

★ Roll Call Number

12-1124

Agenda Item Number

35

Page 1

Date July 9, 2012

CONTINUED HEARING FOR CONVEYANCE BY INSTALLMENT CONTRACT OF CITY-OWNED PROPERTY AT 1740 GARFIELD AVENUE (LOGAN COMMUNITY CENTER) TO JOSHUA CHRISTIAN ACADEMY, INC. FOR \$100,000

WHEREAS, on May 7, 2012, by Roll Call No. 12-0743, the City Council of the City of Des Moines received a proposal from the Joshua Christian Academy, Inc. ("JCA") proposing to purchase City-owned property locally known as the Logan Community Center and located at 1740 Garfield Avenue, Des Moines, in order to operate a school on the site, and further directed the City Manager to negotiate terms of the sale and to work with interested parties and the neighborhood on options for the building; and

WHEREAS, JCA is requesting to purchase the Logan Community Center for use as a school facility and has offered to the City of Des Moines the purchase price of \$100,000, which purchase price reflects the fair market value of the property as currently estimated by the City's Real Estate Division in "as-is" condition; and

WHEREAS, City Real Estate Division staff and JCA have negotiated the terms of a real estate purchase installment contract, as on file in the office of the City Clerk, for the proposed conveyance, which terms include a down payment of \$50,000 prior to JCA's possession of the property, and two additional payments of \$25,000 in each of the two subsequent years, and the conditions precedent that JCA secures funding for the initial down payment and that JCA performs a satisfactory inspection of the property during the due diligence period or waives said due diligence period; and

WHEREAS, there is no known current or future public need for the City-owned property proposed to be sold, and the City will not be inconvenienced by the sale of said property, subject to assignment to JCA of the City's existing lease of the property with Polk County; and

WHEREAS, on June 11, 2012, by Roll Call No. 12-0885, it was duly resolved by the City Council that the proposed conveyance of real property at 1740 Garfield Avenue be set down for hearing on June 25, 2012, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey this public real property was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, on June 25, 2012, by Roll Call No. 12-1039, the hearing on said proposal was continued to July 9, 2012, in order for the City Manager to work with JCA on additional contract terms as directed by City Council, and to collaborate with other parties interested in the Property; and

WHEREAS, subsequently and in accordance with Council direction, City Real Estate Division staff and JCA have negotiated revisions to the above-described real estate purchase installment contract to include the requirement that JCA's use of the property during the term of the installment contract shall be subject

★ Roll Call Number

12.1124

Agenda Item Number

35

Page 2

Date July 9, 2012

to use by other viable non-profit service providers to support evening, weekend and summer programs for area residents, subject to JCA's right to reasonably charge rental fees and/or restrict such use of the property by other service providers, and to require insurance, indemnification or other reasonable conditions upon such use of the property by other service providers; and

WHEREAS, in accordance with Council direction, City Real Estate Division staff and JCA have further negotiated revisions to the above-described real estate purchase installment contract to require JCA to fulfill the following additional conditions precedent prior to taking possession of the Property, which conditions are subject to approval by the City Manager: (1) Documentation of financial capability to operate and maintain the property and all improvements thereon, and to make the required installment payments, during the term of the installment contract; and (2) Documentation that JCA has filed its Application for Recognition of Exemption with the Internal Revenue Service (IRS) and has filed any and all IRS returns (Form 990s) as required through July 1, 2012; and

WHEREAS, in accordance with City Council direction, those interested in this proposed 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to the proposed conveyance of this property, as described below, are hereby overruled and the hearing is closed.
2. There is no public need for the property described below and the public would not be inconvenienced by reason of the conveyance of the real property locally known as the Logan Community Center, 1740 Garfield Avenue, Des Moines, and legally described below, to Joshua Christian Academy, Inc.:

ALL OF LOTS 8 THRU 29 IN BLOCK 5 OF STALFORD AND DIXON'S ADDITION, AN OFFICIAL PLAT, AND THE SOUTH 18 FEET OF LOTS 7 AND 30, IN SAID BLOCK 5, AND THE SOUTH 458 FEET OF THE VACATED ALLEY, LYING WEST OF AND ADJOINING SAID LOTS 7 THRU 18 IN BLOCK 5 (VACATED BY ORDINANCE 6240), AND ALL OF LOT 1, LYING EAST OF AND ADJOINING SAID BLOCK 5 EXCEPT THE NORTH 397 FEET AND THE SOUTH 110 FEET ADJOINING SAID BLOCK 5, LOT 1 ALSO KNOWN AS VACATED DIXON STREET (VACATED BY ORDINANCE 4981), ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 2.99 ACRES (130,109 SQUARE FEET).

3. That the sale and conveyance of the Logan Community Center, 1740 Garfield Avenue, Des Moines, to Joshua Christian Academy, Inc. for the consideration of \$100,000 payable over a two-year period with a down payment of \$50,000 and two additional payments of \$25,000 in each of the two subsequent years, together with payment by such grantee of the estimated publication and recording costs for this

12.1124

35

Date July 9, 2012

transaction, and pursuant to and in accordance with the terms of the Real Estate Purchase Installment Contract on file in the office of the City Clerk and revised as described herein above, be and is hereby approved.

4. The Mayor is authorized and directed to sign the Real Estate Purchase Installment Contract for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of down payment of \$50,000, plus \$113 for publication and recording costs, and upon fulfillment, and approval by the City Manager as applicable, of the above-described conditions precedent to JCA's possession of the property, the City Clerk is authorized and directed to forward the Real Estate Purchase Installment Contract, 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 City Manager is hereby authorized and directed to review, and to approve or deny, JCA's fulfillment of the conditions precedent to JCA's possession of the property related to documentation of financial capability and related to IRS status and filings.
7. The Real Estate Division Manager is hereby authorized and directed to administer and monitor all other terms of, and receipt of payment for, the Real Estate Purchase Installment Contract; to approve and execute documents pertaining to any minor or unsubstantial changes to said Contract, following approval of the City Legal Department as to form; and, if needed, to approve, proceed with and execute documents pertaining to forfeiture, foreclosure, or termination of the Contract if Joshua Christian Academy, Inc. fails to fulfill the contract terms required, following approval of the City Legal Department.
8. Upon confirmation by the City's Real Estate Division Manager of JCA's compliance with all Contract terms and proof of payment of full consideration of \$100,000, the Mayor is authorized and directed to sign the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to forward the original of said Quit Claim Deed to the Real Estate Division Manager of the Engineering Department for the purpose of causing said document to be recorded.
9. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

★ Roll Call Number

12.1124

Agenda Item Number

35

Page 4

Date July 9, 2012

(Council Communication No. 12- 371)

Moved by Mahaffey to adopt, and authorize repair of the air conditioner unit at the City's expense, (aproximately \$21,000) and encourage JCA to make final payment as soon as possible.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE		1		
COLEMAN	1			
GRIESS	1			
HENSLEY	1			
MAHAFFEY	1			
MEYER	1			
MOORE	1			
TOTAL	6	1		

MOTION CARRIED APPROVED

T. M. Franklin for

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