



Roll Call Number

25-1044

Agenda Item Number

24

Date August 4, 2025

**SET HEARING FOR VACATION OF PORTIONS OF EAST 37<sup>TH</sup> STREET, EAST 38<sup>TH</sup> STREET, EAST JEFFERSON AVENUE AND WILLIAMS STREET RIGHT-OF-WAY LOCATED IN THE FOURMILE CREEK FLOODPLAIN AND CONVEYANCE TO 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**, on July 14, 2025, by Roll Call No. 25-0972, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a City initiated request to vacate the following segments of public street in the vicinity of East 37<sup>th</sup> Street, Mattern Avenue and East Jefferson Avenue ("Property") to allow for the removal of the roadways and the restoration of the areas for incorporation into the Lower Fourmile Creek Greenway:

- East 37<sup>th</sup> Street north of Easton Boulevard;
- East 38<sup>th</sup> Street between East Mattern Avenue and East Jefferson Avenue;
- East Jefferson Avenue east of East 38<sup>th</sup> Street; and
- Williams Street south of East Jefferson Avenue;

subject to the reservation of easements for existing utilities in place until such time as they are abandoned or relocated at the Polk County Conservation Board's expense; and

**WHEREAS**, in accordance with the 28E Agreement and Iowa Code 364.7, the City proposes to vacate and 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 Lower 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.



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- 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.

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and conveyed, and the City will not be inconvenienced by the vacation and conveyance of said Property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating East 37<sup>th</sup> Street north of Easton Boulevard, East 38<sup>th</sup> Street between East Mattern Avenue and East Jefferson Avenue, East Jefferson Avenue east of East 38<sup>th</sup> Street, and Williams Street south of East Jefferson Avenue, Des Moines, Iowa, legally described as follows, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated:

**PART OF EAST 37<sup>TH</sup> STREET BETWEEN LOT 808 AND EASTON BOULEVARD**

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO A LINE PROJECTED SOUTHWESTERLY FROM A LINE DESCRIBED AS GOING FROM A POINT ON THE EAST LINE OF LOT 793 IN SAID FOUR MILE THAT IS 19.11 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 793 TO A POINT ON THE WEST LINE OF SAID LOT 793 THAT IS 24.08 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 793, SAID WEST LINE OF SAID LOT 793 ALSO BEING THE EAST LINE OF SAID LOT L; THENCE SOUTHWESTERLY ALONG SAID PROJECTED LINE TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808; THENCE EAST ALONG SAID WESTERLY EXTENSION TO THE SOUTHWEST CORNER OF SAID LOT 808 AND TO THE POINT OF BEGINNING. SAID AREA CONTAINING APPROXIMATELY 33,112 SQUARE FEET.

AND



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**PART OF EAST 37<sup>TH</sup> STREET BETWEEN LOTS 808 AND 813, FOUR MILE**

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 813 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808 TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 813; THENCE EAST ALONG THE WESTERLY EXTENSION OF SAID LOT 813 TO THE SOUTHWEST CORNER OF SAID LOT 813 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 10,000 SQUARE FEET.

AND

**PART OF EAST 38<sup>TH</sup> STREET AND PART OF EAST JEFFERSON AVENUE**

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 32, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5<sup>TH</sup> P.M., AND A PART OF LOTS N AND P IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 423 IN SAID ELMWOOD PARK; THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 423 TO THE SOUTH LINE OF SAID LOT N; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT N AND ALONG THE SOUTH LINE OF SAID LOT P TO THE WEST LINE OF SAID LOT P; THENCE CONTINUING EAST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT P, A DISTANCE OF 25 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOT P TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 402 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 402 TO THE WEST LINE OF SAID LOT 402; THENCE SOUTH ALONG THE WEST LINE OF LOTS 402 AND 403 IN SAID ELMWOOD PARK TO THE NORTH LINE OF SAID LOT N; THENCE EAST ALONG THE NORTH LINE OF SAID LOT N TO THE SOUTHEAST CORNER OF SAID LOT 423 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 32,435 SQUARE FEET.

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**PART OF WILLIAMS STREET**

ALL THAT PART OF LOT M, AND LOTS 98 THROUGH 100 IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 126 IN SAID ELMWOOD PARK, SAID CORNER BEING ON THE WEST LINE OF SAID LOT M; THENCE NORTH ALONG SAID WEST LINE TO THE NORTHEAST CORNER OF LOT 117 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 117 TO THE EAST LINE OF SAID LOT M; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF SAID LOT 100; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 100, A DISTANCE OF 53.4 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 98; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF SAID LOT 126 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 8,073 SQUARE FEET.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey the vacated street right-of-way, as legally described below, to Polk County, Iowa for the use and benefit of the Polk County Conservation Board at no cost in accordance with Iowa Code 364.7(3) 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.

**VACATED EAST 37<sup>TH</sup> STREET BETWEEN LOT 808 AND EASTON BOULEVARD**

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO A LINE PROJECTED SOUTHWESTERLY



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FROM A LINE DESCRIBED AS GOING FROM A POINT ON THE EAST LINE OF LOT 793 IN SAID FOUR MILE THAT IS 19.11 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 793 TO A POINT ON THE WEST LINE OF SAID LOT 793 THAT IS 24.08 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 793, SAID WEST LINE OF SAID LOT 793 ALSO BEING THE EAST LINE OF SAID LOT L; THENCE SOUTHWESTERLY ALONG SAID PROJECTED LINE TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808; THENCE EAST ALONG SAID WESTERLY EXTENSION TO THE SOUTHWEST CORNER OF SAID LOT 808 AND TO THE POINT OF BEGINNING. SAID AREA CONTAINING APPROXIMATELY 33,112 SQUARE FEET.

AND

**VACATED EAST 37<sup>TH</sup> STREET BETWEEN LOTS 808 AND 813, FOUR MILE**

A PART OF LOT L IN FOUR MILE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 813 IN SAID FOUR MILE, SAID CORNER ALSO BEING ON THE EAST LINE OF SAID LOT L; THENCE SOUTH ALONG SAID EAST LINE TO THE SOUTHWEST CORNER OF LOT 808 IN SAID FOUR MILE; THENCE WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 808 TO THE WEST LINE OF SAID LOT L; THENCE NORTH ALONG SAID WEST LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 813; THENCE EAST ALONG THE WESTERLY EXTENSION OF SAID LOT 813 TO THE SOUTHWEST CORNER OF SAID LOT 813 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 10,000 SQUARE FEET.

AND

**VACATED EAST 38<sup>TH</sup> STREET AND VACATED EAST JEFFERSON AVENUE**

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 32, TOWNSHIP 79 NORTH, RANGE 23 WEST OF THE 5<sup>TH</sup> P.M., AND A PART OF LOTS N AND P IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 423 IN SAID ELMWOOD PARK; THENCE SOUTH ALONG THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 423 TO THE SOUTH LINE OF SAID LOT N; THENCE WEST



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ALONG THE SOUTH LINE OF SAID LOT N AND ALONG THE SOUTH LINE OF SAID LOT P TO THE WEST LINE OF SAID LOT P; THENCE CONTINUING EAST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT P, A DISTANCE OF 25 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOT P TO THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 402 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 402 TO THE WEST LINE OF SAID LOT 402; THENCE SOUTH ALONG THE WEST LINE OF LOTS 402 AND 403 IN SAID ELMWOOD PARK TO THE NORTH LINE OF SAID LOT N; THENCE EAST ALONG THE NORTH LINE OF SAID LOT N TO THE SOUTHEAST CORNER OF SAID LOT 423 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 32,435 SQUARE FEET.

AND

**VACATED WILLIAMS STREET**

ALL THAT PART OF LOT M, AND LOTS 98 THROUGH 100 IN ELMWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 126 IN SAID ELMWOOD PARK, SAID CORNER BEING ON THE WEST LINE OF SAID LOT M; THENCE NORTH ALONG SAID WEST LINE TO THE NORTHEAST CORNER OF LOT 117 IN SAID ELMWOOD PARK; THENCE EAST ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 117 TO THE EAST LINE OF SAID LOT M; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTHWEST CORNER OF SAID LOT 100; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 100, A DISTANCE OF 53.4 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 98; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO THE SOUTHEAST CORNER OF SAID LOT 126 AND TO THE POINT OF BEGINNING, SAID AREA CONTAINING APPROXIMATELY 8,073 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the proposed conveyance is to be considered shall be on August 18, 2025, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal, and any other(s) submitted prior to or during the public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

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4. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
5. There will be no proceeds associated with the conveyance of this property.

Moved by Gatto to adopt. Second by Voss.

**APPROVED AS TO FORM:**/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED		APPROVED		
<u>Connie Boesen</u>				
		Mayor		

**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