



**City of Geneseo
Agenda for Special City Council Meeting
Tuesday, April 25, 2017
6:00 P.M.**

Council Chambers, 115 South Oakwood Avenue Geneseo, IL 61254

- I. Pledge of Allegiance**
- II. Roll Call**
- III. Public Comment – City Ordinance allows members of the Public to speak and give input up to 3 minutes during Public Comment, there can be no debate or action by the City Council at this time.**
- IV. Administration**
 - a. Consideration to adopt Ordinance O-17-14 An Ordinance closing an Alley to Vehicle Traffic (East of State Street, North of First Street).
- V. Public Comment - City Ordinance allows members of the Public to speak and give input up to 3 minutes during Public Comment, there can be no debate or action by the City Council at this time.**
- VI. Adjournment**



SPECIAL CITY COUNCIL

April 25, 2017

ORIGINATING DEPARTMENT: Administration

PRESENTER: Lisa Kotter, City Administrator

SUBJECT: Alley East of State Street and North of First Street

BACKGROUND AND DISCUSSION: There have been discussions in the past about closing this alley for safety reasons. Now that the NICOR gas improvements have been made on First Street, it requires the gas meters be removed from the basements and installed outside in the back of these buildings. These new meter locations have created an even more narrow path for vehicles to travel. Chad, the Mayor and I walked the alley this week with NICOR staff and have determined that the Council should consider closing this alley to vehicular traffic. I would encourage you to walk the alley on your own prior to the meeting to get a feel for how narrow it is. A letter that is attached was sent to the property owners and tenants that about the alley. The Chamber has also been made aware of the possible decision. The reason this is coming up now is that if we do not close the alley NICOR must install extra poles around the meters to protect them from being hit. Those posts would project even further into the alley than the meters already do. Attorney Price was consulted on the Council's right to make a determine that for safety reasons the alley should no longer have vehicular traffic.

UPDATE SINCE COUNCIL: The City invited representatives from NICOR to attend a meeting on April 21 to discuss with the abutting property owners about the project. The only people in attendance were the owners of Curious Cargo and their attorney and Matt Storm from Geneseo Communications. NICOR is checking one thing but the overall conclusion was that the current location of the meters is the only option. While is it not the desired option from Curious Cargo I would still recommend that for public safety that the Council consider Ordinance O-17-14 which would close the alley to vehicles. If the Council would like to consider a single loading or unloading/20 minute parking spot where the alley driveway used to be we can write an ordinance for consideration on May 9.

RECOMMENDATION: Motion to adopt Ordinance O-17-14 An Ordinance Closing An Alley to Vehicular Traffic (East of State Street and North of First Street.

BUDGET IMPACT: None

DOCUMENTS ATTACHED: Draft Ordinance O-17-14, Letter to Property Owners and Tenants, Memorandum from Attorney Price

CITY OF GENESEO

ORDINANCE No. O-17-14

**AN ORDINANCE CLOSING AN ALLEY TO VEHICLE TRAFFIC
(EAST OF STATE STREET, NORTH OF FIRST)**

**ADOPTED BY THE
CITY COUNCIL OF THE
CITY OF GENESEO**

THIS 25TH DAY OF APRIL, 2017

**APPROVED BY THE
MAYOR**

APRIL 25TH, 2017

Published in pamphlet form
by authority of the City Council
of the City of Geneseo,
Henry County, Illinois,
this 26TH day of April, 2017.

ORDINANCE NO. O-17-14

**AN ORDINANCE CLOSING AN ALLEY TO VEHICLE TRAFFIC
(EAST OF STATE STREET, NORTH OF FIRST)**

WHEREAS, the City of Geneseo, County of Henry, State of Illinois has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, the City of Geneseo has the statutory authority pursuant to 65 ILCS 5/11-80-2 and 5/11-80-20 to regulate alleys within its corporate limits; and

WHEREAS, the Corporate Authorities of the City of Geneseo hereby find and determine that, due to improvements made to buildings adjacent to the alley east of State Street and north of First (the "Alley"), the Alley now has a very narrow width that has increased the risk of vehicles impacting or damaging utilities and other infrastructure; and

WHEREAS, the Corporate Authorities of the City of Geneseo hereby find and determine that the Alley is no longer safe for vehicle traffic and should be closed to vehicle traffic.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GENESEO, ILLINOIS, AS FOLLOWS:

SECTION I: The Recitals set forth above are incorporated herein and made a part hereof.

SECTION II: The alley east of State and north of First is hereby closed to vehicle traffic. The City Administrator is authorized to take such further action (including the installation of bollards or other barriers) as necessary to give this Ordinance full force and effect.

SECTION III: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION IV: All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION V: This ordinance shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF GENESEO, HENRY COUNTY,
ILLINOIS ON THIS 25TH DAY OF APRIL, 2017

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

AND APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2017.

(Seal)

KATHY CARROLL-DUDA
MAYOR FOR THE CITY OF GENESEO

LOREE K. PHLYPO
CITY CLERK

Published in pamphlet form by authority of the City Council of the City of Geneseo, Henry County, Illinois, this _____ day of _____, 2017.

State of Illinois)
County of Henry)

I, Loree K. Phlypo, certify that I am the duly appointed and acting City Clerk of the City of Geneseo, Henry County, Illinois.

I further certify that on April 25th, 2017, the Corporate Authorities of such municipality passed and approved Ordinance No. O-17-14, entitled:

**AN ORDINANCE CLOSING AN ALLEY TO VEHICLE TRAFFIC
(EAST OF STATE STREET, NORTH OF FIRST)**

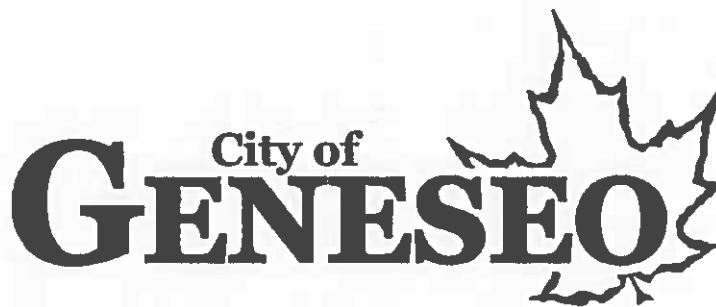
which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. O-17-14, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on April 26th, 2017 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

Dated at Geneseo, Illinois, this __, day of _____, 2017.

(Seal)

Loree K. Phlypo
City Clerk



- Incorporated February 16, 1865 -
115 South Oakwood Avenue
Geneseo, Illinois 61254-2128
Phone (309) 944-6419 / Fax (309) 944-8254

April 7, 2017

Dear State Street Tenant or Property Owner:

We want to inform you that City officials have been concerned about the alley behind your property on State Street. The concerns are that the width of the right of way is not safe for vehicular traffic to move through the alley. Recently with the improvements made on First Street, NICOR gas is required by law to remove the meters from basements and place them at the back side of the buildings in an outdoor location. This has created an even narrower path for vehicles to travel. The Mayor, Director of Public Works, Chief of Police and I feel we must present to the City Council the idea of closing the alley to vehicular traffic for consideration. The City Attorney has been consulted with and has given his opinion that the City Council has the right to make this determination. In addition, the attorney has drafted an ordinance that would no longer allow vehicular traffic to move in this alley. This ordinance is included with this letter. The issue will be considered by the City Council at the Tuesday, April 11 meeting at 6:00 p.m. at City Hall. We again hope you understand that we recognize the inconvenience this will cause to your business but want to also balance public safety when looking at this decision. You are welcome to call me or the Mayor prior to the Tuesday meeting if you are unable to attend. We have also made the Chamber of Commerce aware of this upcoming discussion.

Sincerely,

Lisa A. Kotter
City Administrator

MEMORANDUM

To: Lisa A. Kotter

From:

Subject: City of Geneseo: Prohibiting Vehicles in Alleyway

Date: April 6, 2017

You asked us whether the City can prohibit vehicles from using an alley located on the eastside of State, just north of First, and, if so, the process to do so.

Pursuant to statute, the City's corporate authorities have the right to regulate alleys. (See 65 ILCS 5/11-80-2; 5/11-80-20). Illinois case law has established that the regulation must be "a reasonable exercise of corporate authority." Considering the present facts, i.e. the alley is narrow and not safe for vehicles, the City can enact a resolution prohibiting vehicular traffic in the alley. Any challenger would have to establish through clear and affirmative evidence that the City's closure was unreasonable and would not promote public safety. *City of Evanston v. City of Chicago*, 279 Ill. App. 3d 255 (1996)

The following cases serve as examples of a municipality's authority to regulate vehicular traffic:

Vill. of Lake Bluff v. Dalitsch, 415 Ill. 476 (1953). The court held that it was reasonable for the village to close a narrow driveway to vehicular traffic in the interest of public safety. The village was also lawfully able to place large boulders across the driveway's entrance in an effort to prevent both vehicles and bicycles from making their way through.

Chicago Nat. Bank v. City of Chicago Heights, 14 Ill. 2d 135 (1958). The court held that city council's ordinance, which restricted a 200 foot stretch of narrow road for the sole use of pedestrians and emergency vehicles, was a reasonable exercise of its regulatory power. The defendants in the case argued that the city had the right to regulate, not prohibit, the use of vehicles on the road. The court stated, "[t]he right to regulate under proper circumstances has been held to include the right to prohibit." *Id.* at 141. The court found the traffic on the road created a dangerous situation and there

ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & KRAFTHEFER, P.C.

April 6, 2017

Page 2

were other means of access for the abutting property owners. The ordinance did not violate due process since no property was physically taken. However, the court did note, “[c]onsequential damages may result from the inconvenience of limited access, and, if so, compensation therefor may be claimed in a proper action at law.” *Id.* at 143.

We accompany this memo with an ordinance prohibiting vehicular traffic in the alleyway located on the east of State, just north of First. As always, we are available to discuss this memorandum at your request.

4837-4104-4806, v. 1