

ORDINANCE NO. 09-709

AN ORDINANCE PROVIDING FOR THE CLOSING AND VACATING OF AN UN-PLATTED STRIP OF REAL PROPERTY PARTIALLY SERVING AS AN ALLEYWAY LOCATED IN LOT 121 OF THE ORIGINAL TOWN OF FRIEND, NEBRASKA; TO MAKE A DETERMINATION AS TO THE DAMAGES CAUSED TO THE PUBLIC BY THIS VACATION; TO PROVIDE FOR A TIME WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FRIEND, NEBRASKA:

Section 1. Property Vacated. The following un-platted strip of real estate which is serving, in part, as an alleyway located and described as follows:

The south ten (10) feet of Lot 121, Original Town, City of Friend, Saline County, Nebraska;

which was originally deeded to "the Public" by Elijah and Mary Winslow via a quitclaim deed recorded on June 9, 1884 and recorded with the Saline County Clerk at Book 21, Page 499, is hereby vacated and closed in accordance with the laws of the State of Nebraska, in connection with the vacation and closing of streets and alleys and the City Clerk is hereby authorized, empowered, and directed to certify the same to the Register of Deeds of Saline County, Nebraska and to designate upon the official map of the City of Friend the closing and vacating thereof.

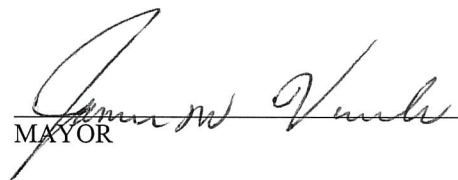
Section 2. Public interest/Damages to Public. It is deemed advantageous and in the public interest, safety, welfare, and convenience to vacate and close said alleyway thereof, and that upon vacation and closing, said real estate shall revert to the owner or owners of lots or lands abutting the same in proportion to the respective ownerships of such lots or grounds. It is further specifically found that no damages are sustained by the Public by virtue of this vacation.

Section 3. Reservation of Easements. The City of Friend, any public utilities and any cable television systems retain the right to maintain, operate, repair, and replace by itself or by any licensee or agent any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operation of any utility now located in said property vacated and closed by the Ordinance.


Section 4. When Operative. This ordinance shall be in full force and effect from and after its passage, approval, and publication or posting as provided by law and City Ordinance.

Passes and approved this 6th day of October, 2009.

THE CITY OF FRIEND, NEBRASKA

By: 
MAYOR





City Clerk-Treasurer

From, Chg. and Return to:
City of Friend
235 Maple Street
Friend, NE 68359
Fee: \$ 5.50 Chg.

STATE OF NEBRASKA } ss 2009-00904
SALINE COUNTY
Entered in numerical index and filed on
record, the 28 day of October
2009 at 9:00 o'clock AM, and recorded
in Book 69 of Misc. Page 420

No.	C
#1	✓
dk	


County Clerk

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THE CITY OF FRIEND, NEBRASKA

By:


MAYOR




City Clerk-Treasurer

Michael G. Mullally, P.C., L.L.O.
Attorney at Law
510 Seward St.
P.O. Box 411
Seward, NE 68434

Phone-402-643-4581

Fax-402-643-4142

mullallylaw@windstream.net

MEMORANDUM

To: Friend City Council
Re: Dave Nickel property-alley issue
From: Mike Mullally-City Attorney
Date: 9/14/2009

You might recall that Dave approached the council at an earlier meeting informing us of concerns he had with public traffic going through and between his two lots (121 and 122) south of his building. I viewed this property with Dave after the meeting to get an idea of his concern. I was asked to look in to the situation and come up with a solution.

I was able to review the Saline Co. real estate records last week and found that in 1884, a gentleman named Elijah Winslow and his wife Mary deeded to "the public" a 10 ft. strip on land on the south side of Lot 121. In going through the records, I found nothing to indicate that this property had ever been transferred back to the subsequent property owners. In short, it would appear that the city still owns this 10 ft. strip.

In my opinion, the city needs to decide whether it wants to retain this strip of property, or abandon it and allow it to return to the adjoining property owner, in this case, Dave or his family. In visiting with Dave, his concern is whether he is exposed to liability if a vehicle using this area would run into his personal property, equipment, etc. that was located in the traveled area. This is a legitimate concern. From the city's perspective, we are generally obligated to keep public rights-of-way free from obstructions that might endanger the users of these rights-of-way. Our failure to assure that Dave is keeping his personal property from being an obstruction could expose us to liability as well.

If we were to abandon this area, we would need to pass a resolution doing so. The effect of the abandonment would be that the abandoned property would revert to the adjacent property owners in equal shares. With the Nickel family owning both Lots 121 and 122, the ownership would pass entirely to them. If we chose not to abandon the area, we would need to make sure we knew exactly where the 10 ft. strip was located (likely through a survey) and then have it boundaries clearly identified, so that Mark could regularly patrol it for obstructions.

Given my assumption that the council will want to abandon the area, I will prepare a resolution for consideration at the October meeting. I have called Dave and made him aware of my findings.

Mike Mullally



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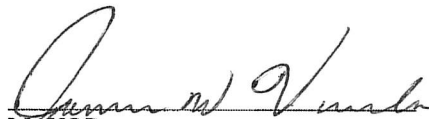
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THE CITY OF FRIEND, NEBRASKA

By:


MAYOR

Attest:

City Clerk-Treasurer

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Mike Mullally



City of Friend

From: Mike Mullally [mullallylaw@windstream.net]
Sent: Monday, September 14, 2009 5:11 PM
To: City of Friend
Subject: memo to council

Attachments: SDOC0132.pdf



SDOC0132.pdf (62 KB)

Debbie- Could you please pass this memo regarding the Nickel property issue along to council and Jim? Also, it should be on the October agenda. I'll have a resolution down to you fairly soon.

Also, just a reminder about the well loan opinion letter and the stuff I mentioned in my earlier e-mail to you. Thanks.

Mike

Michael G. Mullally, P.C., L.L.O.
Attorney at Law
510 Seward St.
Seward, NE 68434
mullallylaw@windstream.net
(402) 643-4581- phone
(402) 643-4142- fax

----- Original Message -----
From: <mullallylaw@windstream.net>
To: "Mike" <mullallylaw@windstream.net>
Sent: Monday, September 14, 2009 4:08 PM

> This E-mail includes attached file(s) sent from "RNP7D3A76" (4045/4145g).
>
> Scan Date: 09.14.2009 16:08:00 (-0500)
> Queries to: mullallylaw@windstream.net
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