

★ Roll Call Number

23-0426

Agenda Item Number

54

Date March 27, 2023

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PORTION OF VACATED 41ST STREET LOCATED EAST OF AND ADJOINING 545 42ND STREET, BY INSTALLMENT CONTRACT TO ST. AUGUSTIN'S CHURCH OF DES MOINES FOR \$73,000

WHEREAS, on January 25, 1999, by Roll Call 99-219, the City of Des Moines City Council passed Ordinance No. 13,671 vacating all of the 41st Street right-of-way between Grand Avenue and Ingersoll Avenue; and

WHEREAS, on June 7, 1999, by Roll Call 99-1817, the City of Des Moines City Council voted to approve a lease agreement with St. Augustin's Church of Des Moines for that part of vacated 41st Street right-of-way located east of and adjoining 545 42nd Street, Des Moines, Iowa, as legally described below, hereinafter "Property"; which lease agreement contained, among other terms, the following:

- An initial forty-nine (49) year term with five 10-year renewal options;
- An initial base rent of \$5,698.00 and adjustments to the annual rent every ten years reflecting 50% of the change in the Consumer Price Index for the previous ten years;
- A Payment In Lieu Of Taxes (PILOT) for the first ten years of the lease term equal to 14% of the City levy upon any conversion of the property east of 41st Street to tax-exempt status; and

WHEREAS, St. Augustin's Church of Des Moines ("Buyer"), has now offered to the City of Des Moines, Iowa ("City"), the purchase price of \$73,000.00 for the purchase of said Property in order to assemble it with their adjoining property, which price reflects the restricted fair market value of said Property as determined by the City's Real Estate Division; and

WHEREAS, the Real Estate Division staff and St. Augustin's Church of Des Moines have negotiated the terms of a Real Estate Purchase Installment Contract for the proposed conveyance, which contract includes the following terms:

- Purchase Price of \$73,000.00, which price reflects a no-build easement which will be included in the Quit Claim Deed from City to Buyer;
- A credit towards the Purchase Price in the amount of \$7,044.00 for rent paid toward the 2022-2023 lease year;
- Interest at a rate of 3% per annum on the remaining balance of \$65,596.00;
- Ten (10) annual installment payments beginning July 1, 2023; and

WHEREAS, the City has no known current or anticipated public need for the Property proposed to be sold and the City will not be inconvenienced by the sale of said Property; and

WHEREAS, on March 6, 2023, by Roll Call No. 23-0295, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the Property be set down for hearing on March 27, 2023, at 5:00 p.m., in the City Council Chambers; and



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WHEREAS, due notice of said proposal to convey the 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 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, any and all objections to the proposed conveyance, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the excess City property proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of that part of vacated 41st Street right-of-way located east of and adjoining 545 42nd Street, Des Moines, Iowa, as legally described, to St. Augustin's Church of Des Moines, for \$73,000.00 plus interest pursuant to the terms and conditions of the installment contract, subject to a reservation of easements therein, and further subject to the reservation of a no-build easement on the Property:

ALL THAT PART OF VACATED 41ST STREET RIGHT OF WAY BETWEEN INGERSOLL AVENUE AND GRAND AVENUE, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 THE VACATED EAST 59.0 FEET OF THE 66.0 FOOT 41ST STREET RIGHT OF WAY LYING EAST OF AND ADJOINING THE SOUTH 300.0 FEET OF LOT 5, GREENWOOD PARK, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF CITY OF DES MOINES, POLK COUNTY, IOWA. (VACATED BY ORDINANCE 13671, PASSED JANUARY 25, 1999).
 (THE WEST 7.0 FEET OF 41ST STREET RIGHT OF WAY LYING EAST OF AND ADJOINING THE SOUTH 300.0 FEET OF SAID LOT 5 HAVING BEEN PREVIOUSLY VACATED AND CONVEYED).

3. The Mayor is authorized and directed to sign the Real Estate Purchase Installment Contract 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.
4. 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 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. Upon satisfaction of the terms and conditions of the Real Estate Purchase Installment Contract including proof of payment of the Purchase Price, the City Clerk is authorized and directed to forward the original of said 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 document to be recorded.

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5. The Real Estate Division Manager is authorized and directed to forward the original of 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 Polk County Recorder's Office for the purpose of causing the documents to be recorded. Upon satisfaction of the terms and conditions of the Real Estate Purchase Installment Contract including proof of payment of the Purchase Price, 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 the documents to be recorded.

6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Real Estate Purchase Installment Contract and the Quit Claim Deed and copies of the other documents to the grantee.

4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 23-151)

Moved by Mandelbaum to adopt. Second by Boesen.

APPROVED AS TO FORM:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, MANDELBAUM, SHEUMAKER, VOSS, WESTERGAARD, and TOTAL. Includes MOTION CARRIED and APPROVED labels.

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.

Handwritten signature of J. M. Franklin Cownie, Mayor

Handwritten signature of Laura Baumgartner, City Clerk