



Roll Call Number

23-1107

Agenda Item Number

48

Date August 7, 2023

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**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF EXCESS CITY PROPERTY LOCALLY KNOWN AS 4030 53<sup>RD</sup> STREET, DES MOINES, IOWA TO BARRY POTTINGER FOR \$500.00**

**WHEREAS**, on July 16, 2018, by Roll Call No. 18-1218, the City Council of the City of Des Moines, Iowa voted to authorize the City Manager to develop and implement an administrative plan for the voluntary acquisition of certain one and two-family residential flood damaged properties; and

**WHEREAS**, by the end of December 2018, the City of Des Moines had acquired a total of seventy-seven (77) properties from those owners who had chosen to participate in the buyout program, with the demolition and removal of all structures being completed by May of 2019; and

**WHEREAS**, it was subsequently determined by City Engineering, Public Works, and Community Development staff that eighteen (18) of the acquired properties, all of which are located outside of the Fourmile Creek area, including the parcel at 4030 53<sup>rd</sup> Street, could be sold to adjoining property owners for use as expanded sideyard only, subject to a reservation of easements therein, and further subject to the reservation of a Permanent Easement for Storm Sewer and Surface Water Flowage which will be included in the Quit Claim Deed from City to the buyer; and

**WHEREAS**, Barry Pottinger has offered to the City of Des Moines, Iowa ("City") the purchase price of \$500.00 for the purchase of 4030 53<sup>rd</sup> Street (hereinafter "Property") for sideyard purposes only, subject to a reservation of easements therein, and further subject to the reservation of a Permanent Easement for Storm Sewer and Surface Water Flowage, which price reflects the fair market value of the City Property as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the City Property proposed to be sold, and the City will not be inconvenienced by the sale of said Property.

**WHEREAS**, on July 17, by Roll Call No. 23-0992, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the excess City-owned property be set for hearing on August 7, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to convey the City Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed vacation and conveyance, 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 conveyance of the City Property, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the excess City-owned property proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the property locally known as 4030 53<sup>rd</sup> Street, Des Moines, Iowa, as legally described, to the grantee, and for the consideration identified below, subject to a reservation of easements therein, and further subject to the reservation of a Permanent Easement for Storm Sewer and Surface Water Flowage and said conveyance is hereby approved:  
  
Grantee: Barry Pottinger  
Consideration: \$500.00  
Legal Description: LOTS 31 AND 32 IN BLOCK D OF AVIATION PARK, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA; CONTAINING APPROXIMATELY 8,400 SQUARE FEET.
4. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Quit Claim Deed, together with 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and a copy of the other documents to the grantee.
8. Proceeds from this sale will be deposited into the General Fund, Unallocated: Org - ND405643.

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Moved by Yatto to adopt. Second by Boesen.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6			1

MOTION CARRIED APPROVED  
J. M. Frankin Cownie Mayor

CERTIFICATE

I, LAURA BAUMGARTNER, 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.

Laura Baumgartner  
Laura Baumgartner, City Clerk