

★ **Roll Call Number**
..... 21-0459

Agenda Item Number
..... 16

Date March 22, 2021

SET DATE OF PUBLIC HEARING OF INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT THE INDIANOLA AVENUE WIDENING – E. ARMY POST ROAD TO HIGHWAY 69 PROJECT AND TO AUTHORIZE ACQUISITION OF THE NECESSARY PROPERTY INTERESTS, INCLUDING AGRICULTURAL LAND, FOR THE PROJECT BY GIFT, NEGOTIATION, OR EMINENT DOMAIN

WHEREAS, on March 9, 2020, by Roll Call No. 20-0402, the City Council approved execution of the Iowa Department of Transportation (IDOT) Agreement for the Indianola Avenue Widening – E. Army Post Road to Highway 69 Project (hereinafter “Project”); and

WHEREAS, the City’s Real Estate Division of the Engineering Department will acquire the necessary property interests for this Project; and

WHEREAS, under the provisions of Section 6B.2A of the Iowa Code, a governmental body which proposes to acquire agricultural property, by eminent domain for public improvement purposes is required to give notice of a proposed resolution, motion, or other document authorizing such acquisition of property to each property owner and contract purchaser of record (collectively, “Property Owners”) of the meeting at which such proposed authorization will be considered; and

WHEREAS, in accordance with Iowa Code Section 6B.2A, before the City can proceed with acquisition of property by eminent domain for the aforementioned Project, the City Council must:

- (a) Give affected persons the opportunity to attend the Council meeting and present their views and objections regarding the proposed acquisition of agricultural property for public improvement projects by gift, negotiation or eminent domain.
- (b) Provide notice of the public hearing to all property owners and contract purchasers of record within the timeframes set forth in Iowa Code Sections 6B.2A
- (c) Adopt a resolution to authorize acquisition of agricultural property for the public improvement project by gift, negotiation, eminent domain.

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

1. That a public hearing shall be held on April 5, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal to authorize acquisition of private property by gift, negotiation, or eminent domain for public improvement purposes for the Indianola Avenue – E. Army Post Road to Highway 69 Project. Given Mayor Cownie’s March 17, 2020 Proclamation, as amended, prohibiting indoor gatherings of



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ten or more persons on public property, Section One of the Governor’s February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor’s February 5, 2021 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager’s decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Please click this URL to join.

<https://dmgov-org.zoom.us/j/82012968607?pwd=emFUNWVKUVYzRzVsU0tRMVVR6TkVPQT09>
Passcode: 853086

Or join by phone:

Dial:

US: +1 312 626 6799 or 877 853 5257 (Toll Free)

Webinar ID: 820 1296 8607

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. April 1, 2021 (City Clerk’s Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

2. That the notices of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, which notices were previously mailed by the City’s Engineering Department - Real Estate Division pursuant to the requirements Iowa Code Section 6B.2A, are hereby ratified and confirmed.

3. That the City Clerk is hereby instructed to cause notice to be published as required by law of the pendency of this resolution and of the time and place of the hearing at which persons interested in the proposed project may present their views and objections regarding the acquisition of property for public improvement purposes by gift, negotiation or eminent domain, said Notice of Intent to be in substantially the same form.

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

 /s/ Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

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

 J. M. Gombin Cownie
 Mayor

CERTIFICATE

I, P. Kay Cmelik, 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.

 P. Kay Cmelik
 City Clerk