

20.311

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Date December 21, 2020

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF GARVER STREET AND SOUTHEAST 16<sup>TH</sup> STREET AND ALLEY RIGHT-OF-WAY LOCATED NORTH OF EAST RAILROAD AVENUE, AND CONVEYANCE OF SAID VACATED RIGHT-OF-WAY AND THE ADJOINING EXCESS CITY PROPERTY TO MIDAMERICAN ENERGY COMPANY FOR \$135,500**

**WHEREAS**, on November 5, 2020, the City Plan and Zoning Commission voted to recommend approval of a request by MidAmerican Energy Company to vacate Garver Street from Southeast 15<sup>th</sup> Street to Southeast 16<sup>th</sup> Street, Southeast 16<sup>th</sup> Street from the north side of the east/west alley between Garver Street and Vale Street to a point 94.5 feet south of Garver Street, and the east/west alley between Garver Street and Vale Street from Southeast 15<sup>th</sup> Street to Southeast 16<sup>th</sup> Street, to allow for development of a new substation to serve future development within the East Village and the Market District, subject to the following:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense.
2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review; and

**WHEREAS**, following the above Plan and Zoning Commission meeting, a survey determined that a sanitary sewer is located further south of Garver Street than previously estimated, allowing for an additional 15.5 feet of 16<sup>th</sup> Street right-of-way and adjoining excess City property to be vacated and conveyed; and

**WHEREAS**, MidAmerican Energy Company has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$135,500.00 for the purchase of the vacated right-of-way and the adjoining excess City property (hereinafter “Property”) in order to construct a new electric substation that will primarily serve the City’s growing East Village and Market District neighborhoods, which price reflects the fair market value of said property as determined by the City’s Real Estate Division; and

**WHEREAS**, the City has no known current or anticipated public need for the Property or the adjoining excess City property proposed to be conveyed, subject to reservation of any existing utilities until such time that they are abandoned or relocated at the applicant’s expense; any major utility and public service facility use on the proposed vacation be in accordance with a Conditional Use Approval as granted by the Board of Adjustment; and any construction on the vacated Property be in accordance with all administrative comments as part of the Site Plan review, and the City will not be inconvenienced by the vacation and conveyance of said Property.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:



**Roll Call Number**

**Agenda Item Number**

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1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating Garver Street from Southeast 15<sup>th</sup> Street to Southeast 16<sup>th</sup> Street, Southeast 16<sup>th</sup> Street from the north side of the east/west alley between Garver Street and Vale Street to a point 110 feet south of Garver Street, and the east/west alley between Garver Street and Vale Street from Southeast 15<sup>th</sup> Street to Southeast 16<sup>th</sup> Street, legally described as follows, subject to the following:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review:

ALL OF THE GARVER STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 73 THROUGH 90, AND ALL OF THE EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 55 THROUGH 72, AND ALL THAT PART OF THE SOUTHEAST 16<sup>TH</sup> STREET RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 54 AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 16 FEET OF SAID LOT 90, ALL IN GRAY'S SUBDIVISION OF BLOCK 61, BROOKS AND CO'S ADDITION TO 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 1.59 ACRES (69,338 SQUARE FEET).

2. The City Council of the City of Des Moines, Iowa further proposes to convey the vacated street and alley right-of-way, along with the excess City property adjoining the vacated street and alley right-of-way, as legally described below, to MidAmerican Energy Company for \$135,500.00, subject to the following:

1. Reservation of any existing utilities until such time that they are abandoned or relocated at the applicant's expense.
2. Any major utility and public service facility use on the proposed vacation shall be in accordance with a Conditional Use Approval as granted by the Board of Adjustment.
3. Any construction on the proposed vacation shall be in accordance with all administrative comments as part of the Site Plan review

ALL OF LOTS 55 THROUGH 72, AND ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID LOTS 55 THROUGH 72, AND -EXCEPT THE SOUTH 16 FEET-, ALL OF LOTS 73 THROUGH 90, AND ALL OF THE VACATED GARVER STREET RIGHT OF WAY LYING NORTH OF AND ADJOINING SAID LOTS 73 THROUGH 90, AND ALL THAT PART OF THE VACATED SOUTHEAST 16<sup>TH</sup> STREET RIGHT OF WAY LYING SOUTH OF THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 54 AND LYING NORTH OF THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 16 FEET OF SAID LOT 90, ALL IN GRAY'S SUBDIVISION OF BLOCK 61, BROOKS AND CO'S ADDITION TO 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 5.42 ACRES (236,188 SQUARE FEET).

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3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such City property is to be considered shall be on January 11, 2021, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. 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 strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 109 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 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 public access to the meeting location as set forth below. To participate in the electronic meeting, access is available electronically and telephonically (details below):

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://dmgov-org.zoom.us/j/82610644838>  
Passcode: 300692

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 720 928 9299 or 833 548 0276 (Toll Free) or 877 853 5257  
(Toll Free)

Webinar ID: 826 1064 4838

International numbers available: <https://dmgov-org.zoom.us/j/82610644838>

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. January 7, 2021 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1<sup>st</sup> Floor, Des Moines, IA 50309; Email [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org)).

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



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Moved by Boesen to adopt.

**APPROVED AS TO FORM:**

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			
<u>T. M. Frankhu Cowme</u> 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