

**January 5, 2015**

**To: Mayor Bemrich and City Council**  
**From: David Fierke, City Manager**  
**Subject: Extension of Terms of SWD and  
Authorization of Transfer  
Clarence Hiveley  
2007 3<sup>rd</sup> Avenue South**

---



**ACTION: For Vote Monday, January 12, 2015**

---

**Brief History**

In December of 2010 the City sold the property at 2007 3<sup>rd</sup> Avenue South to Clarence Hiveley through developmental bid. Terms of the special warranty deed required that a new house be constructed on the property in 2011. In May of 2013 the City Council granted an extension until December 31, 2013. In January of 2014, the Council granted a 2<sup>nd</sup> extension until December 31, 2014. The developer passed away in September of 2014 and his family has requested permission to transfer the property to a family member and has requested an additional extension until December 31, 2015.

**Analysis of Issue**

The Special Warranty Deed states that transfer of the property prior to the completion of the improvements requires City Council approval. It also has a provision that the property can revert back to the City if the terms are not met within the required timeframe. Approving the transfer of the property and granting an extension to the new owner will enable the family to fulfill their obligations to the City.

**Budget Impact**

There is no budget impact.

**Strategic Plan Impact**

Policy D.6.6: Incentives may be provided for infill development and the rehabilitation of existing housing already provided with urban services to acknowledge the lower service and infrastructure costs to the taxpayer. However, development requiring the expansion of services and infrastructure may be required to assist in the cost of such service expansions.

**Existing Plan Impact**

Consistent with Envision 2030 Plan.

**Subcommittee or Commission Review / Recommendation**

None

**Staff Conclusions / Recommendations**

Staff recommends approval of the transfer of the property prior to the completion of the improvements and approval of an extension until December 31, 2015 to complete the work required.

**Alternatives**

The only alternative would be to not allow the transfer or the extension and have the property revert back to the City, which is not recommended.

**Implementation and Accountability**

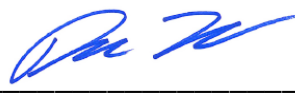
If approved, staff of the Department of Business Affairs and Community Growth will have transfer documents prepared and oversee the project to ensure completion by the extended date.

Signed



Vickie L. Reeck,  
Community Development Manager

Approved



David R. Fierke, City Manager

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION ALLOWING THE TRANSFER OF PROPERTY PRIOR TO IMPROVEMENTS  
AND APPROVING AN EXTENSION TO THE TERMS OF A SPECIAL WARRANTY DEED**

WHEREAS, the following property was sold in December of 2010 by developmental bid to Clarence Hiveley:

- Lot No. 5 in Block No. 41, in Carpenter, Morrison and Vincent's Addition to Fort Dodge, Iowa (formerly 2007 3<sup>rd</sup> Avenue South);

WHEREAS, terms of the Special Warranty Deed required that a new house be constructed on the property; and,

WHEREAS, in May of 2013, the developer requested an extension until December 31, 2013 to complete the work; and,

WHEREAS, in January of 2014, the developer requested a 2<sup>nd</sup> extension until December 31, 2014; and,

WHEREAS, the developer passed away in September of 2014 and the work has not been completed; and,

WHEREAS, the family of the developer has requested they be allowed to transfer title to the property to Kia Hartweg and Philip Hartweg, wife and husband, ("The Hartwogs") prior to the improvements being complete; and,

WHEREAS, the Hartwogs have requested an extension until December 31, 2015 to complete the work.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT DODGE, IOWA, as follows:

1. That the developer's family be allowed to transfer the property to the Hartwogs prior to the completion of the improvements;

2. That an extension until December 31, 2015 be granted to the Hartwegs on the terms of the above-referenced property.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2015.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

OTHER: \_\_\_\_\_

CITY OF FORT DODGE, IOWA

By: \_\_\_\_\_  
Matt Bemrich, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Nemmers, City Clerk

STATE OF IOWA, WEBSTER COUNTY, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2015 before me, the undersigned, a Notary Public in and for said State, personally appeared Matt Bemrich and Jeff Nemmers to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of said corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its City Council; and that the said Mayor and City Clerk as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

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

January 2, 2015

City of Fort Dodge, Iowa,

In late 2010, my father, Clarence Hiveley, purchased the lot located at 2007 3rd Avenue South in Fort Dodge, Iowa with the intention of completing a 3-bedroom home with an attached 2-car garage. He was able to prepare the land, pour a concrete slab with roughed-in plumbing, pour the driveway and sidewalk, construct the exterior shell, frame most of the interior, bring the electricity underground from the pole to the house and install a shingled roof before his health made it too difficult for him to continue. As time went by we were unsure what to do and began to inquire about selling the property as is. We were advised by several realtors that the structure would be nearly impossible to sell uncompleted and would likely bring in a very inadequate price.

In 2013 our daughter, Kia Hartweg and her husband Philip Hartweg and their 2 children then living in Tulsa, Oklahoma, decided to relocate back to Fort Dodge and expressed great interest in the property. The moving process would take a year to complete and they moved to Fort Dodge in July of 2014. Clarence and Geneva planned to gift the property over to Kia and it was Kia and her husband's plan to complete the house and move in it themselves as quickly as possible. Even before the paperwork could be completed, Kia and Philip bought and installed all the energy efficient windows and exterior doors, bought and installed an insulated garage door with opener, built the soffit structure, finished nailing the exterior board, installed house wrap and bought and have installed all but one wall of the vinyl siding. Philip has secured a full time job as a technician with MediaCom and Kia has found employment at HyVee. Both children are enrolled at Fort Dodge Middle School.

In September of 2014, Clarence sadly passed away. It continues to be Geneva's desire to gift the uncompleted house to her granddaughter Kia as soon as possible and we would like the city's permission to contact our attorney and transfer the deed to her. It remains Kia and Philip's goal to have the home completed and ready for occupancy by the end of 2015.

We greatly appreciate your patience as we work hard to accomplish our goal. Thank you!

Sincerely,  
Kathy Powell