

20-2143

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Date December 21, 2020

**HOLD HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF A PORTION OF DES MOINES STREET RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 519 DES MOINES STREET**

WHEREAS, March 22, 2010, by Roll Call No. 10-452, the City Council of the City of Des Moines voted to pass Ordinance No. 14,925 vacating approximately 357.5 square feet of Des Moines Street right-of-way located north of and adjoining 519 Des Moines Street to allow for a sidewalk café lease; and

WHEREAS, subsequent to passing Ordinance No. 14,925 an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinance and pass a new ordinance to vacate the properly described right-of-way.

WHEREAS, on December 7, 2020, by Roll Call No. 20-2009, 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. 14,925 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed repeal of Ordinance No. 14,925 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 Des Moines Street right-of-way located north of and adjoining

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519 Des Moines Street, 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:

**-EXCEPT** THE SUBSURFACE AREA BELOW GRADE-, THE SOUTH 6.5 FEET OF DES MOINES STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING THE WEST 55.0 FEET OF THE EAST 65.0 FEET OF BLOCK 17, EAST FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 357.5 SQUARE FEET.

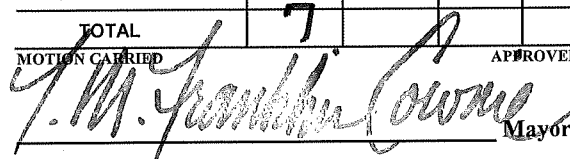
Moved by Gatto to adopt.

APPROVED AS TO FORM:

  
Lisa A. Wieland, Assistant City Attorney

PSW


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

  
J. M. Frank, Mayor

**CERTIFICATE**

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

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

  
P. Kay Cmelik, City Clerk