

RESOLUTION CALLING SPECIAL CITY ELECTION ON THE MATTER OF GRANTING A CABLE TELEVISION FRANCHISE TO HERITAGE COMMUNICATIONS, INC.

WHEREAS, Heritage Communications, Inc. has made application for a cable television system franchise in the City of Denver, Iowa; and

WHEREAS, said Application is in due form and complies with the requirements of the City; and
WHEREAS, this City Council does now receive and consider for passage Ordinance No. 82-3, entitled:

"AN ORDINANCE TO GRANT HERITAGE COMMUNICATIONS, INC. A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF IOWA, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHTS, PRIVILEGES AND AUTHORITY TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RENEW, RECONSTRUCT, AND REMOVE A CABLE TELEVISION SYSTEM ACROSS PUBLIC PROPERTY IN THE CITY LIMITS FOR A TERM OF TWENTY-FIVE (25) YEARS."

And WHEREAS, under the laws of the State of Iowa as aforesaid, any cable television system franchise granted by the City to be effective, must first be submitted to and approved by a majority of the legal electors voting thereon at a general or special election; and

WHEREAS, it is now the intent and desire of the City Council to submit the question of granting a cable television system franchise to Heritage Communications, Inc., to the legal electors of this City at a special election for that purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DENVER, IOWA:

Section 1. That there shall be submitted to the qualified electors of said City, at a special election to be held on the 9 day of March 1982, the following question, to wit:

"Shall Ordinance No. 82-3, granting to Heritage Communications Inc. a franchise to operate a cable television system in the City of Denver, Iowa, for a period of twenty-five (25) years be approved? Said Ordinance being words and figures as follows, to wit:

ORDINANCE NO. 82-3

AN ORDINANCE TO GRANT HERITAGE COMMUNICATIONS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF IOWA, ITS SUCCESSORS AND ASSIGNS, THE NON-EXCLUSIVE RIGHTS, PRIVILEGES AND AUTHORITY TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RENEW, RECONSTRUCT, AND REMOVE A CABLE TELEVISION SYSTEM ACROSS PUBLIC PROPERTY IN THE CITY LIMITS FOR A TERM OF TWENTY-FIVE (25) YEARS.

BE IT ORDAINED by the City Council of the City of Denver, Bremer County, Iowa:

1. Grant to Franchise. A non-exclusive right is hereby granted to Heritage Communications, Inc., its successors and assigns, to establish, construct, operate, *maintain*, repair, replace, renew, reconstruct, and remove a cable television system across public property in the City limits for a term of twenty-five (25) years, in accordance with the laws and regulations of the United States of America and the State of Iowa and the Ordinances and regulations of the City of Denver, including the non-exclusive right, privilege and authority:

- a. To sell and supply audio and video communication service to persons within the City;
- b. To use public property within the City;

c. To engage in such further activities within the City as may now or hereinafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

2. Effective Date of Franchise. The franchise shall become effective from and after the effective date of this Ordinance and compliance by Heritage Communications, Inc. with Federal Communications Commission rules and regulations and with Ordinance No. 82-2 of the City of Denver, Iowa.

3. Should any section, clause or provision of this Ordinance be declared invalid by a court of record, the same shall not affect the validity of the Ordinance as a whole or any part thereunder other than the part so declared invalid.

4. All Ordinances or parts thereof in conflict with the terms of this Ordinance are hereby repealed, provided, however, that such repeal shall only be to the extent of such conflict. This Ordinance shall be in full force and effect from and after its approval by the electors and adoption by the said City Council, City of Denver, Iowa, and its written acceptance by Heritage Communications, Inc. of Des Moines, Iowa, (an Iowa corporation).

ATTEST:

MAYOR Gene Leonhart

CITY CLERK Donald Steinbronn

Section 2. That the voting place or places for said election, and the hours the polls shall be opened and closed shall be as set out in the "Notice of Special City Election", said Notice to be prepared and approved by the County Commissioner of Elections.

Section 3. That the form of ballot to be used at said election shall be printed on colored paper other than white, substantially in the form set forth in the "Notice of Special City Election". If more than one public measure shall be submitted to the electors at the time of the said election, all such measures shall be printed upon one ballot.

Section 4. That the Election Board for the voting precinct or precincts shall be appointed by the County Commissioner of Elections, not less than fifteen (15) days before the date of said election, a certified copy of which appointment shall be officially placed on file in the office of the Clerk of said City.

Section 5. That the Auditor of Bremer County, Iowa, being the County Commissioner of Elections, is hereby directed to publish the "Notice of Special City Election" once in the Denver Forum, a legal newspaper, printed wholly in the English language, as defined by Section 618.3 of the Code of Iowa, published in said City and of general circulation therein, said publication to be not less than four clear days nor more than twenty days prior to the date of said election.

Section 6. That the County Commissioner of Elections, pursuant to Section 47.2, Code of Iowa, 1975, is requested to designate the Clerk of said City as a Deputy County Commissioner of Elections, if said Commissioner believes such designation will be in the best interest of said election, and said Clerk, if so designated, is hereby directed and authorized to assist the Commissioner in administering the election conducted by the Commissioner for said City.

Section 7. That the County Commissioner of Elections shall cause to be prepared all such ballots and election registers and other supplies as may be necessary for the

proper and legal conduct of said election and the Clerk of said City is hereby authorized and directed to cooperate with said Commissioner of Elections and to

do and prepare all of the necessary proceedings in order to make said election legal and valid.

Section 8. That the Clerk is hereby directed to file a certified copy of this Resolution in the Office of the County Commissioner of Elections, which filing shall also

constitute the "written notice" to the County Commissioner of Elections of the election date required to be given by the governing body under the provisions of Chapter 47 of the Code of Iowa.

PASSED AND APPROVED this 1st day of February A.D., 1982.

MAYOR Gene Leonhart

ATTEST:

CITY CLERK Donald Steinbronn