

**RESOLUTION NO. 07-25**

A RESOLUTION TO PROVIDE FOR THE SALE OF THE FOLLOWING DESCRIBED REAL ESTATE, TO-WIT:

-Lots 38 and 39, R.S. Bentley's Addition, Friend, Saline County, Nebraska.

SUBJECT TO THE PROVISIONS AND CONDITIONS HEREINAFTER SET FORTH; AND TO PROVIDE FOR THE TERMS OF SUCH SALE;

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FRIEND, NEBRASKA:

Section 1. **DESCRIPTION; CONSIDERATION FOR SALE; TO WHOM SOLD; CONDITIONS:** The following described real estate owned by the City of Friend, Saline County, Nebraska, to-wit:

-Lots 38 and 39, R.S. Bentley's Addition, Friend, Saline County, Nebraska.

shall be sold to the highest bidder for cash by sealed bids submitted by September 4, 2007, 5:00 p.m., at the Friend City Hall, Friend, Nebraska.

Section 2. **MANNER OF CONVEYANCE; TITLE CONVEYED; NO WARRANTIES:** Conveyance of said real estate to the Purchaser thereof shall be by Quitclaim Deed executed on behalf of the City of Friend, Nebraska, a municipal corporation, by the Mayor of the City of Friend and attested to by the City Clerk-Treasurer of the City of Friend, Nebraska. This real estate is sold as-is, where-is. No representations or warranties as to the sufficiency of title, or of the potential uses or restrictions of use of this real estate, are made by the City of Friend. Cost of examination of title shall be at the sole expense of the prospective buyer of this real estate.

Section 3. **NOTICE OF SALE AND PUBLICATION:** Notice of sale of said real estate and the terms thereof as provided in this Resolution shall be published three (3) consecutive weeks in the Friend Sentinel, a legal newspaper published in and of general circulation in said City immediately after the passage and publication of this Resolution.

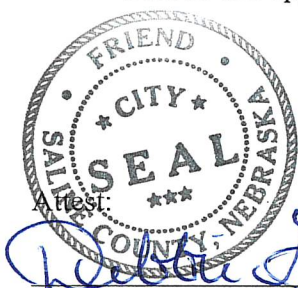
Section 4. **REMONSTRANCE AGAINST SUCH SALE:** If remonstrance against such sale as herein provided signed by the legal electors of the City of Friend, Nebraska, equal in number to 30% of the electors of the City of Friend, Nebraska, voting at the last regular municipal election held in said City be filed within the publication of this Resolution, said property shall not then nor within one year thereafter be sold.

Section 5. **SALE SUBJECT TO COUNCIL APPROVAL:** The sale of this real estate is subject to confirmation by the passage of an ordinance by the City Council of the City of Friend. The City of Friend reserves the right to reject any and all bids received for this real estate.

Passed and approved this 7th day of August, 2007.

**THE CITY OF FRIEND, NEBRASKA**

By: *James W. Vankle*, Mayor



*Debbie Gilmer*, City Clerk

Saline County Assessors Office  
PO BOX 865  
Wilber, NE 68465-0865  
Phone 402-821-2588 Fax 402-821-3319

**FACSIMILE COVER LETTER**

DATE: April 24, 2006 # of Pages: 1  
ATTN: FAX: 947-9041  
COMPANY: City of Friend  
REGARDING: Lots in Friend  
COMMENTS:

1<sup>st</sup> Parcel that Deb called about is:  
B.G. Page's First Addition Block 3  
150' x 150'  
Value for lot would be \$12,850.

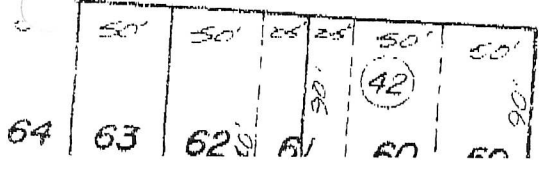
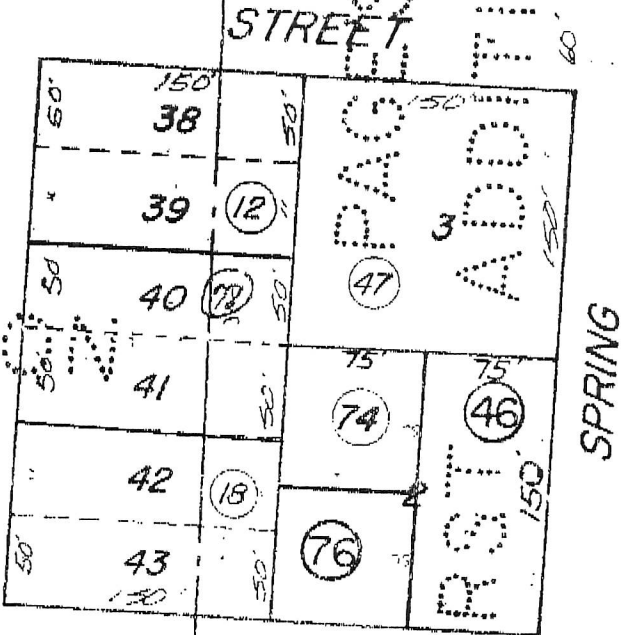
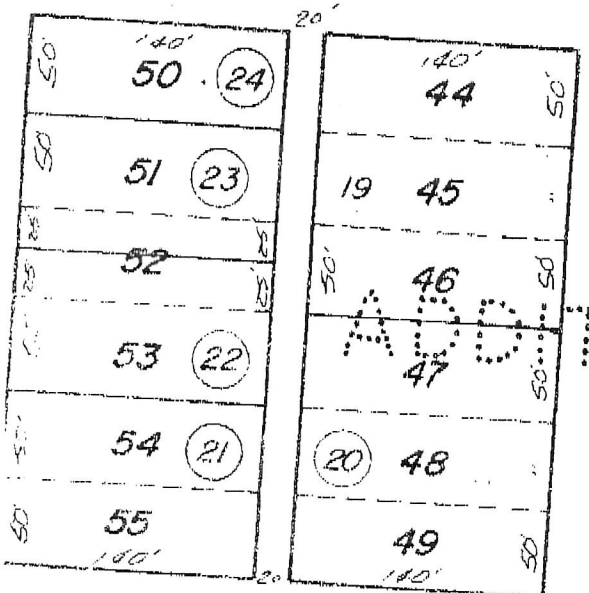
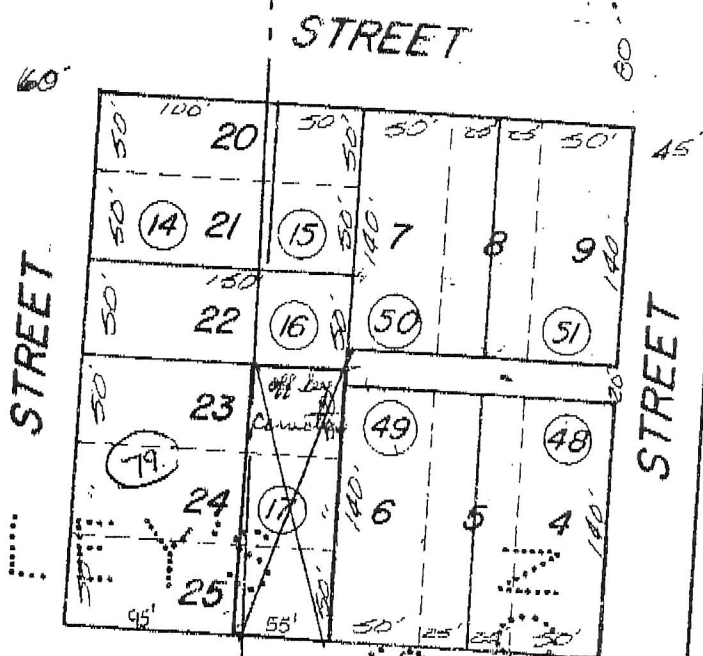
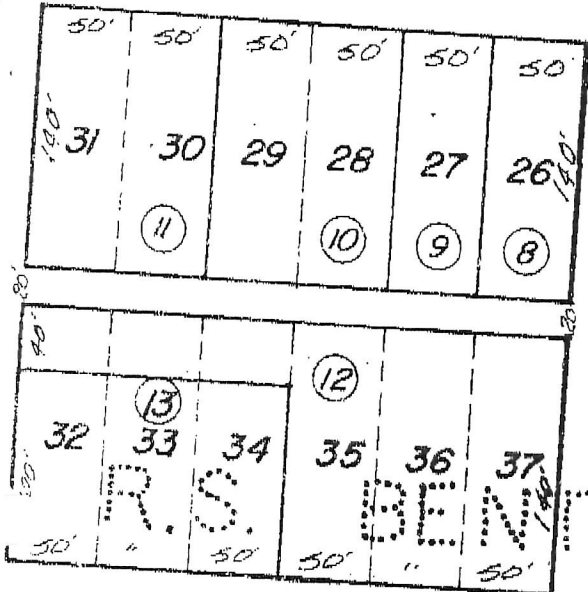
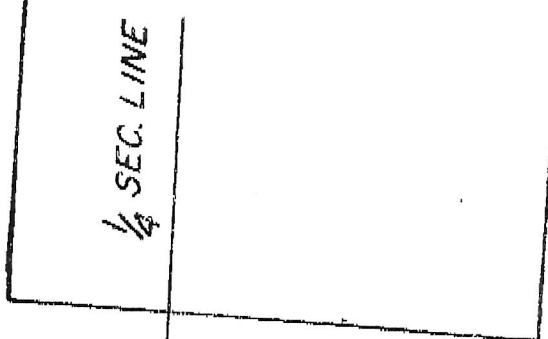
2<sup>nd</sup> Parcel that Deb called about is:  
R. S. Bentley's Addition Lots 38-39  
150' x 100'  
Value for lot would be \$ 9,850

Right now both of these properties are exempt since they are owned by the City of Friend.

I have copied this map for you. Hopefully you are able to read it. If you have anymore questions, let us know.

Thanks.

Brandi  
Office Clerk



over \$5,000

pass res w/ terms of sale

publish of sale w/ "

wait 30 after last publication

after 30 days, can close.

ord necessary prior to closing.

less \$5,000

① pass res.

② post notice in 3 places for no  
less than 7 days prior to close

③ pass ordinance to confirm sale prior  
to close.



Michael G. Mullally  
Attorney at Law  
510 Seward Street  
P.O. Box 411  
Seward, Nebraska 68434

Of Counsel  
Larry L. Brauer

Phone (402) 643-4581  
Fax (402) 643-4142  
E-mail: mullallylaw@alltel.net

FACSIMILE COVER SHEET

SEND TO: <i>Debbie - City of Friend</i>	FROM: Michael G. Mullally
Regarding: <i>Property sales</i>	Date: <i>7-20-07</i>
Fax Number:	Phone Number: 402-643-4581
Faxed by: <i>Mike</i>	Original Document ( ) will ( <input checked="" type="checkbox"/> ) will not be sent by regular mail.

( ) Urgent ( ) Reply ASAP ( ) Please Comment ( ) Please Review (  ) For your information

Total pages, including cover 4

COMMENTS: *Debbie - Attached are statutes re. sale of real estate. 17-503 is the procedure when the property is worth over \$5000 in value. 17-503.01 applies if it's worth less than \$5000*

*Please let Jim and Council members know that I will be on vacation during the August council meeting. If there are items to address for that meeting I will prepare a memo to them before I leave. Maybe at the end of the month you can get me the agenda items so we can review them. Thanks*

*Mike*

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**17-503**

**Statutes and Session Law**

**Chapter 17. Cities of the Second Class and Villages**

**5. General Grant of Power. 17-501 to 17-572.**

**17-503 Real property; sale; exception; procedure; remonstrance; procedure; hearing.**

*For property over \$5000 in value*

**17-503. Real property; sale; exception; procedure; remonstrance; procedure; hearing.**

(1) Except as provided in section 17-503.01, the power of any city of the second class or village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

(a) Such property is being sold in compliance with the requirements of federal or state grants or programs;

(b) Such property is being conveyed to another public agency; or

(c) Such property consists of streets and alleys.

(2) The governing body of any such city or village may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(3) After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (1) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in such city or village.

(4) If within thirty days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the city or village equal in number to thirty percent of the registered voters of the city or village voting at the last regular municipal election held therein and is filed with the governing body of such city or village, such property shall not then, nor within one year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the remonstrance, the governing body of such city or village, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The governing body of such city or village shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the election commissioner or county clerk shall issue to the governing body a written receipt that the remonstrance is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the governing body. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration

was received on or before the date on which the remonstrance was filed with the governing body. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the governing body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the governing body the number of valid signatures necessary to constitute a valid remonstrance. The election commissioner or county clerk shall deliver the remonstrance and the certifications to the governing body within forty days after the receipt of the remonstrance from the governing body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

The governing body shall, within thirty days after the receipt of the remonstrance and certifications from the election commissioner or county clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The governing body shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(5) Real estate now owned or hereafter owned by a city of the second class or a village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of sections 18-1001 to 18-1006.

(6) Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

Source: Laws 1879, § 56, p. 207; R.S.1913, § 5080; Laws 1917, c. 100, § 1, p. 264; C.S.1922, § 4252; C.S.1929, § 17-401; Laws 1933, c. 29, § 1, p. 206; Laws 1935, Spec. Sess., c. 10, § 8, p. 76; Laws 1937, c. 30, § 1, p. 153; Laws 1941, c. 25, § 1, p. 120; Laws 1941, c. 130, § 14, p. 498; C.S.Supp.,1941, § 17-401; Laws 1943, c. 34, § 1, p. 153; R.S.1943, § 17-503; Laws 1957, c. 30, § 1, p. 190; Laws 1957, c. 31, § 1, p. 193; Laws 1971, LB 399, § 1; Laws 1981, LB 33, § 1; Laws 1982, LB 909, § 4; Laws 1988, LB 793, § 5; Laws 1993, LB 59, § 2; Laws 1997, LB 230, § 2; Laws 2003, LB 476, § 1.

Attempted sale of real estate without compliance with this section is void. *Oman v. City of Wayne*, 149 Neb. 303, 30 N.W.2d 921 (1948).

Question raised but not decided as to validity of conveyance from nominal purchaser at tax sale where city was real owner of title. *Taxpayers' League of Wayne County v. Wightman*, 139 Neb. 212, 296 N.W. 886 (1941).



**17-503.01**

**Statutes and Session Law**

**Chapter 17. Cities of the Second Class and Villages**

**5. General Grant of Power. 17-501 to 17-572.**

**17-503.01 Real property less than five thousand dollars; sale; procedure.**

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**17-503.01. Real property less than five thousand dollars; sale; procedure.**

Section 17-503 shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than five thousand dollars. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city or village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

Source: Laws 1982, LB 909, § 5; Laws 1995, LB 197, § 1; Laws 2003, LB 476, § 2.

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Passed and approved this 7th day of August, 2007.

**THE CITY OF FRIEND, NEBRASKA**

By: *James W. Vonder*, Mayor

Attest: *Debbie J. Gilmer*, City Clerk

