

★ **Roll Call Number**

24-0179

Agenda Item Number

17

Date February 5, 2024

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SET HEARING FOR APPROVAL OF DOCUMENTS FOR THE VACATION OF A PORTION OF THE DES MOINES MASONIC CEMETERY, LOCATED SOUTHWEST AND INTERIOR TO THE INTERSECTION OF 48TH STREET AND FRANKLIN AVENUE, AND CONVEYANCE TO CHILDSERVE HABILITATION CENTER, INC. FOR THE PURCHASE PRICE FOR \$600,000.00.

WHEREAS, the City of Des Moines owns numerous municipal cemeteries which are operated by the Park and Recreation Department; and

WHEREAS, on March 10, 2023, the Des Moines Masonic Cemetery Association Board of Directors passed a resolution to transfer ownership and control of the Des Moines Masonic Cemetery, located at 1550 48th Street in Des Moines, and all remaining funds in the Des Moines Masonic Cemetery operating account, after all payment of all outstanding costs and expenses, and all operations and business records and intangibles, to the City of Des Moines: and

WHEREAS, on July 17, 2023, by Roll Call No. 23-0982, the City Council approved an asset purchase agreement and offer to purchase for the transfer of ownership and control of the Des Moines Masonic Cemetery from the Des Moines Masonic Cemetery Association to the City of Des Moines, Iowa, pursuant to Deed filed and recorded in the Polk County Recorder's office on January 31, 2024, in Book 19708, Page 520, and further dedicated said property as parkland; and

WHEREAS, the City of Des Moines has received an offer from ChildServe Habilitation Center, Inc., for \$600,000.00, to acquire approximately five (5) acres of the recently acquired 40 acres transferred from the Des Moines Masonic Cemetery Association to the City of Des Moines; and

WHEREAS, there is no known current or future public need for the cemetery land proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating as parkland a portion of the cemetery located southwest and interior to the intersection of 48th Street and Franklin Avenue, legally described as follows:

PARCEL 2023-203

AN IRREGULAR SHAPED PORTION OF LOT 6 AND LOT 11 IN FRANKLIN PLAZA, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N89°50'49"W

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ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 131.60 FEET; THENCE N00°35'37"E, A DISTANCE OF 88.00 FEET; THENCE N89°50'49"W, A DISTANCE OF 509.62 FEET; THENCE N00°15'57"W, A DISTANCE OF 327.03 FEET TO THE NORTH LINE OF SAID LOT 11; THENCE S89°33'55"E ALONG THE NORTH LINE OF SAID LOT 11, A DISTANCE OF 80.87 FEET TO THE SOUTHWEST CORNER OF LOT 10 IN SAID FRANKLIN PLAZA; THENCE S89°43'25"E ALONG THE SOUTH LINE OF LOTS 10 AND 9 IN SAID FRANKLIN PLAZA, A DISTANCE OF 227.96 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N89°57'30"E ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 329.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE S00°33'08"E ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 415.29 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 5.05 ACRES 220,085 SQUARE FEET)

2. The City Council of the City of Des Moines, Iowa, further proposes to sell the vacated cemetery southwest and interior to the intersection of 48th Street and Franklin Avenue, as legally described to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: ChildServe Habilitation Center, Inc.

Consideration: \$600,000.00

Legal Description:

PARCEL 2023-203

AN IRREGULAR SHAPED PORTION OF LOT 6 AND LOT 11 IN FRANKLIN PLAZA, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N89°50'49"W ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 131.60 FEET; THENCE N00°35'37"E, A DISTANCE OF 88.00 FEET; THENCE N89°50'49"W, A DISTANCE OF 509.62 FEET; THENCE N00°15'57"W, A DISTANCE OF 327.03 FEET TO THE NORTH LINE OF SAID LOT 11; THENCE S89°33'55"E ALONG THE NORTH LINE OF SAID LOT 11, A DISTANCE OF 80.87 FEET TO THE SOUTHWEST CORNER OF LOT 10 IN SAID FRANKLIN PLAZA; THENCE S89°43'25"E ALONG THE SOUTH LINE OF LOTS 10 AND 9 IN SAID FRANKLIN PLAZA, A DISTANCE OF 227.96 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N89°57'30"E ALONG THE NORTH LINE OF SAID LOT 6, A DISTANCE OF 329.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE S00°33'08"E ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 415.29 FEET TO THE POINT OF BEGINNING.

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3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such cemetery land is to be considered shall be on February 19, 2024, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. Sale proceeds are to be used to support cemetery infrastructure and improvements funds: PK138.

(Council Communication No. 24-057)

Moved by Gatto to adopt. Second by Westergaard

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno

Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	6			
MOTION CARRIED		APPROVED		
Connie Boesen		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