

★ Roll Call Number
18-1699

Agenda Item Number
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Date October 8, 2018

HOLD HEARING FOR VACATION OF A PORTION OF NE 47TH COURT AND APPROVAL OF LAND EXCHANGE AGREEMENT BETWEEN HUBBELL REALTY COMPANY AND THE CITY OF DES MOINES IN CONJUNCTION WITH THE DES MOINES RIVER TRAIL – PHASE 2 PROJECT

WHEREAS, Hubbell Realty Company (herein “Hubbell Realty”), is the owner of properties located along the south side of Hartford Avenue and east of SE 22nd Street (herein “Hubbell Realty Parcels”), portions of which are required for the Des Moines River Trail – Phase 2 Project; and

WHEREAS, the City of Des Moines owns a segment of NE 47th Court right-of-way, south of Hubbell Avenue, (“City Parcel”), which property is needed for secondary fire access and pedestrian access from Hubbell Avenue for the Summersfield single-family residential subdivision, a development undertaken by Hubbell Realty Company; and

WHEREAS, on July 9, 2018, by Roll Call No. 18-1151 the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a City-initiated request for vacation of the City Parcel for secondary fire access and pedestrian access from Hubbell Avenue for the Summersfield single-family residential subdivision, subject to the following conditions:

- (1) Vacation of only that portion of right-of-way outside of Hubbell Avenue frontage road system.
- (2) Any conveyance shall be subject to reservation of access easements for emergency vehicles and pedestrians/bicycles.

WHEREAS, City staff and Hubbell Realty have negotiated a Land Exchange Agreement by which Hubbell Realty will convey the Hubbell Realty Parcels, including a Permanent Easement for Recreational Trail, a Temporary Easement for Recreational Trail, and a Temporary Easement for Grading to the City for the Des Moines River Trail – Phase 2 Project, in exchange and as consideration for the City’s conveyance to Hubbell Realty of the City Parcel, subject to the reservation for an easement for all utilities located within the City Parcel, with all properties being exchanged “as-is” and closing subject to environmental review if desired by either party; and

WHEREAS, the City Plan and Zoning Commission’s second condition for the City Parcel will be satisfied through the City’s subdivision platting process; and

WHEREAS, the properties to be exchanged have been determined by the City’s Real Estate Division to be comparable in value, condition, and use; and

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WHEREAS, there is no known current or anticipated public need for the City Parcel proposed to be vacated and conveyed to Hubbell Realty, and the City will not be inconvenienced by the sale of said property, and will benefit from acquisition and acceptance of the Hubbell Realty Parcels and the permanent and temporary easements therein.

WHEREAS, on September 24, 2018 by Roll Call No. 18-1580, it was duly resolved by the City Council that the proposed conveyance be set down for hearing on October 8, 2018 at 5:00 p.m., in the Council Chamber;

WHEREAS, due notice of said proposal to vacate and convey the City Parcel was given to all interested parties as required by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said 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, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed conveyance of the City Parcel 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 the vacation of said street right-of-way, legally described as follows, and said vacation is hereby approved:

PARCEL 2018-154

PART OF LOT A IN GLENN ACRES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 41 IN SAID GLENN ACRES, A POINT ON THE WEST LINE OF SAID LOT A; THENCE NORTH 00°(DEGREES) 04'(MINUTES) 01"(SECONDS) EAST, 344.45 FEET ALONG THE WEST LINE OF SAID LOT A TO THE SOUTHEAST CORNER OF THAT EASEMENT FOR

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HIGHWAY PURPOSES ACROSS SAID LOT 41 FILED IN BOOK 4389 AT PAGE 709 IN THE OFFICE OF THE POLK COUNTY RECORDER; THENCE NORTH 53°06'52" EAST, 51.15 FEET TO THE SOUTHWEST CORNER OF THAT EASEMENT FOR HIGHWAY PURPOSES ACROSS LOT 42 IN SAID GLENN ACRES FILED IN BOOK 4641 AT PAGE 775 IN THE OFFICE OF THE POLK COUNTY RECORDER, A POINT ON THE EAST LINE OF SAID LOT A; THENCE SOUTH 00°12'01" WEST, 375.29 FEET ALONG THE EAST LINE OF SAID LOT A; THENCE NORTH 89°47'59" WEST, 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,545 SQUARE FEET.

3. The proposed sale of such vacated street right-of-way, legally described below, subject to the City's reservation of an easement for all utilities therein, to Hubbell Realty Company, in exchange and as consideration for conveyance to the City of the real property on the southeast side of SE 22nd and Hartford Avenue and a Permanent Easement for Recreational Trail, a Temporary Easement for Recreational Trail, and a Temporary Easement for Grading, all for the Des Moines River Trail – Phase 2 Project, upon property owned by Hubbell Realty Company, all legally described as follows, is hereby approved:

PROPERTY TO BE CONVEYED FROM THE CITY OF DES MOINES TO
HUBBELL REALTY COMPANY:

PARCEL 2018-154

PART OF VACATED LOT A IN GLENN ACRES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 41 IN SAID GLENN ACRES, A POINT ON THE WEST LINE OF SAID LOT A; THENCE NORTH 00°(DEGREES) 04'(MINUTES) 01"(SECONDS) EAST, 344.45 FEET ALONG THE WEST LINE OF SAID LOT A TO THE SOUTHEAST CORNER OF THAT EASEMENT FOR HIGHWAY PURPOSES ACROSS SAID LOT 41 FILED IN BOOK 4389 AT PAGE 709 IN THE OFFICE OF THE POLK COUNTY RECORDER; THENCE NORTH 53°06'52" EAST, 51.15 FEET TO THE SOUTHWEST CORNER OF THAT EASEMENT FOR HIGHWAY PURPOSES ACROSS LOT 42 IN SAID GLENN ACRES FILED IN BOOK 4641 AT PAGE 775 IN THE OFFICE OF THE POLK COUNTY RECORDER, A POINT ON THE EAST LINE OF SAID LOT A; THENCE

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SOUTH 00°12'01" WEST, 375.29 FEET ALONG THE EAST LINE OF SAID LOT A;
THENCE NORTH 89°47'59" WEST, 40.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 14,545 SQUARE FEET.

PROPERTY TO BE CONVEYED FROM HUBBELL REALTY COMPANY TO THE
CITY OF DES MOINES:

FEE SIMPLE

PARCEL 2018-64

All of Outlot Z and part of Outlots X and Y all in WOODS ON THE RIVER PLAT 9, an
Official Plat, now included in and forming a part of the City of Des Moines, Polk County,
Iowa, being more particularly described as follows:

Beginning at the easternmost corner of said Parcel Z on the southerly right-of-way line of
E Hartford Avenue; thence South 55°(degrees) 24'(minutes) 00"(seconds) West, 541.69
feet along the southeasterly lines of said Outlots Z and X; thence North 47°15'17" West,
837.14 feet to the southeasterly line of said Outlot Y; thence South 38°40'47" West,
150.00 feet along the southeasterly line of said Outlot Y; thence South 08°56'19" West,
65.39 feet along the southeasterly line of said Outlot Y; thence North 84°36'33" West,
162.56 feet; thence North 52°14'10" East, 118.64 feet; thence North 59°02'40" West,
249.43 feet to the westerly line of said Outlot Y on the easterly right-of-way line of SE
22nd Street; thence northeasterly 48.84 feet along the arc of a curve in the westerly line of
said Outlot Y concave westerly and having a radius of 407.82 feet, a central angle of
06°51'40" and a 48.81 feet long chord that bears North 21°24'00" East; thence North
17°58'55" East, 630.96 feet along the westerly line of said Outlots Y and Z; thence
northeasterly 67.87 feet along the arc of a curve in the northerly line of said Outlot Z
concave southerly and having a radius of 35.00 feet, a central angle of 111°06'00" and a
57.72 feet long chord that bears North 73°31'55" East; thence South 50°55'15" East,
1,518.24 feet along the northeasterly line of said Outlot Z to the point of beginning.

Containing 17.43 acres.

AND

A tract of land in a part of Outlot "W" and Outlot "X" of Woods on the River Plat 1; an
Official Plat, and a part of Government Lot 5, and a part of Lots 13 and 14 of the Official
Plat of Government Lot 6, and a part of Lot 9 of the Official Plat of the South 1/2 of the

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Northwest 1/4 and the Southwest 1/4 of the Northeast 1/4, and a part of Parcel "F" recorded in Book 7962 Page 860 at the Recorder's office of Polk County, Iowa, and a part of the Southwest 1/4, all being in section 13, township 78 North, range 24 West of the 5th p.m., all now included in and forming a part of the city of Des Moines, Polk county, Iowa and described as follows:

All of parcel "k" recorded in book 12289 page 196 at the Recorder's office of Polk County, Iowa, *-except* parcel 2018-65 recorded in Book 17034 Page 271 at the Recorder's office of Polk County, Iowa.

Containing approximately 74.88 acres.

AND

PERMANENT EASEMENT FOR RECREATIONAL TRAIL:

Part of Parcel K in Section 13, Township 78 North, Range 24 West of the 5th P.M., in the City of Des Moines, Polk County, Iowa, depicted and described on that Plat of Survey filed in Book 12289 at Page 196 in the Office of the Recorder for Polk County, Iowa, being more particularly described as follows:

Commencing as a point of reference at the Southeast corner of Lot 28 in Woods on the River Plat 3, an Official Plat, in the City of Des Moines, Polk County, Iowa, a point on the West line of said Parcel K; Thence North 00°(degrees) 53'(minutes) 56"(seconds) West, 58.30 feet along the West line of said Parcel K; Thence South 84°50'03" East, 153.07 feet to the Point of Beginning; Thence northeasterly 181.38 feet along the arc of a curve concave southeasterly and having a radius of 265.00 feet, a central angle of 39°13'01", and a 177.86 feet long chord that bears North 61°28'05" East; Thence North 81°04'36" East, 142.85 feet; Thence southeasterly 164.42 feet along the arc of a curve concave southerly and having a radius of 365.00 feet, a central angle of 25°48'36", and a 163.03 feet long chord that bears South 86°01'06" East; Thence South 02°29'05" West, 31.07 feet; Thence northwesterly 158.63 feet along the arc of a curve concave southerly and having a radius of 335.00 feet, a central angle of 27°07'54", and a 157.16 feet long chord that bears North 85°21'27" West; Thence South 81°04'36" West, 142.85 feet; Thence southwesterly 137.60 feet along the arc of a curve concave southeasterly and having a radius of 235.00 feet, a central angle of 33°32'53", and a 135.64 feet long chord that bears South 64°18'09" West; Thence North 84°50'03" West, 38.85 feet to the point of beginning.

Containing 13,921 square feet.

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AND

TEMPORARY EASEMENT FOR RECREATIONAL TRAIL

Part of Parcel K in Section 13, Township 78 North, Range 24 West of the 5th P.M., in the City of Des Moines, Polk County, Iowa, depicted and described on that Plat of Survey filed in Book 12289 at Page 196 in the Office of the Recorder for Polk County, Iowa, being more particularly described as follows:

Beginning at the Southeast corner of Lot 19 in Woods on the River Plat 4, an Official Plat, in the City of Des Moines, Polk County, Iowa, a point on the West line of said Parcel K; Thence North 21°(degrees) 31'(minutes) 35"(seconds) East, 9.70 feet along the West line of said Parcel K; Thence South 68°23'53" East, 38.54 feet; Thence southeasterly 38.05 feet along the arc of a curve concave southwesterly and having a radius of 115.00 feet, a central angle of 18°57'18", and a 37.87 feet long chord that bears South 58°55'14" East; Thence South 49°26'35" East, 31.63 feet; Thence southeasterly 13.79 feet along the arc of a curve concave northeasterly and having a radius of 85.00 feet, a central angle of 9°17'33", and a 13.77 feet long chord that bears South 54°05'21" East; Thence South 58°44'07" East, 108.98 feet; Thence southeasterly 47.06 feet along the arc of a curve concave southwesterly and having a radius of 115.00 feet, a central angle of 23°26'40", and a 46.73 feet long chord that bears South 47°00'47" East; Thence South 35°17'27" East, 17.87 feet; Thence southeasterly 90.28 feet along the arc of a curve concave northeasterly and having a radius of 185.00 feet, a central angle of 27°57'33", and a 89.38 feet long chord that bears South 49°16'14" East; Thence South 63°15'01" East, 119.49 feet; Thence southeasterly 66.22 feet along the arc of a curve concave southwesterly and having a radius of 130.00 feet, a central angle of 29°11'01", and a 65.50 feet long chord that bears South 48°39'30" East; Thence South 34°04'00" East, 24.56 feet; Thence South 81°04'36" West, 33.14 feet; Thence North 34°04'00" West, 10.48 feet; Thence northwesterly 50.93 feet along the arc of a curve concave southwesterly and having a radius of 100.00 feet, a central angle of 29°11'01", and a 50.39 feet long chord that bears North 48°39'30" West; Thence North 63°15'01" West, 119.49 feet; Thence northwesterly 104.92 feet along the arc of a curve concave northeasterly and having a radius of 215.00 feet, a central angle of 27°57'33", and a 103.88 feet long chord that bears North 49°16'14" West; Thence North 35°17'27" West, 17.87 feet; Thence northwesterly 34.78 feet along the arc of a curve concave southwesterly and having a radius of 85.00 feet, a central angle of 23°26'40", and a 34.54 feet long chord that bears North 47°00'47" West; Thence North 58°44'07" West, 108.98 feet; Thence northwesterly 18.65 feet along the arc of a curve concave northeasterly and having a radius of 115.00 feet, a central angle of 9°17'33", and a 18.63 feet long chord

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that bears North 54°05'21" West; Thence North 49°26'35" West, 31.63 feet; Thence northwesterly 28.12 feet along the arc of a curve concave southwesterly and having a radius of 85.00 feet, a central angle of 18°57'18", and a 27.99 feet long chord that bears North 58°55'14" West; Thence North 68°23'53" West, 38.54 feet to the West line of said Parcel K; Thence North 21°38'08" East, 20.30 feet along the West line of said Parcel K to the point of beginning.

Containing 17,413 square feet.

AND

TEMPORARY EASEMENT FOR GRADING

Part of Parcel K in Section 13, Township 78 North, Range 24 West of the 5th P.M., in the City of Des Moines, Polk County, Iowa, depicted and described on that Plat of Survey filed in Book 12289 at Page 196 in the Office of the Recorder for Polk County, Iowa, being more particularly described as follows:

Commencing as a point of reference at the Southeast corner of Lot 19 in Woods on the River Plat 4, an Official Plat, in the City of Des Moines, Polk County, Iowa, a point on the West line of said Parcel K; Thence North 21°(degrees) 31'(minutes) 35"(seconds) East, 9.70 feet along the West line of said Parcel K; Thence South 68°23'53" East, 38.54 feet; Thence southeasterly 38.05 feet along the arc of a curve concave southwesterly and having a radius of 115.00 feet, a central angle of 18°57'18", and a 37.87 feet long chord that bears South 58°55'14" East; Thence South 49°26'35" East, 31.63 feet; Thence southeasterly 13.79 feet along the arc of a curve concave northeasterly and having a radius of 85.00 feet, a central angle of 9°17'33", and a 13.77 feet long chord that bears South 54°05'21" East; Thence South 58°44'07" East, 108.98 feet to the Point of Beginning; Thence continuing South 58°44'07" East, 261.30 feet; Thence South 34°04'00" East, 79.93 feet; Thence South 55°56'00" West, 30.00 feet; Thence North 60°08'59" West, 228.01 feet; Thence North 37°32'21" West, 100.25 feet; Thence North 31°15'53" East, 30.00 feet to the point of beginning.

Containing 18,334 square feet.

4. The Mayor is authorized and directed to sign the Land Exchange Agreement and, prior to closing, the Quit Claim Deed and acceptance of the Hubbell Realty Parcels and all easements therein for the exchange as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to deliver the aforementioned documents to the Real Estate Division Manager for recording and closing purposes,

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together with a certified copy of this resolution and proof of publication of the notice of this hearing.

5. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Land Exchange Agreement to confirm compliance prior to closing; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreement, following approval of the City's Legal Department as to form; to proceed to closing in accordance with the terms set forth herein and in the Agreement.
6. There are no proceeds associated with this transaction.

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

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.

J. M. Franklin Cownie Mayor

Diane Rauh City Clerk