

★ Roll Call Number

Agenda Item Number

55

Date September 14, 2009

Communication from William Lillis of Connolly Law Firm on behalf of Ruth A. Holt and Andrew Holt, 2715 Dean Avenue requesting reimbursement of Special Assessment payment for the E. 28<sup>th</sup> Street Project.

Moved by \_\_\_\_\_ to receive and file

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
KIERNAN				
HENSLEY				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ 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.

\_\_\_\_\_ City Clerk

# CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP

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JOHN CONNOLLY, JR. (1891-1975)  
GEORGE E. O'MALLEY (1905-1982)  
JOHN CONNOLLY III (1918-1998)  
BERNARD J. CONNOLLY (1920-1970)  
C. I. McNUTT (1901-1958)  
STREETAR CAMERON (1957-2008)

ESTABLISHED IN 1917

\*LICENSED IN IOWA & ILLINOIS

September 2, 2009

Mayor Cownie and Members of the City Council  
City of Des Moines  
400 Robert D. Ray Drive  
Des Moines, IA 50309

FILED  
CITY CLERK  
DES MOINES, IOWA  
SEP 2 2009 - 2 PM 12:22

RE: Ruth A. Holt and Andrew Holt, 2715 Dean Avenue - Request for Reimbursement of Special Assessment Payment for the East 28<sup>th</sup> Street Project

Dear Mayor and Members of the Council:

Please be advised that the Law Firm of Connolly O'Malley Lillis Hansen Olson LLP represents Ruth Holt and Andrew Holt. Mr. and Mrs. Holt were the previous owners of the property locally known as 2715 Dean Avenue in the City of Des Moines, Iowa. This property was the former site of a famous Des Moines business founded in the early 20<sup>th</sup> Century (Rollins Hosiery Mill). The mill was internationally known for the production of silk hosiery. During the Second World War, the mill converted from the production of hosiery to the production of parachutes in support of the war effort.

The property was eventually acquired by Pirelli Tire LLC and our clients, Ruth and Andrew Holt purchased the property from Pirelli Tire in July of 2004.

The property which the Holt's purchased required massive expenditures of time and money, in part to locate and remove the footings from the old Rollins Hosiery building, as well as replacement of soils and the clearing of the overall site.

In 2006, the Holt's worked with the City and agreed to a special assessment in the amount of \$13,616.15 for the installation of East 28<sup>th</sup> Street, a north/south street located on the eastern boundary of the Holt property at 2715 Dean Avenue.

Soon after the installation of the street, the City of Des Moines determined that the Holt property would be suitable for the City of Des Moines Fire Department Training Facility. Relying upon their powers of eminent domain, the City acquired the property from Mr. and Mrs. Holt in July of 2009.

The Holt's have paid their special assessment in full (\$13,616.15), but request that the amount of the special assessment for the East 28<sup>th</sup> Street property that was due and owing on the date of condemnation (July, 2009) be reimbursed to them. The amount which the Holt's request to be reimbursed to them is \$10,200.00. This request is made in light of the fact that the Holt's no longer own, control or derive any benefit from the East 28<sup>th</sup> Street Project. Going forward, the anticipated benefit of the East 28<sup>th</sup> Street Project will inure to the benefit of the City of Des Moines.

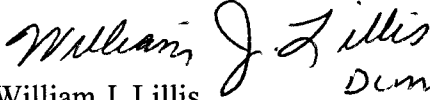
**CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP**

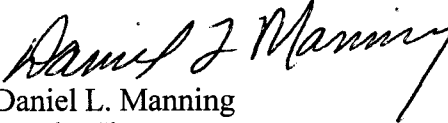
Mayor Cownie and Members of the City Council  
City of Des Moines  
September 2, 2009  
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We ask that this request be placed upon the City Council Agenda and considered by the Council at their next regularly scheduled meeting. Your consideration in this request for reimbursement is greatly appreciated.

Very truly yours,

  
William J. Lillis

  
Daniel L. Manning  
For the Firm

DLM:srn

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September 11, 2009

The Honorable Mayor  
and  
Members of the City Council  
City of Des Moines



Re: Item 55, September 14, 2009 Council Agenda –  
Assessment for Paving East 28<sup>th</sup> Street (Ruth and Andrew Holt)

Dear Mayor and City Council Members:

Bill Lillis has asked that the attached letter be placed on your next agenda. So that you have some background information about this request, I asked staff to prepare the following report, which I previously provided to you in an email on September 2, 2009.

The letter from the Connolly Law Firm requests reimbursement of \$10,200 to Ruth A. and Andrew Holt, for a special assessment they paid for paving East 28<sup>th</sup> Street on the east side of the property at 2715 Dean Avenue. The City recently acquired the Holt's property under a "friendly" condemnation for the Fire Training and Logistics Facility for \$412,500. The settlement of \$412,500 was final, and we agreed to a "friendly" condemnation as the method to close the transaction. Our last appraisal was \$330,000, so if the Holts would have presented this additional \$10,200 request at the end of our negotiations, we would have rejected it and the condemnation commission would have determined the appropriate price to be paid.

Furthermore, during negotiations the Holts were advised on several occasions that they would have to pay the special assessment. The City's appraisal, as provided to the Holts and their attorneys, considered all improvements benefiting the property, including paved streets, access points, available utilities, etc., so the Holts already received consideration for the paving improvements as part of the overall value of the property. The appraisal also contained a statement in bold print which stated that the remaining balance on the special assessment would need to be deducted from the final purchase price, as it constitutes a lien against the property. The bottom line is that if the Holts are reimbursed for the special assessment, then they would essentially be getting paid twice for the benefit of the paving improvements.

Sincerely,

Richard A. Clark  
City Manager

Attachment