

★ Roll Call Number  
24-1381

Agenda Item Number  
46

Date October 7, 2024

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF EXCESS CITY-OWNED PROPERTY LOCATED IN THE FOURMILE CREEK FLOODPLAIN TO POLK COUNTY, IOWA FOR THE USE AND BENEFIT OF THE POLK COUNTY CONSERVATION BOARD FOR THE LOWER FOURMILE CREEK GREENWAY PROJECT**

**WHEREAS**, on July 15, 2019, by Roll Call No. 19-1121, the City Council of the City of Des Moines, Iowa (“City”) approved the Lower Fourmile Creek Greenway Management and Maintenance Chapter 28E Agreement (“28E Agreement”) between the City of Des Moines and the Polk County Conservation Board (“PCCB”); and

**WHEREAS**, the 28E Agreement provides for the transfer of certain lands from the City to Polk County to be managed by PCCB in accordance with the Lower Fourmile Creek Greenway Master Plan; and

**WHEREAS**, the City has identified a number of excess City-owned properties (“Property”) that are ready to be transferred to Polk County under the terms of said 28E Agreement; and

**WHEREAS**, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to convey the Property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, subject to the following conditions:

- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
- b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail
- c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
- d) Compliance with the Lower Fourmile Creek Greenway Master Plan; and

**WHEREAS**, there is no known current or future public need for the City-owned property proposed to be conveyed and the City will not be inconvenienced by the conveyance of said Property; and

**WHEREAS**, on September 16, 2024, by Roll Call No. 24-1237, it was duly resolved by the City Council that the proposed conveyance be set down for hearing on October 7, 2024, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and



Roll Call Number

24-1381

Agenda Item Number

46

Date October 7, 2024

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, the objections to the proposed conveyance of the City-owned property, real estate located in the Fourmile Creek Floodplain, as described below, are hereby overruled and the hearing is closed:

THE NORTH 9.0 OF LOT 633, AND

THE NORTH HALF (N 1/2) OF LOT 866, AND

LOTS 632, 634, 635, 644, AND 645, AND

LOTS 849 THROUGH 853, AND

LOTS 856, 857, 891, 902 AND 903, AND

ALL IN FOUR MILE, AN OFFICIAL PLAT, AND

LOTS 239 THROUGH 258 IN ELMWOOD PARK, AN OFFICIAL PLAT, AND

LOTS 4, 5 AND 6 IN SAID ELMWOOD PARK, - EXCEPT THE FOLLOWING DESCRIBED AREA: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 12.14 FEET; THENCE SOUTHWESTERLY ALONG A CURVE WITH A RADIUS OF 370 FEET THROUGH SAID LOTS 4, 5 AND 6 TO A POINT ON THE SOUTH LINE OF SAID LOT 6, SAID POINT BEING 36.38 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 6; THENCE EAST TO THE POINT OF BEGINNING-,

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

2. That the conveyance by the City of Des Moines of said real property to Polk County, Iowa, for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project, is in accordance with the above 28E Agreement and Iowa Code 364.7, and subject to the following conditions, be and is hereby approved:



**Roll Call Number**

24-1381

**Agenda Item Number**

46

**Date** October 7, 2024

- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
  - b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail.
  - c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
  - d) Compliance with the Lower Fourmile Creek Greenway Master Plan.
3. The Mayor is authorized and directed to sign the Quit Claim Deed 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 this Quit Claim 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 delivered to the Polk County Conservation Board for their acceptance.
  5. Following acceptance of the Quit Claim Deed by the Polk County Conservation Board, the Real Estate Division Manager is authorized and directed to forward the original of the fully executed Quit Claim 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.
  6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and copies of the other documents to the Polk County Conservation Board.
  7. There will be no proceeds associated with the conveyance of this property.



Roll Call Number

24-1381

Agenda Item Number

46

Date October 7, 2024

Moved by Westergaard to adopt. Second by Gatto.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, SIMONSON, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL. Includes Mayor signature Connie Boesen.

CERTIFICATE
I, Laura Baumgartner, 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.
Laura Baumgartner City Clerk