



**Roll Call Number**

21-0267

**Agenda Item Number**

21 ✓

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**Date** February 22, 2021

**SET HEARING FOR APPROVAL OF DOCUMENTS TO CORRECT THE VACATION OF A PORTION OF COURT AVENUE RIGHT-OF-WAY LOCATED SOUTH OF AND ADJOINING 319 COURT AVENUE**

**WHEREAS**, on July 5, 1989, by Roll Call No. 89-2874, the City Council of the City of Des Moines voted to pass Ordinance No. 11,346 vacating approximately 424.83 square feet of Court Avenue right-of-way located south of and adjoining 319 Court Avenue to allow for a sidewalk café lease, subject to the reservation of easements for any existing utilities until such time that they are abandoned; and

**WHEREAS**, subsequent to passing Ordinance No. 11,346, 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.

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

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of a corrected ordinance permanently vacating a portion of Court Avenue right-of-way located south of and adjoining 319 Court Avenue, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned:

A PART OF COURT AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING BLOCK 24, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 IN SAID BLOCK 24; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 5, SAID SOUTH LINE ALSO KNOWN AS THE NORTH RIGHT OF WAY LINE OF COURT AVENUE, 56.0 FEET; THENCE SOUTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 8.33 FEET; THENCE EAST AND PARALLEL TO SAID NORTH RIGHT OF WAY LINE, 56.0 FEET; THENCE NORTH AND PERPENDICULAR TO SAID NORTH RIGHT OF WAY LINE, 8.33 FEET AND TO THE POINT OF BEGINNING, AND CONTAINING APPROXIMATELY 466 SQUARE FEET.

2. That the meeting of the City Council at which the repeal of Ordinance No. 11,346 and the adoption of said corrected ordinance vacating such right-of-way is to be considered shall be on March 8, 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 February 5, 2021 Proclamation strongly encouraging vulnerable Iowans to limit participation in gatherings of any size and any purpose during the COVID19 outbreak, and further given Section 108 of the Governor's February 5, 2021 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

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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/85881529685?pwd=ajZLTTC81UFpwc29JK1NZTkdlLSVRqUT09>  
Passcode: 336793

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 877 853 5257 (Toll Free) or 833 548 0276 (Toll Free)

Webinar ID: 858 8152 9685

International numbers available: <https://dmgov-org.zoom.us/j/keppKi73OX>

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. March 4, 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)).

3. 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.

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7	0	0	0
<p><u>P. M. Frank Cownie</u>          Mayor</p>				

**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