
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: BRENT EICHELBERGER, VILLAGE ADMINISTRATOR
ALISON MURPHY, SR MANAGEMENT ANALYST/VILLAGE CLERK
SUBJECT: HANNAFORD FARM PARK SALE
AGENDA: OCTOBER 6, 2020, 2020 REGULAR BOARD MEETING
DATE: SEPTEMBER 30, 2020

ISSUE

Shall the Village Board approve the transfer of certain real property generally located at Wheatfield Avenue and Redbud Lane and commonly known as the Hannaford Farm Park Site.

DISCUSSION

This item has been discussed by the Village Board on several occasions, most recently at the October 15, 2019 Meeting, where the Board authorized the sale of the Park Site. Originally, this property was intended to be transferred to the Sugar Grove Park District pursuant to the Annexation Agreement, however, due to the developer's failure to meet its development obligations, certain events never occurred and the property ended up with the Village. Pursuant to 65 ILCS 5/11-76-2, notice of the sale of the park site was published in the Kane County Chronicle for three successive weeks (on August 27, 2020, September 3, 2020, and September 10, 2020). The only party to return a bid on the park site was the Hannaford Farm Homeowners Association ("Association").

The statute for the sale of municipal property to a non-governmental entity requires that the bid be opened at a regularly scheduled public meeting. Since the Association's bid was the only one received in response to the notice of sale, it is recommended that so long as the bid is responsive to the Notice of Sale, that the Village award the sale of the park site to the Association.

A condition of the sale is that the transferee enter into a Maintenance Agreement. The proposed Maintenance Agreement provides, amongst other things, that the park site be maintained as a public park. As owner, the Association would be responsible for maintenance of the park site and the expenses related thereto. However, should the Association construct certain improvements (e.g. swimming pool, tennis court) such areas may be held as private property and open to Association members only.

Under the proposed terms of sale, the Village would retain a reverter. If the Association ceased to utilize the property as a park site, or if the Association no longer wished to retain ownership, the Village would have the right of first refusal.

COST

The Village has incurred attorney's fees in the amount of \$2,000 to prepare the documents for the sale and also publishing costs of \$517.88 for the Notice of Sale.

ATTACHMENTS

- Bid Envelope (by reference only - to be opened at public meeting)
- Ordinance Approving Sale of Property and Entering into Maintenance Agreement
- Draft Quitclaim Deed
- Draft Maintenance Agreement

RECOMMENDATION

Since the Association was the only party to respond to the Notice of Sale, the Village staff recommends awarding the sale to the Association. Due to the conditions of the transfer (namely that the park site be maintained as a public park and that the Village retain the possibility of a reverter interest) the Village believes that it is unlikely that if it were to repost for the sale that there would be additional offers. Moreover, because the park site is located within the Association's boundaries, the Association has a unique interest in ownership and in the performance of the conditions related thereto. It is also beneficial to the Village to dispose of this property, as it is not being utilized by the Village and only serves as a liability. Accordingly, it is recommended that the Village approve Ordinance 20201006A, subject to attorney review.

**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

ORDINANCE NO. 20201006A

**An Ordinance Authorizing the Sale of Real Estate and Award of Bid in the
Village of Sugar Grove, Kane County, Illinois
Pursuant to Article 11, Division 76-2 of the Illinois Municipal Code**

Adopted by the
Board of Trustees and President
of the Village of Sugar Grove, Kane County, Illinois
this 6th day of October, 2020.

Published in Pamphlet Form
by authority of the Board of Trustees
of the Village of Sugar Grove, Kane County, Illinois
this 6th day of October, 2020.

ORDINANCE NO. 20201006A

**An Ordinance Authorizing the Sale of Real Estate and Award of Bid in the
Village of Sugar Grove, Kane County, Illinois
Pursuant to Article 11, Division 76-2 of the Illinois Municipal Code**

BE IT ORDAINED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows;

WHEREAS, the Village of Sugar Grove (“Village”) is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution, and accordingly, seeks to act pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

WHEREAS, the Village of Sugar Grove currently owns certain property in the Village, generally located at Wheatfield Avenue and Redbud Lane, Sugar Grove, IL 60554 and legally described as: Parcel I and Parcel F in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded April 9, 2007 as Document No. 2007K038156, in Kane County, Illinois, in the Village of Sugar Grove, (“Village Property”); and,

WHEREAS, pursuant to the provisions of Article 11, Division 76-2 [65 ILCS 5/11-76-2] of the Illinois Municipal Code the corporate authorities of the Village presently holding office have received a recommendation from Village staff that the Village Property is no longer necessary or required for Village use or in the best interests of being retained by the Village and made such declaration by Ordinance 20191015 on October 15, 2019; and,

WHEREAS, notice advertising for bids for the sale of said Village Property were published in the Kane County Chronicle on August 27, 2020, September 3, 2020, and September 10, 2020; and,

WHEREAS, only one (1) bid was received by the Hannaford Farm Homeowners’ Association; and,

WHEREAS, Village staff believes it unlikely that if it were to repost for additional bids that there would be any more offers on the property; and,

WHEREAS, since the Hannaford Farm Homeowners’ Association was the only party to respond to the Notice of Sale and has a unique interest in holding property located within the subdivision and that will serve its residents, Village staff has recommended awarding the sale to the Association, subject to attorney review and confirmation of the responsiveness of the bid; and,

WHEREAS, the Village further finds that the timely disposal of this property is in its best interest, as it is not being utilized by the Village and only serves as a liability.

WHEREAS, the Village desires to authorize the sale of the Village Property in compliance with the provisions of Article 11, Division 76-2 of the Illinois Municipal Code and in accordance with such other conditions and restrictions as contained herein.

NOW, THEREFORE, be it ordained by the corporate authorities of the Village of Sugar Grove as follows:

Section 1: Declaration of Sale. The Village does hereby determine that the Village Property, as described above, is no longer necessary or required for Village use or in the best interests of being retained by the Village. This confirms the declaration made by Ordinance 20191015 on October 15, 2019.

Section 2: Authorization of Sale. The Village does hereby authorize, pursuant to Article 11, Division 76-2 of the Municipal Code, that the Village Property be sold in accordance with the terms and conditions set forth in Section 5.

Section 3: Notice. The Village confirms that it has published a notice of the proposal to sell the Village Property once each week for three successive weeks in a daily paper published in the Village, the first such publication having been not less than 30 days before the day provided in the Notice for the opening of bids for the Village Property, and as otherwise required by the Illinois Municipal Code.

Section 4: Additional Information: The Village Property is a park site located in the Hannaford Farm subdivision.

Section 5: Terms of Sale: The sale will be a transfer by Quit Claim deed, subject to any covenants, conditions and restrictions of record, private and public easements and roadways, in its "as is" "where is" condition with no representations or warranties. The sale shall be made with the condition that the successful bidder agrees to maintain the Village Property as a public park site, that the successful bidder enters into a Maintenance Agreement with the Village, and that the Village maintains an easement over the entirety of the Village Property (excluding areas of the Village Property covered by existing or future constructed buildings provided that said buildings do not interfere with then existing utilities). To the extent that new improvements are constructed, the successful bidder may limit access to the new improvements. A failure to satisfy the terms of sale, unless otherwise negotiated by the parties, may result in the Village's exercise of a reverter.

Section 6: Publication of Bid Terms. The Village Board acknowledges and accepts the publication of bid terms for the sale consistent with the terms of this Ordinance and pursuant to the applicable statutory provisions.

Section 7: Award of Bid. The Village Board authorizes the sale of property to the sole bidder, the Hannaford Farms Homeowners' Association, subject to attorney review and confirmation as to the responsiveness of the bid. The sale shall be conveyed by deed in

substantially the same format as attached hereto as “Exhibit A” and the parties shall enter into a maintenance agreement in substantially the same format as attached hereto as “Exhibit B.” The Village President, or his designee, and the Village Attorney, are hereby directed to take any and all additional actions necessary to effectuate the transfer of said Village Property.

Section 8: General Provisions:

Repealer: All ordinances or portions thereof in conflict with this Ordinance are hereby repealed.

Severability: Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction; the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this Ordinance.

Effective Date: This Ordinance shall be in full force and effect on and after its approval, passage and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, this 6th day of October, 2020.

P. Sean Michels
President of the Board of Trustees
of the Village of Sugar Grove, Kane
County, Illinois

ATTEST:

Alison Murphy
Clerk, Village of Sugar Grove

	Aye	Nay	Absent	Abstain
Trustee Sean Herron	___	___	___	___
Trustee Ted Koch	___	___	___	___
Trustee Jen Konen	___	___	___	___
Trustee Heidi Lendi	___	___	___	___
Trustee Rick Montalto	___	___	___	___
Trustee Ryan Walter	___	___	___	___
Village President P. Sean Michels	___	___	___	___

QUIT CLAIM DEED

Prepared by:

Laura M. Julien, Village Attorney
Mickey, Wilson, Weiler, Renzi, Lenert & Julien, P.C.
140 S. Municipal Drive
Sugar Grove, IL 60554

Return to after recording:

Alison Murphy, Village Clerk
Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60552

THIS INDENTURE is made this ____ day of October, 2020, by and between **VILLAGE OF SUGAR GROVE (“GRANTOR”)**, an Illinois municipal corporation, whose address is 10 S. Municipal Drive, Sugar Grove, IL 60554, and the **HANNAFORD FARM HOMEOWNERS ASSOCIATION (“GRANTEE”)**, an Illinois non-for-profit corporation, whose address is 1700 N. Farnsworth Ave., Aurora, IL 60505.

NOW THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration the receipt of which is hereby acknowledged, GRANTOR does hereby REMISE, CONVEY, and QUITCLAIM unto GRANTEE forever, all the right, title, interest, claim and demand which said GRANTOR has in and to the following described real estate situated in the County of Kane, in the State of Illinois, to wit:

Legal Description: Parcel I and Parcel F in Hannaford Farm Subdivision Unit 2, being a subdivision of part of the South Half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, according to the plat thereof recorded April 9, 2007 as Document No. 2007K038156, in Kane County, Illinois

Permanent Index Numbers: 14-04-404-008; 14-04-407-012

Property Address: Park Site generally located at Wheatfield Avenue and Redbud Lane, Sugar Grove, IL 60554

SUBJECT TO: Covenants, conditions, easements, restrictions of record and general real estate taxes for 2019 and subsequent years. Also subject to those restrictions enumerated below:

RESTRICTION ONE:

The Property is conveyed on the express condition that it be used as a public park for the use and enjoyment of the public, including residents of the Village of Sugar Grove, Kane County, Illinois, and in accordance with that certain Maintenance Agreement between the parties dated as of the date hereof. If, at any time the above described Property

ceases to be used as a public park, the GRANTOR shall have an automatic right of reversion and the entirety of the above described Property shall revert to the GRANTOR, at GRANTOR'S election, at no cost to the GRANTOR.

RESTRICTION TWO:

The Property is conveyed with the express understanding that the Village of Sugar Grove retains an easement over the entirety of the Property, excluding areas of the Property covered by existing or future constructed buildings provided that said buildings do not interfere with then-existing utilities, for the purposes of maintaining, installing, and otherwise servicing public utilities, including public well sites and related equipment, as it deems necessary. If, at any time, the GRANTEE interferes with the ability of the GRANTOR to utilize this easement, the GRANTOR shall have an automatic right of reversion and the entirety of the above described Property shall revert to the GRANTOR, at GRANTOR'S election, at no cost to the GRANTOR.

RESTRICTION THREE:

The Property is conveyed with the express understanding that if any time the GRANTEE seeks to divest itself of the above described Property at any time and for any reason, the GRANTEE shall provide ninety (90) days' notice of said intention to the GRANTOR, which shall have an unconditional and first right to reclaim the Property in its entirety, at no cost to the GRANTOR.

TO HAVE AND TO HOLD same unto GRANTEE and unto GRANTEE'S assigns forever, with all appurtenances thereunto belonging.

WITNESS WHEREOF, GRANTOR has caused this instrument to be executed in its corporate named by its duly authorized corporate officers and has caused this instrument to be made effective on the date first above written.

THIS IS NON-HOMESTEAD PROPERTY

COUNTY/ILLINOIS TRANSFER STAMPS EXEMPT UNDER PROVISIONS OF 35 ILCS 200/31-40(e) ILLINOIS PROPERTY TAX CODE

Dated this ___ day of October, 2020.

VILLAGE OF SUGAR GROVE, an Illinois Municipal Corporation

By: _____

Name: _____

Title: _____

STATE OF ILLINOIS)
)
COUNTY OF KANE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT _____, personally known to me to be the same persons whose name is subscribed to the foregoing instrument, personally appeared before me this day in person, and acknowledged that he signed, sealed, and delivered this instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this ____ day of _____, 2020.

Notary Public

MAINTENANCE AGREEMENT

THIS AGREEMENT (“Agreement”) is entered into this __ day of _____, 2020. In consideration of the mutual covenants contained in this Agreement, the Village of Sugar Grove (“Village”) and Hannaford Farm Homeowners Association (“Association”) hereby agree as follows:

WHEREAS, pursuant to the award of a successful bid the Village transferred to the Association the right, title and interest to the land legally described on **Exhibit A**, attached hereto and incorporated herein by reference (“Subject Property”) by a Quitclaim Deed; and,

WHEREAS, the terms of the public bid required the successful bidder to enter into a maintenance agreement with the Village, and the aforementioned Quitclaim Deed also conveyed the Subject Property subject to covenants, conditions, easements, restrictions of record and general real estate taxes for 2020 and subsequent years, and contained certain additional restrictions which could result in a reverter of the Subject Property upon the existence of certain conditions and at the election of the Village; and,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Maintenance. The Association by shall maintain the Subject Property as a park site open to the public (“Public Property”). As used in this Agreement, “Public Property” shall mean property for which the public at large may enter, use and enjoy, free from any unreasonable interference by the Association or any member or agent thereof.

The Association may choose to define reasonable hours of operation for the Subject Property applicable to all users. Any election by the Association to define reasonable hours of operation of the Subject Property shall not alter the status of the Subject Property as Public Property.

2. Term of Agreement. This Agreement, and the obligation outlined herein, shall remain in full force and effect for the entire period for which the Association retains ownership of the Subject Property.

3. Maintenance Requirements. The Association shall cause the Subject Property to be maintained consistent with the character and nature of other public park sites in the Village, including but not limited to, cleaning litter and debris from the Subject Property, mowing the grass, trimming trees and foliage, painting any structures erected on the Subject Property, and any other maintenance and repair work, as may be necessary.

4. Payment of Expenses. All expenses for the maintenance of the Subject Property shall be paid by the Association. The Association shall be responsible for the payment of all taxes, building fees, water rates, other governmental charges, and all other charges or obligations incurred by the Association with respect to the maintenance or operation of the Subject Property, or incurred by any Agent of the Association on behalf of the Association.

5. Alteration of the Subject Property. The Village and the Association agree that the Association may alter the character and use of a portion of the Subject Property by erecting a tennis court or swimming pool on the Subject Property. Should the Association elect to exercise the rights outlined herein in this Paragraph 5, the portions of the Subject Property that have been altered shall no longer be deemed “Public Property” as defined by Paragraph 1 and shall become “Private

Property”. “Private Property”, as used herein, shall mean property for which the Association and its members have the exclusive rights of access, use, enjoyment and exclusion thereto. The Association shall erect signs on those portions of the Subject Property altered by this Paragraph 5 clearly indicating that the altered portions of the Subject Property are the Private Property of the Association.

Upon the Association’s election to exercise its right to alter the character of a portion of the Subject Property as outlined in this Section 5, the Association shall remain solely responsible for enforcing its rights as a private property owner for preventing any trespass to those portions of the Subject Property that have been converted to Private Property under the terms of this Agreement.

6. Compliance. The Association shall have the responsibility for the Subject Property’s compliance with any and all ordinances, laws, rules, or regulations (including those relating to the disposal of solid, liquid, and gaseous wastes) of the Village, Kane County, state, or federal government, any public authority, or any official of any government having jurisdiction over the Subject Property. The Association represents that, to the best of its knowledge, the Subject Property complies with all these requirements, and agrees to indemnify and hold harmless the Village and its representatives, servants, and employees of and from all loss, cost, expense, and liability whatsoever that may be imposed on them, or any of them, by reason of any present or future violation or alleged violation of any such laws, ordinances, rules, or regulations.

7. Hold Harmless. The Association agrees to indemnify and hold the Village harmless from and against any and all claims, losses, injuries, damages, or liabilities, including but not limited to reasonable attorneys’ fees, arising from or related to the Association’s ownership and management of the Subject Property. The Association agrees to pay all expenses incurred by the Village, including but not limited to reasonable attorneys’ fees and the cost of the time taken by Village agents to testify or engage in any other work in connection with any claim, proceeding, or suit involving an alleged damage, whether to person or property, incurred by the Village. Nothing contained in this Agreement shall obligate the Village to employ counsel to represent the Association in any proceeding or suit, and the Village may elect to hire separate counsel to represent the Village in any proceeding or suit. The Association also agrees to pay reasonable expenses incurred by the Village in obtaining legal advice in compliance with any law affecting the Subject Property or related activities.

8. Assignment. This Agreement shall be binding on the successors and assigns of the Association. Notwithstanding the preceding sentence, the Association shall not assign its interest under this Agreement without the prior written consent of the Village.

9. Severability and Waiver. If any provisions of this Agreement or the application of any provision to any person or circumstances shall be determined to be invalid, illegal, or unenforceable to any extent, this determination shall not affect the validity, legality, or enforceability of any other provision of this Agreement or the application of any other provision to any other person or circumstance, and the remaining provisions or application of provisions in this Agreement shall be enforced as if the invalid, illegal, or unenforceable provisions or application of a provision were not contained herein, and to that end the parties to this Agreement agree that the provisions in this Agreement are and shall be severable. Any waiver of any right by a Party hereto shall not constitute a waiver by the Party to exercise its rights regarding a subsequent violation.

10. Applicable Law. This Agreement shall be governed by the laws of the State of Illinois. The parties agree that any action shall be brought in the Sixteenth Judicial Circuit Court, Kane

County, Illinois. In any such action the prevailing party shall be entitled to recover its costs including reasonable attorneys' fees.

IN WITNESS WHEREOF, the parties to this Agreement have executed duplicate copies of this Agreement this ____ day of _____, 2020.

VILLAGE OF SUGAR GROVE:

HANNAFORD FARMS HOMEOWNERS ASSOCIATION:

By: _____

By: Its Board of Directors

By: _____
