

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: April 25, 2011
	Agenda Item No. 52 Roll Call No. <u>11-0707</u> Communication No. <u>11-234</u> Submitted by: Phil Delafield, Community Development Director

AGENDA HEADING:

Public hearing for approval of an agreement with Greater Des Moines Habitat for Humanity for purchase of real estate whereby City agrees to acquire 1144 17th St. and 3017 Mahaska Avenue by tax sale deed and convey for construction as affordable housing.

SYNOPSIS:

By Roll Call 10-920, the City Council requested the tax sale certificates for the vacant lots at 1144 17th St. and 3017 Mahaska Ave. from the Polk County Treasurer, for the purposes of assigning these tax certificates to Greater Des Moines Habitat for Humanity for the development of affordable housing. This action authorizes Greater Des Moines Habitat for Humanity to secure special counsel to research the title, serve notices and file affidavits of notice for the tax sale certificate process on behalf of the City. If the item is approved at public hearing, Habitat will secure special counsel to research the title, serve notices and file affidavits of notice for the tax sale certificate to obtain the tax deed on behalf of the City.

FISCAL IMPACT:

Amount: \$23,500 (if successful in taking ownership)

Funding Source: FY10-11 Operating Budget, Community Development Block Grants, CDD049900, SP020, page 106.

ADDITIONAL INFORMATION:

Polk County issues tax sale certificates for delinquent tax properties at tax auction. Iowa Code 446.19A permits cities to acquire tax sale certificates for abandoned structures and vacant lots assessed as residential property without paying the taxes due, and allows the City to utilize an expedited redemption period, all for the purpose of encouraging the development of housing. To obtain the tax certificate pursuant to State Code 446.19A, the City Council must send an affidavit to the Polk County Treasurer that the properties meet the following conditions:

1. The property is a residentially assessed vacant lot or structure,
2. If the tax sale certificate involves an existing structure, it will be rehabilitated for housing. The City cannot tear down the property and rebuild for another purpose.
3. The structure or lot is considered abandoned, and
4. The structure is a public nuisance or is in danger of becoming a public nuisance.

The City of Des Moines has utilized this process in recent years with some success. It has enabled the acquisition of some properties with clouded titles and has enabled affordable housing providers to acquire buildable lots at a cost substantially below market value.

The process for acquisition of 1144 17th St. and 3017 Mahaska Avenue is different than the City has used in the past because of the large amount of taxes and special assessments owed against the properties. Under Iowa Code Section 446.19A, the City must take ownership in order for the taxes, liens and specials to be forgiven. The Legal Department has developed an agreement with the recommended developer that includes restrictive covenants on the use and design of the properties.

The City Council set a date of public hearing on the conveyance of the real estate at its April 11, 2011 meeting by Roll Call 11-0581. At the Council meeting of April 25, the Council may approve the agreement and convey the property to the developer if the developer can successfully obtain the property on behalf of the City.

The developer hires an attorney to work through the tax sale certificate process including researching the title, serving notices, and filing an affidavit. After proper notices and expiration of all time periods required under Iowa Code 449.19A, the developer's attorney notifies the City that the City should take the tax deed. The tax deed for the property is then recorded in the City's name. All costs with the County Treasurer are released according to state legislation. The City then conveys the property to the developer by special warranty deed for the cost of any city expenses for acquisition.

The vacant lot at 1144 17th St. Street is located south of University Avenue across from Good Park. It measures 50' by 123' and is considered a lot of record. It is zoned R3 and has residential properties on both the south and the north. It is currently assessed at \$4,900. The most recent owner of the property was Imperial Funding Group LLC.

On August 8, 2005, by Roll Call 05-1984, the City Council acting as the Board of Health declared the structure on this lot a public nuisance and authorized proceeding with court authority to abate the structure. The City tore down the structure in August 2009 using federal CDBG funds. There are nuisance abatement special assessments against this property totaling \$19,817.

Vacant lot: 3017 Mahaska Avenue, ACCENT Neighborhood

The vacant lot at 3017 Mahaska Avenue is located north of University Avenue in the ACCENT Neighborhood. It measures 50' by 139' and is considered a lot of record. It is zoned R1-60 and has residential properties on both the south and the north. It is currently assessed at \$12,100. The most recent owner of the property was Linda Ewars.

On April 10, 2006, by Roll Call 06-719, the City Council acting as the Board of Health declared the structure on this lot a public nuisance and authorized proceeding with court authority to abate the structure. The City tore down the structure in October 2007 using federal CDBG funds. There are nuisance abatement special assessments against this property totaling \$3,681.

The City will take ownership of the lot under 446.19A so that special assessments and taxes will be abated, but the developer will hire an attorney and pay upfront legal costs. The property can be acquired by August 31, 2011 unless the existing owner redeems the taxes on the house which staff feels is unlikely.

PREVIOUS COUNCIL ACTION(S):

Date: June 14, 2010

Roll Call Number: 10-920

Action: City Manager to remove requested properties from Polk County tax sale certificate and approve assignment of tax sale certificates to Greater Des Moines Habitat For Humanity, Inc. for development of low to moderate income owner-occupied housing. ([Council Communication No. 10-323](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

Date: April 10, 2006

Roll Call Number: 06-719

Action: Authorizing the Legal Department to proceed with court action seeking authority to abate the public nuisance at [3017](#) Mahaska Avenue, Titleholders: Tammy Ewurs a/k/a Tammy Thoren and Richard Thoren. **Moved by Vlassis to adopt. Motion Carried 6-1.**

Date: August 8, 2005

Roll Call Number: 05-1984

Action: Authorizing the Legal Department to proceed with court action seeking authority to abate the public nuisance at 1144 17th Street, Titleholders: Richard L. Meyers and Deanna S. Meyers; Mortgage Holder: U.S. Bank National Association. **Moved by Vlassis to adopt. Motion Carried 7-0.**

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.