

★ **Roll Call Number**  
13-1548

**Agenda Item Number**  
12

**Date** October 7, 2013

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**RESOLUTION AUTHORIZING AND APPROVING RELEASE OF RESTRICTIONS  
ON THE VACATED WEST 15 FEET OF 24<sup>TH</sup> DRIVE BETWEEN  
FRANKLIN AVENUE AND WASHINGTON AVENUE PREVIOUSLY CONVEYED TO  
ERICH J. RIESENBERG, TRUSTEE OF THE ERICH J. RIESENBERG LIVING TRUST**

**WHEREAS**, on February 25, 2013, by Ordinance No. 15,171, the City Council of the City of Des Moines vacated the west 15 feet of 24<sup>th</sup> Drive between Franklin Avenue and Washington Avenue, legally described as follows:

THE WEST 15.0 FEET OF 24<sup>TH</sup> DRIVE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOTS 37 THROUGH 48, KIRKWOOD GLEN, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA;

and

**WHEREAS**, on February 25, 2013, by Roll Call No. 13-0338, the City Council approved the sale and conveyance of said vacated portion of 24<sup>th</sup> Drive to Erich J. Riesenber, as Trustee of the Erich J. Riesenber Living Trust Dated June 8, 2002 ("Grantee") for the consideration of \$350.00, subject to certain restrictions including requirements of fence location and design, all as included in the Quit Claim Deed granting the property to the Grantee as filed on March 27, 2013 in Book 14714, Page 321 in the office of the Polk County Recorder; and

**WHEREAS**, the Grantee has requested that the City formally release the restrictions described in the Quit Claim Deed, in the form of Release as on file in the office of the City Clerk; and

**WHEREAS**, City staff and neighborhood representatives agree that the deed restrictions are no longer applicable to the property; that additional compensation is not due to the City as consideration for this release; and that the City will not be inconvenienced by the formal release of the restrictions contained in the Quit Claim Deed referenced above.

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

1. The release of the property restrictions relating to fence location and design set forth in the Quit Claim Deed filed March 27, 2013 in Book 14714, Page 321 in the office of the Polk County Recorder, which Deed granted a vacated portion of 24<sup>th</sup> Drive as described above to Erich J. Riesenber, as Trustee of the Erich J. Riesenber Living Trust Dated June 8, 2002, be and is hereby approved.
2. The Mayor is authorized and directed to sign the Release of Deed Restrictions, 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 Deed Restrictions to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded.
4. Upon receipt of payment of recording costs from the Grantee, the Real Estate Division Manager is authorized and directed to forward the original of the Release of Deed Restrictions, together with a certified copy of this resolution, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

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- 5. 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 grantee.

Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

*rsn*

| COUNCIL ACTION        | YEAS | NAYS | PASS | ABSENT   |
|-----------------------|------|------|------|----------|
| COWNIE                | ✓    |      |      |          |
| COLEMAN               | ✓    |      |      |          |
| GRIESS                | ✓    |      |      |          |
| HENSLEY               | ✓    |      |      |          |
| MAHAFFEY              | ✓    |      |      |          |
| MEYER                 | ✓    |      |      |          |
| MOORE                 | ✓    |      |      |          |
| TOTAL                 | 7    |      |      |          |
| MOTION CARRIED        |      |      |      |          |
| <u>T. M. Franklin</u> |      |      |      | APPROVED |
|                       |      |      |      | Mayor    |

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.

Diane Rauh City Clerk