

ITEM # 50a&b  
DATE: 5-22-18

### COUNCIL ACTION FORM

**SUBJECT: VACATION OF THE RIGHT-OF-WAY ADJACENT TO 1604 TRUMAN DRIVE AND CONVEYANCE TO THE OWNERS OF SAID PROPERTY**

#### **BACKGROUND:**

City staff has been approached by Marvin and Donna Orth, owners of 1604 Truman Drive, about vacating and acquiring the 25' x 130' right-of-way (ROW) adjacent to their property. This request is outlined in a letter dated April 12<sup>th</sup> (Attachment A).

In a situation such as this, the City's typical procedure is to inquire with all abutting property owners as to their interest in acquiring the property, and to value the property according to a standard valuation formula. **The valuation according to the City's standard formula (Attachment B) is \$13,357.50, which is based on adjacent land values minus 25% for easement and Quit Claim deed** (Attachment C). The other adjacent property owners at 1600 Truman Drive, David and Sal Posegate, have indicated in a separate letter (Attachment D) that they do not wish to purchase any portion of the ROW.

**The letter from the Orth's requests that the City Council waive the City's standard ROW valuation formula, which is an adopted City Council policy. The Orth's indicate they have mowed, fertilized, planted grass seed, and aerated the area since 1990. Based on this maintenance investment, they have requested to be allowed to purchase the vacated ROW for \$3,000. They feel this amount is fair when considering what it would have cost the City to maintain the area over the past 28 years.**

**In 2010, a ROW area of identical size and dimensions in the same neighborhood was vacated. The valuation formula at that time calculated a value of \$9,896.26. However, one of the adjacent property owners had a private appraisal performed which valued that ROW area at \$2,308. The City Council agreed to that valuation and sold the vacated ROW for that amount.**

**The increase in value calculated by the City's ROW formula in 2010 compared to the value calculated for the identical parcel now in question indicates approximately 35% in land value appreciation (\$9,896.26 vs. \$13,357.50). A 35% increase from the 2010 parcel's actual purchase price of \$2,308 is \$3,116 – slightly higher than the \$3,000 offered by the Orth's.**

In 1974, this section of ROW was originally platted for public use as a school driveway. However, that school was never constructed, and the area was developed into housing. A 10' wide public utility easement (PUE) currently exists along the south edge of the adjacent properties as shown on the vacation plat (Attachment E). Therefore, a

matching 10' wide easement will be continued through the south edge of this area as stated on the quit claim deed. Utility companies have been contacted, and no other easements are needed.

### **ALTERNATIVES:**

1. a. Set the date of public hearing as June 12, 2018 for the 1<sup>st</sup> reading to approve the vacation of the 25' x 130' ROW adjacent to 1604 Truman Drive.  
  
b. Set the date of public hearing as July 10, 2018 to approve the conveyance of the vacated ROW to the owners of 1604 Truman Drive (Marvin and Donna Orth) **for \$13,357.50 as determined by the adopted City Council policy.**
2. a. Set the date of public hearing as June 12, 2018 for the 1<sup>st</sup> reading to approve the vacation of the 25' x 130' ROW adjacent to 1604 Truman Drive.  
  
b. Set the date of public hearing as July 10, 2018 to approve the conveyance of the vacated ROW to the owners of 1604 Truman Drive (Marvin and Donna Orth) **for \$3,000 as requested in their letter.**
3. a. Set the date of public hearing as June 12, 2018 for the 1<sup>st</sup> reading to approve the vacation of the 25' x 130' ROW adjacent to 1604 Truman Drive.  
  
b. Set the date of public hearing as July 10, 2018 to approve the conveyance of the vacated ROW to the owners of 1604 Truman Drive (Marvin and Donna Orth) **for another amount identified by the City Council.**
4. Retain this land and deny the request to vacate the 25' x 130' ROW adjacent to 1604 Truman Drive.

### **MANAGER'S RECOMMENDED ACTION:**

Because a previously proposed grade school will not be constructed south of the requesting property, this ROW no longer serves any public purpose and, therefore, could be made available for transfer to the abutting property owner. **The fact that the City has conveyed a similar parcel to an abutting owner in recent years for a substantially lower amount than the ROW formula would normally require is an important piece of information for the City Council to carefully consider. However, the City's ROW conveyance formula only provides guidance to staff based on a standardized process. That process calls for this parcel to be valued at \$13,357.50.**

Assuming the City Council wishes to follow the standard ROW valuation formula, it is therefore the recommendation of the City Manager that the City Council adopt Alternative #1, thereby setting a date of public hearing and preparing to convey the parcel in question for \$13,357.50 pursuant to the City's standard formula as described above.

# ATTACHMENT A

April 12, 2018

To Whom It May Concern:

We are interested in purchasing the 130'x25' wide easement next to our property at 1604 Truman Drive. Our neighbors at 1600 Truman Drive are not interested in buying any of the area and I have attached a letter from them.

We would like to offer \$3,000.00 for the 130'x25' easement. We have mowed, fertilized, planted grass seed, and aerated the area since 1990.

We feel the \$12,750 asking price is high. Because we have maintained the easement for 28 years, we hope that you will take that into account. It is of no use to the city and has not been used or maintained by them, so please consider our offer.

Thank You,



Marv & Donna Orth  
1604 Truman Drive  
Ames, IA 50010

## ATTACHMENT D

### PROPOSED SALE OF CITY LAND

25' x 130' ROW area adjacent to 1604 Truman Drive

Address	Assessed SF	Assessed 2018 Land Value	\$/SF
1604 Truman Drive	10,400	\$ 51,200	\$ 4.92
1600 Truman Drive	10,140	\$ 57,200	\$ 5.64
1525 Reagan Drive	10,382	\$ 61,100	\$ 5.89

<b>Average SF Cost</b>	<b>\$ 5.48</b>
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ROW Abutting Address	Sale Area (SF)	Value of Sale Area	Value (Minus 25% for Deed & Easement)
1604 Truman Drive	3,250	\$ 17,810.00	\$ 13,357.50

**ATTACHMENT C**

**S P A C E   A B O V E   R E S E R V E D   F O R   O F F I C I A L   U S E**

**Exemption claimed:** Iowa Code § 428A.2(6) Grantor is a governmental body

**Send tax statement to:** Marvin R. Orth and Donna J. Orth, 1604 Truman Drive,

**Return document to:** City Clerk, 515 Clark Avenue, Ames IA 50010

**Document prepared by:** Victoria A. Feilmeyer. City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010 – 515-239-5146

**Quit Claim Deed and Easement Reservation**

**KNOW ALL PERSONS:** The Grantor, City of Ames, an Iowa municipal corporation, for valuable consideration, does hereby quit-claim and convey unto the Grantees, Marvin R. Orth and Donna J. Orth, as joint tenants with full rights of survivorship and not as tenants in common, all right, title, interest, estate, claim, and demand in the Real Property described as follows:

Lot A, Ninth Addition, Parkview Heights Subdivision of Ames, Iowa.

***Easement Reservation.*** The City hereby reserves an easement over the South 10 feet (the 'Easement Area') of the Real Property as shown by the Vacation Plat attached hereto as Exhibit 'A' for electrical utility purposes, and the right to permit other utility companies to construct, and in the same manner, maintain its utility facilities, jointly or severally, upon, underground, over or across the real property. The scope of the easement includes the right to construct, reconstruct, maintain and use its electric lines, consisting of poles, wires, overhead or underground cables, fixtures, anchors, and other similar equipment or any part thereof, upon, underground, over or across the Real Property. The City also reserves a reasonable right of ingress and egress to the Easement Area from the public right of way adjacent to the Real Property. The easement reservation herein shall be binding upon successors and assigns.

Words and phrases herein, including the acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

Dated \_\_\_\_\_, 2018.

**CITY OF AMES, IOWA**

By:

Attest:

\_\_\_\_\_  
**John A. Haila, Mayor**

\_\_\_\_\_  
**Diane R. Voss, City Clerk**

**STATE OF IOWA, COUNTY OF STORY, SS.:** This instrument was acknowledged before me on \_\_\_\_\_, 2018, by John A. Haila and Diane R. Voss, as Mayor and City Clerk, respectively, of the City of Ames, Iowa.

\_\_\_\_\_  
**Notary Public**

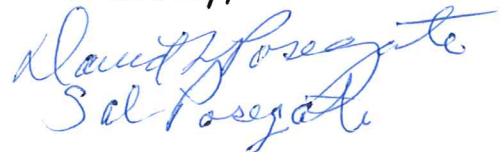
# ATTACHMENT D

April 12, 2018

To Whom It May Concern:

This letter is to inform you that we are not interested in purchasing any of the 130'x25' easement. Our address is 1600 Truman Drive and the area is next to our property.

Sincerely,

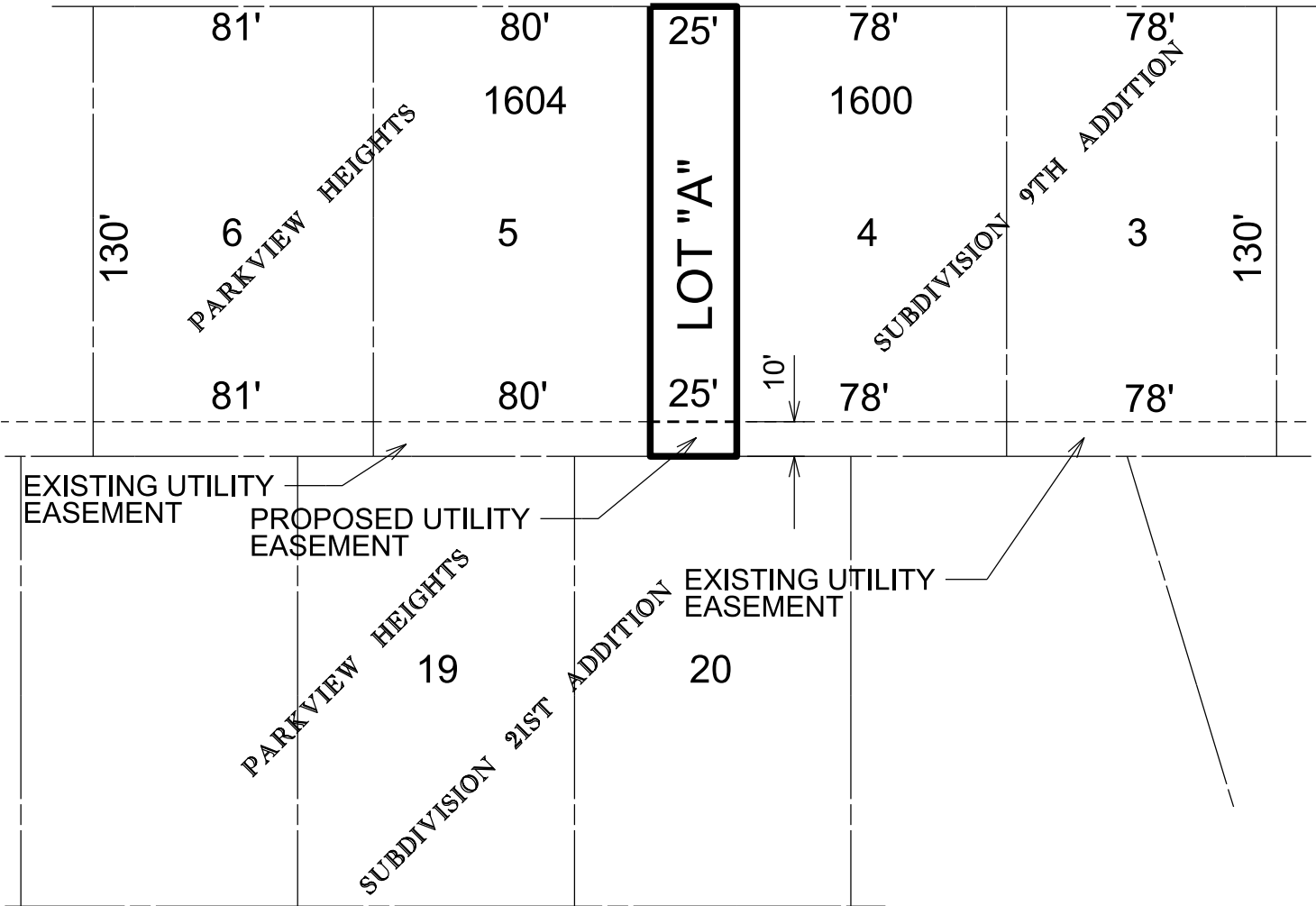
A handwritten signature in blue ink, appearing to read "Dave & Sal Posegate". The signature is written in a cursive, flowing style.

Dave & Sal Posegate  
1600 Truman Drive  
Ames, IA 50010

EXHIBIT 'A'

VACATION PLAT  
CITY OF AMES, IOWA ENGINEERING DIVISION  
DATE: 5/16/2018

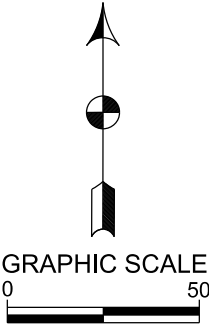
TRUMAN DRIVE



REAGAN DRIVE

LEGAL DESCRIPTION

LOT "A", NINTH ADDITION, PARKVIEW HEIGHTS SUBDIVISION OF AMES, IOWA.



DATE
05/16/18
SCALE
1" = 50'
DRAWN
MD
FIELD BOOK
1
SHEET 1