



WEST DES MOINES WATER WORKS BOARD OF TRUSTEES MEETING COMMUNICATION

DATE: April 19, 2023

ITEM:

5. Recommendations from Committees
 - c. Planning and Regionalization
 1. Resolution –Approving and Authorizing the Acquisition of Property and Property Interests for the Maffitt Lake Road Water Main Project

FINANCIAL IMPACT:

None.

SUMMARY:

Last fall, the Board approved a contract with Shive Hattery to design the Maffitt Lake Water Main Project that was driven by a request by a developer to have water service at the intersection of Army Post Road and SE 42nd Street. After discussion the Board authorized the design of extending the water main along Maffitt Lake Rd and then north under Highway 5 to reach the site. This was selected due to significantly higher likelihood of future development along the south route compared to the north route along Army Post Road.

Shive Hattery outsourced easement acquisition to JCG Land Services. One easement was secured with the South Branch Development by staff outside of this process. Appraisals and compensation estimates were mailed by JCG to the remaining two property owners a few weeks ago. After those are mailed, there is a 10-day waiting period before reaching out to the property owners. The first easement is a temporary easement and while staff believe it would make construction easier, it is possible the project could move forward without it. The second easement is required for construction. Delays on acquiring this easement will delay the project and impact the targeted timeline. This action essentially is the first step the Board would need to take to use eminent domain if a reasonable settlement cannot be achieved. It does not necessarily mean eminent domain will be used. Every effort will be made to reach a reasonable settlement and avoid eminent domain. Staff are recommending this step at this time because of a past precedent of this property owner not reaching a reasonable settlement with the City of West Des Moines during a recent sewer project, ultimately requiring condemnation. This resolution will allow staff to set a future hearing in June or July if an agreement with the property owner cannot be achieved.

In addition, the proposed construction plans will prohibit construction in this area until August 1 to allow time for the easements to be finalized. Staff have reviewed this unique situation with the planning and regionalization committee. While there is some reluctance to make this initial step, ultimately the committee is recommending moving forward and is interested in discussion by the full Board.

BACKGROUND:

Securing this easement is important to the timeline of the project. Moving the alignment will result in future costs for the Water Works to move the line when the road is redone by the City as development happens. The currently proposed alignment is just outside the right of way.

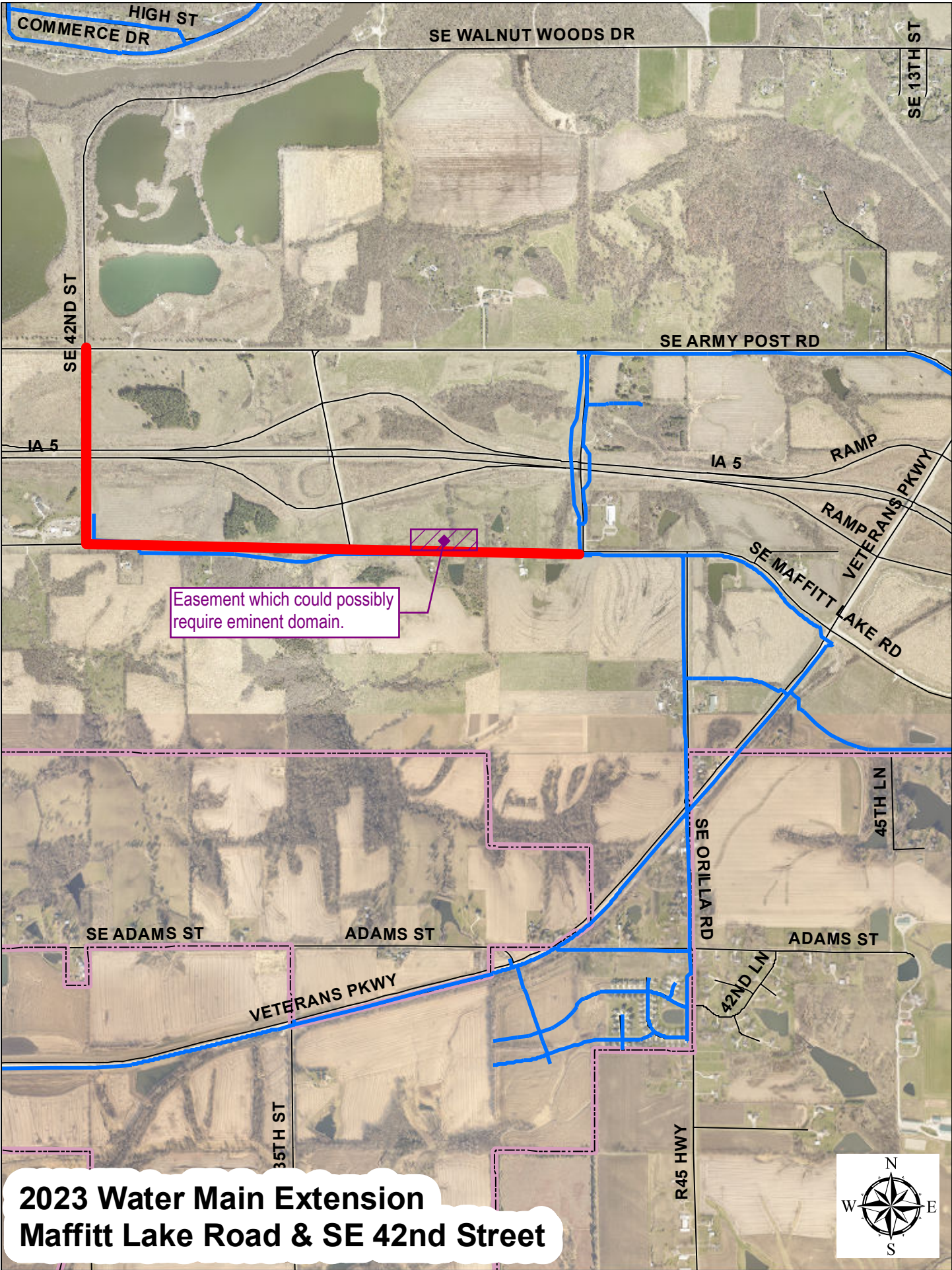
Staff are not aware that the Water Works has ever used eminent domain. Staff believes that some projects may have been close but ultimately settled. Staff have verified with our attorney that the Water Works does have the right to condemn for easements.

RECOMMENDED ACTION BY THE BOARD OF TRUSTEES:

To Approve the Resolution entitled "Authorizing the Acquisition of Property and Property Interests for the Maffitt Lake Road Water Main Project."

Prepared by: Clte Murphy

Approved for Content by: Clte Murphy



Easement which could possibly require eminent domain.

2023 Water Main Extension Maffitt Lake Road & SE 42nd Street

RESOLUTION

A RESOLUTION APPROVING AND AUTHORIZING THE ACQUISITION OF PROPERTY AND PROPERTY INTERESTS FOR THE SE MAFFITT LAKE ROAD PROJECT

WHEREAS, the Board of Trustees of West Des Moines Water Works believes it to be in the best interest of its customers and the City of West Des Moines for the bidding process to commence on the installation of approximately 9,250 linear feet of 16" water main along SE Maffitt Lake Road and SE 42nd Street ("Project"); and

WHEREAS, the Project initially was discussed at the Board of Trustees meeting on September 21, 2022 and a Professional Services Agreement with Shive Hattery was approved on October 19, 2022 that included a target bid date of April 6, 2023 and a target award date of April 15, 2023; and

WHEREAS, the design has been completed, the City has provided review comments, the Iowa DOT permits have been received and the Iowa DNR Permit is in review; and

WHEREAS, temporary construction, Public Water Main and Storm Sewer Easements need to be acquired for the Project; and

WHEREAS, the Board of Trustees of West Des Moines Water Works believes it to be in the best interest of its customers and the City to acquire the easements needed for the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Trustees of West Des Moines Water Works, that all objections and/or endorsements have been fully reviewed and considered on the question of proceeding with the public improvement and the acquisition of property interests for said Project known as the SE Maffitt Lake Road Project.

BE IT FURTHER RESOLVED, that this Board hereby determines that it is necessary and advisable to construct said public improvement Project.

BE IT FURTHER RESOLVED, that the West Des Moines Water Works staff or its designee be and is hereby authorized to proceed with said Project.

BE IT FURTHER RESOLVED, that West Des Moines Water Works staff or its designee be and is hereby authorized to proceed with the necessary activities and negotiations to acquire by purchase, gift or condemnation, the necessary property and/or property interests required for the construction of said Project, including but not limited to those easements needed from General Manufacturing.

PASSED AND APPROVED this nineteenth day of April 2023.

Scott Brennan
Chair

Attest:

Christina Murphy
Secretary