CITY OF BURTON
SPECIAL COUNCIL MEETING MINUTES
DECEMBER 10, 2008, 6:00 P.M., COUNCIL CHAMBERS
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The Special Meeting is called to order by President Tom Martinbianco at 6:00 p.m.

MEMBERS PRESENT: Martinbianco, Heffner, Ellenburg, Tinnin, Zelenko, Haskins and Conley.
MEMBERS ABSENT: None.
OTHERS PRESENT: Mayor C. Smiley, Atty. R. Austin and J. Adams, Deputy City Clerk.

PURPOSE OF THE MEETING: Discussion and possible action regarding 70 Lots in the Pebble Creek development.

PRESENTATION:

Mayor Smiley stated since the December 3rd Council Meeting, he met with the Pebble Creek residents to talk about the subdivision as a whole, and as to what we could do to safeguard and work with them to protect their development. We accomplished that by buying this property. If someone bought that property at the minimum bid, and in 3 years they didn't pay the taxes, they could sell the lots for any amount of money. Then 3 years from now we would be in the same predicament that we are today. By buying the land, we stopped that. We also talked with the residents about deed restrictions. They didn't have any but there were some by-laws.

Mayor Smiley stated further, they spoke about changing the name to Trail Ridge Estates. We are asking Council to let us take this to Circuit Court to change the name, and one road. There may be one or two house numbers we have to adjust. We met with our DPW, Police and Fire Departments to look at the current addresses to make sure things are better when we are done.

Mayor Smiley stated they had four town hall meetings scheduled and only three people showed up other than the Pebble Creek residents. We also invited Elga Credit Union so we could talk about doing credit checks, and how they may be able to assist. We came up with a lot of good ideas. Mr. Austin's letter shows our total bond obligation is 2.3 million dollars. Lots are broke down as far as cash sales. We have the basic lot to the premium lot. If we sold those lots at the cash sale price, it would bring in the 2 million dollars. Mrs. Foster feels comfortable that would meet our obligation.

Mayor Smiley addressed land contracts. He stated for a land contract we would like to require 10% down. There are closing costs. The basic price of $33,000 would bring the principle down to $29,700 and the monthly payment would be $247.50 for 10 years. They can sell the lot at any given time but they have to pay us off. If they build on the lot, they have to pay us off. If they default after 90 days, we would start the process of taking the land back.

Mayor Smiley said if someone wants to build a home today, they could go to Elga Credit Union. They came up with a proposal that they will give a construction loan and pay off the lot. They will give 1% below the prevailing interest rate.

Mr. Austin stated right now the prevailing rate is 7 1/8%. If anyone buys one of the lots it would go down to 6 1/8%.

Mayor Smiley said there could be other banks and credit unions that might want to help and partner with us to get residential dwellings on these lots.

Mr. Martinbianco said the resident would be paying the real property tax. He inquired as to the property transfer cost.

Mayor Smiley said Mr. Austin is working on the closing costs.

Mr. Austin expressed that the Mayor has done a fantastic job. We worked very hard on the pricing of the lots. We cut out the middleman, which was Ambassador and Warren Bank. Anyone who buys one of these lots pays nothing for the sod. The value is there. We have done these different pricing points based upon the values as primarily reflected in the Assessor's office.

Mr. Austin addressed the chart prepared by Pete Wingblad. It shows the 4 different levels of lots and pricing. We will talk a great deal more about the specifics of the transactions at Council's Monday night meeting. He will have a resolution authorizing sales and back up information. It will state in detail the terms of the contract. These ideas are the collective product of the Mayor, Controller, Treasurer, Assessor and myself of all the information we could gather. If anyone has any better ideas, it is not too late to modify any of the details. We hope this will help in generating some excitement out there and sell these lots to meet our obligation.

Mayor Smiley said when he met with the Pebble Creek residents, they had their first Association meeting on the third and will have another meeting on January 20th to select officers I made a commitment to work with them and the City wants to be a partner to be a good neighbor and to make better curb appeal. There are some issues with junk and debris to clean up, and dirt to be removed.

Mayor Smiley indicated as far as the land contract idea of having no interest, he spoke with the State Treasury and we can do that. He also spoke to auditors Plante & Moran and they indicated there is no problem doing that. There are no State laws or policy and procedures from Treasury that would prevent us from entering into a land contract deal.

Mr. Martinbianco said he appreciates the Mayor's indulgence and he thanks him for his attention to this matter. As a majority stakeholder in this development, I think the City is most responsible of ensuring the taxable viability of the project, and the value of the residents that have already purchased there. We are keenly aware of that and we would like to move on from there.

AUDIENCE PARTICIPATION:

Debbie Williams, 4372 Timberline Ln., stated she was a participant in the town hall meeting. We bought into a development that we thought would mirror some of the other subdivisions and developments that Burton has taken over in the last several years. Unfortunately, that did not happen. There are families that thought this was their dream to build a home. We were of the understanding that Burton was going to protect us and stand behind the development. Due to no fault other than the developer Ambassador, that didn't happen. We are excited that the City of Burton, and the Mayor in particular, is willing to come in and make this development something we can be proud of.

COUNCIL DISCUSSION:

Mr. Haskins said he agrees with Mrs. Williams as far as the City being proactive in bringing positive things into the community. In the City, State and country as well, we are plagued with foreclosures. He applauds the Mayor for his efforts, Elga Credit Union and residents that got involved in the town hall meetings.

Mrs. Tinnin asked if there were people interested in purchasing the lots.
Mayor Smiley said there was interest but no commitments.

Mrs. Tinnin said the newspaper stated if a resident wants to make an offer, you are open to that. Is there a minimum amount you are going to accept?

Mr. Austin responded there will be a master resolution for Council on Monday night authorizing the sale of these 70 lots for these specific prices. Each lot identified the cash sale price of the land contract sale price. If Council approves the resolution, it sets the price and there is no negotiating room. That is the first approval required by Charter Section 11.3. The resolution will be in the Clerk's office for 28 days and will then authorize the City to go forward and sell the lots for these prices on the terms outlined in the resolution.

Mrs. Tinnin asked if it is $25,000 on a cash sale, being a minimum bid, and will be all inclusive of the remaining years of the bond.

Mr. Austin said it covers all the special assessments. When someone pays the $25,000, they don't have to worry about paying any of the special assessments or paying pro-rated taxes. They will be responsible for the taxes going forward.

Mrs. Conley inquired regarding the reason for changing the development's name and number of residents that responded to the town hall meetings.

Mrs. Zelenko expressed concerns with land contracts, defaults and employee staff level handling payments and collection issues.

Mayor Smiley indicated with the new software, the Treasurer expressed feeling comfortable with it. With equal monthly payments, it is even simpler and less work. We prefer to keep it in-

house because we have a better handle if someone does not make a payment. We would contact our attorney and respond quicker.

Mr. Martinbianco questioned further as to the outside cost should somebody default, the benefit of us carrying the note comparing to what it is going to cost us for a default if we had to go to District Court.

Mr. Austin said they don't have any exclusive arrangements with Elga. They came up with a pricing policy. We asked them about their servicing. They would charge us $10.00 per month, per contract to collect the payments. The Treasurer expressed she could do that easily. We don't know how many of these lots are cash or how many are going to be land contracts. As soon as a buyer makes a decision to build and gets financing for construction, they have to pay off the contract at that point. Very few of these contracts would run the full 10 years. If 10 or 15% go bad on us and we have to start defaults, the contract will require them to pay attorney fees, but we would get the property back if we go through forfeiture and sell them again. There are inherent risks in the sale of property on land contract. We wanted to provide a mechanism where a lot of people could get into these properties at a minimal cost out-of-pocket. If it doesn't work out and our default rates are such that expenses are too high, we will have to go to plan B.

Mr. Martinbianco said Mrs. Zelenko is underscoring that we want Plan B in place now so we don't have to revisit. He does not support this system. It may or may not work and possibly the majority of Council believes this is the way to market these properties, but I don't think it is the proper thing to do in a subdivision of the value we have invested in it. At some point in time, someone has to come to the table that decides Burton might be a lucrative thing to invest, it is $34,000 a lot and they can buy the whole thing and it will produce valuable neighbors to these folks and a good product at the end.

Mr. Austin said if a developer came to us with the concept to buy 5 or 15 lots, or a different proposal, all this would come before Council. We are asking on Monday night to get the authority to sell at these prices on these terms.

Mr. Martinbianco said he spoke with the Mayor and Mr. Austin to examine other options that are possibly out there and available. Under MSHDA and current State legislation has been talked about TARP (Troubled Assets Relief Programs) money being available to local financing institutions, including some the City does business with that we hold our General Fund checking account with, perhaps interim 15 day temporary notes, and perhaps water fund or sewer fund, or whatever that might be. There could be a possibility to include those lots in their portfolio, and their marketing strategies are a lot better than ours. We may have a bargaining chip here because they have the money, we have the lots, they can put those into their portfolio better than us, pay us off, and lets re-negotiate what we are doing with respect to business with the City. That exposes us too more than Elga Credit Union, in all due respect to them because they have been a great participant in the City for many years and will continue to do so.

Mr. Martinbianco stated further, his question is whether or not under those financial instrument units of finance, whether or not we will be able to accomplish something like this. They may take these lots and pay them off. My understanding because they are beyond the 5 years, the

bonds are callable. We could either work with the banks to take the note over, or take it out of the sewer fund and pay them off and the bank could re-establish our line of credit within the sewer fund and keep our General Fund whole.

Mr. Martinbianco said he is not a big fan of part parceling but perhaps it could work. We are going through the worst 6 months you are going to see in terms of trying to accomplish what we are doing. One of the bigger issues is if we are not successful in the first 6 months, we are going to lose the next 6 months of perhaps the biggest buying period between June and August, and potentially August and beyond. We have a beautiful subdivision, great school district and all the amenities. We showcase our community very well and will continue to do so. As a sales pitch and sales people, it is not going to work, we have to have Plan B and be able to construct it.

Mr. Martinbianco mentioned Genesee County is a 7.5 million dollar recipient for default mortgages. We could go back to all the financial institutions we do business with and ask them what they can do to help us out. They can better control the environment in selling these properties because they know what developers and builders they can work with. They might say they have the master plan for us. It may or may not include Elga Credit Union. It could be Security First, Chase or Citizens Bank. Someone is holding the bond paper on this project right now and we would like them to come to the table and they may want to re-negotiate that.

Mayor Smiley said they spoke to many people and developers that they thought might be interested. It was up for sale at the County for $16,000 and there were no takers. He spoke to Bobby Bendzinski about maybe working with our bond and see if there was something we could do to reduce that.

Mr. Martinbianco referenced an MML (Michigan Municipal League) link that talked about a House Bill that is being advanced and signed before the Governor goes to Washington. She is going to sign it, which will allow us to refinance existing bonds for this type of infrastructure.

COUNCIL ACTION:

Zelenko moved and Haskins seconded the following motion:

1. Approve and authorize the City Attorney to initiate Circuit Court proceedings to revise the recorded plat of the Pebble Creek subdivision so as to change the name of the subdivision and to change the names of the streets within that subdivision.

Motion carried 7-0.

Meeting adjourned at 7:00 p.m.

jra