



MEMORANDUM

TO: Mayor Laurel Lunt Prussing and Members of the City Council
FROM: William R. Gray, P.E., Public Works Director
DATE: July 7, 2016
RE: 202 and 204 North Wood Street Acquisition

Introduction

City staff have been negotiating with the owners of 202 and 204 North Wood Street in Urbana to acquire a two and one half story residence which has been converted into five residential apartment units. All the units are vacant. There is a vacant lot to the north which is identified as 204 North Wood Street. The area of the two lots is 18,630 square feet or .43 acres. (See the attached location map.)

The subject tract is located adjacent to the Boneyard Creek on the east and existing city property to the south. This property is ideally situated for a future Boneyard Creek trail and other amenities between Main Street and Griggs Street. (See attached concept plan.) A specific Boneyard Creek project scope, cost, funding source, and construction date have yet to be determined.

City staff have been in discussion with the owners and their attorney since last fall. The owners have agreed in writing to the terms as stated in the attached Real Estate Transfer Agreement. Terms included in the contract are:

- The city is purchasing 18,360 square feet from Lehman Creekside Properties, LLC.
- The city is purchasing this property for \$80,000.
- The city plans to close on this property, pending city council approval, by August 1, 2016.
- The city plans to demolish the structure (estimated to cost \$40,000) and keep the land as open green space until future improvements occur.

Background and Facts

The original TIF 2 Redevelopment Plan calls for the redevelopment of the Boneyard Creek to provide accessibility and visibility to the public and the amended TIF 2 Redevelopment Plan calls for open space and landscape improvements and sites the implementation of the Boneyard Pathway. One of the four major goals of the 2012 Downtown Urbana Plan is to *Implement the Boneyard Creek Master Plan* and a high importance objective under this goal is the completion of the public trail and open space of Phase 1 for each of the five Boneyard Segments.

The current Boneyard Creek Master Plan was adopted by the Urbana City Council on May 19, 2008. Implementation of Segment 3, Phase 1 of the plan was initiated in with project design in 2010 and completed in 2015. The project was primarily funded by Tax Increment Finance District #2 which supported the issuance of a bond. The project has resulted in multiple investments by adjacent property owners including completed decking and outdoor seating at Silvercreek Restaurant, completed remodeling for the Best of Africa Food Store, planned remodeling and outdoor public seating for the 25 O’Clock Brewery, and planned renovation and reactivation for the proposed Broadway Market.

The successful implementation of Segment 3, Phase 1 of the Boneyard Creek Master Plan required substantial negotiation and expenditure to accomplish all necessary property, right-of-way and easement acquisitions. In anticipation of the future implementation of Segments 1 & 2, Phase 1 of the Boneyard Creek Master Plan, a proactive acquisition of the property at 202 & 204 North Wood Street would likely allow for reducing logistical complications and associated costs by reducing the need for acquisitions and easements later in the process. In addition, this acquisition would allow for the consideration of a greater number of options for public amenities during the design phase. At this time, future implementation of Segments 1 & 2, Phase 1 would be most likely to occur in concert with the financial assistance of the proposed Urbana Central TIF and corresponding major private projects.

Fiscal Impact

Property acquisition is being funded 100% by Tax Increment Financing District 2. There are sufficient funds available for this property acquisition and building demolition. A budget amendment ordinance in the amount of \$255,000 is attached to authorize all remaining Boneyard Creek related expenses including remaining construction and engineering project expenses (\$110,000), the Broadway Avenue and Griggs Street mini-park work (\$25,000) and this property acquisition and demolition (\$120,000).

Recommendation

It is recommended that An Ordinance Authorizing the Purchase of Certain Real Estate (202 and 204 North Wood Street) and An Ordinance Revising the Annual Budget Ordinance for FY 2016/17 (Rebudget Boneyard Creek Expenses) be approved.

ORDINANCE NO. 2016-07-055

**AN ORDINANCE REVISING THE
ANNUAL BUDGET ORDINANCE FOR FY2016/17
(Rebudget Boneyard Creek Expenses)**

WHEREAS, the Annual Budget Ordinance of and for the City of Urbana, Champaign County, Illinois, for the fiscal year beginning July 1, 2016, and ending June 30, 2017, (the “Annual Budget Ordinance”) has been duly adopted according to Sections 8-2-9.1 et seq. of the Illinois Municipal Code (the “Municipal Code”) and Division 2, entitled “Budget”, of Article VI, entitled “Finances and Purchases”, of Chapter 2, entitled “Administration”, of the Code of Ordinances, City of Urbana, Illinois (the “City Code”); and

WHEREAS, the City Council of the said City of Urbana finds it necessary to revise said Annual Budget Ordinance by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves; and

WHEREAS, funds are available to effectuate the purpose of such revision; and

WHEREAS, such revision is not one that may be made by the Budget Director under the authority so delegated to the Budget Director pursuant to section 8-2-9.6 of the Municipal Code and section 2-133 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That the Annual Budget for FY2016/17, as revised, is hereby revised to provide as outlined in the attached Exhibit A.

Section 2. This Ordinance shall be effective immediately upon passage and approval and shall not be published.

Section 3. This Ordinance is hereby passed by the affirmative vote of two-thirds of the members of the corporate authorities then holding office, the "ayes" and "nays" being called at a regular meeting of said Council.

PASSED by the City Council this _____ day of _____, _____.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Laurel Lunt Prussing, Mayor

Budget Amendment 2016/17 - Exhibit A

		<u>Current Budget</u>	<u>Revised Budget</u>	<u>Difference</u>	<u>Reason</u>
Tax Increment Financing District 2 Fund					
<u>Expenditures</u>					
T10-1-2500-5074	Boneyard Design/Constr.	-	255,000	255,000	rebudget remaining Boneyard expenses including 202-204
<u>Total Expenditures</u>		<u>1,595,621</u>	<u>1,850,621</u>	<u>255,000</u>	Wood purchase & demo
<u>Ending Fund Balance</u>		<u>1,052,860</u>	<u>1,052,860</u>	<u>-</u>	offset by reduced expenditures in FY2016

ORDINANCE NO. 2016-07-056

AN ORDINANCE AUTHORIZING THE PURCHASE OF CERTAIN REAL ESTATE

(202 and 204 North Wood Street)

WHEREAS, Urbana City Code Section 2-118, Subsection (d), provides that the City may purchase real estate for any corporate purposes found and declared by the City Council, and that the City Council may authorize the purchase thereof under any terms and any conditions by ordinance duly passed; and

WHEREAS, the City desires to purchase the real estate commonly known as 202 and 204 North Wood Street for construction of a planned Boneyard Creek beautification and trail area following demolition of the structure located on the real estate; and

WHEREAS, the City Council expressly finds and declares that said real estate is needed for governmental purposes of the City of Urbana.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

The purchase of the real estate commonly known as 202 and 204 North Wood Street in Urbana, Illinois, and legally described below, substantially on such terms as contained in the Real Estate Transfer Agreement attached hereto and incorporated herein, is hereby approved:

The South Fifty-Nine (59) feet of Lot 16 and all of Lot Seventeen (17) all in S.T. Busey's Addition to Urbana, as per Plat recorded in Deed Record 19 at Page 285, situated in Champaign County, Illinois.

Permanent Index Number 91-21-08-384-003

Section 2.

The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Real Estate Transfer Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

The Mayor of the City of Urbana, Illinois, or her designee, be and hereby is authorized to perform all acts necessary on behalf of the City of Urbana to effectuate the acquisition of the real estate.

Section 4.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5.

This Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor

REAL ESTATE TRANSFER AGREEMENT

This agreement is made between LEHMAN CREEKSIDE PROPERTIES, LLC, an Illinois limited liability company (the "Seller"), and the CITY OF URBANA, an Illinois municipal corporation (the "Buyer"), and is effective on the last date signed by a party hereto. The parties agree as follows:

1. **Premises.** The Seller shall sell, and the Buyer shall purchase, the following described real estate (the "Premises"):

Common address: 202 and 204 North Wood Street, Urbana, Illinois 61801-2641

Permanent Index Number: 91-21-08-384-003

Legally described as follows:

The South Fifty-Nine (59) feet of Lot 16 and all of Lot Seventeen (17) all in S.T. Busey's Addition to Urbana, as per Plat recorded in Deed Record 19 at Page 285, situated in Champaign County, Illinois.

2. **Purchase price.** The purchase price is \$80,000, minus credits and prorations, and is due and payable in cash or by check at the closing.

3. **Fixtures and personal property.** This agreement does not require the Seller to transfer to the Buyer any fixtures or personal property. However, any fixtures or personal property the Seller does not remove from the Premises prior to the closing are hereby transferred to the Buyer. The Seller represents to the Buyer that the Seller owns all such fixtures and personal property, that such fixtures or personal property are free and clear of all liens, charges, and encumbrances, and that the Seller has full right, power, and authority to sell such fixtures or personal property to the Buyer. The Seller disclaims and excludes all warranties of quality, fitness, and merchantability.

4. **Condition of Premises.** The Buyer accepts the Premises in its "as-is" condition, and the Seller disclaims all warranties express or implied as to the condition of the Premises.

5. **Deed.** The Seller shall convey the Premises to the Buyer by a good and sufficient Special Warranty Deed, subject only to those exceptions listed in Paragraph 6(B).

6. **Title.**

A. The Buyer shall obtain a Commitment for Title Insurance issued by a title insurance company doing business in Champaign County, committing the company to issue a policy in the usual form insuring title to the Premises in the Buyer's name for the purchase price. The Buyer shall pay the premium,

search, and all other charges for such policy. Within a reasonable time before closing, the Buyer shall deliver a copy of the Commitment for Title Insurance to the Seller.

- B. At closing, the Seller shall provide good and merchantable title, subject only to general real estate taxes not due and payable at the time of closing, liens of special assessments, zoning laws and building ordinances, easements apparent or of record that do not underlie the improvements, and covenants, conditions, encumbrances, and restrictions of record that do not restrict reasonable use of the Premises. The Seller shall also execute and deliver to the Buyer any affidavit, statement, or other document normally required by the title insurance company as a condition for issuance of the title insurance policy provided for above.
- C. If title evidence discloses exceptions other than those permitted, the Buyer shall give written notice of such exceptions to the Seller within a reasonable time. The Seller will have a reasonable time to have such title exceptions removed, or, any such exception that may be removed by the payment of money may be cured by deduction from the purchase price at the time of closing. If the Seller is unable to cure such exception, the Buyer, at its election, is permitted to terminate this agreement or take the title as it then is with the right to deduct from the purchase price liens or encumbrances of a definite or ascertainable amount upon giving the Seller notice of such election and tendering performance on its part.

7. **Taxes and assessments.** The Seller shall pay all real estate taxes, special assessments, sewer use charges, stormwater utility fees, and recycling taxes assessed against the Premises apportioned through the closing date, and the Buyer shall pay all those assessed after the closing date. The Seller represents to the Buyer that no bills for utilities or taxes associated with the Buyer's possession and use of the Premises, including but not limited to water, gas, electric, cable television, sewage treatment, sewer use taxes, stormwater utility fees, and recycling taxes, will be outstanding and not fully satisfied at the time of closing.

8. **Closing; possession.** The parties shall hold the closing not later than 30 days after the Buyer's City Council approves this agreement, as provided in Paragraph 16. The closing will take place at the Urbana City Building, 400 S. Vine Street, Urbana, Illinois, 61801, or at such other place as the parties may agree. As of the closing date, the Seller warrants to the Buyer that there will be no adverse or other persons in possession of the Premises or any part thereof and that no person has been granted any license, lease, or other right or interest relating to the use or possession of the Premises, or any part thereof, except as otherwise disclosed on the Commitment for Title Insurance.

9. **Seller's representations.** The Seller represents the following to the Buyer:

- A. The persons signing this agreement on behalf of the Seller are authorized and empowered to enter into this agreement by and on behalf of such Seller, and this agreement is a legal, valid, and binding obligation of the Seller, enforceable against the Seller in accordance with its terms.
 - B. No contracts for the furnishing of any labor or material to the Premises or the improvements thereon, and no security agreements or leases in respect to any goods or chattels that have been or are to become attached to the Premises or any improvements thereon as fixtures, will at the time of closing be outstanding and not fully performed and satisfied; and there are not and will not be any unrecorded leases or contracts relating to the Premises at the time of the closing.
 - C. To the best of the Seller's knowledge and belief, no actions or proceedings are pending against the Seller or any part of the Premises that, if determined adversely to the Seller, would have an adverse effect on the Buyer or the Premises.
 - D. Neither the Seller nor any of Seller's agents have entered into any contract to sell the Premises, any portion thereof, or any interest therein other than to the Buyer.
10. **Buyer's representations.** The Buyer represents the following to the Seller:
- A. The person signing this agreement on behalf of the Buyer is authorized and empowered to enter into this agreement by and on behalf of the Buyer.
 - B. The Buyer has taken or will take all actions necessary to authorize the execution, delivery, and performance of this agreement.
11. **Disclosures.** The Buyer waives all residential real property, lead paint, radon, and other disclosures except as specified herein.
12. **Default.**
- A. Either party may terminate this agreement at any time for cause if the other party breaches any term of this agreement and does not cure such breach within ten days after written notice is given. The party giving notice shall specify the reason or reasons for such termination and shall state that such termination becomes effective ten days after the date notice is given if the breach is not fully corrected.
 - B. In the event of the Seller's default, the Buyer is permitted to take one or more of the following actions: maintain a claim for monetary damages for breach of contract; maintain a specific performance action against the Seller; and maintain any other or different remedy allowed by law.

- C. If either party defaults in any of its obligations under this agreement, the party not in default will be entitled to recover its costs and attorneys' fees caused by the other's default from the defaulting party.
- D. The foregoing remedies in the event of default are not intended to be exclusive, and the parties have the right to all other lawful remedies, including specific performance.

13. **Damage to Premises prior to closing.** Prior to the closing, if the improvements on the Premises are damaged or destroyed by fire or other casualty, the Buyer shall accept the Premises as damaged or destroyed together with the lesser of 50% of the proceeds of any insurance payable as a result of the destruction or damage or \$50,000, which amount the Seller shall assign to the Buyer and deliver to the Buyer at closing. The Seller is not obligated to repair or replace damaged improvements.

14. **Entire agreement.** This agreement constitutes the entire agreement between the parties, supersedes all other agreements or understandings between them pertaining to the matter of this agreement, and may not be modified except by a writing signed by both parties.

15. **Notices.** Except where the terms of this agreement expressly provide otherwise, the parties shall give all notices required or permitted by this agreement in writing, addressed as set forth below, unless another address is provided in writing. Notices will be deemed given when personally delivered; deposited in the U.S. mail, postage prepaid, first class; or delivered to a commercial courier.

Seller

Lehman Creekside Properties, LLC
3525 77th Avenue N
Brooklyn Park, MN 55443-2816
Attention: Mr. and Mrs. Thomas Lehman

Buyer

Public Works Director
City of Urbana
706 South Glover Avenue
Urbana, IL 61802-4427

16. **City Council approval.** This agreement will be valid only after the Buyer's City Council approves it by resolution or ordinance. If the Buyer's City Council does not approve this agreement, this agreement will terminate and will be of no further force or effect, and the parties will be relieved of all liability to each other hereunder.

17. **Survival of agreement.** All of the covenants, warranties, representations, and agreements herein contained that were not performed at the time of the closing will survive such closing for 30 months after the closing date and will not merge with the deed. A party that violates any such covenants, warranties, representations, or agreements shall indemnify and defend the other party from any cost, suit, lien, damages, or liabilities, including reasonable attorney's fees, arising from such violation.

18. Counterparts. The parties are permitted to sign this agreement in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Signatures delivered by email in Adobe Portable Document Format (PDF) or by facsimile will be deemed original signatures for all purposes.

The parties are signing this agreement on the dates indicated opposite their signatures.

Seller:

Thomas L. Lehman, Member

Dated

Debra A. Lehman, Member

Dated

Buyer:

Laurel Lunt Prussing
Mayor

Dated

ATTEST:

Phyllis Clark
City Clerk



202 Wood Street





2008 Boneyard Creek Master Plan - Segment 1 and 2