



City of Grand Island

Tuesday, October 28, 2008

Council Session

Item G11

**#2008-306 - Approving Settlement of Home Deferred Loan
(Clifford H. Nelson)**

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Wesley D. Nespor, Legal Department

Meeting: October 28, 2008

Subject: Authorize Settlement of Home Deferred Loan

Item #'s: G-11

Presenter(s): Dale Shotkoski, City Attorney or Wesley D. Nespor, Attorney

Background

The City has loaned money to homeowners through various grant programs. Many of these loans are deferred and forgiven if the homeowner lives in the property for a specified number of years. Clifford H. Nelson passed away in the final year of a 15 year deferred note.

Discussion

The City Council has authority to resolve disputes and settle claims of this nature. The Personal Representative of the estate is offering to settle the note for 1/15 of the face amount. The settlement would therefore be \$1,334.00. This would be consistent with the practice of current grant programs which are designed to forgive debt on a pro-rata basis. If Mr. Nelson had lived until May 12, 2009, the entire debt would have been forgiven under the terms of the note and Trust Deed. The offer appears to be fair and reasonable under the circumstances. A resolution to accept the offer and authorizing the Mayor to sign a deed of reconveyance will be needed.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Take no action
3. Postpone the issue to future date

Recommendation

City Administration recommends that the Council approve a resolution accepting the settlement and authorizing the Mayor to sign release documents.

Sample Motion

Move to approve a resolution accepting the settlement offer of \$1,334.00 and authorizing the Mayor to sign release documents.

SUBSTITUTION OF TRUSTEE

Wesley D. Nespor, attorney at law, is hereby appointed successor trustee under the trust deed executed by Clifford H. Nelson as Trustor, in which the City of Grand Island, Nebraska is named Beneficiary and the Grand Island City Attorney as Trustee, and filed for record May 13, 1994, and recorded as Instrument No. 94104009 in the office of the Register of Deeds Records of Hall County, Nebraska. The trust property affected is legally described as follows:

Lots Twenty-two and Twenty-three, Hawthorne Place addition to the City of Grand Island, Hall County, Nebraska.

Beneficiary requests the Trustee to reconvey the property.

Margaret Hornady, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF HALL)

On this _____ day of _____ 2008, before me, the undersigned, a General Notary Public, duly commissioned and qualified, personally came Margaret Hornady, Mayor of Grand Island, Nebraska, and acknowledged the execution of this substitution to be her voluntary act and deed on behalf of the Beneficiary.

WITNESS my hand and notary seal the day and year last above written.

Notary Public

DEED OF RECONVEYANCE

KNOW ALL BY THESE PRESENTS:

THAT WHEREAS, the indebtedness secured by the Deed of Trust executed by Clifford H. Nelson, a single person, Trustor, to the Grand Island City Attorney, named therein, Trustee, for the benefit of the City of Grand Island, the Beneficiary named therein, dated May 12, 1994 and filed for record on the 13th day of May, 1994 and recorded as Instrument 94104009 in the office of the Register of Deeds of Hall County, Nebraska, which secured an original indebtedness in an amount up to Twenty Thousand Dollars and Zero Cents (\$20,000.00), and said Beneficiary has requested in writing that this Deed of Reconveyance be executed and delivered;

NOW THEREFORE, in consideration of such payment and in accordance with the request of the Beneficiary named therein, the undersigned as Trustee does by these presents, grant, remise, release and reconvey to the person or persons entitled thereto all the interest and estate derived to said Trustee by or through said Deed of Trust in the following described premises:

Lots Twenty-two and Twenty-three, Hawthorne Place addition to the City of Grand Island, Hall County, Nebraska.

which has the address of **928 S. Sycamore Street**, together with all buildings, fixtures, improvements, and appurtenances belonging to such premises.

Signed this _____ day of _____ 2008.

Wesley D. Nespor, Attorney, Trustee

STATE OF NEBRASKA)
) ss.
COUNTY OF HALL)

On this _____ day of _____ 2008, before me, the undersigned, a General Notary Public, duly commissioned and qualified, personally came Wesley D. Nespor, Attorney at Law, Trustee, and acknowledged the execution of this instrument was his voluntary act and deed as Trustee.

WITNESS my hand and notary seal the day and year last above written.

Notary Public

R E S O L U T I O N 2008-306

WHEREAS, the City Council has authority to settle disputes and claims

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to accept \$1,334.00 as settlement for the obligation of Clifford H. Nelson on Lots 22 and 23, Hawthorne Place, Grand Island , Hall County, Nebraska and authorizing the Mayor to sign any necessary release documents.

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Adopted by the City Council of the City of Grand Island, Nebraska, October 28, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk