

★ **Roll Call Number**

12-1179

Agenda Item Number

35A-1

Date July 23, 2012

RESOLUTION CLOSING HEARING ON THE NON-RENEWAL OF THE LEASE OF
A PORTION OF THE PUBLIC SIDEWALK ADJOINING THE STANDARD AT 208
3rd STREET FOR A SIDEWALK CAFE, AND DENYING RENEWAL

WHEREAS, the City has received an application from DBR, LLC, doing business as The Standard at 208 3rd Street, represented by Brandon Kelley, for renewal of a Sidewalk Cafe Lease upon a portion of the adjoining sidewalk; and,

WHEREAS, the affected portion of the sidewalk was previously vacated by Ordinance No. 14,859 passed May 18, 2009; and,

WHEREAS, on June 25, 2012, by Roll Call No. 12-0979, it was duly resolved by the City Council that the proposed lease of such right-of-way be set down for hearing on July 23, 2012, at 5:00 p.m., in the Council Chambers; and

WHEREAS, due notice of said proposal to lease public right-of-way was published in the Des Moines Register on July 5, 2012, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed 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 are hereby sustained and the hearing is closed.
2. The proposed renewal of the lease of a portion of the sidewalk adjoining The Standard at 208 3rd Street is hereby DENIED. In support of this action the City Council hereby makes the following findings of fact:
 - a) The public sidewalk at this location is not sufficiently wide to accommodate a sidewalk cafe and the existing pedestrian traffic at times throughout the evening and late night hours.
 - b) This area was recently posted as a no parking zone in an attempt to stop people from congregating near their cars and blocking the sidewalk.

(continued)

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- c) Continued operation of a sidewalk cafe at this location may force pedestrians into the traveled portion of the street when the sidewalk is congested, creating a safety hazard.

(Council Communication No. 12- 402)

MOVED by Hensley to continue the hearing until 8-13-12 at 5:00 PM to allow time for a meeting with Court Avenue Business Association, Downtown Community Alliance and other interested parties. Also refer to the City Manager and City Attorney for review and recommendation on the policy and process for sidewalk cafe leases

FORM APPROVED:

Roger K. Brown
 Roger K. Brown
 Assistant City Attorney
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED
T. M. Franklin 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.

Diane Rauh City Clerk