

Date December 7, 2020

SET HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF A PORTION OF COURT AVENUE RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 309 COURT AVENUE

WHEREAS, on April 27, 1992, by Roll Call No. 92-1482, the City Council of the City of Des Moines voted to pass Ordinance No. 11,805 vacating approximately 307.08 square feet of Court Avenue right-of-way located south of and adjoining 309 Court Avenue to allow for a sidewalk café lease, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, on October 7, 2013, by Roll Call No. 13-1592, the City Council of the City of Des Moines voted to pass Ordinance No. 15,224 vacating an additional 287.85 square feet of Court Avenue right-of-way located south of and adjoining 309 Court Avenue to expand the sidewalk café lease area, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

WHEREAS, subsequent to passing Ordinance No. 11,805 and Ordinance No. 15,224 an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinances and pass a new ordinance to vacate the properly described right-of-way.

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

- 1. The City Council of the City of Des Moines, Iowa, shall consider adoption of a corrected ordinance permanently vacating a portion of Court Avenue right-of-way located south of and adjoining 309 Court Avenue, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned:

THE NORTH 9.5 FEET OF THE COURT AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 7, BLOCK 24, FORT DES MOINES, AN OFFICIAL PLAT; AND THE NORTH 9.5 FEET OF THE COURT AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE WEST 1 FOOT OF LOT 8 IN SAID BLOCK 24; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 636.5 SQUARE FEET.

- 2. That the meeting of the City Council at which the repeal of Ordinance No. 11,805 and Ordinance No. 15,224 and the adoption of said corrected ordinance vacating such right-of-way is to be considered shall be on December 21, 2020, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. Given Mayor Cownie's March 17, 2020 Proclamation, as amended, prohibiting indoor gatherings of ten or more persons on public property, Section One of the Governor's October 16, 2020 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 109 of the Governor's October 16, 2020 Proclamation suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12,

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and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and further given the City Manager's decision to delay the opening of City buildings to the public due to the recent upwards spikes of positive COVID-19 cases and hospitalizations in Polk County and the need to maintain safety; it is impossible and impractical to have physical public access to the meeting location and the meeting will be conducted electronically with electronic public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/89248657921?pwd=Z0VaRTArWnBIYXZlb1VMTVFxMHoVQT09>
Passcode: 058084

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 892 4865 7921

International numbers available: <https://dmgov-org.zoom.us/j/89248657921>

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. December 17, 2020 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

3. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

★ **Roll Call Number**

Agenda Item Number

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Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

POW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

 Mayor

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

 City Clerk

PROPERTY LOCATION

