



Legislation Details (With Text)

File #: 27237 **Version:** 1 **Name:** 9470 - 740 E. Gorham Lease & Sale 2012

Type: Resolution **Status:** Passed

File created: 7/30/2012 **In control:** BOARD OF ESTIMATES (ended 4/2017)

On agenda: 9/4/2012 **Final action:** 9/4/2012

Enactment date: 9/6/2012 **Enactment #:** RES-12-00656

Title: Approving the sale of the residential structure located at 704 East Gorham Street (the "Building Improvement") within James Madison Park to Robert E. Klebba & David P. Waugh, (the "Lessees") and approving a ground lease (the "Ground Lease") for the land underneath said Building Improvement (the "Leased Land").

Sponsors: Mark Clear, Joseph R. Clausius

Indexes:

Code sections:

Attachments: 1. 27237 - 704 E Gorham STAFF REPORT 8-13-12.pdf, 2. LMC Report 081312.pdf, 3. Registration Forms from 9-4-12 Common Council Meeting.pdf

Date	Ver.	Action By	Action	Result
9/4/2012	1	COMMON COUNCIL	Adopt	Pass
8/27/2012	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
8/20/2012	1	PLAN COMMISSION	Return to Lead with the Recommendation for Approval	Pass
8/13/2012	1	LANDMARKS COMMISSION	Return to Lead with the Recommendation for Approval	Pass
8/8/2012	1	BOARD OF PARK COMMISSIONERS	Return to Lead with the Recommendation for Approval	Pass
8/7/2012	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
8/7/2012	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
8/7/2012	1	BOARD OF ESTIMATES (ended 4/2017)	Refer	
8/7/2012	1	COMMON COUNCIL	Referred	
7/30/2012	1	Economic Development Division	Referred for Introduction	

Fiscal Note

Under terms of the sale and lease agreements, economic impacts may be anticipated in three areas. First, the building improvement will be sold to the purchaser / lessee for \$130,000. Next, a 99 year ground lease will generate \$4,500 per year, with a 2% annual escalator. And finally, upon expiration of the ground lease, the City is obligated to repurchase the building improvement. Assuming a 2% discount rate, the present value of the building improvement sale and ground lease improvements is \$575,500. The repurchase at the end of the 99 year ground lease is to be based upon independent appraisals commissioned by each party. If the building improvement is purchased at fair market value, this would represent the exchange of a cash asset for a real estate asset. Assuming that the building could be sold again for cash at fair market value, the repurchase provision would have no impact upon the net present value calculation.

Project #30 of the 2012 Parks Division Adopted Capital Budget provides that "proceeds from the sale

of the lease of all properties within the [James Madison] Park will be divided equally between James Madison Park and general parklands."

Title

Approving the sale of the residential structure located at 704 East Gorham Street (the "Building Improvement") within James Madison Park to Robert E. Klebba & David P. Waugh, (the "Lessees") and approving a ground lease (the "Ground Lease") for the land underneath said Building Improvement (the "Leased Land").

Body

WHEREAS, on February 8, 2006, the Madison Board of Park Commissioners declared the residential structure located at 704 East Gorham Street, but not the land underneath it, surplus to the needs of the City of Madison Parks Division; and

WHEREAS, the Mayor established the James Madison Park Disposal Surplus Criteria and Selection Committee (the "Committee") pursuant to Madison General Ordinance 8.075 Disposal of Surplus City Real Property; and

WHEREAS, the Committee identified the type(s) of use(s) and special conditions desired for the Building Improvement located at 704 East Gorham Street; and

WHEREAS, the Committee established criteria with point values to be used in the evaluation of bid proposals submitted by potential purchasers of the Building Improvement; and

WHEREAS, the Committee, after having conducted a public hearing and held numerous public meetings to gather input on the future use of the structures, recommended the issuance of the Request for Proposals (the "RFP"); and

WHEREAS, the Common Council approved the issuance of in the RFP on March 16, 2011 (RES-11-00248, File ID 21244); and

WHEREAS, the Common Council approved the rejection of the initial responses to the RFP and approved the re-issuance of the RFP on September 20, 2011 (RES-11-00789, File ID 23898); and

WHEREAS, the Lessees submitted a response to the RFP to purchase the Building Improvement for \$130,000 and enter into a 99 year Ground Lease with the City to occupy the Building Improvement and Leased Land as a Bed and Breakfast; and

WHEREAS, the Committee recommended that the Common Council accept the proposal of the Lessees; and

WHEREAS, the Common Council accepted the proposal of the Lessees on April 10, 2012 (RES-12-00247, File ID 25054) and directed City staff to enter into negotiations on behalf of the City of Madison to determine the terms of the conveyance of the Building Improvement and a lease of the Leased Land beneath the Property,

WHEREAS Staff and the Lessees have agreed to the material terms of the sale of the Building Improvement and the Ground Lease outlined below:

- Ground Lease Term - 99 years
- Lessees - Robert E. Klebba and David P. Waugh
- Ground Lease Rent - \$4,500 per year with a 2% annual escalator
- Use Restriction - The Building Improvement shall only be used as a Bed and Breakfast as defined in

the City of Madison Zoning Code and the State of Wisconsin Building Code.

- **Special Conditions** - Lessees shall take reasonable measures to prevent parking by anyone on any unimproved area of the Leased Land. City reserves the right to review and approve any and all landscaping changes or improvements, excluding the planting of flowers or vegetables and regular maintenance such as lawn mowing. Lessees shall grant the City a permanent easement for the installation, maintenance and use of a water line on the Leased Land to serve a potential community garden in James Madison Park. The City shall work with the Lessees to ensure said easement does not interfere with the Building Improvement including the Geo Thermal System. The Lessees shall be allowed to install a Geo-Thermal System to help heat and cool the Building Improvement.
- **Assignment** - The Lessees will be the owner of the Building Improvement. It is understood that the Lessees' Ground Leasehold interest shall not be severed from the ownership of the Building Improvement. The Lessees shall at any time, upon notice to the City, be permitted to sell, assign, transfer, sublease, mortgage, pledge, encumber, grant and convey its interest in the Ground Lease, but only if such transfer is made simultaneously with the transfer of the Building Improvement to the same purchaser or transferee of the Ground Lease.
- **Maintenance** - Lessees shall maintain the Leased Land in a presentable condition. Lessees' maintenance responsibilities include but are not limited to, general repairs, maintenance and replacement of fencing, maintenance and replacement of sidewalks, exterior stairwell, stone retaining wall and driveway; removal of garbage and debris, snow removal, and landscape upkeep. No exterior storage of materials is permitted on the Leased Land, except as part of maintenance, repair or construction activities.
- **Taxes / Special Assessments** - Lessees shall pay real estate taxes and special assessments on the Building Improvement and Leased Land.
- **Subordination** - The City's interest in the land shall not be subordinated.
- **Damage / Destruction** - In the event that the building is damaged more than 50%, the Ground Lease shall terminate and the Building Improvement shall revert back to the City .
- **Repurchase** - Upon the expiration of the Ground Lease, the City shall repurchase the Building Improvement from the Lessees. The price shall be determined by the City and Lessees each retaining an independent appraiser who shall appraise the Building Improvement in "as-is" condition. In the event that the lower of the appraised values is ninety (90%) percent or more of the higher appraised values, the value of the Building Improvement shall be the average of the two values. In the event that the lower of the appraised values is less than ninety (90%) percent of the higher appraised values, a third appraiser shall review the two appraisals and make a determination of the "as-is" value. In the event of a termination of the Ground Lease due to the Building Improvement's damage or destruction of more than 50%, the repurchase price shall be reduced by the amount of any insurance proceeds received by the Lessees from the Lessees' insurer. Upon the termination of the Ground Lease for a default, the repurchase price shall be determined in the same manner. However, once the repurchase price has been determined, it shall be reduced ten (10%) percent as a payment to the City for liquidated damages.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council approves the Ground Lease between the City of Madison and Lessees for the Leased Land on the terms and conditions as described herein, and;

BE IT FURTHER RESOLVED, that the Common Council approves the sale of the Building Improvement to Lessees by bill of sale for \$130,000 for its adaptive rehabilitation and reuse as a Bed and Breakfast as defined

in the City of Madison Zoning Code and the State of Wisconsin Building Code.

BE IT STILL FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized to execute any and all documents, in a form approved by the City Attorney, necessary to complete the transactions described in this Resolution.