

Date February 28, 2011

RESOLUTION CLOSING PUBLIC HEARING ON THE VACATION AND LEASE OF PUBLIC RIGHT-OF-WAY TO HFL, LLC, d/b/a JOHNNY'S HALL OF FAME FOR AN EXPANDED SIDEWALK CAFE AT 302 COURT AVENUE, AND APPROVING SAME

WHEREAS, the City has received an application from Todd Millang, Managing Member of HFL, LLC, d/b/a Johnny's Hall of Fame, for an expanded Sidewalk Cafe Lease for a portion of the sidewalk adjoining its business at 302 Court Avenue; and,

WHEREAS, a portion of the right-of-way adjoining Johnny's Hall of Fame at 302 Court Avenue was previously vacated by Ordinance No. 11,989 passed May 25, 1993, and the business now seeks to expand the sidewalk cafe; and,

WHEREAS, the affected portion of the public right-of-way not previously vacated by Ordinance No. 11,989 must now be vacated before the City may approve the proposed Sidewalk Cafe Lease for the expanded area; and,

WHEREAS, on February 14, 2011, by Roll Call No. 11- 0205, it was duly resolved by the City Council that the proposed vacation and lease of such right-of-way be set down for hearing on February 28, 2011, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to vacate and lease public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and lease, 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, the objections to said proposed vacation and lease of public right-of-way as described below are hereby overruled and the hearing is closed.
2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the additional portion of Court Avenue adjoining 302 Court Avenue, more specifically described as follows:

That part of Court Avenue and Third Street rights-of-way lying North of and adjoining Lot 12, in Block 25 of the Town of Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

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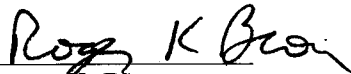
Beginning at the Northeast corner of said Lot 12; thence westerly along the North line of said Lot 12 a distance of 44.53 feet; thence northerly at right angles to the said North line of Lot 12 a distance of 9.25 feet; thence easterly along a line parallel with the North line of said Lot 12 a distance of 48.37 feet; thence southerly at right angles a distance of 9.25 feet; thence westerly at right angles a distance of 3.84 feet to the Point of Beginning (containing 447.42 square feet), less that portion thereof previously vacated by Ordinance No. 11,989 passed on May 25, 1993.

3. Subject to final passage and publication of the ordinance vacating such additional right-of-way, the lease of such vacated right-of-way, including the portion thereof originally vacated by Ordinance No. 11,989, to HFL, LLC, d/b/a Johnny's Hall of Fame, for a sidewalk cafe is hereby approved, and the Permit and Development Center Administrator is hereby authorized and directed to sign a Sidewalk Cafe Lease with HFL, LLC, in the approved standard form.

( Council Communication No. 11- 128 )

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
 Roger K. Brown  
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED APPROVED

\_\_\_\_\_  
 Mayor

**CERTIFICATE**

I, DIANE RAUH, 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