



Council Communication

Office of the City Manager

Date May 19, 2008

Agenda Item No. 53

Roll Call No. 08-

Communication No. 08-294

Submitted by: Jeb E. Brewer, P.E.
City Engineer

AGENDA HEADING:

Hearing on adoption of the proposed Resolution of Necessity for sidewalk improvements

SYNOPSIS:

This is a public hearing on the proposed Resolution of Necessity for sidewalk improvements, as required by Iowa Code, before the City Council can proceed to utilize special assessments against benefited property owners as part of the method of financing as referenced below. The City Council has received requests for sidewalk to be constructed on parts of SE 14th Street and State Avenue. On April 21, 2008, under Roll Call Number 08-654, the City Council set May 19, at 5:00 p.m. for the public hearing to receive and consider both written and oral objections and endorsements to the adoption of the proposed Resolution of Necessity for construction sidewalk on the referenced sections of SE 14th Street and State Avenue. The City Engineer has tabulated below petitions received from property owners both for and against the project, will continue to tabulate any petitions received prior to the public hearing, and will report to the City Council at the May 19th hearing.

FISCAL IMPACT:

Amount: \$149,471.41 Total City Engineer's Preliminary Estimate for assessment purposes with individual estimates for the two streets as follows:

- SE 14th Street Sidewalk (west side except where sidewalk exists) from E McKinley Avenue to Cummins Road (Total Estimate \$114,700.04 with \$21,657.74 Assessed and \$93,042.30 City Cost - G.O. Bonds)
- State Avenue Sidewalk (except where sidewalk exists) from E 32nd Street to E 33rd Street (Total Estimate \$34,771.37 with \$11,878.81 Assessed and \$22,892.56 City Cost - G.O. Bonds)

Funding Source: 2008-2009 CIP, Page Sidewalk-7, School Routes and Priority Sidewalks, STR081, being \$33,536.55 from Special Assessments against benefited property owners and \$115,934.86 in G. O. Bonds

ADDITIONAL INFORMATION:

On August 21, 2006, under Roll Call 06-1711, the City Council adopted the following revised assessment policy for new sidewalk construction.

Assessment Policy for New Sidewalk Construction

Construction of new sidewalk, on one side or both sides of the street, shall be assessed to the abutting property owners on a front foot basis. The abutting property is assessed only for the actual sidewalk (4")

and 6" at driveways) fronting the property. Sidewalks at intersections that do not abut private property are constructed at City cost. The property owner will be assessed for only 50% of the actual sidewalk construction costs plus a maximum of 10% engineering costs. The City of Des Moines will pay the remaining 50% of the actual sidewalk construction costs plus the cost of grading, wall construction, tree removal, reconstruction of driveway approaches where necessary, right-of-way and easement costs, and engineering costs over 10% of the construction costs. A subsidy program will be available for residential property owners meeting income guidelines, which will pay 100% of the sidewalk assessment for qualifying property owners. The following exceptions will apply to the assessment program for the construction of new sidewalk:

- Multipurpose recreational trails are not assessed.
- If a sidewalk is constructed on a project utilizing federal funds or other non-City sources, the remaining cost of the sidewalk is not assessed to the abutting property owners.
- If a sidewalk is constructed as part of a streetscape project such as the Locust Streetscape project, the abutting property owners are not assessed.
- If there are special circumstances such as a major construction project where the sidewalk is an incidental item, or at the direction of the City Council, the special assessments may be reduced or eliminated.

Background and Recommendation

Requests from residents requesting construction of new sidewalks were submitted to the Council late in 2006 on the following two streets:

- SE 14th Street Sidewalk (west side) from E McKinley Avenue to Cummins Road
- State Avenue Sidewalk from E 32nd Street to E 33rd Street.

However, the sidewalk construction funds for the 2007 construction season were committed to construct new sidewalk on the north side of Hickman Road from 9th Street to ML King Jr. Parkway, and further action on the proposed sidewalk for these two streets was delayed.

On September 24, 2007, the City Council held an informal hearing regarding construction of new sidewalk on these streets and under Roll Call Number 07-1875 the Council authorized the City Manager to proceed with the preparation of plans and specifications for construction of these new sidewalks.

On April 21, 2008, under Roll Call Number 08-654, the City Council set May 19, at 5:00 p.m. for the public hearing to receive and consider both written and oral objections and endorsements to the adoption of the proposed Resolution of Necessity for construction of the following improvements:

Construction of Class "B" Portland cement concrete sidewalks, four (4) inches thick, [six (6) inches thick at driveways], together with all necessary appurtenances on:

- SE 14th Street Sidewalk (west side except where sidewalk exists) from E McKinley Avenue to Cummins Road, Activity ID 09-2006-004, Schedule No. 2007-02.
- State Avenue Sidewalk (except where sidewalk exists) from E 32nd Street to E 33rd Street, Activity ID 09-2007-003, Schedule No. 2007-01.

Pursuant to Iowa Code, Section 384.51, the City Council shall meet as specified in the published notice to property owners, and after hearing all objections and endorsements and after considering all written objections may consider adoption of resolution of necessity. A resolution of necessity requires for passage the vote of three-fourths of all the members of the council (6 votes for the City of Des Moines); except where a remonstrance has been signed by property owners subject to seventy-five percent or more of the amount of the proposed assessment, which would require a unanimous vote of the council.

On April 23, 2008, property owners on the two streets subject to special assessments were sent a mailing which contained general information, the official Notice to Property Owners of the hearing on May 19, 2008, a copy of City Council Communication Number 08-235, dated April 21, 2008, that explained the sidewalk assessment policy and provided further background information, a blank petition form that could be used to petition for or against the project, and each owner's preliminary assessment amount.

The Engineering Department has verified petitions from property owners received as of May 13, 2008, concerning the proposed sidewalk construction as follows:

- SE 14th Street Sidewalk (west side except where sidewalk exists) from E McKinley Avenue to Cummins Road: There have not been any petitions received either for or against the proposed sidewalk construction. On February 6, 2006, by Roll Call No. 06-290, the City Council received, filed, and referred to the City Manager a request regarding sidewalks on S.E. 14th Street from E. McKinley Avenue to Cummins Road. The City Manager was to review the assessment policy and the Engineering Department was to begin the process; and if the policy changed, this project was to be processed under the new policy. On August 21, 2006, by Roll Call No. 06-1711, the City Council approved a revised policy for assessment of new sidewalk construction, which has been used to prepare the proposed assessment schedule for this project.
- State Avenue Sidewalk (except where sidewalk exists) from E 32nd Street to E 33rd Street: 12 of the 19 property owners (63% by number representing 62% of the amount proposed to be assessed) have submitted petitions in favor of the sidewalk. 1 of the 19 property owners (5% by number representing 6% of the amount proposed to be assessed) has submitted a petition against the sidewalk. These percentages include the petitions received from 3236 E. University and 3228 State Avenue, which are presented on the May 19th agenda to receive and file.

The Engineering Department will continue to tabulate any petitions received prior to the public hearing and will report to the City Council on My 19th. At this time, the Staff recommends adoption of the Resolution of Necessity for sidewalk construction on the above referenced portions of SE 14th Street and State Avenue.

PREVIOUS COUNCIL ACTION(S):

Date: April 21, 2008

Roll Call Number: [08-650](#)

Action: Approving sidewalk on portions of SE 14th Street (west side except where sidewalk exists) from McKinley Avenue to Cummins Road and State Avenue (except where sidewalk exist) from E. 32nd Street to E. 33rd Street.

(A) [Communication](#) from City Manager recommending proposed sidewalk construction using special assessments. ([Council Communication No. 08-235](#)) Moved by Mahaffey to receive and file and accept the recommendation of the City Manager; refer to the City Manager to schedule a workshop to discuss trails, sidewalks and "Complete Streets" Master Plans. Motion Carried 7-0.

Date: April 21, 2008

Roll Call Number: [08-654](#)

Action: Approving sidewalk on portions of SE 14th Street (west side except where sidewalk exists) from McKinley Avenue to Cummins Road and State Avenue (except where sidewalk exist) from E. 32nd Street to E. 33rd Street.

(E) Proposed Resolution of Necessity, Notice to Property Owners of hearing and setting date of hearing, (5-19-08). Moved by Mahaffey to adopt. Motion Carried 7-0.

Date: September 24, 2007

Roll Call Number: [07-1875](#)

Action: On sidewalk construction for the following: Moved by Mahaffey to adopt. Motion Carried 7-0.

- (A) SE 14th Street (west side) from McKinley Avenue to Cummins Road.
- (B) State Avenue (both sides) from E. 32nd Street to E. 33rd Street.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Council Hearing on the Resolution of Necessity on May 19, 2008 and if adopted the normal Council actions to authorize bids, receive and file bids, designate lowest bidder, and approve contract and bond; also partial payments to the contractor and final acceptance of work.

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