

★ Roll Call Number

21-0413

Agenda Item Number

55

Date March 8, 2021

Page 1

**HOLD HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE  
VACATION OF A PORTION OF ASHWORTH PARK LOCATED NORTH OF AND  
ADJOINING 514 FOSTER DRIVE**

**WHEREAS**, on December 7, 2020, by Roll Call No. 20-2053, the City Council of the City of Des Moines voted to pass Ordinance No. 15,951 vacating approximately 7,504 square feet of Ashworth Park located north of and adjoining 514 Foster Drive to allow for an exchange of land of equitable value with David J. Steffes and Wendy S. Steffes, owners of 514 Foster Drive, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

**WHEREAS**, subsequent to passing Ordinance No. 15,951 a scrivener's error was discovered wherein "Foster Drive" was instead referred to as "Forest Drive"; and

**WHEREAS**, said ordinance must be repealed and replaced in order to correct said scrivener's error; and

**WHEREAS**, on February 22, 2021, by Roll Call No. 21-0266, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation of the parkland be set for hearing on March 8, 2021, 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 February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 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 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 and telephonic public access to the meeting location; and

**WHEREAS**, due notice of said proposal to repeal Ordinance No. 15,951 and to correct the vacation of the parkland 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:



Roll Call Number

21-0413

Agenda Item Number

55

Date March 8, 2021

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed repeal of Ordinance No. 15,951 and the vacation of the parkland as described herein, are hereby overruled and the hearing is closed.

2. The City of Des Moines Park and Recreation Director has determined that there is no public need or benefit for the portion of Ashworth Park proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Ashworth Park located north of and adjoining 514 Foster Drive, 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:

A PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE 5TH P.M., NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER LOT 34, LINDEN HEIGHTS, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; THENCE NORTH 87°(DEGREES) 59'(MINUTES) 18"(SECONDS) WEST ALONG THE NORTH LINE OF SAID LOT 34, A DISTANCE OF 250.14 FEET; THENCE NORTH 0°03'50" EAST, 30.02 FEET; THENCE SOUTH 87°59'18" EAST, 250.14 FEET; THENCE SOUTH 0°03'50" WEST, 30.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.17 ACRES (7504 SQ. FT.)

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
Lisa A. Wieland, Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, GRAY, MANDELBAUM, VOSS, WESTERGAARD, and TOTAL. Includes signature of J. M. Frankel Cownie, 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