

**HOLD 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; and

**WHEREAS**, on February 22, 2021, by Roll Call No. 21-0467, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed corrected vacation of the street right-of-way be set for hearing on March 8, 2021, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa, and 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 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 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 and telephonic public access to the meeting location; and

**WHEREAS**, due notice of said proposal to repeal Ordinance No. 11,346 and to correct the vacation of the street right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal, including how to participate electronically and telephonically; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed repeal of Ordinance No. 11,346 and the vacation of the street right-of-way as described herein, are hereby overruled and the hearing is closed.
2. The City Engineer and City Traffic Engineer have determined that there is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a portion of Court Avenue right-of-way located south of and adjoining 319



**Roll Call Number**

21-0416

**Agenda Item Number**

56

**Date** March 8, 2021

Court Avenue, legally described as follows, subject to the reservation of easements for any existing utilities until such time that they are abandoned, and said vacation is hereby approved:

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.

3. The City Clerk is authorized and directed to forward a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

Moved by Mandelbaum 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			

MOTION CARRIED

APPROVED

J. M. Frankhu Cownie  
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