

Date December 21, 2020

HOLD 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.

WHEREAS, on December 7, 2020, by Roll Call No. 20-2008, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation of the street right-of-way be set for hearing on December 21, 2020, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and 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 suspending the regulatory provisions of Iowa Code §§ 21.8, 26.12, and 414.12, or any other statute imposing a requirement to hold a public meeting or hearing, and 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 and telephonic public access to the meeting location; and

WHEREAS, due notice of said proposal to repeal Ordinance No. 11,805 and Ordinance No. 15,224 and to correct the vacation of the street right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

Date December 21, 2020

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed repeal of Ordinance No. 11,805 and Ordinance No. 15,224 and the vacation of the street right-of-way as described herein, are hereby overruled and the hearing is closed.
2. The City Engineer and City Traffic Engineer have determined that there is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of 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, and said vacation is hereby approved:

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.

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

PCW

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

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.

 Mayor

 City Clerk

