



Roll Call Number

25-1213

Agenda Item Number

31

Date September 8, 2025

**SET HEARING TO CORRECT THE VACATION OF PORTIONS OF EAST 36<sup>TH</sup> STREET, EAST 36<sup>TH</sup> COURT, ARTHUR AVENUE, EAST 40<sup>TH</sup> COURT, AND LOT Q RIGHT-OF-WAY LOCATED IN THE FOURMILE CREEK FLOODPLAIN AND ISSUE A CORRECTED QUIT CLAIM DEED TO POLK COUNTY CONSERVATION BOARD FOR THE LOWER FOURMILE CREEK GREENWAY PROJECT**

**WHEREAS**, on October 21, 2024, by Roll Call No. 24-1472, the City Council of the City of Des Moines voted to pass Ordinance No. 16,396, vacating East 36<sup>th</sup> Street from East Sheridan Avenue to Arthur Avenue, East 36<sup>th</sup> Court from East Sheridan Avenue to Arthur Avenue, Arthur Avenue to the west of East 37<sup>th</sup> Street, East 40<sup>th</sup> Court to the south of East Jefferson Avenue, and Lot Q between the vacated Four Mile Drive and the south line of Lot Q ("Property") to allow for the removal of the roadways and the restoration of the areas for incorporation into the Lower Fourmile Creek Greenway; and

**WHEREAS**, subsequent to passing Ordinance No. 16,396, an error was discovered in the legal description of the vacated right-of-way leading to the need to repeal said ordinance and pass a new ordinance to vacate the properly described right-of-way and to issue a corrected deed to Polk County, Iowa for the use and benefit of the Polk County Conservation Board at no cost for the public purpose of the Fourmile Creek Greenway Project; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and conveyed, 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:

1. That the City Council of the City of Des Moines, Iowa, shall consider the repeal of Ordinance No. 16,396 and adoption of a corrected ordinance permanently vacating East 36<sup>th</sup> Street from East Sheridan Avenue to Arthur Avenue, East 36<sup>th</sup> Court from East Sheridan Avenue to Arthur Avenue, Arthur Avenue to the west of East 37<sup>th</sup> Street, East 40<sup>th</sup> Court to the south of East Jefferson Avenue, and Lot Q between the vacated Four Mile Drive and the south line of Lot Q, Des Moines, Iowa, legally described as follows, subject to the reservation of easements for all existing utilities in place until such time that they are abandoned or relocated:

ALL OF LOT V, AND

ALL THAT PART OF LOT M LYING SOUTH OF THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 857, AND



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ALL THAT PART OF LOT N LYING SOUTH OF THE WESTERLY  
EXTENSION OF THE NORTH LINE OF LOT 893, AND

ALL IN FOUR MILE, AN OFFICIAL PLAT, AND

LOT J, ELMWOOD PARK, AN OFFICIAL PLAT, -EXCEPT THE  
FOLLOWING DESCRIBED AREA: BEGINNING AT THE SOUTHEAST  
CORNER OF LOT 248 IN SAID ELMWOOD PARK; THENCE NORTH  
ALONG THE WEST LINE OF SAID LOT J, A DISTANCE OF 70.0 FEET;  
THENCE EAST AND PERPENDICULAR TO SAID WEST LINE TO THE  
EAST LINE OF SAID LOT J; THENCE SOUTH ALONG SAID EAST LINE TO  
THE SOUTH LINE OF SAID LOT J; THENCE WEST ALONG SAID SOUTH  
LINE TO THE POINT OF BEGINNING,

AND

ALL OF LOT Q IN SAID ELMWOOD PARK,

ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES  
MOINES, POLK COUNTY, IOWA.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Corrected Quit Claim Deed, Restrictive Covenants, and Reservation of Easement for such vacated street right-of-way, as legally described below, to Polk County, Iowa for the use and benefit of the Polk County Conservation Board at no cost in accordance with Iowa Code 364.7(3) for the public purpose of the Fourmile Creek Greenway Project, subject to the following conditions:

- a) Reservation of a permanent easement upon the Property for the continued use and maintenance of any public utilities now in place, including those for the benefit of the City of Des Moines and other public utilities, with the right of entry for servicing same.
- b) Reservation of a permanent easement upon the Property for existing and/or future recreation trail.
- c) The Property will revert back to the City in the event that PCCB ceases to exist or loses its eligibility status as a public entity or qualified conservation organization.
- d) Compliance with the Lower Fourmile Creek Greenway Master Plan.

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3. That the meeting of the City Council at which the repeal of Ordinance No. 16,396, the adoption of said corrected ordinance vacating the above-described right-of-way, and conveyance of a Corrected Quit Claim Deed, Restrictive Covenants and Reservation of Easement is to be considered shall be on September 29, 2025, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal, and any other(s) submitted prior to or during the public hearing.
4. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
5. There will be no proceeds associated with this transaction.



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Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			
MOTION CARRIED				
APPROVED				
<u>Connie Boesen</u> Mayor				

#### CERTIFICATE

I, Laura Baumgartner, 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.

Laura Baumgartner

City Clerk