



Legislation Details (With Text)

**File #:** 040353      **Version:** 1

**Type:** Resolution      **Status:** Passed

**File created:** 7/7/2004      **In control:** PUBLIC WORKS COMMITTEE

**On agenda:**      **Final action:** 7/27/2004

**Effective date:**

**Title:** Substitute resolution declaring the land at 4701-5001 South Pennsylvania Avenue in the City of Cudahy surplus to municipal needs and authorizing entry into an Agreement for Purchase and Sale for the property between the City of Milwaukee and Kendall Breunig, or assigns, and also authorizing an easement with We Energies for a gas main across this property.

**Sponsors:** ALD. WITKOWSKI

**Indexes:** EASEMENTS, INTERGOVERNMENTAL AGREEMENTS, SURPLUS PROPERTY, WISCONSIN GAS COMPANY

**Attachments:** 1. Fiscal Note.pdf, 2. Sub 1 Fiscal Note.pdf, 3. Draft Agreement for Purchase and Sale.pdf, 4. Map.pdf, 5. Proposed Easement Document.pdf, 6. CPC Letter.pdf

| Date      | Ver. | Action By              | Action                   | Result | Tally |
|-----------|------|------------------------|--------------------------|--------|-------|
| 7/7/2004  | 0    | COMMON COUNCIL         | ASSIGNED TO              |        |       |
| 7/9/2004  | 1    | CITY CLERK             | DRAFT SUBMITTED          |        |       |
| 7/9/2004  |      | PUBLIC WORKS COMMITTEE | REFERRED TO              |        |       |
| 7/9/2004  | 0    | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT     |        |       |
| 7/12/2004 | 0    | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT     |        |       |
| 7/12/2004 | 0    | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT     |        |       |
| 7/14/2004 | 1    | PUBLIC WORKS COMMITTEE | RECOMMENDED FOR ADOPTION | Pass   | 5:0   |
| 7/27/2004 | 1    | COMMON COUNCIL         | ADOPTED                  | Pass   | 15:0  |
| 8/5/2004  | 1    | MAYOR                  | SIGNED                   |        |       |

040353  
SUBSTITUTE 1

ALD. WITKOWSKI  
Substitute resolution declaring the land at 4701-5001 South Pennsylvania Avenue in the City of Cudahy surplus to municipal needs and authorizing entry into an Agreement for Purchase and Sale for the property between the City of Milwaukee and Kendall Breunig, or assigns, and also authorizing an easement with We Energies for a gas main across this property.

This substitute resolution declares a former landfill at 4701-5001 South Pennsylvania Avenue in the City of Cudahy surplus to municipal needs and permits the City of Milwaukee to finalize negotiations of and to enter into an Agreement for Purchase and Sale whereby the City will convey the property. The resolution also authorizes an easement with We Energies for an 8-inch gas main that is proposed along the northern edge of the property. Whereas, The City of Milwaukee ("City") owns a 23.7-acre property at 4701-5001 South Pennsylvania Avenue in the City of Cudahy that was acquired in 1954 through consolidation of the Town of Lake and that was operated as a licensed solid waste landfill by the City's Department of Public Works ("DPW"); and

Whereas, DPW no longer uses the property as a solid waste transfer station and waste

collection yard and took the appropriate steps to test the site and obtain conditional closure with the Wisconsin Department of Natural Resources; and

Whereas, Since no other municipal use exists for the property, the Department of City Development ("DCD") in conjunction with the Milwaukee Economic Development Corporation ("MEDC") advertised the property for sale on an "as is" basis with no warranties and with conveyance to be by quit claim deed; and

Whereas, Three offers were received prior to the established deadline and DCD recommends conveyance to one of the offerors, Kendall Breunig, or assigns, because Mr. Breunig's offering price of \$1,150,000 was the highest and his offer contained the fewest contingencies; and

Whereas, DCD, in consultation with the City Attorney, would like to complete negotiations with Mr. Breunig of an Agreement for Purchase and Sale, a preliminary copy of which is attached to this Common Council File; and

Whereas, The City Plan Commission has determined that this property is surplus to municipal needs; and

Whereas, We Energies needs to relocate an 8-inch gas main near the north property line as part of the extension of The Lake Parkway south of East Layton Avenue and has requested that the City grant a 20-foot wide easement across the property immediately south of East Layton Avenue to allow We Energies to have access to and provide necessary maintenance to its gas main; and

Whereas, Terms of a proposed easement have been prepared, a copy of which is attached to this Common Council File, and after finalization and execution, We Energies has agreed to record the executed easement and to provide the recording information to DCD's Real Estate Section; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the land at 4701-5001 South Pennsylvania Avenue is declared surplus to municipal needs; and, be it

Further Resolved, That the Commissioner of DCD, or designee, in consultation with the City Attorney, is authorized and directed to finalize negotiations with Mr. Breunig of an Agreement for Purchase and Sale whereby the City will sell the property to Mr. Breunig, pursuant to Milwaukee Code of Ordinances Section 304-49-17, for \$1,150,000; and, be it

Further Resolved, That the Common Council finds the monetary consideration of \$1,150,000 coupled with conveyance terms of "as is," no warranties, etc., or the non-monetary consideration, to be adequate fair market consideration; and, be it

Further Resolved, That the proper City officials are authorized to execute the finalized Agreement for Purchase and Sale and deed of conveyance and all other legal documents on behalf of the City and to close the transaction according to the terms of the Agreement; and, be it

Further Resolved, That if the Commissioner of DCD, in consultation with the City Attorney, is unable to reach agreement on the final terms of the Agreement for Purchase and Sale with Mr. Breunig or his assignee within sixty days of the Common Council approval and/or Mr. Breunig (or his assignee) does not close the sale due to properly exercising any termination rights the buyer may have under the Agreement, the Commissioner of DCD is authorized to terminate all further negotiations, to list the property with a licensed real estate broker and/or to advertise the property for sale on a first come basis, to accept the first acceptable offer and to close the transaction with the assistance of the City Attorney without further approval of the Common Council; and, be it

Further Resolved, That the Commissioner of DCD, or designee, with such other City

officials as may be appropriate, is also authorized to execute all documents and to take such further actions as may be necessary to effectuate the foregoing; and, be it

Further Resolved, That upon closing of conveyance of the property, the sale proceeds, less all sale expenses and a 20 percent fee to be shared jointly by the Redevelopment Authority of the City of Milwaukee and MEDC, shall be returned to DPW for reimbursement of its maintenance costs and environmental expenses associated with the property in Fund No. 0321, Department No. 5455, Project Grant No. BU11091500; and, be it

Further Resolved, That the Commissioner of DCD, in consultation with DPW and with the City Attorney, is also authorized to finalize negotiations of the proposed gas utility easement over the property and that the proper City officials are authorized and directed to execute the utility easement with We Energies on behalf of the City; and, be it

Further Resolved, That after said easement has been executed by the proper City officials, it shall be returned to We Energies for recording and We Energies will provide the City with the recording information.

DCD-Real Estate

EMM:bmm

07/08/04