTED ACCESS CONTROL ALONG THE EAST RIGHT OF WAY LINE OF EAST 42ND STREET AND THE NORTH RIGHT OF WAY LINE OF HUBBELL AVENUE AS PRESENTLY ESTABLISHED BEING A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH CORNER OF LOT 11, CAPITOL HEIGHTS REPLAT, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND ALSO BEING A POINT ON SAID EAST RIGHT OF WAY LINE; THENCE SOUTH 0°10'26" EAST ALONG SAID EAST RIGHT OF WAY, 290.10 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 0°10'26" EAST ALONG SAID EAST RIGHT OF WAY, 73.87 FEET; THENCE SOUTH 63°30'40" EAST CONTINUING ALONG SAID EAST RIGHT OF WAY, 24.40 FEET TO SAID NORTH RIGHT OF WAY; THENCE NORTH 54°42'54" EAST ALONG SAID NORTH RIGHT OF WAY, 109.08 FEET TO THE POINT OF TERMUNUS.

3. That the jurisdictional transfer and conveyance by the City of Des Moines of the above described right-of-way to the State of Iowa, for the benefit and use of the Department of Transportation, in accordance with Sections 306.42 and 364.7(3) of the Iowa Code, be and is hereby approved.



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- 4. The Mayor is authorized and directed to sign the Permanent Easement for Street Right-of-Way and Access Rights Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
- 6. The City Clerk is authorized and directed to forward the original of this Permanent Easement for Street Right-of-Way and Access Rights Deed, 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.
- 7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Street Right-of-Way and Access Rights Deed, 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.
- 8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Street Right-of-Way and Access Rights Deed and copies of the other documents to the grantee.
- 9. There will be no proceeds associated with the conveyance of this property.

Moved by Westergaard 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		
<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