CITY OF BURTON
COUNCIL OF THE WHOLE MEETING MINUTES
OCTOBER 13, 2011 AT 6:00 P.M., COUNCIL CHAMBERS
www.burtonmi.us

The meeting was called to order by President Steven Heffner at 6:13 p.m.

MEMBERS PRESENT: Martinbianco, O'Keefe, Smith, Heffner and Wells.

MEMBERS ABSENT: Ellenburg and Haskins.

OTHERS PRESENT: Attorney R. Austin, A. Frost, Deputy Planning Official, G. Burke-Miller, Controller, S. Bassi, Assessor and J. Anderson, Clerk Typist.

PURPOSE OF THE MEETING: Discussion regarding Mallard Ponds.

PRESENTATION:

Ms. Bassi said her and Ms. Frost met with the association to try and answer some of the questions and concerns that they had regarding Mallard Ponds. She also confirmed with the County that the starting bid for Mallard Ponds would be $6,400 for the small bundle but there is still time to put Mallard Ponds back into the large bundle. Ms. Bassi handed out the bidding rules for the County auction to better explain bidding rules and has City officials here to further assist with questions.

AUDIENCE PARTICIPATION: None.

COUNCIL DISCUSSION:

Mr. Smith asked Mr. Austin what is the tax situation with the two options.

Mr. Austin said the Council must make a decision Monday night in regards to Mallard Ponds Council would need to make a decision to bid and they would need to set an amount in executive session if they wanted to bid, or they can put it back in a large bundle that requires a detailed plan for all properties in the bundle hoping no one will bid and we would get it back by default, tax free, or they can do nothing.

Mr. Martinbianco said anyone interested in the large bundle would have to submit a plan for all of the properties.

Mr. Austin replied yes, but first we would decide to put Mallard Ponds back in the large bundle instead of the Small bundle Council had previously chosen. This decision is entirely up to Council to decide. In his opinion it is highly unlikely that anyone will bid in the large bundle and if they were to go un-purchased the City would then have the choice to take possession of these properties cleansed of all back taxes including the 2011 taxes. Mr. Austin also said that in the event the City of Burton did not want to take possession of the property it would go to the County Land Bank.

Mr. Martinbianco said from the taxpayer's point of view it would be better to put these properties in the large bundle knowing no one in their right mind is going to bid on 1,800 properties. It would end up being a win-win situation.

Mr. Austin said to his understanding.

Mr. Martinbianco asked Mr. Austin if the County Treasurer was speaking on behalf of the Land Bank also.

Mr. Austin replied no, the Land Bank is not involved unless the City chooses not to take possession of the property and then the Land Bank takes it as a last resort.

Mr. Heffner said item 3 on Monday's agenda is in regards to the property of Mallard Ponds.

Mr. Austin stated to put these properties in the large bundle, the Council would have to rescind their original motion to have it in a small bundle, in which they could then vote to have it placed in the large bundle. Mr. Austin said we have until noon on Tuesday to have this property put back in the large bundle.

Mr. Smith asked what the options on the bonds are if someone were to purchase these properties and what effect would it have on the Bonds.

Mrs. Burke-Miller responded the amount still due for the 64 parcels of Mallard Ponds that the Cit would be responsible for is $720,064.

Mr. Smith asked if a bidder were to purchase this property would they owe the same amount.

Mrs. Burke-Miller replied that is her understanding.

Mr. Austin replied the City would still be responsible for the bond payments but whoever purchased Mallard Ponds would be responsible for the special assessments on the tax bills, which go towards the bonds.

Mr. Heffner asked if there is anything the City could do to better protect the residents of Mallard Ponds.

Mr. Austin stated the safest thing to do is to keep the property in a small bundle and buy it at the County auction.

Ms. Frost stated the association has architectural control over what future buildings will be allowed to look like, but it is their by-laws to enforce.

Mr. O'Keefe said at the last meeting they were given the choice between the small and large bundle and the small bundle did seem like the right choice at the time, but after more explanation it seems more reasonable to go with the large bundle.

Mr. O'Keefe asked the Controller if we ever figured out who the mortgage holder of Mallard Ponds was.

Ms. Bassi replied she found paper work deeding from SMEA to Elga Credit Union but the legal description is vague and we have not been able to find paperwork stating that Elga is the mortgage holder.

Mr. O'Keefe asked if the bond and the special assessments were set up for the same amount of time.

Mrs. Burke-Miller replied it was set up before she came to work for the City but she would have to assume yes.

Mr. O'Keefe asked if the special assessment payments would still be owed if the bond payments were finished and paid for.

Ms. Bassi replied when the bond is paid off at the end of the period then no the special assessments would be finished also.

Mr. O'Keefe said we would not receive special assessment payments unless these properties are sold in the near future.

Ms. Bassi replied that is correct.

Mr. O'Keefe asked if the City had any agreements with the builder regarding the bond contracts.

Mr. Austin replied at that time he was not employed by the City but that is something he could look into.

Mr. O'Keefe asked if we could see if there was any lender liability from the bank that holds the mortgage.

Mr. Austin said he will look into the documentation surrounding this transaction and get back with the Council.

Mr. O'Keefe said with 3 bonds the City has, it would be cheaper to pay them in full being we owe the payments regardless.

Mr. O'Keefe stated for the record he does not live in Mallard Ponds.

Mr. Wells said he has a lot of questions regarding this issue and would like to bring someone in to better explain and help with questions. Mr. Wells also asked Ms. Bassi if when the parcels were sold originally whether the special assessments were paid off or not.

Ms. Bassi replied some were and some were not.

Mr. Wells asked when the two parcels were sold for the memory centers was a large amount collected towards special assessments.

Ms. Bassi replied those two parcels are not part of the development.

Mr. Wells asked if there was and expert who could look into the documentation and see if there is any lender liability.

Mr. Austin stated he will look into documentation and there is no need to hire a specialist.

Mr. Heffner stated Mrs. Ellenburg is ill this evening and that the Mayor has sent the City's experts to be here in her place so she could attend a funeral. Mr. Haskins is also absent, but at some time the City needs to take responsibility for this project. He also said Mr. Martinbianco and Mr. Wells were the only ones here at the time so maybe they can explain why we made the decisions we did.

Mr. Wells said we had the best bond attorneys at the time and they advised us it was a good deal.

Mr. Heffner asked isn't that what a bond attorney does is to help sell bonds? He was assured with the economy and the information that was provided at the time to the Council, it seemed like the right choice, but now we can see it was a bad choice.

Mr. Martinbianco said there was no way to look down the road and predict what the economy would be like today, but we have to move forward and make a decision on Monday regarding this situation.

AUDIENCE PARTICIPATION:

Larry Mcdonough, 1385 Mallard Dr., was thankful for the Special meeting because Mallard Ponds is in jeopardy and all the residents investments they want to hold on to because they have lots of time and money into it.

Laurie Tinnin, 2340 Harmony Dr., asked Mr. Austin how the Mallard Ponds property would be tax-free when it did not happen with Pebble Creek or Burton Estates.

Mr. Austin replied all the back taxes have been wiped out through the foreclosed process and that would leave only the 2011 taxes, but if we were to successfully bid on Mallard Ponds at the no minimum bid like with Pebble Creek and Burton Estates we would be responsible for the 2011 taxes but if no one bids then the County would then extinguish the 2011 taxes before we take possession.

Mrs. Tinnin asked but what is someone else were to successfully bid on the property.

Mr. Austin replied that is the risk you take when putting the property in the large bundle.

Mrs. Tinnin also stated she believes Council should take possession of these properties so the residents are safe guarded. She also stated for the record when on Council she voted against the Pebble Creek bond.

Audra Carney, 1410 Mallard Dr., believes her house was the only one purchased and the special assessments were not paid off.

Derrick Puffer, 1409 Mallard Dr., is being enlightened by the meeting regarding the situation and is thankful for that and would like to continue seeing people care regarding Mallard Ponds.

Tina Conley, 2274 N. Belsay, questioned how could Chuck Sekrenes default on Mallard Ponds and then continue developing in Burton?

COUNCIL DISCUSSION:

Mr. Wells responded to Mrs. Conley's question by saying it happens all the time by LLC companies they go bankrupt then go get another LLC or partner with someone else.

Mr. Austin said we could research this as much as we want but on Monday night we must make a decision regarding Mallard Ponds.

Mr. Smith felt with this situation there are no good options but we must decide which is the best of the worst to make it better for the residents.

Mr. Wells questioned if it were possible to have a bond attorney attend Monday nights meeting to help answer questions.

Mr. O'Keefe said we have to make a decision Monday night and a bond attorney could not help because it is after the fact.

Mr. Wells would like the Finance Committee and the Legislative Committee to have a joint meeting to create an ordinance for future special assessments.

Mr. Martinbianco said there was an ordinance previously that required the developer to pay for the entire infrastructure but was adapted to allow exceptions.

Mr. Heffner felt better knowing the residents have a say on what buildings go in Mallard Ponds. Mr. Heffner also said one of his main concerns is to get the City's properties on realty website so all realtors can see our available properties.

Mr. O'Keefe said we do need a plan but first we have to research some of our questions before planning.

Meeting adjourned at 7:45 p.m.
jma