



COUNCIL AGENDA ITEM MEMORANDUM

DEPT./DIVISION SUBMISSION & REVIEW:

Kathryn Davis, City Attorney
Christina Demirs, Assistant City Attorney

ITEM DESCRIPTION: Consider adopting a resolution finding that Tommy Marshall Moore established title to an approximately 3.06-acre portion of City-owned property situated in the Nancy Chance Survey, Abstract 5, Bell County, Texas through adverse possession and authorizing conveyance by deed to the current owner, Floyd Dean Cox, to quiet title.

BACKGROUND: In December 1922, the City of Temple purchased a 3.06-acre tract from A.F. Bentley, and wife, Minnie F. Bentley recorded in Volume 341, Page 162, Deed Records of Bell County, Texas. Exhibit A. The property is a narrow strip of land located along Tem-Bel Lane and identified as Bell County Tax Appraisal ID Number 25401. The deed was a fee simple conveyance and did not contain any restrictions for the property.

On September 8, 1977, Tommy Marshall Moore filed an Affidavit of Adverse Possession for the 3.06-acre tract in the Deed Records of Bell County, Texas at Volume 1479, Page 171. Exhibit B. Adverse Possession is an actual and visible appropriation of real property, commenced and continued under a claim of right that is inconsistent with and is hostile to the claim of another person. Tex. Civ. Prac. & Rem. Code § 16.021(a). As set forth in the Affidavit, Tommy Marshall Moore stated he purchased the property in 1946, utilized it with adjacent property as part of his homestead, and paid property taxes. Mr. Moore continued to use the property, hold it out as his own, and pay property taxes.

Upon Mr. Moore's death in the early 1980's, the property passed to his heirs, including Floyd Dean Cox as Mr. Moore's son-in-law. The heirs then conveyed their individual interests in the property to Floyd Dean Cox, the current owner, as reflected on Bell CAD, and he has continued to pay the property taxes.

The Texas Civil Practice and Remedies Code provides a ten (10) year statute of limitations to challenge an adverse possession claim from when the claim accrues. Tex. Civ. Prac. & Rem. Code § 16.026. After researching deed records, Texas law, and on-the-ground confirmation, Staff recommends formally

conveying the 3.06-acres to Floyd Dean Cox so that the chain of title properly reflects ownership. Although the City acquired the property by deed in 1922, it does not appear that the City has used the property since at least the 1940s when Mr. Moore purchased the adjacent property, which he believed to contain the 3.06 acres. Additionally, after internal discussions it does not appear that the City has a need to retain the property.

ALIGNMENT WITH ADOPTED PLANS:

Plan	Comments
Strategic Plan	This item supports the City of Temple's Strategic Plan goal of "A City that supports well-managed growth and development to promote a thriving economy," and the Strategic Plan commitment of "Facilitate high quality, safe, and strategic community growth."

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BOARDS & COMMISSIONS RECOMMENDATION: This item was not reviewed by any of the official boards and commissions.

FISCAL IMPACT: Not Applicable.

ATTACHMENTS:

Resolution

Exhibit A—1922 Deed from Bentley to City of Temple

Exhibit B—Affidavit of Adverse Possession