

★ Roll Call Number

Agenda Item Number

12-1152

10

Date July 23, 2012

**RESOLUTION AUTHORIZING AND APPROVING RELEASE OF EASEMENT ON A PORTION OF THE VACATED NORTH/SOUTH ALLEY BETWEEN SW 9<sup>TH</sup> STREET AND SW 12<sup>TH</sup> STREET FROM VIRGINIA AVENUE TO PLEASANT VIEW DRIVE PREVIOUSLY CONVEYED TO JENNIFER AND JEREMY KERNS**

**WHEREAS**, on April 23, 2012, by Ordinance No. 15,100, the City Council of the City of Des Moines vacated the north/south alley right-of-way located between SW 9<sup>th</sup> Street and SW 12<sup>th</sup> Street from Virginia Avenue to Pleasant View Drive, including the following portion thereof:

All that part of the vacated North/South Alley East of and adjoining Lot 14 and Lot 15 of Virginia Heights, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa;

and

**WHEREAS**, on April 23, 2012, by Roll Call No. 12-0631, the City Council approved the sale and conveyance of said vacated alley right-of-way as described above to Jennifer and Jeremy Kerns for the consideration of \$150.00; and

**WHEREAS**, the Plan and Zoning Commission recommendations for vacation of the north/south alley right-of-way located between SW 9<sup>th</sup> Street and SW 12<sup>th</sup> Street from Virginia Avenue to Pleasant View Drive included the requirement that a public access easement be reserved over the southern half of the alley for pedestrian and vehicular use for adjoining loading and off-street parking; and

**WHEREAS**, the above-described portion of the vacated alley right-of-way as conveyed to Jennifer and Jeremy Kerns is in the northern half of said alley and thus should not have been subject to reservation of the public access easement, however said easement was erroneously retained in the Quit Claim Deed granting the property to the Kerns as filed on May 16, 2012 in Book 14273, Page 849 in the office of the Polk County Recorder; and

**WHEREAS**, the Kerns have requested that the City formally release the public access easement described in the Quit Claim Deed, in the form of Release as on file in the office of the City Clerk.

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

1. The public access easement reserved in the Quit Claim Deed filed May 16, 2012 in Book 14273, Page 849 in the office of the Polk County Recorder, which Deed granted a portion of the vacated north/south alley between SW 9<sup>th</sup> Street and SW 12<sup>th</sup> Street from Virginia

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Avenue to Pleasant View Drive as described above to Jennifer and Jeremy Kerns ("Grantees"), be and is hereby released.

2. The Mayor is authorized and directed to sign the Release of Easement and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. The City Clerk is authorized and directed to forward the original of said Release of Easement to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded with the Polk County Recorder.
4. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Release of Deed Restrictions to the Grantees.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*  
 Glenna K. Frank  
 Assistant City Attorney

*RSW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, 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.

*T. M. Franklin*  
 T. M. Franklin  
 Mayor

*Diane Rauh*  
 Diane Rauh  
 City Clerk