

COMMITTEE OF THE WHOLE

City of Davenport, Iowa

Wednesday, March 20, 2019; 5:30 PM

City Hall, 226 W. 4th Street, Council Chambers

****REVISED: March 18, 2019****

I. Moment of Silence

II. Pledge of Allegiance

III. Roll Call

IV. Meeting Protocol and Decorum

V. City Administrator Update

VI. Public Hearings

A. Public Works

1. Public Hearing on the plans, specifications, forms of contract, and estimated cost for the E 36th St Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd, CIP #35036. [Ward 7]
2. Public Hearing on the plans, specifications, forms of contract, and estimated cost for the W 2nd St and Marquette St Sewer Separation Project, CIP #30016. [Ward 3]
3. Public Hearing on the plans, specifications, forms of contract, and estimated cost for the West High Street Flood Mitigation Project, CIP #33020. [Ward 4]

VII. Presentations

VIII. Petitions and Communications from Council Members and the Mayor

A. Community Engagement Update - Alderwoman Meginnis

IX. Action items for Discussion

COMMUNITY DEVELOPMENT

Rita Rawson, Chairman; Ray Ambrose, Vice Chairman

I. COMMUNITY DEVELOPMENT

1. Second Consideration: Ordinance for Case REZ19-01, request by Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Ave from I-1 Light Industrial District to R-MF, Residential Multifamily District. [Ward 7]
2. Resolution setting a Public Hearing on the proposed conveyance of the following City-owned Urban Homestead Properties:

Ward 4

Parcel H0010-04, 1412 West 15th Street, to (Kelli Torres, Petitioner)

Ward 5

Parcel E0016-22, 1501 Eastern Avenue, to (Kelly DeBolt, Petitioner)

II. Motion recommending discussion or consent for Community Development items**PUBLIC SAFETY**

Kyle Gripp, Chairman; Maria Dickmann, Vice Chairman

III. PUBLIC SAFETY

1. Resolution closing various street(s), lane(s), or public grounds on the listed date(s) to hold outdoor event(s).

A. Davenport Schools; Intermediate and High School Track Meets; various dates/times in April and May 2019; Closure: Portion of E 36th St from Brady St to just west of Durham School Services at 3640 Davenport Ave. [Ward 7]

B. Stickman Racing Group; Easter Egg Scramble 5k Run/Walk; Saturday, April 20, 2019 7:30AM – 11:00AM; Christie St from E 11th St to E 12th St; E 11th St from Christie St to Jersey Ridge Rd; Jersey Ridge Rd from 11th St to Middle Rd; Middle Rd from Jersey Ridge Rd to Eastmere Dr to Bettendorf City Limits; northern most westbound lane on River Dr at Davenport City Limits to River St; River St from River Dr to finish at 11th St and Christie St. [Wards 5 & 6]

2. Motion approving noise variance request(s) for various events on the listed dates at the listed times.

A. Davenport's Riverfront Improvement Commission and the Regional Development Authority; 2019 Music on the River; Petersen Pavilion in LeClaire Park; various dates/times from June through August 2019; Outdoor music, over 50 dBA. [Ward 3]

7:00 p.m. (unless otherwise noted) for approximately two (2) hours

Sunday, June 2, Josh Duffee & His Orchestra

Sunday, June 9, The Merchants

Sunday June 16, Tewanta and Good Company

Sunday, June 30, Ken Paulsen Orchestra

Wednesday, July 3, Red, White & Boom! with The RiverCity 6

Sunday, July 14, BIX JAZZ FEST PREVIEW – 6:00 p.m.

Friday, August 2, BIX JAZZ FEST - 6:00 p.m.

Sunday, August 11, Crooked Cactus Band

Sunday, August 25, Panic River Band

Wednesday, August 28, Central High School Marching Band

3. Motion approving beer and liquor license applications.

A. New License, new owner, temporary permit, temporary outdoor area, location transfer,

etc. (as noted):

Ward 1

Rockingham Liquor (Lila LLC) - 2423 Rockingham Rd. - License Type: E Liquor / C Beer / B wine - 200 ft. notification letters mailed 3/13/19

Ward 3

The Filling Station (Bar Management LLC) - 500 W 3rd St. QC Times Lot - Outdoor Area July 27, 2019 "Bix Event" - License Type: B Beer

Ward 6

Portillo's Hot Dogs (Portillo's Hot Dogs, LLC) - 2741 E 53rd St. - Outdoor Area - License Type: B Beer

Ward 7

Assumption High School (Assumption High School) - 1020 W Central Park Ave - Outdoor Area April 26, 2019 "Havana Knights" annual fundraiser - License Type: C Liquor

Ganzo's (Ganzo's LTD.) - 3923 N Marquette St. - Outdoor Area May 3 - 5, 2019 "Cinco De Mayo" event - License Type: C Liquor

IV. Motion recommending discussion or consent for Public Safety items

PUBLIC WORKS

Rick Dunn, Chairman; JJ Condon, Vice Chairman

V. PUBLIC WORKS

1. Second Consideration: Ordinance amending various sections of Chapter 12.20 (Right of Way Management Regulations) to clarify specific standards for wireless structures placed within the City. [All Wards]
2. Resolution approving the plans, specifications, forms of contract, and estimated cost for the E 36th Street Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd, CIP #35036. [Ward 7]
3. Resolution approving the plans, specifications, forms of contract, and estimated cost for the West High Street Flood Mitigation Project. CIP #33020. [Ward 4]
4. Resolution approving the plans, specifications, forms of contract, and estimated cost for the W 2nd St and Marquette St Sewer Separation Project, CIP #30016. [Ward 3]
5. Resolution approving a contract for the Davenport Rail Spur Extension EDA 06-79-06084 construction to Langman Construction Inc of Rock Island, IL in the amount of \$2,483,666.02, CIP #60009. [Ward 8]
6. Resolution awarding the contract for the replacement of roofs on three (3) buildings at

WPCP to Economy Roofing & Insulating Co., Inc of Bettendorf, IA in the amount of \$324,000. [All Wards]

VI. Motion recommending discussion or consent for Public Works items

FINANCE

Mike Matson, Chairman; Rich Clewell, Vice Chairman

VII. FINANCE

1. Resolution setting a Public Hearing on the proposed conveyance of parcel Y0621-05B lying west of the residence at 6700 Jersey Ridge Road for April 3, 2019. City of Davenport, Petitioner. [Ward 8]
2. Resolution authorizing the submission of a Passenger Ferry Grant Program application to the Federal Transit Administration Section 5307 for grant assistance with the replacement and enhancement of the Lindsay Park Channel Cat Dock System. [All Wards]
3. Resolution approving the Fairmount Cemetery Assistance Agreement between the Fairmount Cemetery and Crematory Association and the City of Davenport. [Ward 1]
4. Resolution accepting the Main Street Landing Master Plan as presented by the Downtown Davenport Partnership and Figge Art Museum and establishing a task force for the purpose of recommending a final design for the regional activity area at Main Street Landing. [Ward 3]

VIII. Motion recommending discussion or consent for Finance items

X. PURCHASES OF \$10,000 TO \$50,000 (For Information Only)

1. Industrial Organizational Solutions - Lieutenant and Captain exams - Amount: \$12,647
2. J & M Civil Design, LLC - Main & 16th streetscaping - Amount: \$13,000
3. Rilco Env, LLC - Environmental cleanup at Credit Island - Amount: \$13,007.36

XI. Other Ordinances, Resolutions and Motions

XII. Public with Business

PLEASE NOTE: At this time individuals may address the City Council on any matters of City business. This is not an opportunity to discuss issues with the Council members or get information. In accordance with Open Meetings law, the Council cannot take action on any complaint or suggestions tonight, and cannot respond to any allegations at this time.

Please state your Name and Ward for the record. There is a five (5) minute time limit.
Please end your comments promptly.

XIII. Reports of City Officials

XIV. Adjourn

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Nichole Kriz 563-326-7784
Wards:

Action / Date
3/20/2019

Subject:
Public Hearing on the plans, specifications, forms of contract, and estimated cost for the E 36th St Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd, CIP #35036. [Ward 7]

Recommendation:
Hold the Hearing.

Background:

This project will remove the existing composite asphalt and concrete pavement of E 36th St from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd and replace it with new subdrains, drainable base, and concrete pavement. Driveway approaches will also be removed and replaced as necessary.

Construction is expected to begin spring of 2019. Funding is available through CIP #35036. The estimated project cost is \$550,000.

ATTACHMENTS:

Type	Description
▣ Backup Material	Location Map
▣ Backup Material	Notice of Hearing

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	2/28/2019 - 9:54 AM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 11:28 AM
City Clerk	Admin, Default	Approved	3/13/2019 - 12:37 PM

Location Map



2/27/2019, 10:27:34 AM

- Parks

Parcels

Street Centerline (Labels only)

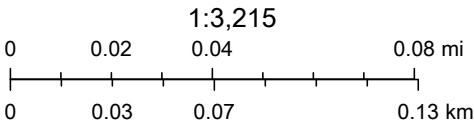
Creeks

Named Creeks

Unnamed Tributaries

Piped Creeks

City Limit



Scott County Iowa, Bi-State Regional Commission

Notice of Hearing
on E 36th Street Reconstruction
From 115 feet west of Davenport Ave to
120 feet south of Kimberly Rd.

Notice is hereby given that at 5:30 P.M., on Wednesday, March 20, 2019, at the Council Chambers, City Hall, in the City of Davenport, Iowa, there will be conducted a hearing on the proposed plans, specifications and form of contract which the City Council has caused to be filed with the City Clerk of the City of Davenport, Iowa, and on the cost and necessity of the above project in the City of Davenport, Iowa.

At said hearing any interested person may file written objection or comments with respect to the proposed plans, specifications, form of contract or cost of and necessity for such improvements and may be heard orally with respect thereto. PO 1910498

Brian Krup,
Deputy City Clerk

Davenport, Iowa
March 11, 2019

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Sandy Doran 563-326-7756
Wards:

Action / Date
3/20/2019

Subject:
Public Hearing on the plans, specifications, forms of contract, and estimated cost for the W 2nd St and Marquette St Sewer Separation Project, CIP #30016. [Ward 3]

Recommendation:
Hold the Hearing.

Background:

During smoke testing, field investigations and televising operations in the sanitary sewer along W 2nd St, areas were identified to have cross-connections with storm sewer and the existing arch brick sewer is in poor condition. This project includes rehabilitating and/or replacing a failing 30" brick arch sanitary sewer, removing cross connections with the storm sewer, adding new manholes at blind taps, and complete street and sidewalk restoration to meet ADA requirements and city standards. The project area is W 2nd St from Marquette St west to Fillmore St.

This program is a combined effort by the Sewer and Engineering Divisions of the Public Works Department and Inflow & Infiltration studies. This scope of work addresses recommendations from investigations to reduce inflow and infiltration to further comply with the IDNR Administrative Consent Order.

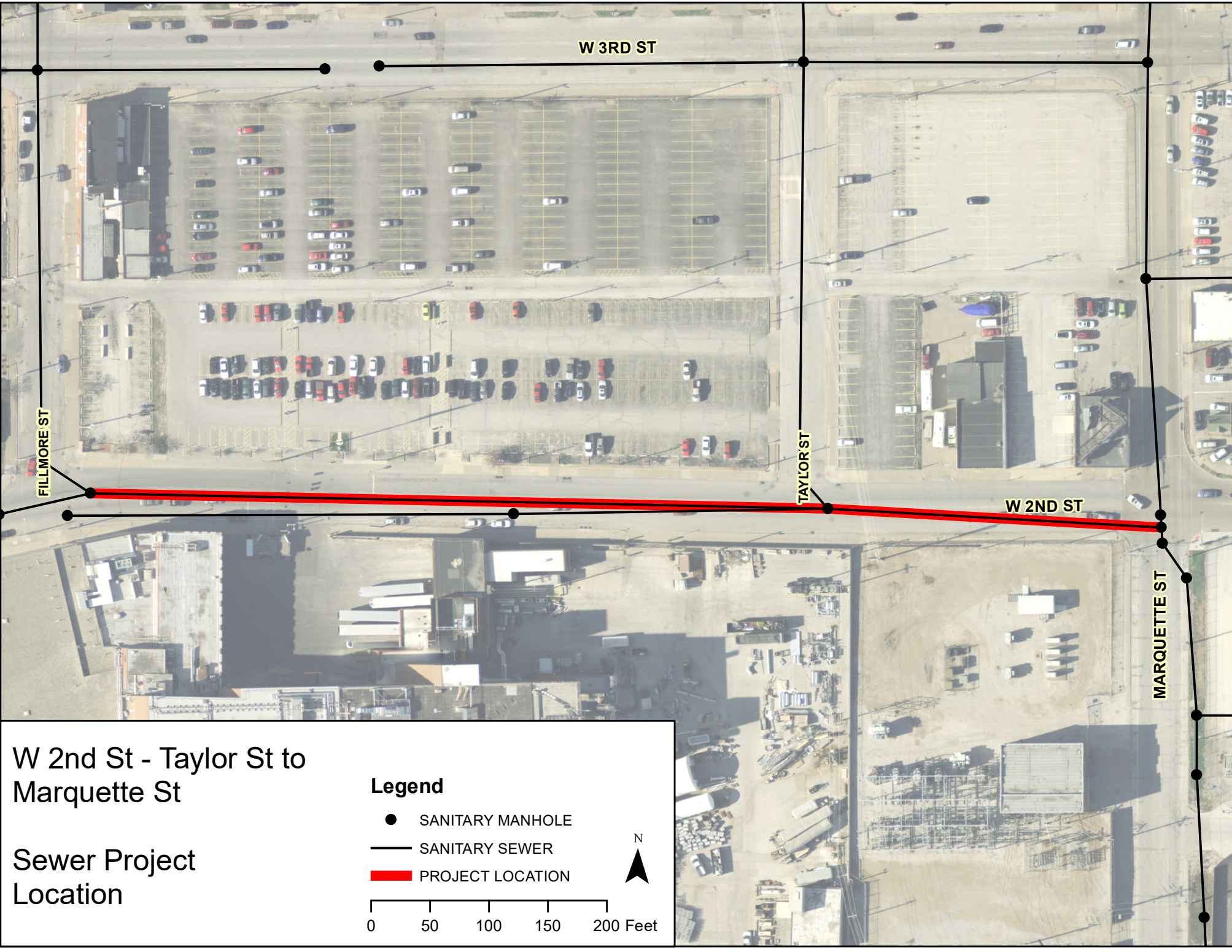
Program management will be completed by the Sewers Division with quality assurance inspections being completed by Engineering Division Staff.

ATTACHMENTS:

Type	Description
▢ Backup Material	PROJECT AREA MAP

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	3/13/2019 - 9:57 AM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 11:37 AM
City Clerk	Admin, Default	Approved	3/13/2019 - 12:38 PM



W 3RD ST

FILLMORE ST

TAYLOR ST

W 2ND ST

MARQUETTE ST

W 2nd St - Taylor St to
Marquette St

Sewer Project
Location

Legend

- SANITARY MANHOLE
- SANITARY SEWER
- PROJECT LOCATION

0 50 100 150 200 Feet



City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Noah Jones 563-327-5168
Wards:

Action / Date
3/20/2019

Subject:
Public Hearing on the plans, specifications, forms of contract, and estimated cost for the West High Street Flood Mitigation Project, CIP #33020. [Ward 4]

Recommendation:
Hold the Hearing.

Background:
This project on West High Street from Washington to Fillmore Streets will involve removal and upgrading of sections of the storm sewer pipe, manholes, and intakes, as well as removal and replacement of the covering sub-base and pavement. Funding is available through CIP #33020.

The project is scheduled for bid in the coming weeks with construction taking place this construction season. The current estimate is \$180,000.

ATTACHMENTS:

Type	Description
▣ Backup Material	Notice of Hearing
▣ Backup Material	Location Map

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	3/13/2019 - 10:10 AM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 10:14 AM
City Clerk	Admin, Default	Approved	3/13/2019 - 12:53 PM

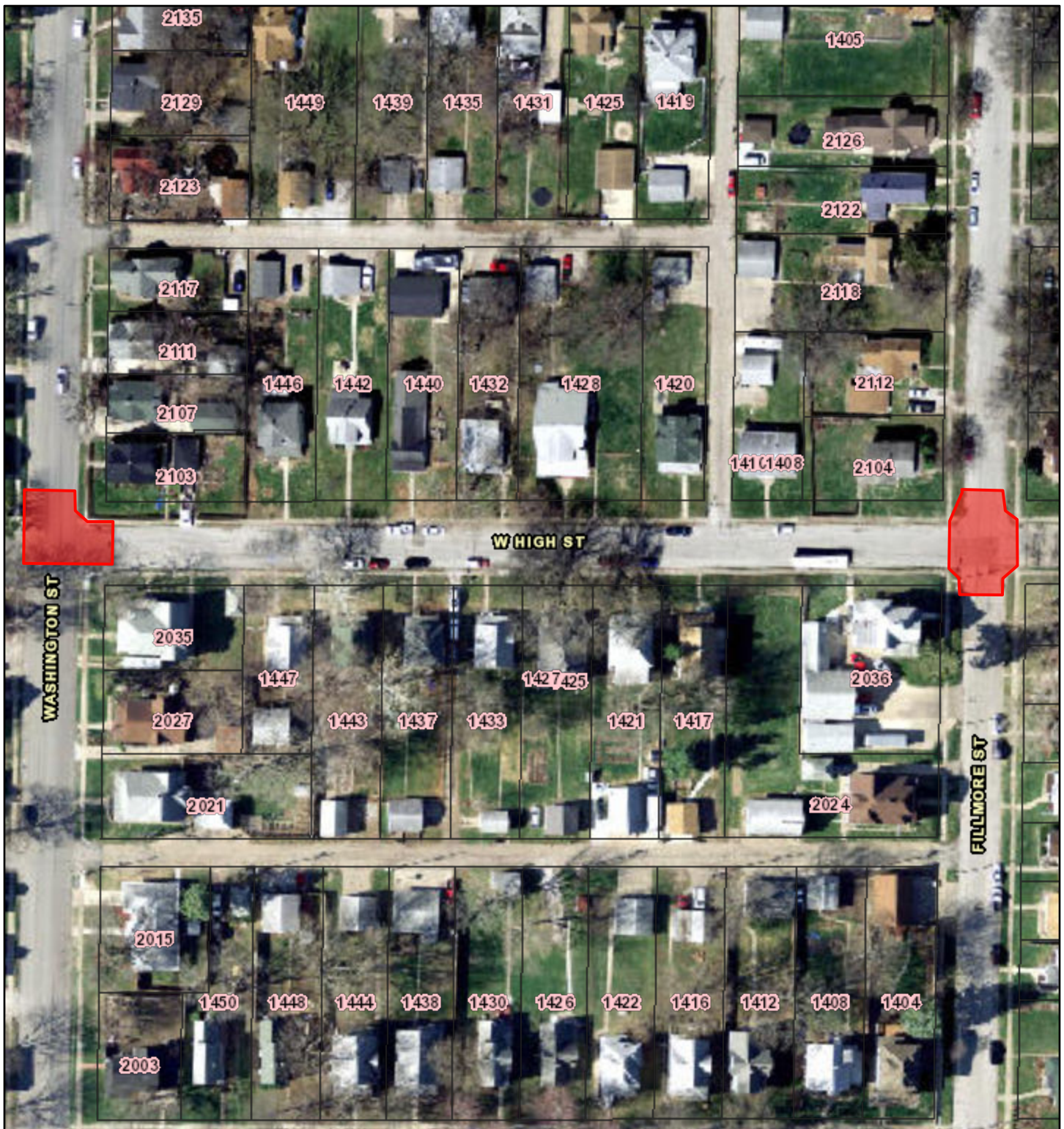
Notice of Hearing
on Proposed Plans, Specifications, and Proposed Contract for the
West High Street Flood Mitigation Project

Notice is hereby given that at 5:30 P.M., on Wednesday March 20, 2019 at the Council Chambers, City Hall, in the City of Davenport, Iowa, there will be conducted a hearing on the proposed plans, specifications, and form of contract which the City Council has caused to be filed with the City Clerk of the City of Davenport, Iowa, and on the cost and necessity of the above project in the City of Davenport, Iowa.

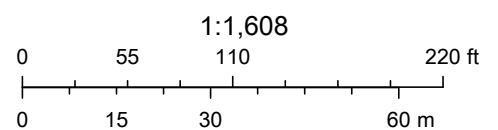
At said hearing any interested person may file written objection or comments with respect to the proposed plans, specifications, form of contract or cost of and necessity for such improvements and may be heard orally with respect thereto.

Brian Krup,
Deputy City Clerk

Location Map - W High St Flood Mitigation



3/11/2019, 8:36:53 AM



Scott County Iowa, Bi-State Regional Commission

City of Davenport

Agenda Group:
Department: Community Planning & Economic Development
Contact Info: Matt Flynn 563-888-2286
Wards:

Action / Date
2/19/2019

Subject:

Second Consideration: Ordinance for Case REZ19-01, request by Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Ave from I-1 Light Industrial District to R-MF, Residential Multifamily District. [Ward 7]

Recommendation:

The Plan and Zoning Commission accepted the findings and forwards Case REZ19-01 to the City Council for approval.

Findings:

1. This property is located on the boundary between R-MF and I-1 Zoning.
2. The proposed rezoning will not significantly add traffic to Grand Avenue.
3. Zoning this property R-MF will allow for construction of apartment units in close proximity to employment opportunities.
4. No single family neighborhoods are in the vicinity and thus, none will be impacted.

Condition:

That the City Council is requested to pass a resolution assigning a Future Land Use Designation of RG, Residential General to this property and assigning either I, Industry or RG, Residential General designations to other nearby properties overlooked in the 2016 Comprehensive Plan Update.

Vote to recommend approval was unanimous 7-0.

Background:

Reason for Request: To allow for development of apartments on the site.

Comprehensive Plan: There is mapping error on the future land use map. This property lacks a future land use classification. A classification should be included as part of any rezoning approval.

Attached to this report is a draft Future Land Use Map amendment designating future land use to the overlooked parcels. Staff suggests the correct way to remedy the situation is to request the City Council pass a resolution assigning the designations. Affected property owners will be notified.

The property is located within the urban service area. All municipal services are available.

Discussion:

This vacant property is located on an edge between multi-family development to the south and light industrial/service development to the north.

It is staff's opinion that simply moving the division between multifamily and industrial will have minimal effect to the area. There are no single family neighborhoods in the vicinity.

Public Input:

A sign was posted on the property on January 25, 2019

A neighborhood meeting was scheduled for January 30 but was rescheduled to February 4th on account of the weather. Two neighboring property owners attended but voiced no objections.

A public hearing notice was prepared for both the cancelled meeting on February 5 as well as February 19, 2019. Property owners within 200 feet were notified of both hearings.

No protests have been received.

ATTACHMENTS:

Type	Description
☐ Ordinance	Ordinance
☐ Backup Material	Adjacent Owners List
☐ Backup Material	Application
☐ Backup Material	Future Land Use Map
☐ Backup Material	Zoning Map
☐ Backup Material	Public Meeting Notice and Map
☐ Backup Material	Legal Notice
☐ Backup Material	Proposed Future Land Use Map Amendment
☐ Backup Material	P&Z Letter

REVIEWERS:

Department	Reviewer	Action	Date
Community Development Committee	Berger, Bruce	Approved	2/27/2019 - 6:44 PM
City Clerk	Admin, Default	Approved	2/28/2019 - 5:13 PM

ORDINANCE NO.

ORDINANCE for Case REZ19-01 being the request of Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Avenue from I-1 Light Industrial District to R-MF, Residential Multifamily District [Ward 7].

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DAVENPORT, IOWA:

Section 1. The following described unit of Scott County, Iowa real estate is hereby rezoned to "R-MF, Residential Multifamily District".

Lot 5 of Lyngholm Park 8th Addition to the City of Davenport, Iowa.

Section 2. That the following findings and conditions are hereby imposed upon said rezoning:

Findings:

1. This property is located on the boundary between R-MF and I-1 Zoning.
2. The proposed rezoning will not significantly add traffic to Grand Avenue.
3. Zoning this property R-MF will allow for construction of apartment units in close proximity to employment opportunities.
4. No single family neighborhoods are in the vicinity and thus, none will be impacted.

Condition:

That the City Council is requested to pass a resolution assigning a Future Land Use Designation of RG, Residential General to this property and assigning either I, Industry or RG, Residential General designations to other nearby properties overlooked in the 2016 Comprehensive Plan.

Section 3. At its February 19, 2019 meeting, the Plan and Zoning Commission voted to forward the case to the City Council with a recommendation to approve.

SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

First Consideration _____

Second Consideration _____

Approved _____

Attest: _____

Brian Krup, Deputy City Clerk

Frank Klipsch, Mayor

Published in the *Quad City Times* on _____

Davenport.12795.1.REZ19-01_Neighborhood_Meeting_and_Adjacent_Owner_Notice_List.xlsx

Parcel	Property Address	Owner Name	Owner Street	Owner CityStateZip
Petitioner: HARMSSEN 2013 ESTATE TRUST P&Z Chair: Bob Inghram bingham@activethermal.net Mayor's Clerk: Nevada Lemke nlemke@ci.davenport.ia.us Council Clerk: Tiffany Thorndike tthorndike@ci.davenport.ia.us Neighborhood: None				
	Ward/Ald: 7th Ward	Alderman Matson	mmatson@ci.davenport.ia.us	10 Notices Sent
	Ward/Ald: At-Large	Alderman Condon	jcondon@ci.davenport.ia.us	
	Ward/Ald: At-Large	Alderman Gripp	kgripp@ci.davenport.ia.us	
P1209-02	5003 BRADY ST	ST AMBROSE UNIVERSITY	518 W LOCUST ST	DAVENPORT IA 52803
P1209-04B	5001 BRADY ST	CCL&B INC	4444 S 108TH ST	OMAHA NE 68137
P1209-04C		ST AMBROSE UNIVERSITY	518 W LOCUST ST	DAVENPORT IA 52803
P1210-01D		ROBERT C HARMSSEN 2013 ESTATE TRUST	4729 WYOMING AV	DAVENPORT IA 52806
P1210-01E	5060 GRAND AVE	ROBERT C HARMSSEN 2013 ESTATE TRUST	4729 WYOMING AV	DAVENPORT IA 52806
P1210-01G	5201 GRAND AVE	CAPITAL RESOURCE ILLINOIS CORP	ATTN PERRY HANSEN	BETTENDORF IA 52722
P1210-02	5220 GRAND AVE	GEORGE J FARKUS	1456 EASTVIEW DR	CORALVILLE IA 52241
P1210-02G		CAPITAL RESOURCE ILLINOIS CORP	ATTN PERRY HANSEN	BETTENDORF IA 52722
P1215-03	4801 GRAND AVE	ARC TFDPTIA001 LLC	106 YORK ROAD	JENKINTOWN PA 19046
P1215A101	4800 GRAND AVE	MFR PARTNERS XII LLC	856 LAKE ST E	WAYZATA MN 55391

Zoning Map Amendment Application

226 West 4th Street
Davenport, Iowa 52801
(563) 326-7765

Planning@ci.davenport.ia.us

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT

Property Address* 5000 Grand Ave, Davenport, IA 52803 / P1210-01F

***If no property address, please submit a legal description of the property.**

Applicant (Primary Contact)**

Name: Bradly Matthews
Company: Matthews Mayorga Real Estate, LLC
Address: 1225 E River Drive, Suite 320
City/State/Zip: Davenport IA 52803
Phone: (309) 230-8412
Email: brad@amrestitutions.com

Application Form Type:

Plan and Zoning Commission

- Rezoning (Zoning Map Amendment) ☒
Zoning Ordinance Text Amendment ☐
Right-of-way or Easement Vacation ☐
Final Development Plan ☐
Voluntary Annexation ☐
Subdivision ☐

Owner (if different from Applicant)

Name: Robert C. Harmsen 2013 Estate Trust
Company:
Address: 4729 Wyoming Ave
City/State/Zip: Davenport IA 52803
Phone: (563) 324-4488
Email:

Zoning Board of Adjustment

- Appeal from an Administrative Decision ☐
Special Use Permit - New Cell Tower ☐
Home Occupation Permit ☐
Special Exception ☐
Special Use Permit ☐
Hardship Variance ☐

Engineer (if applicable)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Design Review Board

- Certificate of Design Approval ☐
Demolition Request in the Downtown ☐

Architect (if applicable)

Name:
Company:
Address:
City/State/Zip:
Phone:
Email:

Historic Preservation Commission

- Certificate of Appropriateness ☐
Landmark Nomination ☐
Demolition Request ☐

Administrative

- Floodplain Development ☐
Cell Tower Co-Location ☐
Identification Signs ☐
Site Plan ☐

Attorney (if applicable)

Name: Abigail Waeyer
Company: Callie & Harper
Address: 506 15th Street Suite 600
City/State/Zip: Moline, IL 61265
Phone: (309) 761-8300
Email:

****If the applicant is different from the property owner, please submit an authorization form or an accepted contract for purchase.**

Request:Existing Zoning: Proposed Zoning Map Amendment: Total Land Area: AcresDoes the Property Contain a Drainage Way or is it Located in a Floodplain Area: ☐ Yes ☒ No**Submittal Requirements:**

- The following items should be submitted to Planning@ci.davenport.ia.us for review:
- The completed application form.
- Recorded warranty deed or accepted contract for purchase.
- Authorization form, if applicable. If the property is owned by a business entity, please provide Articles of Incorporation.
- A legal description of the request if not easily described on the deed or contract for purchase.
- Required fee:
 - Zoning Map Amendment is less than 1 acre - \$400.
 - Zoning Map Amendment is one acre but less than 10 acres - \$750 plus \$25/acre.
 - Zoning Map Amendment is 10 acres or more - \$1,000 plus \$25/acre.
 - \$5.00 per sign; more than one sign may be required depending upon the area of the request.

Formal Procedure:**(1) Application:**

- Prior to submission of the application, the applicant shall correspond with Planning staff to discuss the request, potential alternatives and the process.
- The submission of the application does not constitute official acceptance by the City of Davenport. Planning staff will review the application for completeness and notify the applicant that the application has been accepted or additional information is required. Inaccurate or incomplete applications may result in delay of required public hearings.

(2) Public Notice for the Plan and Zoning Commission public hearing:

- After submitting the application the applicant shall post notification sign(s) supplied by the City on property at least two weeks prior to the public hearing. A minimum of one sign shall be required to face each public street if the property has frontage on that street. It is Planning staff's discretion to require the posting of additional signs. The purpose of the notification sign(s) is to make the public aware of the request. Failure to post signs as required may result in a delay of the request.
- The applicant shall hold a neighborhood meeting as per the attached meeting guidelines.
- Planning staff will send a public hearing notice to surrounding property owners.

(3) Plan and Zoning Commission's consideration of the request:

- Planning staff will perform a technical review of the request and present its findings and recommendation to the Plan and Zoning Commission.
- The Plan and Zoning Commission will hold a public hearing on the request. Subsequently, the Plan and Zoning Commission will vote to provide its recommendation to the City Council. The Plan and Zoning Commission's recommendation is forwarded to the City Council.

(4) City Council's consideration of the request:

- Planning staff will send a public hearing notice to surrounding property owners.
- The Committee of the Whole (COW) will hold a public hearing on the request. Subsequently, the City Council will vote on the request. For a zoning map amendment to be approved three readings of the Ordinance are required; one reading at each Council Meeting. In order for the Ordinance to be valid it must be published. This generally occurs prior to the next City Council meeting.

Applicant: Brady Matthews

Date: 1/14/19

By typing your name, you acknowledge and agree to the aforementioned submittal requirements and formal procedure and that you must be present at scheduled meetings.

Received by: [Signature]

Date: 1.14.19

Planning staff

Date of the Public Hearing: 2.6.19

Meetings are held in City Hall Council Chambers located at 226 West 4th Street, Davenport, Iowa.

Authorization to Act as Applicant

I,
authorize
to act as applicant, representing me/us before the Plan and Zoning Commission and City Council for the
property located at .

Signature(s)*

*Please note: original signature(s) required.

City of Davenport Neighborhood Meeting Guidelines

Purpose:

The purpose of requiring applicants to conduct neighborhood meetings is to offer an opportunity for both applicant and neighboring residents/property owners to share ideas, offer suggestions, and air concerns in advance of the formal public hearing process.

Procedure:

1. The neighborhood meeting should be held at least one week before the scheduled public hearing for the case.
2. It is the responsibility of the applicant to coordinate the meeting date, time and location. It is necessary to coordinate with the Ward Alderman and both Alderman at Large prior to scheduling the meeting. Please note that Wednesday evenings should be avoided due to conflicting with City Council meetings. The Case Manager will provide you a map and mailing list of surrounding property owners, neighborhood representatives, and the Ward Alderman and both Alderman at Large. The applicant is responsible for the cost of the mailing and facility rental, if any.
3. The neighborhood meeting notice should include the meeting date, location and time, the map provided by the City and the applicant's contact information in case someone is unable to attend the meeting. Every effort should be made to contact all residents within the area as well as owners. If renters are assumed at a property, a notice should be sent to the address labeled, "Resident". Please provide the Case Manager with a copy of neighborhood meeting notice. The Case Manager or another member of City Staff will make every effort to attend the meeting, however, the primary purpose for attending is to be simply an observer and resource for factual information, if requested.
4. Following the meeting, the applicant shall compile a list of attendees as well as a meeting summary and submit it to the Case Manager by Thursday preceding the public hearing. Please include all handouts distributed at the meeting.

Neighborhood Meeting Attendance List

Case: _____

Date: _____

Name	Address	Phone	Email
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____

Neighborhood Meeting Ground Rules

- 1. Fact-finding and issue-identification are the primary reasons for this meeting. It should be informative, not argumentative. Ask questions, express concerns, but keep in mind this meeting is not a public hearing and no decision-makers are in attendance.**
- 2. Allow time for everyone to speak.**
- 3. Refrain from overly-critical remarks ("I hate this idea") and personal attacks ("You are trying to ruin the neighborhood").**

2018 PLAN & ZONING COMMISSION CALENDAR

CITY PLAN & ZONING COMMISSION SCHEDULE

CITY COUNCIL SCHEDULE

COMMISSION PUBLIC HEARING <u>REZONING & ROW</u> <u>VACATION</u> SUBMITTAL DEADLINE (5:00 PM - Monday)	<u>DEVELOPMENT</u> <u>PLANS, SUBDIVISION</u> <u>PLATS</u> SUBMITTAL DEADLINE (5:00 PM - Monday)	CITY PLAN & ZONING COMMISSION PUBLIC HEARING (Preview for plats & plans) (5:00 PM - Tuesday)	CITY PLAN & ZONING COMMISSION MEETING (5:00 PM - Tuesday)	SUBMISSION DEADLINE FOR COUNCIL ITEMS (Noon - Monday)	COMMITTEE OF THE WHOLE MEETING (PUBLIC HEARING) (5:30 PM - Wednesday)	CITY COUNCIL MEETING (5:30 PM - Wednesday)
11/13/17	11/27/17	12/05/17	12/19/17	12/22/17	01/03/18	01/10/18
11/27/17	12/11/17	12/19/17	01/02/18	01/08/18	01/17/18	01/24/18
12/11/17	12/21/17	01/02/18	01/16/18	01/29/18	02/07/18	02/14/18
12/26/17	01/08/18	01/16/18	02/06/18	02/12/18	02/21/18	02/28/18
01/16/18	01/19/18	02/06/18	02/20/18	02/26/18	03/07/18	03/14/18
01/29/18	02/12/18	02/20/18	03/06/18	03/12/18	03/21/18	03/28/18
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11/26/18	12/10/18	12/18/18	01/01/19	01/07/19	01/16/19	01/23/19
12/10/18	12/21/18	01/01/19	01/15/19	01/28/19	02/06/19	02/13/19
12/21/18	01/07/19	01/15/19	02/05/19	02/11/19	02/20/19	02/27/19

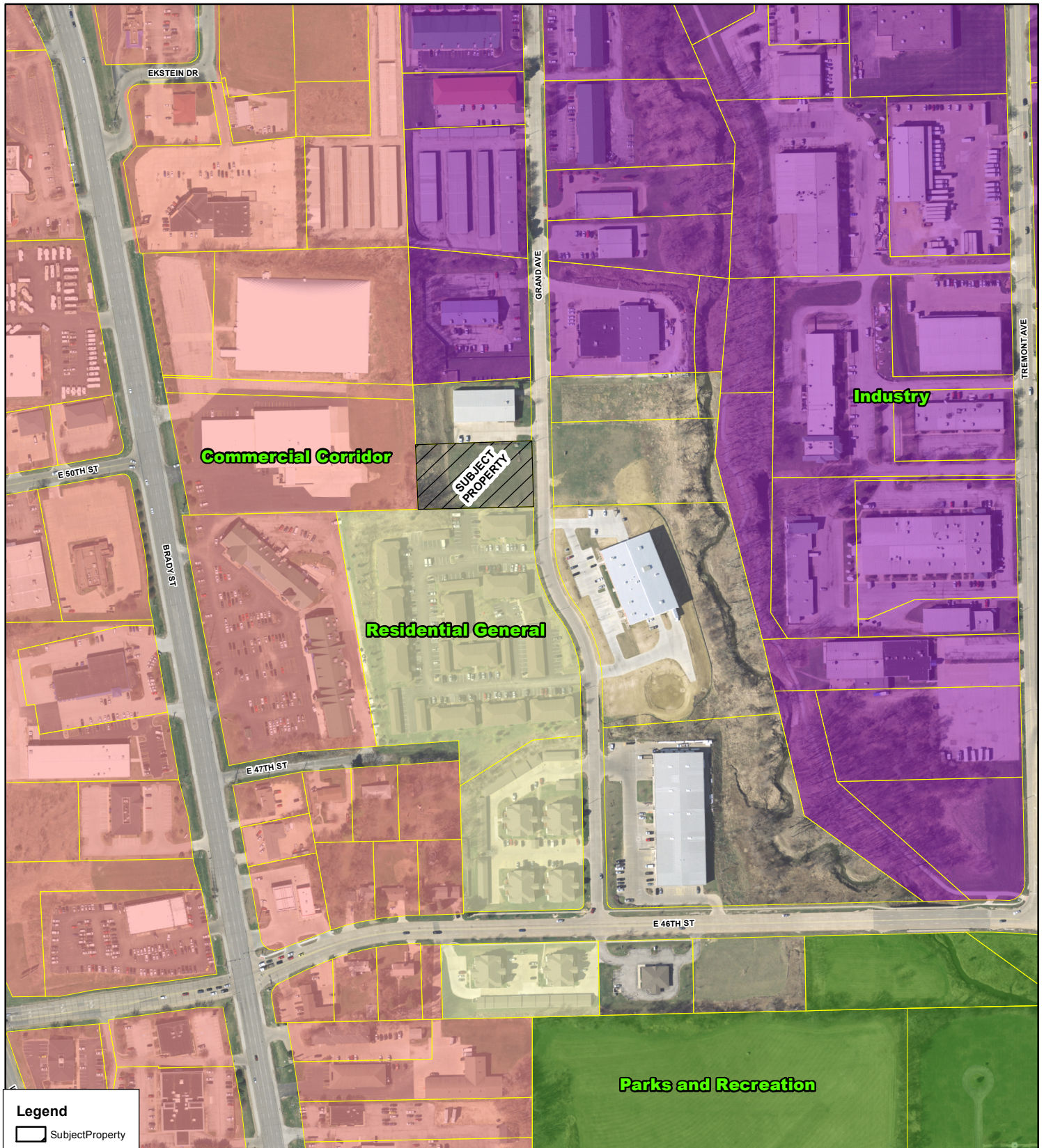
1 SUBMISSION & MEETING DATES MAY BE CHANGED DUE TO HOLIDAY MARKED IN RED

2 ORDINANCES REQUIRE THREE CONSIDERATIONS BEFORE CITY COUNCIL

3 DATES SUBJECT TO CQHHANE DUE TO HOLIDAYS MARKED IN RED

4 DELAYS MAY OCCUR UPON THE PETITION REACHING THE CITY COUNCIL'S AGENDA

Future Land Use Map (Davenport +2035)



Legend
Subject Property



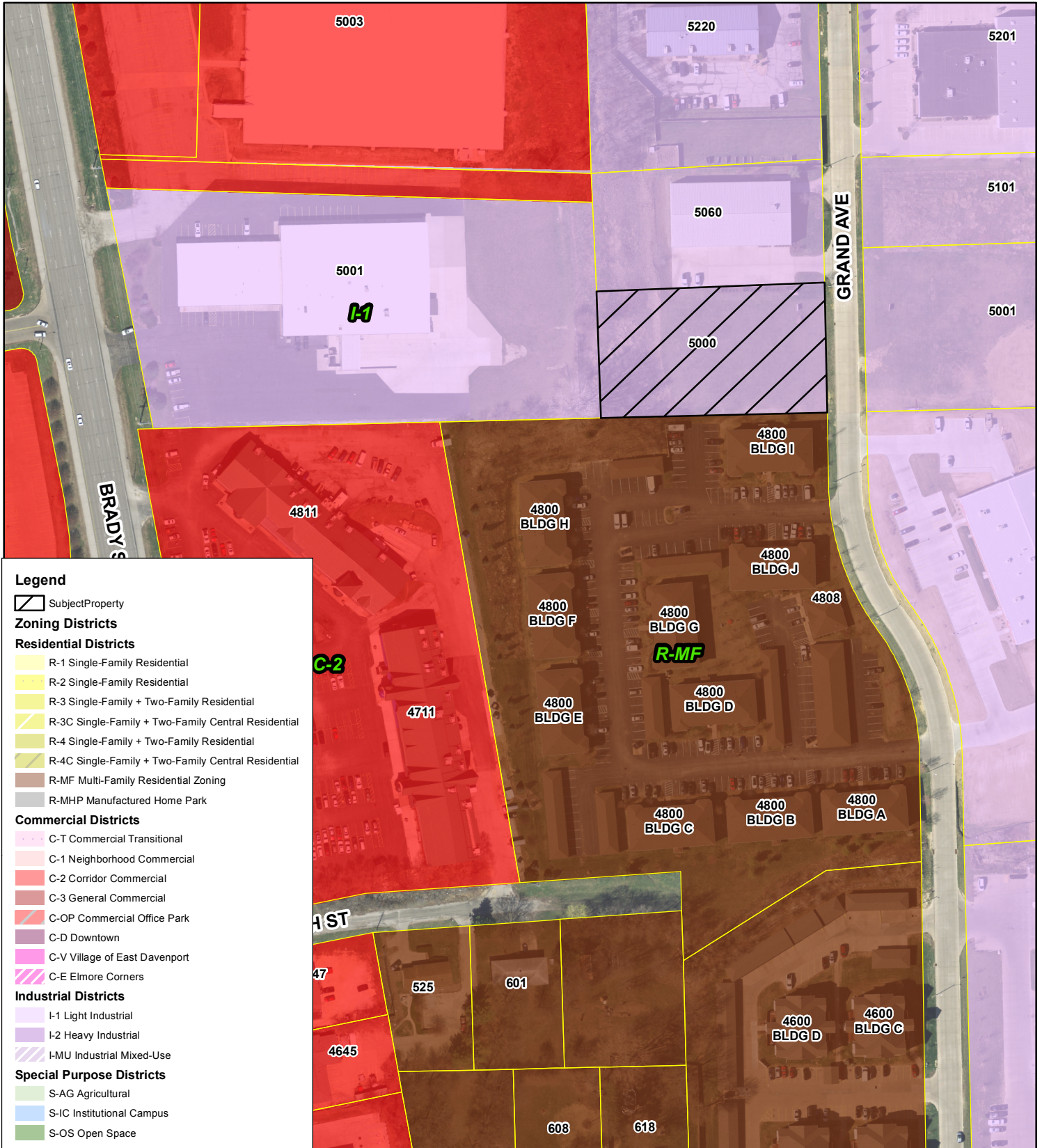
0 50 100 200 Feet

1 inch = 333 feet

Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.



Zoning Map



0 50 100 200 Feet

1 inch = 170 feet



Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.

**NOTICE
PUBLIC MEETING**

THIS MEETING HAS BEEN RESCHEDULED FOR NOON MONDAY FEBRUARY 4, 2019
DAVENPORT PUBLIC WORKS CENTER
1200 E. 46 ST., DAVENPORT, IOWA 52807

Please be aware of possible zoning changes that may impact your property or neighborhood.

Case No. REZ19-01: Request of Bradley Matthews on behalf of Robert C. Harmsen 2013 Estate Trust for a rezoning (map amendment) on 1.1 acres at 5000 Grand Avenue from "I-1" Light Industrial District to R-MF Multiple Family Residential District. [7th Ward] (See map of the affected property on reverse side of this notice).

The proposed rezoning, if approved, would allow for multi-family development to occur on the property.

A public meeting, hosted by the applicant, will be held to discuss the proposal at the time and place listed above. A formal public hearing will be held on the matter by the Plan and Zoning Commission on Tuesday, February 5, 2019, 5:00 pm at Davenport City Hall. You will receive an additional notice prior to this meeting.

If you have any questions regarding the proposal, please contact the Community Planning Division.

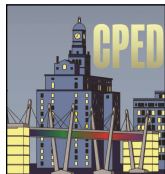
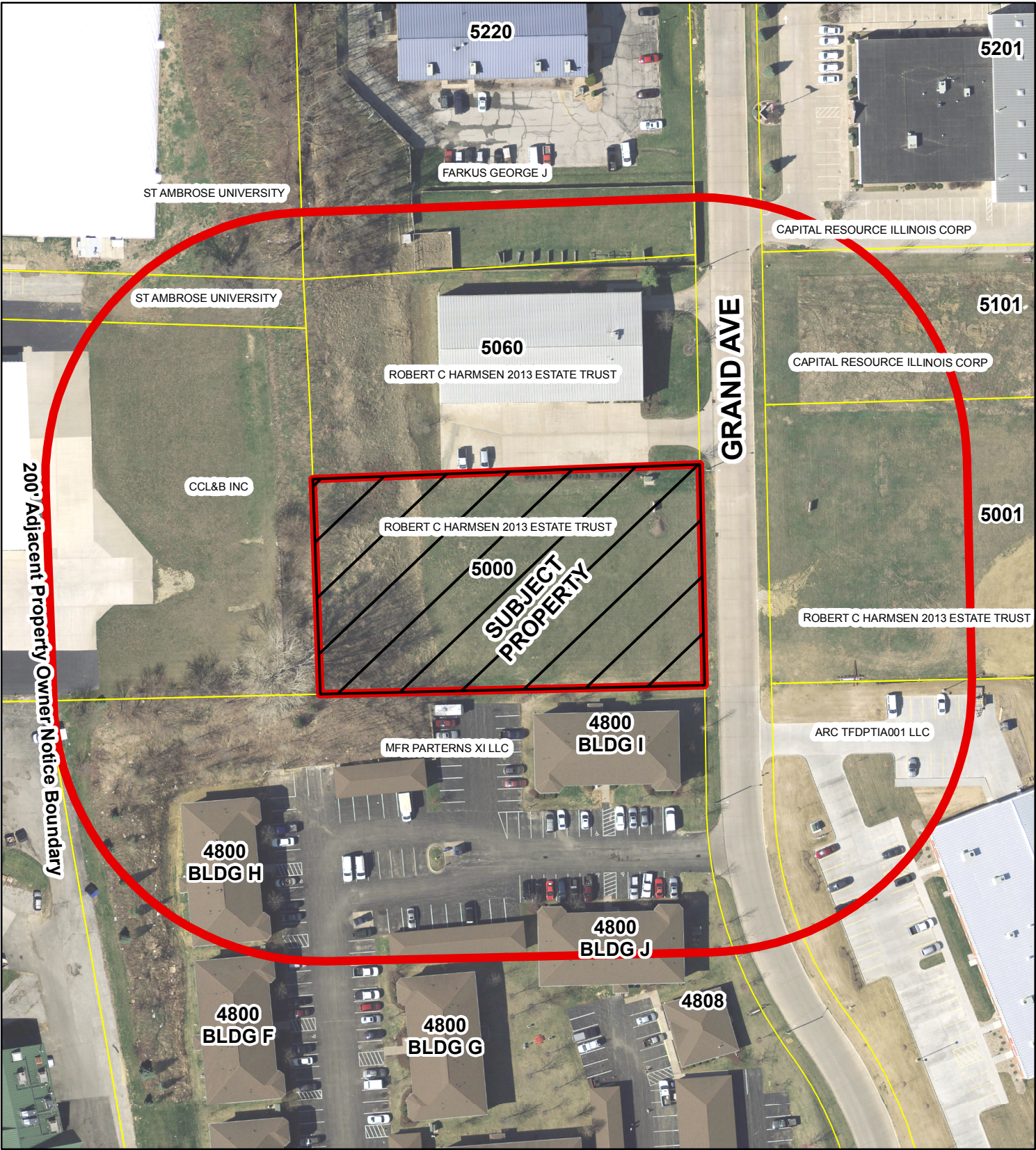
Case No. REZ19-01

EMAIL: planning@ci.davenport.ia.us

Phone: (563) 326-7765

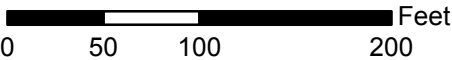
Request for a Zoning Map Amendment (Rezoning)

Adjacent Property Owner Notice Area



Legend

- SubjectProperty
- 200' Notice Buffer



1 inch = 100 feet



Private parties utilizing City GIS data do so at their own risk. The City of Davenport will not be responsible for any costs or liabilities incurred due to any differences between information provided and actual physical conditions.

Wednesday, January 23, 2019

Please publish the following public notice in the January 28, 2019 edition of the Quad City Times.

The PO number for this notice is: 1909207

Please provide proof of publication for our records. If you have any questions, please contact us at planning@ci.davenport.ia.us or 563-326-7765. Thank you!

**NOTICE
PUBLIC HEARING
TUESDAY, FEBRUARY 5, 2019 - 5:00 P.M.
CITY OF DAVENPORT PLAN AND ZONING COMMISSION
COUNCIL CHAMBERS - DAVENPORT CITY HALL
226 WEST 4th STREET – DAVENPORT, IOWA**

There is on file in the Community Planning and Economic Development Department (CPED), on behalf of the Plan and Zoning Commission, the following request:

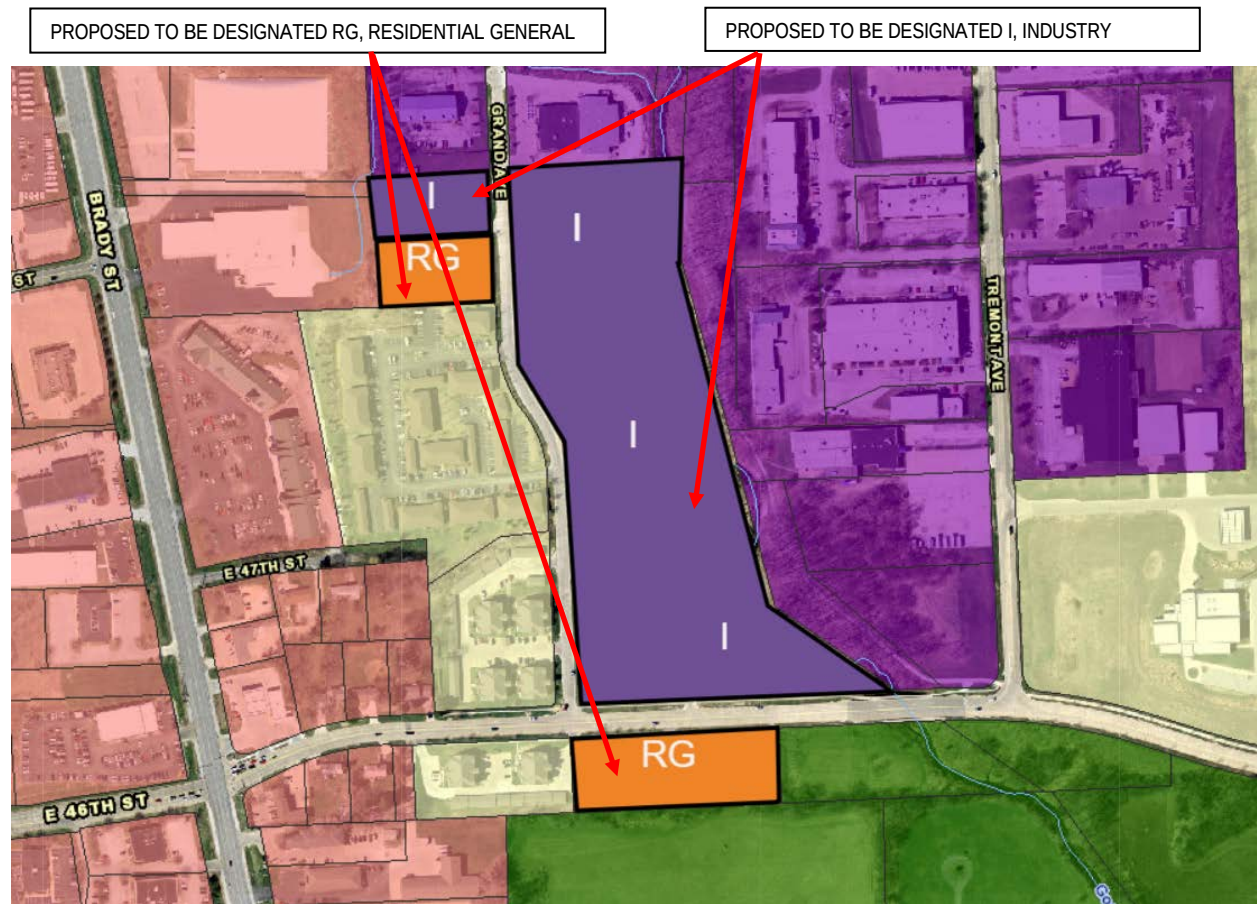
Case REZ19-01: Request by Bradley Matthews, to rezone 1.1 acres, more or less, of property located at 5000 Grand Avenue from I-1, Light Industrial District to R-MF, Residential Multifamily District. [Ward 7]

The public hearing on the above matter is scheduled for 5:00 p.m. or as soon thereafter as possible on Tuesday, February 5, 2019 in the Council Chambers of the Davenport City Hall, 226 West 4th Street, Davenport, Iowa. You may submit written comments on the above item(s) or to attend the public hearing to express your views, or both. Interpretive services are available at no charge. Servicios interpretativos libres estan disponibles. TTY: (563) 326-6145

Any written comments to be reported at the public hearing should be received in the Department of Community Planning & Economic Development, at the above address, no later than 12:00 noon on the day of the public hearing(s). PO No. 1909207

Department of Community Planning & Economic Development
E-MAIL: planning@ci.davenport.ia.us PHONE: 563-326-7765

PROPOSED COMPREHENSIVE PLAN, FUTURE LAND USE MAP AMENDMENT CASE CP-19-01



February 20, 2019

Honorable Mayor and City Council
City Hall
226 West 4th Street
Davenport, Iowa 52801

Dear Mayor and Council:

At its regular meeting of February 19, 2019, the Plan and Zoning Commission considered Case REZ19-01 being the request of Bradley Matthews to rezone approximately 1.1 acres located at 5000 Grand Avenue from I-1 Light Industrial District to R-MF, Residential Multifamily District [Ward 7].

The Commission voted 7-0 to forward the case to the City Council for its approval, with the following findings and conditions:

Findings:

1. This property is located on the boundary between R-MF and I-1 Zoning.
2. The proposed rezoning will not significantly add traffic to Grand Avenue.
3. Zoning this property R-MF will allow for construction of apartment units in close proximity to employment opportunities.
4. No single family neighborhoods are in the vicinity and thus, none will be impacted.

Condition:

That the City Council is requested to pass a resolution assigning a Future Land Use Designation of RG, Residential General to this property and assigning either I, Industry or RG, Residential General designations to other nearby properties overlooked in the 2016 Comprehensive Plan.

Respectfully submitted,



Robert Inghram, Chairperson
City Plan and Zoning Commission

City of Davenport

Agenda Group:
Department: Community Planning & Economic Development
Contact Info: Bruce Berger 563-326-7769
Wards:

Action / Date
3/20/2019

Subject:
Resolution setting a Public Hearing on the proposed conveyance of the following City-owned Urban Homestead Properties:

Ward 4

Parcel H0010-04, 1412 West 15th Street, to (Kelli Torres, Petitioner)

Ward 5

Parcel E0016-22, 1501 Eastern Avenue, to (Kelly DeBolt, Petitioner)

Recommendation:
Adopt the Resolution.

Background:

As part of the Urban Homestead Program funded with a variety of Federal housing grants, the City has acquired and rehabilitated two single family homes with the intention of selling them to income eligible households in Davenport. This program, which has been approved by City Council as part of the City's CDBG Five Year Comprehensive and One Year Annual Plans, enables vacant properties to be returned to the tax rolls and improves the look and feel of neighborhoods while providing eligible working households with affordable homeownership opportunities.

The respective petitioners have applied for and been approved as federally eligible to acquire these properties from the City. City staff solicited appraisals for the properties and they are being sold for \$120,000 and \$85,000 respectively.

Approval of this Resolution would authorize staff to advertise a public hearing on the proposed conveyance, which is required by State law. The hearing would be scheduled for Wednesday, April 3, 2019 at the Committee of the Whole meeting.

REVIEWERS:

Department	Reviewer	Action	Date
Community Planning & Economic Development	Admin, Default	Approved	3/15/2019 - 9:42 AM

City of Davenport

Agenda Group:
Department: Public Safety
Contact Info: Brian Krup 563-326-6163
Wards:

Action / Date
3/27/2019

Subject:

Resolution closing various street(s), lane(s), or public grounds on the listed date(s) to hold outdoor event(s).

A. Davenport Schools; Intermediate and High School Track Meets; various dates/times in April and May 2019; Closure: Portion of E 36th St from Brady St to just west of Durham School Services at 3640 Davenport Ave. [Ward 7]

B. Stickman Racing Group; Easter Egg Scramble 5k Run/Walk; Saturday, April 20, 2019 7:30AM – 11:00AM; Christie St from E 11th St to E 12th St; E 11th St from Christie St to Jersey Ridge Rd; Jersey Ridge Rd from 11th St to Middle Rd; Middle Rd from Jersey Ridge Rd to Eastmere Dr to Bettendorf City Limits; northern most westbound lane on River Dr at Davenport City Limits to River St; River St from River Dr to finish at 11th St and Christie St. [Wards 5 & 6]

Recommendation:
Adopt the Resolution.

Background:

Per the City's Special Events Policy, City Council will approve street/lane/public grounds closures based on the recommendations of the Special Events Committee.

ATTACHMENTS:

Type	Description
▣ Resolution Letter	Resolution
▣ Backup Material	Track meet schedule
▣ Backup Material	Track meet street closure map
▣ Backup Material	Easter Egg Scramble 5K Map

REVIEWERS:

Department	Reviewer	Action	Date
Public Safety	Admin, Default	Approved	3/13/2019 - 12:26 PM

Resolution No. _____

Resolution offered by Alderman Gripp

Resolution closing various street(s), lane(s), or public grounds on the listed date(s) to hold outdoor event(s).

RESOLVED by the City Council of the City of Davenport.

WHEREAS, the City through its Special Events Policy has accepted the following application(s) to hold outdoor event(s) on the following date(s), and

WHEREAS, upon review of the application(s) it has been determined that the street(s), lane(s), or public grounds on the date(s) listed below will need to be closed, and

NOW, THEREFORE, BE IT RESOLVED that the City Council approves and directs the staff to proceed with the temporary closure of the following street(s), lane(s), or public grounds on the following date(s) and time(s):

*Davenport Schools; Intermediate and High School Track Meets; various dates/times in April and May 2019; **Closure:** Portion of E 36th St from Brady St to just west of Durham School Services at 3640 Davenport Ave. [Ward 7]*

*Stickman Racing Group; Easter Egg Scramble 5k Run/Walk; Saturday, April 20, 2019 7:30AM – 11:00AM; **Closure:** Christie St from E 11th St to E 12th St; E 11th St from Christie St to Jersey Ridge Rd; Jersey Ridge Rd from 11th St to Middle Rd; Middle Rd from Jersey Ridge Rd to Eastmere Dr to Bettendorf City Limits; northern most westbound lane on River Dr at Davenport City Limits to River St; River St from River Dr to finish at 11th St and Christie St. [Wards 5 & 6]*

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

Tuesday, April 2nd 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Tuesday, April 9th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:30 PM - 6:30 PM

Cleanup Time: 3:30 PM - 7:30 PM

Wednesday, April 10th 2019

Setup Time: 3:30 AM - 8:00 AM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Thursday, April 4th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Thursday, April 11th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:00 PM - 7:00 PM

Cleanup Time: 3:30 PM - 8:00 PM

Monday, April 15th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Wednesday, April 17th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Thursday, April 18th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Tuesday, April 23rd 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Wednesday, April 24th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Monday, April 29th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Thursday, May 2nd 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:30 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Monday, May 6th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Tuesday, May 7th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Thursday, May 9th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 4:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Tuesday, May 14th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

Friday, May 17th 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM

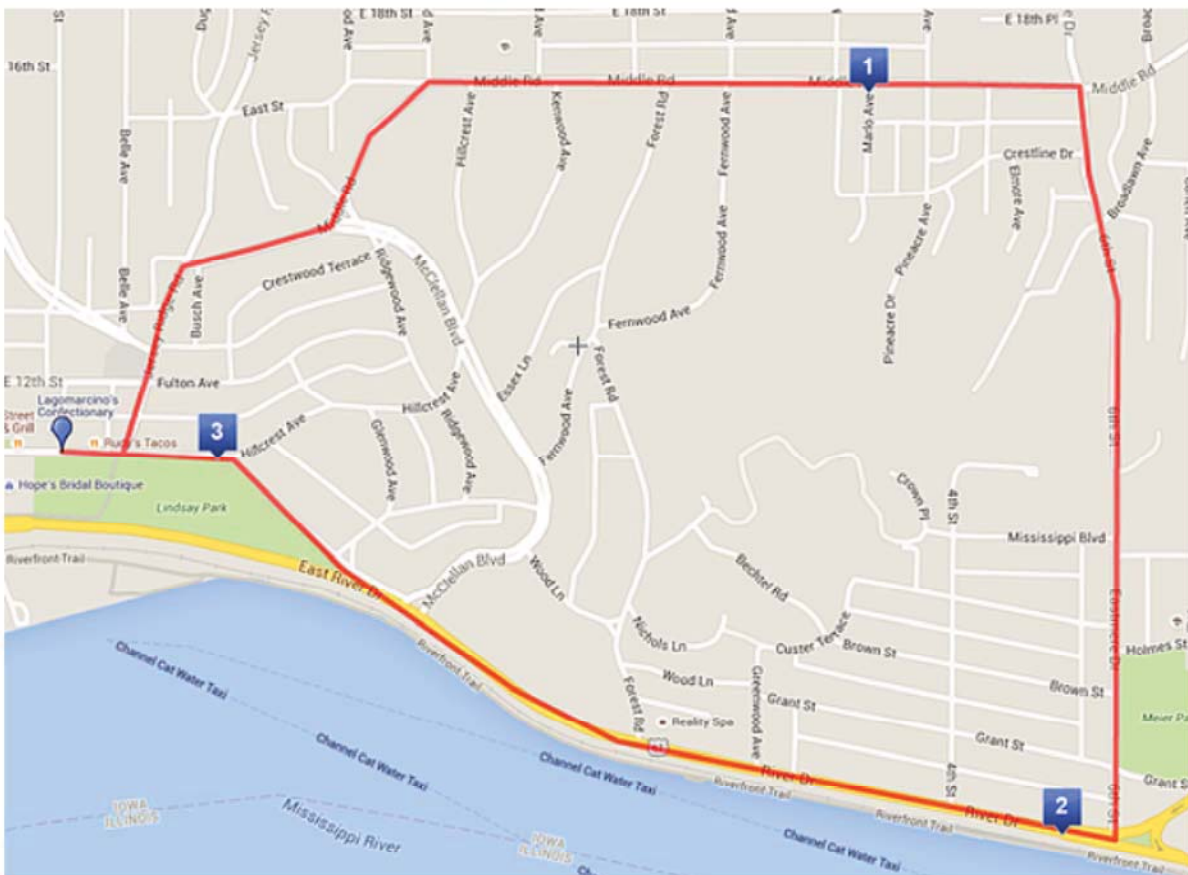
Tuesday, May 21st 2019

Setup Time: 3:30 PM - 8:00 PM

Event Time: 5:00 PM - 7:30 PM

Cleanup Time: 3:30 PM - 8:00 PM





City of Davenport

Agenda Group:
Department: City Clerk
Contact Info: Brian Krup 563-326-6163
Wards:

Action / Date
3/27/2019

Subject:
Motion approving noise variance request(s) for various events on the listed dates at the listed times.

A. Davenport's Riverfront Improvement Commission and the Regional Development Authority; 2019 Music on the River; Petersen Pavilion in LeClaire Park; various dates/times from June through August 2019; Outdoor music, over 50 dBa. [Ward 3]

7:00 p.m. (unless otherwise noted) for approximately two (2) hours

Sunday, June 2, Josh Duffee & His Orchestra
Sunday, June 9, The Merchants
Sunday June 16, Tewanta and Good Company
Sunday, June 30, Ken Paulsen Orchestra
Wednesday, July 3, Red, White & Boom! with The RiverCity 6
Sunday, July 14, BIX JAZZ FEST PREVIEW – 6:00 p.m.
Friday, August 2, BIX JAZZ FEST - 6:00 p.m.
Sunday, August 11, Crooked Cactus Band
Sunday, August 25, Panic River Band
Wednesday, August 28, Central High School Marching Band

Recommendation:
Pass the Motion.

Background:
The following request for a noise variance has been received through the Special Events process pursuant to the Davenport Municipal Code Chapter 8.19 Noise Abatement Section 8.19.090 Special Variances.

REVIEWERS:

Department	Reviewer	Action	Date
City Clerk	Admin, Default	Approved	2/19/2019 - 4:20 PM

City of Davenport

Agenda Group:
Department: Finance
Contact Info: Sherry Eastman 563-326-7795
Wards:

Action / Date
3/20/2019

Subject:
Motion approving beer and liquor license applications.

A. New License, new owner, temporary permit, temporary outdoor area, location transfer, etc. (as noted):

Ward 1

Rockingham Liquor (Lila LLC) - 2423 Rockingham Rd. - License Type: E Liquor / C Beer / B wine -
200 ft. notification letters mailed 3/13/19

Ward 3

The Filling Station (Bar Management LLC) - 500 W 3rd St. QC Times Lot - Outdoor Area July 27,
2019 "Bix Event" - License Type: B Beer

Ward 6

Portillo's Hot Dogs (Portillo's Hot Dogs, LLC) - 2741 E 53rd St. - Outdoor Area - License Type: B Beer

Ward 7

Assumption High School (Assumption High School) - 1020 W Central Park Ave - Outdoor Area April
26, 2019 "Havana Knights" annual fundraiser - License Type: C Liquor

Ganzo's (Ganzo's LTD.) - 3923 N Marquette St. - Outdoor Area May 3 - 5, 2019 "Cinco De Mayo"
event - License Type: C Liquor

Recommendation:
Consider the license applications.

Background:
The following applications have been reviewed by the Police, Fire, and Zoning Departments.

REVIEWERS:

Department	Reviewer	Action	Date
Finance	Admin, Default	Approved	3/14/2019 - 5:11 PM

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Brian Schadt 563-326-7923
Wards:

Action / Date
3/6/2019

Subject:

Second Consideration: Ordinance amending various sections of Chapter 12.20 (Right of Way Management Regulations) to clarify specific standards for wireless structures placed within the City. [All Wards]

Recommendation:
Adopt the Ordinance.

Background:

To protect City right-of-way and for consistency on the placement of wireless structures placed within the City of Davenport, various sections of Chapter 12.20 are being amended and will include specific standards for these structures.

ATTACHMENTS:

Type	Description
▢ Cover Memo	Ord pg 2

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	2/28/2019 - 9:57 AM
Public Works Committee	Lechvar, Gina	Approved	2/28/2019 - 11:29 AM
City Clerk	Admin, Default	Approved	2/28/2019 - 5:28 PM

ORDINANCE NO. _____

Ordinance amending various sections of Chapter 12.20 (Right of Way Management Regulations) to clarify specific standards for wireless structures placed within the city.

Chapter 12.20 RIGHT OF WAY MANAGEMENT REGULATIONS

Sections:

12.20.010	Title.
12.20.020	Legislative findings.
12.20.030	Purposes.
12.20.040	Rules of construction.
12.20.050	Definitions.
12.20.060	Authority.
12.20.070	Reservation of rights; police power.
12.20.080	Authorization required.
12.20.090	Construction standards.
12.20.100	Placement of facilities.
12.20.110	Relocation of facilities.
12.20.120	Restoration.
12.20.130	Work permits.
12.20.140	Business license.
12.20.150	Reimbursement of costs.
12.20.160	Administration and permitting to use space within the right-of-way.
12.20.170	Specific Standards for Wireless Structures.
12.20.180	Reports and records.
12.20.190	Bond or letter of credit.
12.20.200	Insurance.
12.20.210	Enforcement.
12.20.220	Indemnification.
12.20.230	Severability.

12.20.010 Title.

This chapter is known and may be cited as the Davenport Right-of-Way Management Ordinance. (Ord. 2017-111 § 1 (part)).

12.20.020 Legislative findings.

The city council hereby finds and declares:

A. That the public rights-of-way within the city can be partially occupied by public utilities and other service entities for facilities used in the delivery, conveyance, and transmission of services rendered by private or for profit entities, to the enhancement of the health, welfare, and general economic well-being of the city and its citizens;

B. That the public rights-of-way within the city are physically limited so that proper management by the city is necessary to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses, to prevent foreclosure of future uses through premature exhaustion of available right-of-way capacity, and to minimize the inconvenience to the public from such facilities' construction, emplacement, relocation, and maintenance in the rights-of-way;

C. That the use of the public rights-of-way by multiple users renders more pressing the city's right-of-way management responsibilities;

D. That the public rights-of-way within the city are valuable public property acquired and maintained by the state and the city at great expense to the taxpayers;

E. That the right to occupy portions of such public rights-of-way for limited times for the business of providing utility and information services is a valuable economic asset; and

F. The city's street and alley rights-of-way are owned or held by the city primarily for the purpose of pedestrian and vehicular passage and for the city's provision of essential public safety services, including police and fire services; the city's provision of public health services, including solid waste removal, sanitary sewer and storm drainage services; and other municipal operations and the means to support and provide those services — these interests are paramount. (Ord. 2017-111 § 1 (part)).

12.20.030 Purposes.

The city council adopts this chapter to better:

A. Manage a limited resource to the long term benefit of the public;

B. Recover and allocate the costs of managing the public rights-of-way;

C. Minimize inconvenience to the public occasioned by the emplacement and maintenance of facilities in the public rights-of-way;

D. Prevent premature exhaustion of capacity in the public rights-of-way to accommodate communications and other services; and

E. Promote competition in the provision of communications service in the city and ensure that citizens have a wide variety of services available to them by establishing clear and consistent rules by which providers may occupy the public rights-of-way. (Ord. 2017-111 § 1 (part)).

12.20.040 Rules of construction.

A. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, and words in the singular number include the plural number; and the masculine gender includes the feminine gender.

B. The words "shall" and "will" are mandatory, and "may" is permissive.

C. Unless otherwise specified, references to laws, ordinances or regulations shall be interpreted broadly to cover government actions, however nominated, and include laws, ordinances and regulations not in force on hereinafter enacted or amended.

D. Any conflict between this chapter and a city franchise agreement or Iowa Utilities Board ("IUB") authorization will be resolved in favor of the terms of the city franchise agreement or IUB authorization.

E. Nothing in this chapter shall be construed to create a special duty by the city to any owner or operator of a facility within the right-of-way.

F. Nothing in this chapter shall be construed to create any property interest or right to occupy space within the right-of-way whatsoever.

G. In the case of conflict, the rights granted to an owner or operator by federal or state law shall not be impaired. (Ord. 2017-111 § 1 (part)).

12.20.050 Definitions.

For the purposes of this chapter the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated. Unless otherwise expressly stated, words not defined herein shall be given the meanings set forth in Title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

AFFILIATE: When used in relation to any person, means another person who de facto or de jure owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

CITY: City of Davenport, Iowa, and any agency, department, or agent thereof.

CITY ADMINISTRATOR: The person appointed pursuant to Section 2.30.030 of this code or her designee.

CITY ENGINEER: The city engineer or the city engineer's designee.

COMMUNICATIONS FACILITY OR COMMUNICATIONS SYSTEM: Facilities for the provision of "communications services," as that term is defined herein.

COMMUNICATIONS SERVICES: Tele-communications services, interactive computer services, and any other services involving the transmission of information by electronic or optical signals, except that it shall not include cable service as that term is used in the cable communications policy act of 1984, as amended.

COUNCIL: The principal governmental body of the City of Davenport, Iowa, its officers, or a representative person or entity as may be designated to act on its behalf.

FACILITY OR FACILITIES: Any tangible asset in the public right-of-way used to provide drainage, sanitary or storm sewer, gas, electric, water or communication/information services.

FEDERAL COMMUNICATIONS COM-MISSION OR FCC: The Federal Communications Commission or any successor.

FRANCHISE: An authorization granted by the city to a person to construct, maintain, or emplace facilities generally upon, across, beneath, and over the public rights-of-way in the city, subject to the terms and conditions specified in a franchise agreement. The term also includes an authorization by the Iowa Utilities Board or other appropriate authority or as otherwise authorized by law.

FRANCHISE AGREEMENT: The contract entered into between the city and a grantee that sets forth the terms and conditions under which the franchise may be exercised.

GRANTEE: A person that has been granted a franchise by the city or right to operate within Davenport by the Iowa Utilities Board or other appropriate authority or as authorized by law or such other parties that wish to locate facilities in the right-of-way.

OWNER OR OPERATOR OF A FACILITY: Any person which has a possessory interest in such facility or which controls or is responsible for, through any arrangement, the management and operation of such facility.

PERMITTEE: A person who has received a permit to locate a facility or facilities within the right-of-way.

PERSON: Any individual, corporation, partnership, association, joint stock company, trust, governmental entity, or any other legal entity, but not the city.

PUBLIC RIGHTS-OF-WAY: The surface and space above, on, and below any public highway, avenue, street, lane, alley, boulevard, concourse, driveway, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public easement, or right-of-way within the city in which the city now or

hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating, and maintaining a facility.

TELECOMMUNICATIONS: This term has the meaning ascribed to it in 47 USC section 153(43).

TELECOMMUNICATIONS SERVICE: This term has the meaning ascribed to it in 47 USC section 153(46).

WORK PERMIT: An authorization issued by the city to enter upon the public rights-of-way at specified times and places to erect, construct, emplace, or otherwise work on facilities. (Ord. 2017-111 § 1 (part)).

12.20.060 Authority.

This chapter is adopted pursuant to the city's powers, including, but not limited to, those under title III, section 38A of the Iowa constitution and section 364.2 of the Iowa Code. (Ord. 2017-111 § 1 (part)).

12.20.070 Reservation of rights; police power.

All rights and privileges granted in a franchise agreement are subject to the police powers of the city and its rights under applicable laws and regulations to exercise its governmental powers to their full extent and to regulate a grantee and the construction, operation and maintenance of the grantee's system, including, but not limited to, the right to adopt, amend, and enforce ordinances and regulations as the city shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable zoning, building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations containing right-of-way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions.

Further, nothing in this chapter shall prevent the city from constructing, repairing or replacing sewers; grading, paving, repairing, or replacing any right-of-way; or constructing, repairing, or replacing any other public work or facility, or from performing work pursuant to weather related activities or response to natural disasters. Nothing shall prevent the city from altering the layout or design of a right-of-way for public safety reasons. (Ord. 2017-111 § 1 (part)).

12.20.080 Authorization required.

A. No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct, maintain, or operate any facility upon, across, beneath, or over any public right-of-way in the city or other city property without first obtaining from the city the necessary authorization (e.g., in the case of a cable operator, a franchise) required under local, state or federal law.

B. An owner or operator of facilities may be required to hold different authorizations for its use of the public rights-of-way to provide different services. For example, and without limitation, the owner or operator of facilities that provides both cable service and telephone service must obtain both a cable franchise and any authorization needed to provide telephony. (Ord. 2017-111 § 1 (part)).

12.20.090 Construction standards.

A. Compliance with Regulations; Safety Practices: Construction, operation, maintenance, and repair of facilities shall be in accordance with all applicable law and regulation, and with sound industry

practice. All safety practices required by law shall be used during construction, maintenance, and repair of facilities.

B. Excavations: No holder of any work permit for any facility shall dig, trench, or otherwise excavate in the public rights-of-way without complying with the provisions of the Iowa one call system, Iowa Code § 480.3 et seq., or its successor.

C. Prevention of Failures and Accidents: An owner or operator shall at all times employ at least ordinary care and shall install and maintain using commonly accepted methods and devices preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public.

D. Most Stringent Standards Apply: In the event of a conflict among codes and standards, the most stringent code or standard shall apply (except insofar as that standard, if followed, would result in a system that could not meet requirements of federal, state or local law, or is expressly preempted by other such standards).

E. Trimming of Trees: A grantee or permittee shall have the authority to trim trees that overhang public rights-of-way of the city so as to prevent the branches of such trees from coming in contact with the facilities of the grantee or permittee, in accordance with standards approved by the city administrator and administered by the city arborist or ANSI standards. Grantee or permittee shall be responsible for notifying abutting property owners.

F. Construction Schedule: Every owner or operator shall, at least forty-five (45) days prior to commencing significant construction activity (including a significant rebuild, upgrade, or repair to existing facilities) - emergencies excepted - upon, across, beneath, or over any public right-of-way in the city or other city property, strive to provide to the city in writing the date on which the owner or operator anticipates it will begin construction and the approximate length of time required for such construction. This timeframe represents a preference only.

G. Coordination of Construction With City: Prior to the erection, construction, upgrade, or rebuild of any facilities in the public right-of-way, the owner or operator of such facilities shall first submit to the city for written approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required by the city, together with maps and plans indicating the proposed location of all such facilities. The owner or operator shall provide the best information it has in such reasonable format as may be specified by the city engineer for the city's planning function. No such erection or construction shall be commenced by any person until approval therefor has been received from the city. At the time of such approval, the city shall inform the grantee whether the reports and other information described by subsection 12.20.180C.1 of this chapter shall be required with respect to the approved construction.

H. Coordination of Construction With Third Parties: Developers or other parties planning the construction or opening of streets in the city shall provide reasonable notice to the city and to the owners or operators of facilities subject to this chapter so that joint trenching and joint emplacement of facilities may be conducted wherever practicable. Such owners and operators shall similarly provide notice to each other and to any relevant developers, for the same purpose. The city shall maintain a list of owners and operators of facilities subject to this chapter for reference by other parties.

I. City Engineer Stakeholder Meetings: The city engineer may establish recurring meetings of businesses who make use of the right-of-way for their facilities and contractors who perform such work to discuss ongoing and upcoming projects to further the efforts of coordinating projects within the right-of-way.

J. Contractors and Subcontractors: Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of facilities in the public rights-of-way must be properly licensed and insured under laws of the state and all applicable local ordinances. Each contractor or

subcontractor shall have the same obligations with respect to its work as an owner or operator of the facility would have if the work were performed by the owner operator. An owner or operator shall be responsible for all activities carried out by its contractors, subcontractors and employees at the owner's or operator's request.

K. **Publicizing Proposed Construction Work:** The owner or operator of facilities in the public rights-of-way shall notify the public prior to commencing any construction, other than emergency repair or overhead work, that, in its determination, will significantly disturb or disrupt public property or have the potential to present a danger or affect the safety of the public generally. Written notice of such construction work shall be delivered to the city at least one week prior to commencement of that work. Notice shall be provided to those persons most likely to be affected by the work in at least one (1) of the following ways: by telephone, in person, by mail, by distribution of flyers to residences, by publication in local newspapers, by clearly legible signage at the location of the proposed work, or in any other manner reasonably calculated to provide adequate notice.
(Ord. 2017-111 § 1 (part)).

12.20.100 Placement of facilities.

A. All facilities shall be installed and located to minimize interference with the rights and convenience of other property owners.

B. An owner or operator of facility shall not place facilities, equipment, or fixtures where they will interfere with any other facilities, or obstruct or hinder in any manner the various utilities serving the residents of the city or their use of any public rights-of-way. Placement of facilities may be denied if the facility proposed will occupy greater than ten-percent (10%) of the available clear right-of-way area to a ten foot depth.

C. The city may reasonably direct the specific placement of facilities to ensure that users of the public rights-of-way do not interfere with each other and that the public rights-of-way are used safely and efficiently. For example, in the case of an owner or operator of a fiber optic network that is not a "Public Utility" under Iowa Code Chapter 480A, the city engineer may order extra ducts for fiber optic cable be installed for use by the city or other grantees or permittees when, in the opinion of the city engineer, the subject right-of-way is too congested due to existing facilities and space limitations or will likely be used by at least four other entities including the city for running fiber optic cable. Such company shall then certify to the city engineer the additional cost of said installation per linear foot which the city shall pay. Other future users of the surplus duct will be charged an upfront, one-time fee to locate in said duct to recover a proportional share of the city's upfront and carrying costs as calculated by the city engineer. This fee will be in addition to, and not in lieu of, any recurring fee charged by city for location within the right-of-way.

D. Every grantee or permittee that ceases operating or maintaining any facility shall, upon written request of the city within two (2) years of the cessation of maintenance of such facility, promptly remove it. Should the grantee or permittee neglect, refuse, or fail to remove such facility, the city may remove the facility at the expense of the grantee or permittee. The obligation to remove shall survive the termination of the franchise or permit for a period of two (2) years and shall be bonded. The city engineer may determine that it is in the best interests of the city to allow the facility to be wholly or partially abandoned in place.

E. No owner or operator of a facility shall erect new aerial plant, other than to repair existing plant, in or on a public right-of-way in which both electric and telephone service providers have placed their

lines underground, or in an area which the city has by ordinance forbidden new aerial plant to be constructed or existing aerial plant to be maintained.

F. If at any time the city determines that existing wires, cables or other like facilities of public utilities anywhere in the city shall be changed from an overhead to underground installation, the owner or operator of a facility shall, at no expense to the owner or operator, convert its system in that location to an underground installation unless the owner or operator's city franchise agreement, tariff or applicable state or federal law provides otherwise.

G. A grantee or permittee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible. A grantee or permittee may not erect poles, conduits, or other facilities in public rights-of-way without the express permission of the city. Copies of agreements for use of conduits or other facilities shall be filed with the city upon city request. The city engineer may require that foundation plans and structural load analysis signed and sealed by a professional engineer licensed in the State of Iowa be submitted for review and approval for either reuse of an existing pole or installation of a new pole. Soil boring analysis may be required for new pole installations.

H. To the extent practicable, aboveground equipment placed on private property shall be placed at the location requested by the property owner. An owner or operator shall provide affected homeowners with at least ten (10) days' advance written notice of its plans to install such equipment, and shall make reasonable efforts to confer with such homeowners before any work is done.

I. Whenever aboveground equipment is placed on private property within a utility easement, the grantee or permittee shall provide landscaping camouflage reasonably acceptable to the city engineer, at the grantee's or permittee's expense. It shall be the grantee's or permittee's responsibility to negotiate the terms of the camouflage with the city engineer.

J. Any underground fiber optic project by a non-Iowa Code Chapter 480A Public Utility involving a run of less than a full city block is not allowed unless it is ancillary to a wireless facility.

K. The city engineer may develop and institute a standardized cross-section location protocol for new or reconstructed rights-of-way.

L. Unless exigent circumstances exist, no new facilities may be installed that disturb the roadway hard surface or subsurface/subbase within three years of the construction or reconstruction of the roadway.

M. All above ground facilities, whether placed within public right-of-way or private property within a utility easement shall aesthetically match the surrounding area. Equipment shall be concealed or housed within the smallest possible cabinet or other appropriate enclosure. No external loose cables or wires shall be allowed. Owners of facilities shall maintain such in good working order and condition.

N. No above ground poles or structure within the public right-of-way shall exceed thirty (30) feet in height from the ground surface. This item shall not be applicable to electrical transmission facilities.

(Ord. 2017-111 § 1 (part)).

12.20.110 Relocation of facilities.

The owner or operator of a facility on or within the public rights-of-way shall, at its own expense, upon written notice from the city reasonably in advance, promptly relocate any facility located on or within the public rights-of-way as the city may deem necessary or appropriate to facilitate the realignment (for public safety reasons), reconstruction, improvement or repair of public streets, sidewalks, curbs, drains, sewers, and public improvements of any sort; provided, however, that an operator may be permitted to

abandon any property in place with the written consent of the city. This subsection does not apply to relocations covered by 12.20.100F. (Ord. 2017-111 § 1 (part)).

12.20.120 Restoration.

A. Unless governed contractually between the owner or operator and its customer, if an owner or operator of a facility disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping, or other structure, either on private property or in public rights-of-way, the owner or operator shall, in a manner approved by the city engineer, replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with any standards for such work set by the city. Such restoration shall be undertaken within no more than ten (10) days after the damage is incurred, weather permitting, and shall be completed as soon as reasonably possible thereafter. The owner or operator shall guarantee and maintain restoration of a public: improvement for at least one year against defective materials or workmanship.

B. In the event an owner or operator of a facility fails to complete any work required for the protection or restoration of the public rights-of-way, or any other work required by city law or ordinance, within the time specified by and to the reasonable satisfaction of the city, the city, following notice and an opportunity to cure, may cause such work to be done, and the owner or operator of a facility shall reimburse the city the cost thereof within thirty (30) days after receipt of an itemized list of such costs; or the city may recover such costs through the security fund provided by an owner or operator of a facility, pursuant to the procedures for recovery from the security fund specified in the owner's or operator's franchise agreement.

C. Any and all public rights-of-way, public property, or private property that is disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, or reconstruction of a system shall be promptly repaired by the owner or operator of a facility. (Ord. 2017-111 § 1 (part)).

12.20.130 Work permits.

A. Unless otherwise provided by law, franchise, IUB authorization or emergency circumstances, no person shall install, erect, hang, lay, excavate, bury, draw, emplace, construct, or reconstruct any facility upon, across, beneath, or over any public right-of-way in the city, or enter into the public rights-of-way to work on a facility, without first obtaining a work permit therefor from the city. Notwithstanding the foregoing, under no provision in this chapter shall any work permit or other approval from the city be required to install, construct, repair, maintain or replace any service drop.

B. Denial. The city engineer may deny a work permit for failure to meet the requirements of this chapter, failure to meet monetary obligations to the city or it is necessary to protect the health, safety and welfare or the right-of-way and its current use. Failure to meet the requirements includes, but is not limited to, striking or damaging another facility within the right-of-way.

C. Large Capital Programs. The city engineer may develop and institute a special streamlined permit and inspection process for large capital programs by mutual agreement with the applicant or applicants in the case of a joint project after receiving authorizing from the city administrator.

D. The city engineer may issue a stop work order to anyone failing to secure the proper permit or for not following the ordinances or city standards.
(Ord. 2017-111 § 1 (part)).

12.20.140 Business license.

A franchise under this chapter does not render unnecessary or take the place of any generally applicable business license that may be required by the city for the privilege of transacting and carrying on a business within the city generally. (Ord. 2017-111 § 1 (part)).

12.20.150 Reimbursement of costs.

All grantees or permittees will reimburse the city for its internal and out of pocket costs, including, but not limited to, attorney and consultant fees actually and reasonably incurred by the city in connection with an application for an initial franchise or permit under this chapter as determined by the city after it takes action on the application. Any application fee submitted with the application will be credited against this amount. The applicant will remit to the city payment for such costs within thirty (30) days of its receipt of the city's invoice. (Ord. 2017-111 § 1 (part)).

12.20.160 Administration and permitting to use space within the right-of-way.

A. The city engineer shall oversee the following administrative functions:

1. Collect any applicable fees from all owners or operators of facilities using public rights-of-way in the city;
2. Audit any franchise fees or payments owed to the city;
3. After approval by separate ordinance of the applicability, amount and formula for a right-of-way occupancy fee, publish from time to time a schedule of applicable fees hereunder;
4. Be responsible for the continuing enforcement of all terms and conditions of city-granted franchises.

B. The city engineer shall oversee permitting as follows:

1. No person shall occupy or use public right-of-way for the purpose of providing utility, communication, information or data services to customers without first obtaining a franchise or permit from the city or the authorization from the Iowa Utilities Board or other appropriate authority or as otherwise authorized by law.

The city shall not grant, issue, or enter into any franchise or permit that grants or allows exclusive use or occupancy of the right-of-way. Any person seeking a franchise or permit for use of city right-of-way shall make application for a franchise or permit as provided in this chapter.

An application for a franchise or permit for occupancy or use of a right-of-way shall be filed with the city engineer on a form developed and provided by the city engineer.

2. Authority to Issue Permit; Form of Permit and Term.

a. Permits required by this chapter shall be issued by the city engineer. The city engineer shall review each application and shall issue each permit which he or she determines to be in compliance with the requirements of this chapter and any other applicable local, state, or federal requirements. In issuing a permit, the city engineer may require a change in the proposed location of the permittee's equipment where necessary to avoid interference with other equipment placed within the public right-of-way.

b. Permits issued pursuant to this chapter shall be in writing and shall be executed by the permittee. The form of permits to be issued pursuant to this chapter shall be uniform, but shall be subject to periodic review and modification. When available, the city engineer may implement an electronic or digital permit system.

3. Limit on Term of Franchises; Limit on Initial or Renewal Term of Permits.

- a. No franchise for use of the public right-of-way shall be granted for a term in excess of 25 years.

b. No permit for use of the public right-of-way issued by the city engineer shall be issued or renewed for a term in excess of 25 years.

4. Existing Facilities. Any facilities existing on or before May 1, 2017 and mapped are exempt from the issuance of a permit for occupancy.

5. Application for Initial Issuance of a Permit; Registration Required.

A person desiring to obtain a permit as required in this chapter shall register such proposed use and occupancy of public right-of-way, shall make application for a permit for such use and occupancy as provided in this chapter, and shall pay an application fee for initial issuance of the permit. The application fee for initial issuance of a permit and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city council by resolution such fee shall be based upon the administrative costs of processing the permit. The application for initial issuance of a permit shall be filed with the city engineer not less than 60 days prior to the proposed effective date of the permit and shall be filed upon a form provided by the city for that purpose. The application shall include, at a minimum, the following information:

a. The name, address and telephone number of the applicant.

b. The name, address and telephone number of a responsible person whom the city may notify or contact at any time or in case of emergency concerning the equipment or utility system.

c. A statement of the purpose for the equipment or system proposed for installation in the public right-of-way, the type of service it will provide, and the intended customers which it will serve.

d. Any additional information which the city engineer in his or her discretion may require.

6. Issuance and Renewal of Permits; Permit Revocation and Cancellation.

a. Prior to the initial issuance of a permit for use or occupancy of public right-of-way, the city engineer shall conduct a review of the permittee's background to determine the permittee's ability to meet the requirements stated in subsection B.6.e of this section. If on the basis of such review the city engineer determines that it would not be appropriate to issue the permit, the city engineer shall give notice of intent not to issue the permit as provided in subsection B.6.g. of this section.

b. To obtain renewal of a permit, the permittee shall file a renewal application with the city engineer on the form provided by the city and pay an application fee for renewal of the permit. The renewal application fee and any future changes thereto shall be effective upon its inclusion in a schedule of fees adopted by the city council by resolution. The renewal application shall be filed with the city engineer not less than 180 days prior to the expiration of the initial or any renewal term of the permit. Upon receipt of the renewal application, the city engineer shall conduct a review of the permittee and the permittee's prior use of the public right-of-way to determine the permittee's continued compliance with the requirements stated in subsections B.6.c. and B.6.e. of this section. If on the basis of such review the city engineer determines that the permittee and the permittee's prior use of the public right-of-way complies with all requirements stated in subsections B.6.c. and B.6.e. of this section, the city engineer may renew the permit for an additional term of up to 25 years. If on the basis of such review the city engineer determines that the permittee and the permittee's use of public right-of-way do not comply with one or more of the requirements stated in subsections B.6.c. and B.6.e. of this section, the city engineer shall give notice of intent not to renew the permit as provided in subsection B.6.g. of this section. If a permittee holds multiple permits for use or occupancy of various rights-of-way within the city for the same or similar purpose, the permittee shall be required to renew all such permits under a single permit at such time as the earliest issued permit expires.

c. In determining the length of the term of an initial or a renewal permit, the city engineer shall take into consideration the likelihood that the city will require the use of the specific portion of the subject right-of-way for municipal purposes or that such use of the subject right-of-way will unduly burden the

city or the public in its use of the subject right-of-way during the proposed term of the permit and the life cycle of the technology to be deployed. A permit shall not be issued or renewed if the city engineer determines that any of the following conditions exist in the right-of-way proposed for licensing:

- (1) There is insufficient space in the right-of-way to accommodate the proposed use, given the other existing uses thereof;
- (2) The proposed private utility service connection would interfere with or conflict with existing or planned city equipment or utility equipment located or to be located in the right-of-way;
- (3) Such use is incompatible with adjacent public or private uses of that right-of-way.
- (4) Such use would involve an unacceptably high frequency of repair or maintenance to the private utility service equipment thereby requiring excessive excavation in or obstruction of the right-of-way; or
- (5) The construction or installation of such private utility service equipment would interfere with a public improvement undertaken or to be undertaken by the city or with an economic development project in which the city has an interest or investment.

d. If during the term of any permit the city engineer determines that the permit should be revoked due to the permittee's failure to comply with any of the requirements stated in subsection B.6.e. of this section, the city engineer shall give notice of intent to revoke such permit as provided in subsection B.6.g. of this section.

e. The following shall constitute grounds for refusal to issue or renew a permit, or for revocation of a permit for use or occupancy of public right-of-way:

- (1) The permittee's failure to observe or comply with any of the following:
 - (a) The permittee's use or prior use of public right-of-way has been conducted in full and timely compliance with all laws and regulations applicable thereto, and the permittee has complied fully and in a timely manner with the requirements of any previously issued permit, and with the orders or instructions of city officials issued pursuant to this chapter; or
 - (b) The permittee is current in the payment of permit fees, if applicable, and the permittee has made such payments fully and when due.
- (2) The permittee's commission of any of the following acts:
 - (a) The permittee has made a misleading statement or a material misrepresentation in connection with an application for initial issuance or renewal of a permit, in connection with its registration of its use of the public right-of-way or in connection with its use of public right-of-way; or
 - (b) The permittee has transferred its equipment, its business, or its permit to another person or has made a change in use of its equipment, without giving the city notice thereof and obtaining city consent thereto; or
 - (c) Striking or damaging another facility within the right-of-way.
- (3) The subject right-of-way is highly congested and a reasonable likelihood exists in the city engineer's opinion that the space is needed in the future for a different service to a broader segment of the population.

f. The city engineer shall give notice of intent to cancel such permit as provided in subsection B.6.g. of this section if during the term of any permit the city engineer determines that:

- (1) The permittee's continued use of the public right-of-way will unduly burden the city or the public in its use of that property;
- (2) The public right-of-way for which the permit was issued will be required for municipal purposes during the term of the permit;
- (3) The permittee's equipment at a particular location will interfere with:
 - (a) A present or future city use of the right-of-way;
 - (b) A public improvement undertaken or to be undertaken by the city;

- (c) An economic development project in which the city has an interest or investment; or
- (d) The public's safety or convenience in using the right-of-way for ordinary travel; or
- (4) The public health, safety and welfare requires it.

g. Notice of intent not to issue a permit for use of the public right-of-way shall be given to the applicant, either by certified mail, return receipt requested, or by actual service or delivery thereof. Notice of intent not to renew a permit for use of the public right-of-way shall be given to the permittee, either by certified mail, return receipt requested, or by actual service or delivery thereof, which notice shall be given not more than 90 days after submission of the renewal application. Notice of intent to revoke or cancel a permit shall also be given to the permittee in the manner provided above. The notice shall set forth the grounds for refusal to issue or renew or for revocation or cancellation and shall inform the applicant or permittee of the right to an appeal hearing upon request. Such request for hearing shall be filed in writing with the city administrator, and the hearing shall be scheduled and held as provided in Chapter 2.86. At the hearing, the applicant or permittee shall have the burden of establishing that the grounds asserted in the notice do not exist.

h. Upon the effective date of revocation or cancellation as provided in the city engineer's notice thereof, or upon the effective date specified in the city engineer's written decision upon the permittee's appeal, the permittee shall be required to cease its use and occupancy of the right-of-way or to remove or relocate its equipment therefrom, as provided in the notice or decision. Equipment not removed or relocated from the right-of-way as required in such notice or order shall be considered a nuisance and may be removed, relocated, or taken possession of by the city, at the permittee's expense. Except in emergency circumstances, the requirement to relocate, remove, or cease use of equipment shall be suspended during the pendency of any appeal taken by a permittee pursuant to this chapter.

i. If a permit is refused or cancelled upon the basis that the subject city property is or will be required for municipal purposes, the applicant or permittee shall not be entitled to appeal. However, in that event, the permittee shall be entitled to a partial refund of the annual fee already paid, such refund to be computed on the basis of 1/12 of the required annual fee multiplied by the number of unexpired whole months of the year remaining in the permit term. In all other cases where a permit is not issued or renewed or is revoked, no refund of any portion of the required annual fee shall be paid to the permittee.

j. Notwithstanding the notice and hearing requirements of subsection B.6.g. of this section, the city engineer may in emergency circumstances order the immediate relocation or removal of equipment from the right-of-way.

k. Regardless of any other provision, a refusal, cancellation or revocation may be appealed under the applicable processes specified in state or federal law such as Iowa Code Chapter 480A.

7. Failure to Secure, Renew or Comply. Any person who fails to secure or renew a franchise or IUB authorization or permit required under this chapter or any franchisee or permittee who fails to comply with the of the respective franchise or IUB authorization or permit, or this chapter, or with any other applicable legal requirements shall, upon notification of such violation by the city engineer, immediately act either to abate the violation or to cease its use and occupancy of the right-of-way and remove its equipment or system from the right-of-way.

8. Transfer of Franchise, Permit, Lease, Business, or Equipment Without City's Consent; Change in Use of Equipment Without City's Consent.

A permit issued pursuant to this chapter shall not be transferred to any other person without the prior written notice to the city engineer. A permittee shall not transfer the permit, the business, or the equipment in the right-of-way to another person without giving the city engineer 90 days' prior written notice of such proposed transfer. In such notice, the permittee shall clearly identify the proposed

transferee, giving the name and address of a representative of the transferee who is authorized to discuss and provide information to the city regarding the transfer.

A franchisee or permittee shall not change the use of its equipment without giving the city 90 days' prior written notice of such proposed change in use. In such notice, the franchisee, permittee, or lessee shall clearly and completely set forth the proposed change in use of equipment, how it would be accomplished, including any excavations required to accomplish such change, and projections as to the future maintenance implications of such change in use. Any proposed change in use of a franchisee's or permittee's equipment shall require the prior approval of the city engineer. Such approval may be withheld if the city engineer determines that the proposed use of the equipment at that location would be incompatible with or would likely damage or endanger other uses of the right-of-way, would involve a higher level of maintenance activities than the present use, would involve more street excavation or greater traffic disruption than the present use, or would be otherwise inappropriate.

9. Amendment to Permit.

If a permittee with a current permit issued pursuant to this division proposes to expand, reduce, relocate or modify any portion of its equipment or system within public right-of-way, the permittee shall file an application for an amendment to the current permit with the city engineer, shall pay the administrative application fee, and shall further comply with all other applicable requirements of this chapter. An application for an amendment to a current permit shall include relevant new information of the type required in connection with the initial application for a permit. If approved, the amended permit shall be issued by the city engineer in the same manner as the original permit. However, if the amendment involves only one or more new hook-on connections to the permitted utility system and if the new connections will be made entirely through the permittee's existing underground utility conduit or ducts so as not to require any excavation in the public right-of-way or by means of overhead wires or cables between existing utility poles, the permittee shall not be required to pay an additional administrative fee as part of the application for amendment.

10. Duties of Permittee.

The permittee shall be responsible for repairing or reimbursing other permitted or franchised utilities or other persons or entities lawfully using the right-of-way for any damage to their property caused by negligence of the permittee or its agents, employees or contractors in connection with the installation, construction, reconstruction, repair, operation, disconnection or removal of the permittee's equipment or system. (Ord. 2017-111 § 1 (part)).

12.20.170 Specific Standards for Wireless Structures

A. The following standards shall apply to any wireless structures including small cell facilities, distributed antenna systems (DAS) and other telecommunication distribution facilities within the public right-of-way.

1. All equipment related to a wireless structures must be mounted/co-located on existing poles or other existing structures unless it can be shown that an alternate location will be less obtrusive and/or more beneficial to the public.

2. An applicant seeking installation of a wireless structures must demonstrate that it has made efforts to blend or camouflage the system with existing facilities and surroundings or has otherwise screened or concealed the system from view. Approved blending methods include, but are not limited to, location of equipment other than antennas within a tree canopy or other inconspicuous location, use of green, brown or other colored equipment (if commercially available to the applicant) designed to mimic the colors and/or materials of the tree canopy, co-location structure or other nearby structures, as well as use of

textures and shapes as appropriate, all with the intent of minimizing the visual impact of the system. Unnatural colors and exposed cables are prohibited.

3. All pole-mounted wireless facilities must be installed at a minimum height of nine feet above the ground. Equipment may be housed in a cabinet at ground level only with the approval of the city engineer as to location and with appropriate screening.

4. Wireless facilities may not extend more than seven feet above the height of the existing pole or other structure on which it is installed.

5. Where wireless structures are placed in residential districts, every effort must be made to avoid placement at right of way locations directly in front of a residence. If placement directly in front of a residence is absolutely necessary for technological reasons, the City has the right to require screening or impose other design mitigation requirements.

6. The City may request that a particular node or nodes be placed in an alternative location to that proposed by the applicant. Where a request for an alternative location is unable to be accommodated by an applicant, the applicant must supply an explanation in writing as to why the suggested alternative location will materially compromise the functioning of the system or is otherwise impractical.

12.20.180 Reports and records.

A. Open Books and Records: Upon request, the city shall have the right to inspect and analyze at any time during normal business hours at the nearest office of an owner or operator of facilities, or, if such office is not in the city, then at such other location in the city as the city may reasonably designate, all books, receipts, maps, records, codes, programs, and disks or other storage media and other like material reasonably appropriate in order to monitor compliance with the terms of this chapter or applicable law. This includes not only the books and records directly relevant to enforcement of this chapter or the owner's or operator's franchise agreement that are held by the operator, but any books and records held by an affiliate, or any contractor, subcontractor or any person holding any form of management contract for the facilities in the public rights-of-way to the extent such books or records relate to the facilities. An owner or operator is responsible for collecting the information and producing it at a location as specified above. The city shall provide the owner or operator with advance notice stating the types of records sought to be reviewed and the reason for such review.

B. Contacts and Maps: Unless this requirement is waived in whole or in part in writing by the city each owner or operator of facilities in the public rights-of-way shall maintain and produce or allow access upon request the following items:

1. An organizational chart with contact information for the portion of the organization most relevant to its operations within the right-of-way.
2. Detailed, updated maps depicting the location of all facilities located in public rights-of-way in the city.

C. Construction Updates: Unless this requirement is waived in whole or in part by the city, the owner or operator of facilities in the public rights-of-way shall deliver or make available upon request the following updates to the city:

1. Monthly construction reports to the city for any major construction undertaken in the public rights-of-way until such construction is complete. The owner or operator must submit updated as built system design maps to the city, or make them available for inspection, with notice of their availability, within thirty (30) days of the completion of system construction in any geographic area. These maps shall

he developed on the basis of post-construction inspection by the owner or operator and construction personnel. Any departures from design must be indicated on the as built maps.

2. Reserved.

D. Records Required: An owner or operator of facilities in the public rights-of-way shall at all times maintain:

1. A full and complete set of plans, records, and "as built" maps showing the exact location of all equipment installed or in use in the city, exclusive of customer service drops.

2. A file showing its plan and timetable for future major construction of the facilities.

E. Remote Site Visit: If any requested records, maps or plans, or other requested documents are too voluminous, or for security reasons cannot be copied and moved, then an owner or operator of facilities in the public rights-of-way may request that the inspection take place at some other location; provided, that the owner or operator must pay reasonable travel expenses incurred by the city in inspecting those documents or having those documents inspected by its designee, as charges incidental to the enforcing of the owner's or operator's franchise or other authorization for use of the public rights-of-way. (Ord. 2017-111 § 1 (part)).

12.20.190 Bond or letter of credit.

No person shall install, erect, hang, lay, bury, draw, emplace, construct, reconstruct or operate any facility upon, across, beneath, or over any public right-of-way in the city or other city property until the owner or operator shall have filed with the city administrator a bond and/or letter of credit, in a form acceptable to the city, running in favor of the city, to guarantee the obligations of the owner or operator under this chapter and applicable law. The amount of the bond or letter of credit shall be no less than the reasonable cost of removal of the facilities and restoration of any affected public rights-of-way or other property pursuant to this chapter. (Ord. 2017-111 § 1 (part)).

12.20.200 Insurance.

An owner or operator shall maintain insurance covering its facilities and operations in the public rights-of-way, as specified in a specific provision of this chapter or in its franchise agreement. Upon request, proof of such insurance shall be submitted to the city engineer prior to beginning any said work. (Ord. 2017-111 § 1 (part)).

12.20.210 Enforcement.

A. Penalties: For violation of provisions of this chapter the city may seek fines in the amounts of \$100. for a first offense within a year, \$200. for a second offense within a year, and \$300. for a third or subsequent offense within a year. The penalties shall be assessable against an owner or operator and shall be chargeable to its performance bond and/or letter of credit, at the city's discretion.

B. Injunctive Relief: In addition to any other remedies hereunder, the city may seek an injunction to mitigate or terminate a violation, or employ any other remedy available at law or equity, including, but not limited to, imposition of penalties pursuant to subsection A of this section.

C. Timely Performance or Compliance: Any failure of the city to insist on timely performance or compliance by any person shall not constitute a waiver of the city's right to later insist on timely performance or compliance by that person or any other person.

D. Termination on Account of Certain Assignments or Appointments:

1. To the extent not prohibited by the United States bankruptcy code, a franchise under this chapter shall terminate automatically by force of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee (including a debtor in possession in a reorganization) to take over the business of the owner or operator, whether in bankruptcy or under a state law proceeding; provided, however, that such franchise shall not so terminate if, within that one hundred twenty (120) day period:

- a. Such assignment, receivership or trusteeship has been vacated; or
- b. Such assignee, receiver, or trustee has cured any defaults and has fully complied with the terms and conditions of this chapter and any applicable agreement and has executed an agreement, approved by any court having jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this chapter and any applicable agreement.
- c. In the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of an owner or operator of facilities in the public rights-of-way, its franchise under this chapter shall automatically terminate thirty (30) calendar days after such foreclosure or sale, unless:
 - (1) The city has approved a transfer to the successful bidder; and
 - (2) The successful bidder has covenanted and agreed with the city to assume and be bound by the terms and conditions binding its predecessor.
- d. Any mortgage, pledge or lease of facilities in the public rights-of-way shall be subject and subordinate to the rights of the city under this chapter any applicable agreement, and other applicable law.

2. If a franchise under this chapter is terminated for any reason, the city may, at its discretion, require the grantee or permittee to remove its facilities from the public rights-of-way and to restore the public rights-of-way to their prior condition at the owner's or operator's expense, or that of their sureties. If an owner or operator whose franchise has been terminated fails, after reasonable notice from the city, to remove its facilities from the public rights-of-way, such facilities shall be deemed abandoned and ownership forfeited to the city.

E. Remedies Cumulative: All remedies specified in this chapter are cumulative unless otherwise expressly stated. The exercise of one remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve an operator of its obligations to comply with this chapter. In exercising any remedy specified in this chapter, including Articles A and B, the city shall comply with any substantive and procedural requirements for exercising such remedies in an owner's or operator's franchise agreement or other authorization.

F. Reduce or Waive Penalties: The city engineer or attorney may reduce or waive any of the above listed penalties for good cause shown. (Ord. 2017-111 § 1 (part)).

12.20.220 Indemnification.

Any indemnity provided shall include, but not be limited to, the city's reasonable attorney fees incurred in defending against any such claim, suit, or proceeding. Recovery by the city of any amounts under insurance, the performance bond or letter of credit, or otherwise shall not limit in any way a person's duty to indemnify the city, nor shall such recovery relieve a person of its obligations pursuant to a franchise or in any respect prevent the city from exercising any other right or remedy it may have. (Ord. 2017-111 § 1 (part)).

12.20.230 Severability.

If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective. In the

event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the city and shall thereafter be binding on owners and operators. (Ord. 2017-111 § 1 (part)).

REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed as are any motions or resolutions of council that purport to give authority to a council standing committee to make a determination as all such determinations shall henceforth be made by the City Council.

EFFECTIVE DATE. This ordinance shall be in full force and effective after its final passage and publication as by law provided.

First Consideration_____

Second Consideration _____

Approved _____

Attest:

Frank Klipsch
Mayor

Brian Krup
Deputy City Clerk

Published in the Quad City Times on _____

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Brian Schadt 563-326-7923
Wards:

Action / Date
3/20/2019

Subject:

Resolution approving the plans, specifications, forms of contract, and estimated cost for the E 36th Street Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd, CIP #35036. [Ward 7]

Recommendation:

Adopt the Resolution.

Background:

This project will remove the existing composite asphalt and concrete pavement of E 36th St from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd and replace it with new subdrains, drainable base, and concrete pavement. Driveway approaches will also be removed and replaced as necessary.

Construction is expected to begin spring of 2019. Funding is available through CIP #35036. The estimated project cost is \$550,000.

ATTACHMENTS:

Type	Description
□ Resolution Letter	PW Pg 2

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Rejected	3/13/2019 - 11:30 AM
Public Works - Engineering	Kriz, Nichole	Approved	3/14/2019 - 8:36 AM
Public Works - Engineering	Lechvar, Gina	Approved	3/14/2019 - 9:22 AM
Public Works Committee	Lechvar, Gina	Approved	3/14/2019 - 9:22 AM
City Clerk	Admin, Default	Approved	3/14/2019 - 10:52 AM

Resolution No. _____

RESOLUTION offered by Alderman Dunn.

RESOLVED by the City Council of the City of Davenport.

Resolution approving the plans, specifications, form of contract and estimated cost for the E 36th Street Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd., CIP #35036.

WHEREAS, plans, specifications, form of contract and an estimate of cost have been filed with the City Clerk of Davenport, Iowa, for the E 36th Street Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd., CIP #35036

WHEREAS, Notice of Hearing on plans, specifications and form of contract was published as required by law:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport that, said plans, specifications, form of contract and estimate of cost are hereby approved as the plans, specifications, form of contract and estimate of cost for the E 36th Street Reconstruction from 115 feet west of Davenport Ave to 120 feet south of Kimberly Rd., CIP #35036.

Passed and approved this 27th day of March, 2019.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Brian Schadt; 563-326-7923
Wards:

Action / Date
3/20/2019

Subject:
Resolution approving the plans, specifications, forms of contract, and estimated cost for the West High Street Flood Mitigation Project. CIP #33020. [Ward 4]

Recommendation:
Adopt the Resolution.

Background:
This project will involve removal and upgrading of sections of the storm sewer pipe, manholes, and intakes, as well as removal and replacement of the covering sub-base and pavement. Funding is available through CIP #33020.

The project is scheduled for bid in the coming weeks with construction taking place this construction season. The current estimate is \$180,000.

ATTACHMENTS:

Type	Description
▣ Resolution Letter	PW Pg 2

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	3/13/2019 - 12:22 PM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 12:22 PM
City Clerk	Admin, Default	Approved	3/13/2019 - 12:54 PM

Resolution No. _____

RESOLUTION offered by Alderman Dunn.

RESOLVED by the City Council of the City of Davenport.

Resolution approving the plans, specifications, form of contract, and estimated cost for the West High Street Flood Mitigation Project. CIP #33020. [Ward 4]

WHEREAS, plans, specifications, form of contract, and an estimate of cost were filed with the City Clerk of Davenport, Iowa, for the West High Street Flood Mitigation Project. CIP #33020

WHEREAS, Notice of Hearing on plans, specifications and form of contract was published as required by law:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport, that said plans, specifications, form of contract and estimate of cost are hereby approved as the plans, specifications, form of contract and estimate of cost for the West High Street Flood Mitigation Project.

Passed and approved this 27th day of March, 2019.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Sandy Doran 563-326-7756
Wards:

Action / Date
3/20/2019

Subject:
Resolution approving the plans, specifications, forms of contract, and estimated cost for the W 2nd St and Marquette St Sewer Separation Project, CIP #30016. [Ward 3]

Recommendation:
Adopt the Resolution.

Background:
During smoke testing, field investigations and televising operations in the sanitary sewer along W 2nd St, areas were identified to have cross-connections with storm sewer and the arch brick sewer is in poor condition. This project includes rehabilitating and/or replacing a failing 30" brick arch sanitary sewer, removing cross connections with the storm sewer, adding new manholes at blind taps, and complete street and sidewalk restoration to meet ADA and City standards. The project area is W 2nd Street from Marquette St west to Fillmore St.

This program is a combined effort by the Sewer and Engineering Divisions of the Public Works Department and Inflow & Infiltration studies. This scope of work addresses recommendations from investigations to reduce inflow and infiltration to further comply with the IDNR Administrative Consent Order.

Program management will be completed by the Sewers Division with quality assurance inspections being completed by Engineering Division Staff.

ATTACHMENTS:

Type	Description
▣ Resolution Letter	PW Pg 2
▣ Backup Material	PROJECT AREA MAP 2ND & MARQUETTE SEWER SEPARATION

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Approved	3/13/2019 - 10:15 AM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 11:40 AM
City Clerk	Admin, Default	Approved	3/13/2019 - 12:57 PM

Resolution No. _____

Resolution offered by Alderman Dunn

RESOLVED by the City Council of the City of Davenport.

RESOLUTION approving the plans, specifications, form of contract and estimate of cost for the 2nd and Marquette Street Sewer Separation Project, CIP #30016.

WHEREAS, the City of Davenport previously completed smoke testing, field investigations and televising of W. 2nd Street from Marquette Street to Fillmore Street; and

WHEREAS, as a result of the investigation/data, recommendations were made for the repair/rehabilitation of the Davenport collection system; and

WHEREAS, on the 6th day of March, 2019, plans, specifications, form of contract and an estimate of cost were filed with the City Clerk of Davenport, Iowa for the 2nd and Marquette Street Sewer Separation – Infiltration Removal Project within the City of Davenport, Iowa; and

WHEREAS, Notice of Hearing on plans, specifications and form of contract was published as required by law:

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport, Iowa; that said Plans, Specifications, Form of Contract and Estimate of Cost are hereby approved as the plans, specifications, form of contract and estimate of cost for said 2nd and Marquette Street Sewer Separation – Infiltration Removal Project.

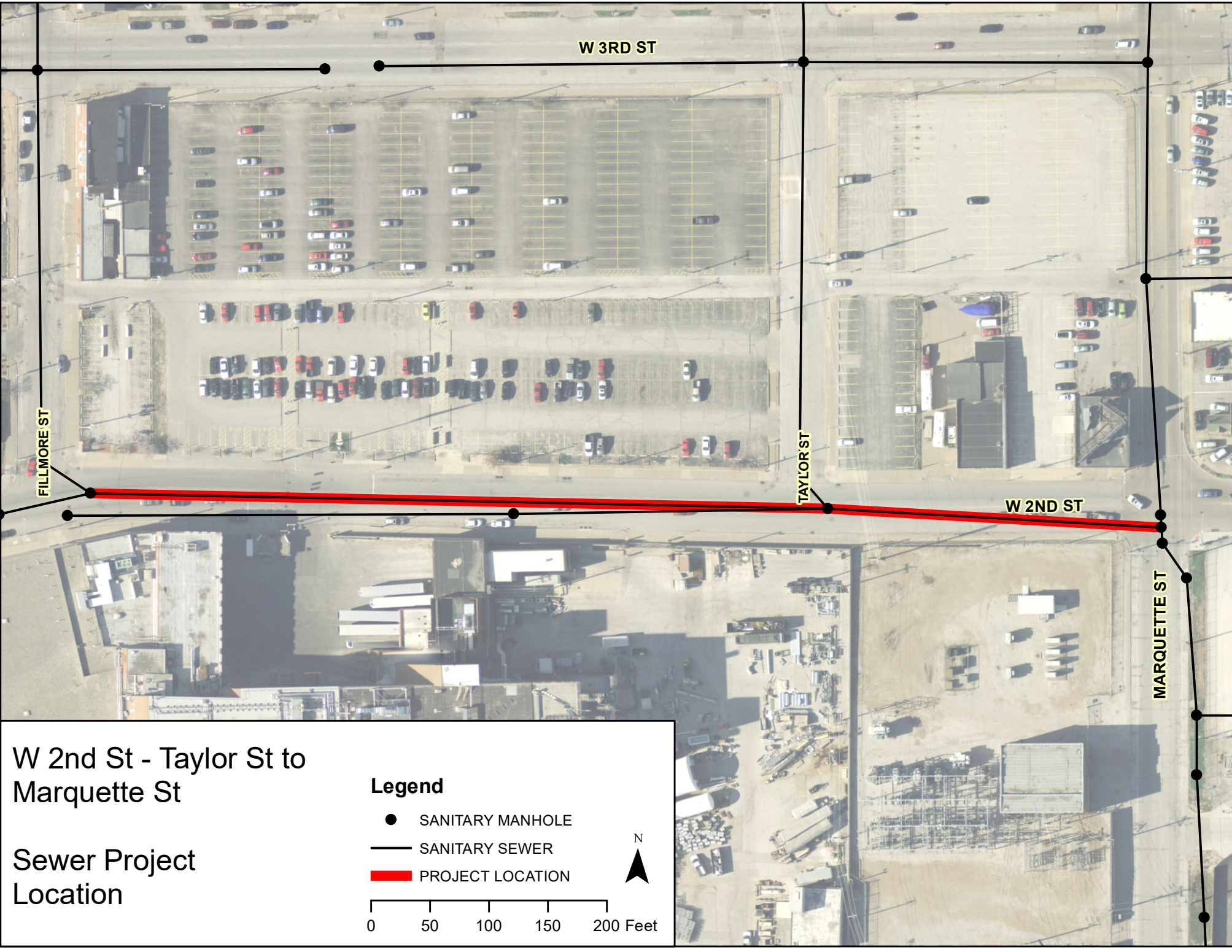
Passed and approved this 27th day of March, 2019.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk



City of Davenport

Agenda Group:
Department: Public Works - Admin
Contact Info: Nicole Gleason 563-327-5150
Wards:

Action / Date
3/20/2019

Subject:
Resolution approving a contract for the Davenport Rail Spur Extension EDA 06-79-06084 construction to Langman Construction Inc of Rock Island, IL in the amount of \$2,483,666.02, CIP #60009. [Ward 8]

Recommendation:
Adopt the Resolution.

Background:
On December 18, 2018, an Invitation to Bid was issued and sent to contractors. On February 12, 2019, the Purchasing Division opened and read seven bids. Langman Construction Inc. of Rock Island, IL was the lowest responsive and responsible bidder. See attached bid tab.

This project consists of constructing approximately 9,855 lineal feet of rail road track including excavation, drainage, erosion control, subgrade, ballast, ties, turnouts, switches and track. This expansion of the Transload Rail System spur will allow rail cars on the existing track to move over to allow more rail cars to pass, to the transload facility.

Funding for this project is from a U. S. Department of Commerce, Economic Development Administration grant. EDA Award No. 06-79-06084.

ATTACHMENTS:

Type	Description
▣ Cover Memo	PW RES Davenport Rail Spur Extension
▣ Cover Memo	Bid Tab - Rail Spur Extension

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Admin	Lechvar, Gina	Approved	3/13/2019 - 12:19 PM
Public Works Committee	Lechvar, Gina	Approved	3/13/2019 - 12:19 PM
City Clerk	Admin, Default	Approved	3/13/2019 - 1:15 PM

Resolution No. _____

Resolution offered by Alderman Ambrose.

RESOLVED by the City Council of the City of Davenport.

RESOLUTION approving a contract for the Davenport Rail Spur Extension EDA 06-79-06084 construction to Langman Construction Inc. of Rock Island, IL., and authorizing Mayor Frank Klipsch or designee to sign and manage any related agreements.

WHEREAS, the City needs to construct the Davenport Rail Spur Extension EDA 06-79-06084; and

WHEREAS, Langman Construction Inc. of Rock Island IL. was the lowest responsive and responsible bidder;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Davenport, Iowa, that:

1. Approving the contract for the Davenport Rail Spur Extension EDA 06-79-06084 to Langman Construction Inc. of Rock Island IL; and
2. Mayor Frank Klipsch or designee is authorized to sign and manage any related agreements;

Attest:

Approved:

Brian Krup
Deputy City Clerk

Frank Klipsch
Mayor

CITY OF DAVENPORT, IOWA
BID TABULATION

DESCRIPTION: DAVENPORT SPUR EXTENSION EDA 06-79-06084

BID NUMBER: 19-50

OPENING DATE: FEBRUARY 12, 2019

GL ACCOUNT NUMBER: 79512675 530350 60009

RECOMMENDATION: AWARD THE CONTRACT TO LANGMAN
CONSTRUCTION INC OF ROCK ISLAND IL

<u>VENDOR NAME</u>	<u>PRICE</u>
Langman Construction Inc of Rock Island IL	\$2,483,666.02
Valley Construction Company of Rock Island IL	\$2,595,703.00
Miller Trucking & Excavating of Silvis IL	\$2,617,807.50
Meyer Contracting Inc of Maple Grove MN	\$2,728,755.75
McCarthy Improvement Company of Davenport	\$2,729,870.01
Brandt Construction Co. of Milan IL	\$2,974,647.50
Legacy Corporation of IL of East Moline IL	\$3,287,875.00

Approved By Kristi Heller
Purchasing

Approved By Bo Schell Shirley
~~PW Director~~ ~~CPED Director~~
City Engineer ED Manager

Approved By Brenna Cohn
Budget/CIP

Approved By [Signature]
Chief Financial Officer

City of Davenport

Agenda Group:

Department: Public Works - Admin

Contact Info: Nicole Gleason 563-327-5150/Dan Miers 563-888-2121

Wards:

Action / Date

3/20/2019

Subject:

Resolution awarding the contract for the replacement of roofs on three (3) buildings at WPCP to Economy Roofing & Insulating Co., Inc of Bettendorf, IA in the amount of \$324,000. [All Wards]

Recommendation:

Adopt the Resolution.

Background:

On February 12, 2019 an Invitation to Bid for the replacement of roofs on three buildings at WPCP, was issued and sent to contractors. On March 12, 2019, the Purchasing Division opened and read four bids. See attached bid tab.

This bid is for the replacement of the roofs of the control building, the lift station, and the chlorine building. The roofs have been patched several times and are in poor condition. The chlorine building roof is 41 years old (original roof) and leaking.

The recommendation is to award this contract to Economy Roofing and Insulating Co Inc as the lowest responsive and responsible bidder.

Funding from this project is from FY19 and FY20 Building Improvements account #51151975 530319 from the WPCP fund.

ATTACHMENTS:

Type	Description
▢ Resolution Letter	Resolution
▢ Cover Memo	Bid Tab for Greensheet

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Admin	Lechvar, Gina	Approved	3/14/2019 - 1:56 PM
Public Works Committee	Lechvar, Gina	Approved	3/14/2019 - 1:56 PM
City Clerk	Admin, Default	Approved	3/14/2019 - 2:03 PM

Resolution No. _____

Resolution offered by Alderman Dunn.

RESOLVED by the City Council of the City of Davenport.

RESOLUTION approving a contract for the replacement of roofs on three (3) buildings at Water Pollution Control Plant (WPCP) to Economy Roofing & Insulating Co. Inc. of Bettendorf IA, and authorizing Mayor Frank Klipsch or designee to sign and manage any related agreements.

WHEREAS, the City needs to replace the roofs on three buildings at the WPCP; and

WHEREAS, Economy Roofing & Insulating Co. Inc. of Bettendorf IA was the lowest responsive and responsible bidder;

NOW THEREFORE, IT IS HEREBY RESOLVED by the City Council of the City of Davenport, Iowa, that:

1. Approving the contract for the three (3) roof replacements at WPCP to Economy Roofing & Insulating Co. Inc. of Bettendorf IA; and
2. Mayor Frank Klipsch or designee is authorized to sign and manage any related agreements;

Attest:

Approved:

Brian Krup
Deputy City Clerk

Frank Klipsch
Mayor

CITY OF DAVENPORT, IOWA
BID TABULATION

DESCRIPTION: ROOF REPLACEMENTS AT WATER POLLUTION CONTROL
PLANT

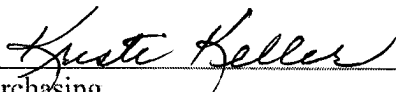
BID NUMBER: 19-63

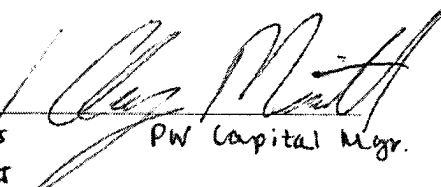
OPENING DATE: MARCH 12, 2019

GL ACCOUNT NUMBER: 51151975 530319 BUILDING IMPROVEMENTS

RECOMMENDATION: AWARD THE CONTRACT TO ECONOMY ROOFING &
INSULATING CO. INC. OF BETTENDORF IA

<u>VENDOR NAME</u>	<u>PRICE</u>
Economy Roofing & Insulating Co Inc of Bettendorf IA	\$324,000
Black Hawk Roof Company of Cedar Falls IA	\$330,245
Sterling Commercial Roofing Inc. of Sterling IL	\$366,450
Jim Giese Commercial Roofing Co., Inc. of Dubuque IA	\$516,400

Approved By 
Purchasing

Approved By  / 
City Engineer PW Operations Superintendent PW Capital Mgr.

Approved By 
Budget/CIP

Approved By 
Chief Financial Officer

City of Davenport

Agenda Group:
Department: Public Works - Engineering
Contact Info: Jen Walker 563-326-6168
Wards:

Action / Date
3/20/2019

Subject:
Resolution setting a Public Hearing on the proposed conveyance of parcel Y0621-05B lying west of the residence at 6700 Jersey Ridge Road for April 3, 2019. City of Davenport, Petitioner. [Ward 8]

Recommendation:
Adopt the Resolution.

Background:
The City and adjoining property owner have come to an agreement in which the City is conveying parcel #Y0621-05B in exchange for easements and other construction related activities.

ATTACHMENTS:

Type	Description
▣ Resolution Letter	page 2
▣ Exhibit	Executed Agreement
▣ Exhibit	Executed License

REVIEWERS:

Department	Reviewer	Action	Date
Public Works - Engineering	Lechvar, Gina	Rejected	3/8/2019 - 1:33 PM
Public Works - Engineering	Walker, Jennifer	Approved	3/8/2019 - 2:03 PM
Public Works - Engineering	Lechvar, Gina	Approved	3/14/2019 - 1:52 PM
Public Works Committee	Lechvar, Gina	Approved	3/14/2019 - 1:53 PM
City Clerk	Admin, Default	Approved	3/14/2019 - 2:23 PM

Resolution No. _____

Resolution offered by Alderman Mike Matson

RESOLVED by the City Council of the City of Davenport.

RESOLUTION SETTING A PUBLIC HEARING CONCERNING THE PROPOSED CONVEYANCE OF A PARCEL OF LAND CONTAINING A POND, THAT BEING LYING WEST OF THE RESIDENTIAL DWELLING LOCATED AT 6700 JERSEY RIDGE ROAD. CITY OF DAVENPORT, PETITIONER.

WHEREAS, the City of Davenport currently owns parcel Y0621-05B:

Part of the Southeast Quarter of the Northwest Quarter of Section 6, Township 78 North – Range 4 East of the 5th P.M., being more particularly described as follows:

The west 302 feet of Lot 7 of Jersey Farms, an addition to the City of Davenport, Scott County, Iowa. Also known as Scott County Parcel No. Y0621-05B. Said tract contains 64,904 square feet, more or less;

WHEREAS, the City of Davenport desires to sell its interest in the aforementioned real estate, and

WHEREAS, Joshua M. and Kelly E. Heacock, husband and wife joint tenants with full rights of survivorship, have offered to acquire said property, and

WHEREAS, Iowa law requires a city to hold a public hearing prior to conveying its interest in real property,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport that a public hearing concerning the proposed conveyance of parcel Y0621-05B, legally described above, will be held on April 3, 2019, at 5:30 p.m., in the Council Chambers, Davenport City Hall, 226 West Fourth Street, Davenport, Iowa.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

Scott County Parcel #Y0621-05B and #Y0621-05E

Return to: Mike Atchley, 1200 E. 46th Street, Davenport, IA 52807

Prepared by: Brian Hoyer, 226 W. 4th Street, Davenport, IA 52801; (563) 326-7735

Modification, Settlement and General Release

KNOW ALL MEN BY THESE PRESENTS:

This agreement contains provisions that impose duties and obligations upon the owners of the following described real property, to-wit:

Lot 7 of Jersey Farms, an addition to the City of Davenport, Scott County, Iowa, except those portions conveyed to the City of Davenport by deeds recorded as Document #2011-25075, #2011-28919, and #2014-10062. Also known as Scott County Parcel No. Y0621-05E.

The west 302 feet of Lot 7 of Jersey Farms Addition to the City of Davenport, Scott County, Iowa. Also known as Scott County Parcel No. Y0621-05B.

This Agreement, made and entered into on this 5 day of MARCH, 2019, by and between Joshua M. Heacock, Kelly E. Heacock and the City of Davenport, modifies, settles and releases all prior agreements, obligations and duties between the parties related to the Jersey Ridge Road and Veterans Memorial Drive improvement projects as hereinafter provided.

Whereas, there is on file in the Office of the Scott County Recorder document number 2011-25075 which contains provisions obligating the city to construct a berm, landscape and restore real estate to substantially the same condition it was prior to construction of the Veterans Memorial Parkway improvement project (Eastern Av. to Jersey Ridge Rd.) that have affected parcel Y0621-05E, and

Whereas, Joshua M. Heacock and Kelly E. Heacock agreed to the planting of trees along the top of the retaining wall in place of constructing a berm at the top of the retaining wall, and

Whereas, there is on file in the Office of the Scott County Recorder document number 2011-25076 which provides the city a permanent access easement related to Scott County Parcel Y0621-05B, and

Whereas, the purchase agreement and temporary construction easement and acceptance document (Document #2017-1270) executed between Joshua M. Heacock and the City of Davenport dated December 21, 2016 contains certain terms and obligations imposed upon the City of Davenport related to construction work related to the Veterans Memorial Parkway improvement project (Jersey Ridge Rd. to Elmore Av.), and

Whereas, Joshua M. Heacock emailed the City of Davenport on November 19, 2018 in which he claimed damages from the City of Davenport related to the Veterans Memorial Parkway projects and the Construction Conditions associated with the Veterans Memorial Parkway project (Jersey Ridge Rd. to Elmore Av.), and

Whereas Joshua M. Heacock, Kelly E. Heacock and the City of Davenport desire to resolve and settle all of the disputes between them related to the above-mentioned documents and email related to the Veterans Memorial Parkway improvement projects in mutually agreeable terms,

Now therefore, the parties agree to modify the above-referenced documents, resolve and settle all remaining and outstanding obligations and disputes related to the above-referenced documents as follows:

Joshua M. Heacock and Kelly E. Heacock, both being of lawful age, and in exchange for the conveyance of fee title of Scott County Parcel Y0621-05B and the release of Scott County Recorder document number 2011-25076 to Joshua M. Heacock and Kelly E. Heacock by the City of Davenport, agree to release the City of Davenport from its obligations to satisfy any and all outstanding conditions and obligations as set forth in the above-referenced documents and email, and do forever release and forever discharge for themselves and their heirs, executors, administrators and assigns, the City of Davenport and its officers, employees and agents, of and from any and all claims, demands, rights, and causes of action, of whatever kind and nature, arising from or by reason of any and all known and unknown, foreseen and unforeseen bodily and personal injuries, loss and damages, arising and resulting from any and all construction work and related documents and email associated with the Veterans Memorial Parkway improvement projects.

It is understood and agreed that this is a release and settlement of a disputed claim and that the payment of consideration in settlement of this claim is not to be construed as an admission of liability on the part of the City of Davenport, its officers, employees or agents, and that liability is expressly denied. It is further understood that this agreement is subject to Davenport City Council approval of the conveyance of parcel Y0621-05B. This Modification, Settlement and General Release does not void any contractor warranty related to the projects. The city acknowledges and accepts

responsibility for snow removal, grass cutting and sidewalk maintenance of the public sidewalk and right of way area abutting parcels Y0621-05B and Y0621-05E along Veterans Memorial Parkway and Jersey Ridge Road. The City's obligation and responsibility for snow removal, grass cutting and sidewalk maintenance of the public sidewalk and right of way area abutting parcels Y0621-05B and Y0612-05E terminates and said responsibility becomes that of the owner of those respective parcels at such time as Joshua M. Heacock and Kelly E. Heacock transfer ownership of each parcel or both. If Joshua M. Heacock and/or Kelly E. Heacock transfer ownership of said parcels into a trust of which they are named as the primary beneficiaries, the city's obligation to remove snow, cut grass and maintain the sidewalk shall continue until such time as their longest surviving primary lifetime beneficial interest expires. The City agrees to issue an obstruction permit pursuant to 12.36.090 authorizing the construction/placement of a fence within the public right of way south of the pond and north of the guard rail. The approved fence should be similar in style to the existing fence on the south side of your property. If removal is required due to work in the right-of-way in the future, all costs to remove the fence shall be borne by the property owner. Another obstruction permit shall be required to reinstall the fence within the right-of-way after said work is completed. The property owner retains the right to restore the fence in the same or similar fashion at his expense. Lastly, the city agrees to grant Joshua M. Heacock and Kelly E. Heacock a license which will allow law enforcement to approach any issues as if it is their property.

This release contains the entire agreement between Joshua M. Heacock, Kelly E. Heacock and the City of Davenport and the terms of this release are contractual and not a mere recital.

Joshua M. Heacock and Kelly E. Heacock understand and acknowledge that by signing this release they are settling in full all injuries and damages which he has or may suffer from the Veterans Memorial Parkway improvement projects. By signing this release Joshua M. Heacock and Kelly E. Heacock acknowledge that they have entirely read the foregoing and know and understand the content thereof. They understand that if they sign this release they are bound by it and anyone who succeeds to their rights and responsibilities, such as their heirs, executors, administrators, and assigns are also bound.

THIS IS A RELEASE OF ALL CLAIMS. BY SIGNING THIS RELEASE WE ARE SETTLING AND ENDING EVERY RIGHT AND CLAIM WE HAVE AGAINST THE CITY OF DAVENPORT FOR ANY AND ALL DAMAGES AND CLAIMS RELATED TO THE VETERANS MEMORIAL PARKWAY IMPROVEMENT PROJECTS.

We are dating this agreement and signing our names and executing it as a voluntary and free act performed of our own free will and not under duress.

Signed and dated this 5 day of MARCH, 2019.

The City of Davenport

Joshua & Kelly Heacock

Nicole Gleason

Nicole Gleason
Director, Public Works

Joshua M. Heacock

Joshua M. Heacock

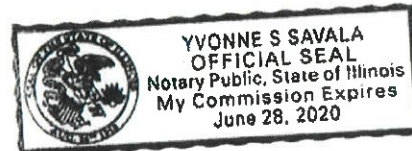
Kelly E. Heacock

Kelly E. Heacock

STATE OF ~~IOWA~~ ^{ILLINOIS})
~~Rock Island~~)
COUNTY OF ~~SCOTT~~)

On this 5th day of March, 2019, before me personally appeared Joshua M. Heacock and Kelly E. Heacock, to me known to be the persons who signed the foregoing release having acknowledged to me that they fully understood its content and meaning and that they executed the same as their voluntary act and deed for the sole consideration expressed therein.

Yvonne S. Savala
Notary Public in and for the State of ~~Iowa~~ ^{ILLINOIS}
Seal:



STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

On this 6th day of March, 2019, before me personally appeared Nicole Gleason, to me known to be the persons who signed the foregoing release having acknowledged to me that they fully understood its content and meaning and that they executed the same as their voluntary act and deed for the sole consideration expressed therein.

Gina M. Lechvar
Notary Public in and for the State of Iowa
Seal:



JM 4/4

**LICENSE AGREEMENT
BY AND BETWEEN
THE CITY OF DAVENPORT and JOSHUA AND KELLY HEACOCK**

The City of Davenport, Iowa, in consideration of One Dollar (\$1.00) and other good and valuable consideration, does hereby grant to Joshua M. Heacock and Kelly E. Heacock, (husband and wife, hereinafter "Licensee") a non-exclusive license and authority to use and improve the following described real estate, to-wit:

An area lying within the public right of way on the north side of Veterans Memorial Parkway abutting Scott County Parcel No. Y0621-05B, more particularly described as an area south of parcel Y0621-05B and north of the public sidewalk on the north side of Veterans Memorial Parkway as roughly depicted by the red line and the parcel line in the attached aerial photograph.

Subject to the following terms and conditions.

1. This license agreement is granted to allow the installation of a private fence in the area described so as will protect the Heacocks' private pond located on Scott County Parcel No. Y0621-05B from public access and usage. Licensee bears all costs associated with the demolition, construction, installation and restoration of the area licensed and all ongoing costs associated with the maintenance of the fence.

2. This license agreement shall be effective upon its execution by both parties and shall continue in force and effect thereafter until the earliest of the following: either party terminates it for any reason or no reason.

3. Notices as provided for in this license agreement shall be given to the respective parties at the respective addresses designated herein unless either party notifies the other, in writing, of a different address. Such notice shall be considered given under the terms of this agreement upon deposit in the United States Postal Service mail system, addressed as above designated, postage prepaid, by certified mail.

4. Licensee agrees to save, defend and hold harmless the City of Davenport from any and all liability for damages, costs or expenses from, or as the result of, any action at law or suit in equity that may be brought against the City of Davenport, its officials, agents or employees, by any person or entity on account of the use of the public sidewalk and right of way abutting Scott County Parcel No. Y0612-05B that occur on or about the licensed property related to the Licensee's erection of a fence. The cancellation and termination of this agreement shall not affect the Licensees' obligation to save, defend and hold harmless the City of Davenport in respect to acts or things which shall have been done or which happened before the date fixed for such termination.

5. Licensee accepts the premises in its present condition and agrees that it will not dispose of waste oil, tires, batteries, paint or other chemicals, or hazardous waste as defined by statute or ordinance anywhere on the licensed premises. Licensee shall immediately notify the City of Davenport of any chemical discharge, leak or spill or hazardous waste exposure event that occurs on the premises.

6. The City of Davenport maintains its right to enter upon said premises for any purpose.

7. Licensee shall yield possession of the premises to the City of Davenport without further demand, notice or action, in as good condition as when it first entered upon the premises (normal wear and tear excluded), upon the effective date of this agreement's termination.

8. Licensee is not an agent of the City of Davenport.

9. Licensee may assign this license agreement subject to it providing prior written notification of its intention to assign to the City of Davenport and subject to the City's written approval of said assignment. Each and every term and provision herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

10. The parties agree and understand that no permanent structural improvements will be erected or constructed within the area, excepting the aforementioned fence. Any property located upon the premises by Licensee shall be removed immediately upon the termination this license. Any items remaining after termination may be disposed by City in its sole discretion and at the expense of Licensee.

11. Neither Licensee nor anyone claiming by, through or under it shall have the right to file or place any mechanic's lien or other lien of any kind or character whatsoever, upon said premises or upon any building or improvement thereon, and notice is hereby given that no contractor, sub-contractor, or anyone else who may furnish any material, service or labor for any building, improvements, alteration, repairs or any part thereof, shall at any time be or become entitled to any lien thereon.

12. This agreement shall not be construed to create a tenancy of any kind in the above-described real property in favor of Licensee. This agreement simply grants a non-exclusive right to use the property.

13. Licensee agrees to maintain said fence and keep it in good repair and condition. City may take corrective action at Licensee's expense if in the City's sole discretion maintenance is necessary.

14. For the purposes of notice the parties designate the following persons:

Public Works Director

Joshua M. and Kelly E. Heacock

1200 E 46th Street
Davenport, IA 52803
563.326.7923

6700 Jersey Ridge Road
Davenport, IA 52807
319.321.6885

IN WITNESS WHEREOF, the parties have signed this agreement this 5 day
of MARCH, 2019.

City of Davenport

Licensee(s)

Nicole Gleason
Nicole Gleason
Director, Public Works Dept.

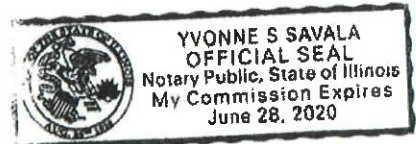
Joshua M. Heacock
Joshua M. Heacock

Kelly E. Heacock
Kelly E. Heacock

ILLINOIS
State of ~~Iowa~~
Rock Island ss.
County of ~~Scott~~

Sworn to and subscribed before me, the undersigned, a Notary Public in and for
the State of ~~Iowa~~, by Joshua M. Heacock to me personally known
this 5 day of March, 2019. Kelly E. Heacock

Yvonne S. Savala
Notary Public in and for State of ~~Iowa~~ ILLINOIS



State of Iowa)
County of Scott) ss.

Sworn to and subscribed before me, the undersigned, a Notary Public in and for
the State of Iowa, by Nicole Gleason to me personally known
this 6th day of March, 2019.

Gina M. Lechvar
Notary Public in and for State of Iowa





City of Davenport

Agenda Group:
Department: Administration
Contact Info: Steve Ahrens 563-888-2235
Wards:

Action / Date
3/20/2019

Subject:
Resolution authorizing the submission of a Passenger Ferry Grant Program application to the Federal Transit Administration Section 5307 for grant assistance with the replacement and enhancement of the Lindsay Park Channel Cat Dock System. [All Wards]

Recommendation:
Adopt the Resolution.

Background:

The City of Davenport is working with MetroLINK to submit a FY2019 Passenger Ferry grant application to the Federal Transit Administration for a request of \$1.2 million in federal funds, with a local share match of 20%, or \$300,000. The proposed passenger ferryboat dock will allow MetroLINK to better serve its Channel Cat riders by providing much-needed upgrades to its busiest public dock, located in Lower Lindsay Park in Davenport, Iowa.

Built in 1995, the existing dock is 24 years old and is in need of replacement, and lacks basic amenities such as safety/security lighting, passenger railings, and surveillance equipment. The existing dock also has worn infrastructure due to longevity and past ice damage. In addition, the passenger waiting area is in the direct sunlight with no shade.

From a rider perspective, the construction of a replacement dock will provide new and improved passenger amenities, such as ADA-accessible railings, lighting, next boat arrival information, wayfinding signage, and an awning covering the plaza area as riders wait to board. New restroom facilities recently have been added in an adjacent area to the plaza. Riders will continue to have the ability to make multi-modal connections with the riverfront trail system, fixed-route and paratransit operations, and intercity bus service. Bicycle racks are available near the proposed dock location, and all Channel Cat vessels are equipped to carry up to eight (8) bicycles.

ATTACHMENTS:

Type	Description
□ Resolution Letter	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Thorndike, Tiffany	Approved	3/12/2019 - 3:59 PM

Resolution No. _____

Resolution offered by Alderman Matson

RESOLVED by the City Council of the City of Davenport.

RESOLUTION authorizing the submission of a Passenger Ferry grant program application to the Federal Transit Administration Section 5307 for grant assistance with the replacement and enhancement of the Lindsay Park Channel Cat Dock System.

WHEREAS, the City of Davenport (the "City") is a political subdivision organized and existing under the law and the Constitution of the State of Iowa (the "State"); and

WHEREAS, the City is committed to improving its infrastructure and recognizes that quality of life plays a vital role in economic development; and

WHEREAS, the components of the project's application is dedicated to public use which the City will adequately maintain; and

WHEREAS, the City will commit \$300,000 in FY2020 for the project as the required 20% local share match; and

WHEREAS, the City endorses the application and has estimated the total project cost to be \$1.5 million, and the grant request to be \$1.2 million; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport that city staff is authorized to work with MetroLINK to prepare and submit an application to the Federal Transit Administration for grant assistance in the amount of \$1.2 million.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

City of Davenport

Agenda Group:
Department: Finance
Contact Info: Brandon Wright 563-326-7750
Wards:

Action / Date
3/20/2019

Subject:
Resolution approving the Fairmount Cemetery Assistance Agreement between the Fairmount Cemetery and Crematory Association and the City of Davenport. [Ward 1]

Recommendation:
Adopt the Resolution.

Background:

Under the Iowa State Code 523I.212, cemeteries that become insolvent or cannot be operated in a manner consistent with Iowa law falls into receivership with the State of Iowa. The Fairmount Cemetery, located at 3902 Rockingham Road in Davenport, fell into receivership under its previous ownership, which receivership was transferred to the current owners of the Pine Hill Cemetery at 1530 E 39th Street in Davenport. Under the laws of Iowa, if receivership fails to transfer the failing property to an operating cemetery, the receivership process transfers ownership to the local municipality.

The purpose of this agreement is to provide the operators of the Fairmount Cemetery sufficient time and financial assurance to ensure the continued private operation of the cemetery. The term of this agreement is six years, and the agreement provides a maximum reimbursement amount for operating losses during that term on a declining sliding scale as follows:

Year #	Maximum Reimbursement Amount
1	\$100,000
2	\$100,000
3	\$75,000
4	\$75,000
5	\$50,000
6	\$50,000

The Fairmount Cemetery is required to provide an annual business plan to the City of Davenport demonstrating its ability to operate within the reimbursement amount provided.

Funding for reimbursement amounts required under the agreement will be made from the City's General Fund.

ATTACHMENTS:

Type	Description
▢ Resolution Letter	Resolution
▢ Backup Material	Fairmount Cemetery Assistance Agreement

REVIEWERS:

Department	Reviewer	Action	Date
Finance	Wright, Brandon	Approved	3/13/2019 - 5:32 PM
Finance Committee	Wright, Brandon	Approved	3/13/2019 - 5:33 PM
City Clerk	Admin, Default	Approved	3/13/2019 - 5:45 PM

Resolution No. _____

Resolution offered by Alderman Matson

RESOLVED by the City Council of the City of Davenport.

RESOLUTION approving the Fairmount Cemetery Assistance Agreement between the Fairmount Cemetery and Crematory Association and the City of Davenport.

WHEREAS, Cemetery is independent of the City and operator of the Fairmount Cemetery;
and

WHEREAS, City desires that the Cemetery remain operators of the Fairmount Cemetery;
and

WHEREAS, City will become the owner and responsible party for Fairmount Cemetery if a private party is unable or unwilling to own and operate it.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport that the Fairmount Cemetery Assistant Agreement between the Fairmount Cemetery and the City of Davenport is hereby adopted.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk

FAIRMOUNT CEMETERY ASSISTANCE AGREEMENT

This Agreement is entered into between the City of Davenport (“City”) and the Fairmount Cemetery and Crematory Association (Cemetery) as of this ____ day of _____, 2019.

WHEREAS, Cemetery is independent of the City and operator of the Fairmount Cemetery; and

WHEREAS, City desires that the Cemetery remain operators of the Fairmount Cemetery; and

WHEREAS, City will become the owner and responsible party for Fairmount Cemetery if a private party is unable or unwilling to own and operate it.

NOW, THEREFORE, in consideration of the mutual obligations expressed herein, the parties agree as follows:

1. Payments by City to Cemetery. City will pay to Cemetery on a quarterly basis the following amounts, unless reduced by the annual true-up:

Year 1	2019-2020	\$100,000
Year 2	2020-2021	\$100,000
Year 3	2021-2022	\$75,000
Year 4	2022-2023	\$75,000
Year 5	2023-2024	\$50,000
Year 6	2024-2025	\$50,000

The above amounts are maximum payments. If the corresponding annual Net Loss is greater than the amount above, the City’s payment obligation is capped at the corresponding amount shown above. However, if the corresponding annual Net Loss is less than the amount shown above, the City’s payment obligation for the next annual period shall be reduced by the prior year’s overpayment. The “Net Loss” equals the Operating Revenue minus the Operating Expenses. “Operating Revenue” means all revenue generated from the operation of Fairmount Cemetery including, but not limited to, monetary donations received for funding or supporting operations and maintenance versus capital projects. “Operating Expenses” means expenses incurred in the operation and maintenance of the Fairmount Cemetery including operating service charges; utilities; fuel; insurance; waste hauling; administrative and personnel support from Pine Hill Cemetery (capped at no more than \$84,000 in Years 1 & 2, \$86,000 in Years 3 & 4, \$88,000 in Years 5 & 6); taxes; state required contributions to perpetual care accounts and endowments; regular accounting fees; regular attorney fees (excluding attorney fees in connection with suits filed against Cemetery); and routine maintenance to headstones, gravestones, buildings, sidewalks, and driving paths (routine maintenance capped at \$10,000 annually).

Operating Expenses may include any other charges as reasonably determined by the City at the City's sole determination.

2. Annual Business Plan. Before April 1st of each year of this Agreement, Cemetery must provide to City a current, annual, bona fide business plan for City's review.

3. Ownership. Cemetery will be and remain at all times during the term of this Agreement the Owner and responsible party for the Fairmount Cemetery. Cemetery shall not transfer ownership or responsibility without City's written consent which may be withheld at City's sole discretion.

4. Term and Termination. This Agreement is for a term of six years, beginning April 1, 2019 and ending March 31, 2025, unless earlier terminated by either party. Either party may terminate this Agreement without cause by providing a 30-day notice of termination at any time. However, Cemetery must repay City any payment hereunder that was made within 90-days of the notice being issued.

At the completion of the Term of this Agreement, the parties agree to meet for the purpose of reviewing the ongoing financial sustainability of the Fairmount Cemetery operation. This agreement to meet in no way binds either party to ongoing support or obligations beyond those obligations provided for in the Term of this Agreement.

5. Projects/Repairs to Mausoleum and/or Crematorium. Cemetery agrees that any interior or exterior projects or repairs planned for the Mausoleum and/or Crematorium that will materially change the historic character or aspect of either building shall first be subject to review and approval by the Davenport Historic Preservation Commission.

6. Insurance. Cemetery, at all times, must maintain, in type of coverage and amounts, such insurance as is customary and reasonable.

7. No third-party beneficiary. This Agreement shall not create nor shall it be construed to create any rights for or obligations to any third-party beneficiary.

8. Modification. This Agreement may be modified or supplemented by the parties. Any such amendment shall be in writing and signed by a duly authorized representative of the parties.

9. State of Iowa. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to City.

10. Assignment. This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party.

11. Integration. This Agreement represents the entire Agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in this Agreement.

12. Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent entity acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

13. Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of a party, failure or delay by either party at any time to require performance by the other party or to claim a breach of any provision of the contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

14. Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to Cemetery:

Fairmount Cemetery and Crematory Association
Carvel Morgan
3902 Rockingham Rd.
Davenport IA 52802

If to City:

City of Davenport
Finance Director
226 W 4th Street
Davenport, IA 52801

Each such notice shall be deemed to have been provided at the time it is actually received; or, within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, within Three (3) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

15. Cumulative Rights. The various rights, powers, options, elections and remedies of any party provided in this Agreement, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

16. Authorization. Each party to this Agreement represents and warrants to the other parties that: It has the right, power and authority to enter into and perform its obligations under this Agreement. It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

17. Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

18. Counterparts. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

19. Delay or Impossibility of Performance. Neither party shall be in default under this Contract if performance is delayed or made impossible by an act of God, flood, fire or similar events or civil insurrection or war. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the party. If delay results from a party's conduct, negligence or failure to perform, the party shall not be excused from compliance with their terms and obligations of this Agreement.

SIGNATURE PAGE FOLLOWS

Cemetery and City have caused this Agreement to be signed by their authorized representatives as of the date set forth above.

Fairmount Cemetery and
Crematory Association

City of Davenport

By _____

By _____

Its

Its

STATE OF)
) ss:
COUNTY OF SCOTT)

On this _____ day of _____, 2019, before me a notary in and for said county and state, personally appeared _____, to me known, who being by me duly sworn (or affirmed) did say that s/he is the _____ of _____, that (the seal affixed to said instrument is the seal of said corporation) and that said instrument was signed (and sealed) on behalf of the said organization by the authority of its board of directors and that _____ acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by her/him voluntarily executed.

Notary Public

STATE OF)
) ss:
COUNTY OF SCOTT)

On this _____ day of _____, 2019, before me a notary in and for said county and state, personally appeared _____, to me known, who being by me duly sworn (or affirmed) did say that s/he is the _____ of _____, that (the seal affixed to said instrument is the seal of said corporation) and that said instrument was signed (and sealed) on behalf of the said organization by the authority of its board of directors and that _____ acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by her/him voluntarily executed.

Notary Public

City of Davenport

Agenda Group:
Department: Finance
Contact Info: Brandon Wright 563-326-7750
Wards:

Action / Date
3/20/2019

Subject:
Resolution accepting the Main Street Landing Master Plan as presented by the Downtown Davenport Partnership and Figge Art Museum and establishing a task force for the purpose of recommending a final design for the regional activity area at Main Street Landing. [Ward 3]

Recommendation:
Adopt the Resolution.

Background:

The City of Davenport has undertaken several community-wide initiatives to gather input and feedback (known as RiverVision) for developing the area designated Main Street Landing to a world-class attraction highlighting Davenport's unique connection with the Mississippi River. Recently, the Downtown Davenport Partnership and the Figge Art Museum recently commissioned an art and design study to further refine those studies and design concepts identified in the 2014 and 2004 RiverVision Plans and presented that study to a joint meeting of City, DDP, and Figge on February 15, 2019.

During the FY 2020 Budget planning process, the Davenport City Council expressed its intent to design and construct a regional activity area on the Main Street Landing parcel identified as S1 that incorporates many of the ideas and concepts presented in RiverVision work sessions and the DDP and Figge study.

Development of a regional activity area must be organized and continue to be inclusive to the Davenport community in order to activate Davenport's riverfront to those concepts identified in RiverVision. This resolution accepts the study performed by the DDP and Figge and establishes a Regional Activity Area Task Force for the purpose of providing a final design plan to the Davenport City Council.

ATTACHMENTS:

Type	Description
▣ Resolution Letter	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Finance	Wright, Brandon	Approved	3/13/2019 - 5:48 PM
Finance Committee	Wright, Brandon	Approved	3/13/2019 - 5:48 PM
City Clerk	Admin, Default	Approved	3/13/2019 - 5:59 PM

Resolution No. _____

**Resolution Accepting the Main Street Landing Master Plan as Presented by the
Downtown Davenport Partnership and Figge Art Museum and Establishing a
Task Force for the Purpose of Recommending a Final Design for the Regional
Activity Area at Main Street Landing
March 27, 2019**

RESOLUTION offered by Alderman Matson,

RESOLVED by the City Council of the City of Davenport.

RESOLUTION accepting the Main Street Landing Master Plan as presented by the Downtown Davenport Partnership and Figge Art Museum and establishing a task force for the purpose of recommending a final design for the Regional Activity Area at Main Street Landing.

WHEREAS, the City of Davenport ("City") has undertaken several community-wide initiatives to gather input and feedback (known as RiverVision) for developing the area designated Main Street Landing to a world-class attraction highlighting Davenport's unique connection with the Mississippi River; and

WHEREAS, the Downtown Davenport Partnership ("DDP") and the Figge Art Museum ("Figge") recently commissioned an art and design study to further refine those studies and design concepts identified in the 2014 and 2004 RiverVision Plans and presented that study to a joint meeting of City, DDP, and Figge on February 15, 2019; and

WHEREAS, the Davenport City Council desires to design and construct a Regional Activity Area on the Main Street Landing parcel identified as S1 that incorporates those concepts presented in RiverVision and the DDP and Figge study; and

WHEREAS, development of a Regional Activity Area must be organized and continue to be inclusive to the Davenport community in order to activate Davenport's riverfront.

NOW, THEREFORE, the Davenport City Council hereby resolves as follows:

SECTION 1: ACCEPTANCE OF THE DDP & FIGGE MAIN STREET LANDING MASTER PLAN

The Davenport City Council hereby accepts the Main Street Landing Master Plan as commissioned by DDP and Figge and presented at a joint public meeting of City, DDP, and Figge on February 15, 2019. This master plan is to be used in conjunction and partnership with the 2014 and 2004 versions of the RiverVision Plan. Nothing in this acceptance is meant to indicate higher prioritization of one plan over another; all plans should be jointly utilized and considered in future planning of Main Street Landing including the Regional Activity Area further described within this document.

SECTION 2: ESTABLISHMENT OF THE MAIN STREET LANDING REGIONAL ACTIVITY AREA TASK FORCE

The Davenport City Council hereby creates a Main Street Landing Regional Activity Area Task Force (“Task Force”) with the responsibility and purpose to recommend a final design for the Regional Activity Area at Main Street Landing. The following duties and responsibilities are hereby given to the Task Force to develop its recommendation:

1. Meet as necessary consistent with Iowa Code for the purpose of fulfilling the responsibilities presented in this Section.
2. Participate in a public process for the purpose of recommending to the Council the retention of a design firm to create a final design for the preparation of construction documents for the Regional Activity Area.
3. Work with the selected design firm and other desired community groups to gather public input and create a final recommended design plan for the Regional Activity Area including but not limited to active play zones, walk paths, play structures, artistic design elements, passive elements, plantings, seating areas, and river connections. This design plan should be sufficient to advance to construction drawings by City staff. Further, the design plan should conform to financial constraints as presented by City staff to ensure a successful and realistic project for the Davenport City Council to consider.
4. Vote to approve a final recommended design plan for the Regional Activity Area according to the conditions outlined in Section 4. The final recommended plan will be advanced to the appropriate City government bodies for their respective reviews and input.

SECTION 3: TASK FORCE APPOINTMENTS AND TERMS

There shall be eight (8) members of the Task Force appointed as provided for in this Section. Each respective member’s appointment shall begin on the date of official notification from City. The term of all Task Force appointments shall continue through the date that the Davenport City Council accepts or approves a final design plan. In the event of a vacancy, the recommending authority shall appoint a new member consistent with this Section to fill the remainder of the term. A position shall be considered vacated if a member is not reappointed to the body from which they were appointed. A Task Force member may be removed by the recommending authority for lack of attendance and participation in Task Force meetings. Following is a chart showing the authorized members of the Task Force and the appointing authorities for each position.

Number Of Positions	Representing the Following Body	Recommending Authority
2	Davenport City Council	Mayor
1	Design Review Board	Board Council Liaison
1	Historic Preservation Commission	Board Council Liaison
1	Riverfront Improvement Commission	Board Council Liaison
1	Parks Advisory Board	Board Council Liaison
1	Davenport Community School District	School Superintendent
1	Downtown Davenport Partnership	DDP Executive Director

The Task Force shall be chaired by one of the Davenport City Council members as appointed and directed by the Mayor. The Task Force chair retains all voting rights and facilitates meetings of the Task Force.

The Davenport City Administrator shall appoint at least two (2) staff members of sufficient professional knowledge and ability to serve as liaisons and provide staff assistance to the Task Force. These staff members shall be advisory members only and shall not be voting members of the Task Force. The appointed staff members shall establish reasonable timelines for the Task Force based on discussions with the City Council for the future construction of the Regional Activity Area.

SECTION 4: TASK FORCE VOTING

As authorized in Section 2, the Task Force shall vote to recommend: 1) a design firm, and 2) a final design plan for the Regional Activity Area. Passage and approval must be achieved by a supermajority of all Task Force members, which is interpreted as six (6) yes votes of the eight (8) member Task Force. All votes shall be made in public consistent with the Iowa Code.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Davenport that the Main Street Landing Master Plan as presented by the Downtown Davenport Partnership and Figge Art Museum is accepted and that a task force for the purpose of recommending a final design for the Regional Activity Area at Main Street Landing is established with the adoption of this resolution.

Approved:

Attest:

Frank Klipsch, Mayor

Brian Krup, Deputy City Clerk