



Date October 7, 2013

RESOLUTION CLOSING PUBLIC HEARING ON VACATION AND LEASE OF AN ADDITIONAL PORTION OF THE PUBLIC SIDEWALK ADJOINING THE COURT AVENUE BREWING CO., RESTAURANT AT 309 COURT AVENUE FOR USE AS A SIDEWALK CAFE, AND CONDITIONALLY APPROVING SAME

WHEREAS, Saddlery Restaurants, Inc., d/b/a Court Avenue Brewing Co., (hereinafter referred to as "Saddlery Restaurants") is currently operating a Sidewalk Cafe upon a portion of the adjoining Court Avenue right-of-way vacated by Ordinance No. 11,805 passed April 27, 1992, under authority of a Sidewalk Lease Agreement that extends through December 31, 2014; and,

WHEREAS, the City has received an application from Saddlery Restaurants for an expansion of its existing sidewalk cafe to occupy an additional portion of the sidewalk adjoining its business at 309 Court Avenue; and,

WHEREAS, the portion of the public right-of-way within the expansion area must first be vacated before it may be leased for use as a sidewalk cafe;

WHEREAS, on September 23, 2013, by Roll Call No. 13-1477, 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 October 7, 2013, 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 published in the Des Moines Register on September 28, 2013, 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 an additional portion of the Court Avenue right-of-way adjoining the Court Avenue Brewing Co., restaurant at 309 Court Avenue, more specifically described as follows:

★ Roll Call Number

13-1590

Agenda Item Number

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The North 9.5 feet of the Court Avenue right-of-way lying southerly of and adjoining the westerly 30.3 feet of Lot 7, Block 24, 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.

- 3. Subject to final passage and publication of the ordinance vacating such right-of-way, the lease of such vacated right-of-way to Saddlery Restaurants Inc., 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 Saddlery Restaurants in the approved standard form.

MOVED by Hensley to adopt.

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			

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.

MOTION CARRIED

APPROVED

T. M. Franklin Mayor

Diane Rauh City Clerk