CITY OF BURTON
SPECIAL COUNCIL MEETING MINUTES
MAY 22, 2013, 5:00 P.M., COUNCIL CHAMBERS
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The Special Council Meeting was called to order by President Tom Martinbianco at 5:10 p.m.

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

MEMBERS ABSENT: Haskins.

OTHERS PRESENT: Mayor P. Zelenko, Atty. R. Austin, G. Burke-Miller, Controller, D. Bingaman and J. Adams, City Clerk.

PURPOSE OF THE MEETING: **Presentation, discussion, and possible action regarding listing agreements with ReMax Grande for the marketing/ sale of City owned Subdivisions Trail Ridge, Burton Estates, and Mallard Ponds.**

PRESENTATION:

Mayor Zelenko said they have a packet that was given to them Monday night. They have started an investigation into marketing for these three subdivisions. They have the Attorney's Opinion, one on each of the subdivisions and a lot of backup material. Her expected outcome for this meeting is at least to open up the dialog. There are a lot of questions that need to be hammered out. They have done the preliminary leg work on this and now need the opinion of the Council to move forward.

Mr. Austin said the City has now paid the bonds and debt on the infrastructure of the three subdivisions. The payments are current but this is not how it was all supposed to work. They have been in touch with Remax Grande and Mike Con. He has indicated that he has been in touch with some developers that are interested in the Trail Ridge and Burton Estates properties. We have had two meeting with him. The prices on the second page of his letter are the bulk sale prices, not individual lots. This is for a listing agreement for a 12 month duration, which the Council can speak to Mr. Conn about if they feel it is too long of a period of time. We haven't been able to do anything with these lots since we acquired them. The purchase prices reflected in the proposed agreements are not adaquet to pay off the outstanding bonds and debt on any of the three properties. It would leave us at a shortfall. The Special Assessments survive the tax foreclosure and minimum bid and no minimum bid auctions and they remain in place right now. The bond and debt is through 2019 on two of the three subdivisions. We contacted Bobby Benzinski about whether or not we would be able, on the shortfall, to leave the Special Assessments intact. Normally Special Assessments are paid at the time of closing. If we are going to leave the entire balance of the Special Assessment intact and leave that up to the payment of the individual property owner that is going to jack up the price of the lot by about $4,000. The first option would be to simply forgive and wipe out the Special Assessment which would require legislative action by the Council. The second option is to require the property owner at the time of closing to pay the balance. The third option is to pay that balance over an extended amount of time. There is not a clear answer whether or not we can spread the payment past 2019. It is up to the Council to decide what they want to do. Hopefully we will get houses on those properties and increase our tax roll. Currently they are being paid out of Water, Sewer and Roads.

Michael Conn, of Remax Grande, said he has been in the market for 33 years in Genesee County, 25 of that has been primarily working with developers and is a member and currently sits on the Board of the Local Builders Association. The market has fallen off substantially as far as values go. Right now the current local real estate market and housing industry is really low on inventory. There are 2400 properties for sale countywide. In the counties South of Genesee, new builds are going good. He is the owner of the office in Grand Blanc. There are builders who are knocking on doors trying to find lots. He believes they can get a bulk of the money up front from the builders.

AUDIENCE PARTICIPATION: None.

COUNCIL DISCUSSION:

Mr. Smith said the selling price is about $8,000 a lot.

Mr. Conn said he would not try to sell these lots individually, it will take too long. If you sell to neighbors they will not build on them right away and you lose the tax revenue.

Mr. Smith asked him to explain his Marketing strategy for these properties.

Mr. Conn replied he has had a lot of following of builders. He sold the original lots for the Maple Creek and Maplewood Meadows subdivisions to developers. He stays on top of the Builder's Association which helps to get the word out. He has residential and commercial divisions in his office.

Mr. Smith asked how he would sell Mallard Ponds.

Mr. Conn replied he doesn't feel the school district is really relevant because most are empty-nesters. They would look at using the same designs and prints that were successful in the beginning so the neighborhood looks similar. They may have new floor plans and designs on the inside but leave the exterior the same. He thinks people will buy if they want to be there and the price is right. There are a lot of mortgages that are available for people to get into. Also the builders will make sure their product is FHA compliant so they can be moved quickly.

Mr. Smith said there was a letter sent out to the City in 2012 and asked what has changed since then.

Mr. Conn said there is a lack of housing available and interest rates have dropped so people are out there looking. The houses available are getting multiple offers, even the ones that are run down because investors want them. He believes the interest rates going down helped. There have been a lot of rules and regulations in the Mortgage business that has stopped a lot of the short sales and taken houses off the market.

Mrs. Ellenburg said one of the reasons that the City of Burton purchased these was to protect the residents who are already in these subdivisions. Before you used to have a certain square footage of house, and now with the economy the way it is, people may not want to be building 1800 square foot homes. She asked if the association would work with those people who want to build smaller.

Mr. Conn said they would have to because they are legal documents. If they wanted to modify them, they would have to come back in front of everyone who lives there currently, the Planning Commission and there were would be a lot of steps. He doesn't feel that would be a problem in Mallard Ponds.

Mrs. Ellenburg said Burton Estates has some pretty good sized homes.

Mr. Conn said but that isn't a condominium and he isn't sure if they set standards on that, it would be based on Burton's standards. If a builder goes into an already established neighborhood, they are going to want to comply. He doesn't feel they will have a problem moving them as long as the builders put them in the price range that I suggested.

Mr. O'Keefe said this is a definite problem. He said that Mr. Conn's reputation in Genesee County is going to be the driving force behind this. He agrees on selling the lots as a whole and believes this is a solution to a lot of the City's problems. How cumbersome is it going to be to add on the $4,000.

Mr. Conn said it isn't going to be cumbersome. There are very few Mortgage companies that will allow a transaction with a Special Assessment.

Mr. O'Keefe said it would be nice if that didn't have to wait until closing.

Mr. Conn said he would like to start marketing these properties right away because we are at the beginning of the building season.

Mr. O'Keefe asked if there was anything out there that the City should be aware of or do.

Mr. Conn said they need to look at road or utility issues that he may not be aware of.

Mayor Zelenko said the road caps have been completed, as well as the water and sewer infrastructure on all three subdivisions.

Mr. Wells apologized for being late and asked for a recap of the things he missed.

Mr. Austin gave a synopsis of what was said before Mr. Wells arrived.

Mr. Wells asked what the City would be on the hook for.

Mr. Austin said the City would be on the hook for the whole $12,000 per lot and the total bonded and debtedness. We are on the hook whether we sell all the lots, none of the lots or some of the lots. We are on the hook to pay the bond payments through 2019.

Mr. Wells asked if we are entitled to a reimbursement when someone builds a house on the lot.

Mr. Austin said the money that they make for the sale of the subdivision, less the real estate commission, goes to paying on the bonded and debtedness, and the shortfall per lot would remain intact. He would have to have to go to Circuit and start a quiet title action, which will quiet the title but each one of those special assessments will remain with those lots. Then it would be up to this Council to decide what to do with the shortfall for those lots of $4,000, whether to wipe them out, decided that they need to be paid at closing of the original lot sales or whether they would want to spread that $4,000 shortfall over some period of time. Because we wanted to bring this to the Council before it got too far down the road, they have yet to seek a bonding council to see if we can spread those payments out past the 2019 date the bonds are due.

Mr. Conn said when it came to Mallard Ponds; a lot of those lots are duplex lots. He added value of $12,000 per lot or $6,000 per unit. That in and of itself, should pay the balance of the bond for those. We will have to pay off the special assessments upon each houses completion because the mortgage companies and banks do not want to see them brought forward on people's taxes. He said it would be a good idea to see if they can spread the payments out. It won't be coming out of the City's pocket, but out of the sale of the properties.

Mr. Wells said when we did these special assessments and the bank walked away and left them in the City's hands it was unprecedented. He asked what the City will be responsible for in two years from now if everything goes back down the rabbit hole.

Mr. Austin replied they will remain responsible for the bonded and debtedness. If the Council approves the proposed agreements and the City receives 1.5 million dollars, they still need to decide what they are going to do with the special assessments. There are a lot of issues but we have to start somewhere.

Mr. Wells said that money will pay off the bonds for 3 years.

Mayor Zelenko said we have to pay those bonds off by 2019 and 2020 and she doesn't believe they are going to be able to renegotiate the conditions of the bond to extend that out. That is why the Council must decide what to do about that outstanding debt in the event those remaining lots haven't completely sold to the end homeowner.

Mr. Wells asked if they are buying time or taking care of a problem.

Mayor Zelenko said they are doing both. The land value had gone down enough that they are going to be able to build that outstanding debtedness into the cost of each lot. The question is whether the developer will be able to sell off enough of those lots to bring that down and pay it off before 2019 or 2020.

Mr. Conn said we want to get them on the market and sold. Once we get the buyer to the table, the City would have room to negotiate with most individuals. We could put something into a purchase agreement that says "should the lots not be built out by 2019 date, that an additional payment of x amount of dollars, the amount of the bond, is paid off." The builder is still getting a tremendous deal on the lot.

Mr. Wells said Trail Ridge is a doable thing. They are basically living in Grand Blanc and paying Burton Taxes. Burton Estates is a completely different issue.

Mr. Conn said it is still an inexpensive lot for a builder, even in Burton.

Mr. Wells asked if they have gotten ahold of Bobby Benzinski and what he had to say.

Mrs. Burke-Miller said she spoke with him and she would feel more comfortable asking him those questions when he comes to the City. If we were to extend the special assessments, we would have to do so for everyone in the special assessment district and have a hearing to be allowed to do so. She would like to get a clearer opinion. She asked if when Mr. Austin quiets the title if that removes the special assessment and he said no because the lien does not disappear until it is paid off. The City can eat that cost by way of Resolution.

Mr. Wells asked if we decided to eat those costs, where would the money come out of.

Mr. Austin said it would most likely be paid how it is now, a portion from the Water, Sewer and Roads. The reason we are paying out of these funds is not because that is where there is money, but because the bonds went to improvements on this land for sanitary sewer, waterline and roads.

Mr. Wells said it we have to eat some of the cost in the end it does not seem it is for the public good.

Mr. Austin said we are using money from the water fund to make bond payments right now, and need to replenish that money or find revenue to make those bond payments.

Mr. Wells said right now we have the land with utilities on it to show for the payments, if we no longer own the property but are still paying for the utilities, it is no longer for the common good but for the people in those three communities.

Mr. Austin said he sees Mr. Well's point that it does not look good that we would be paying essentially the General Water Fund fund to pay for one. That is what we are doing now but on a bigger scale. This isn't great but this is a proposal for your consideration and it is going to be up to Council.

Mr. Wells said down the road he does not want to get jammed up on something like that and have the whole thing fall apart or worse. This started with an unprecedented event. We need to ask all the questions so we know what we have got going in.

Mrs. Ellenburg said if we build on it, the revenue coming from the new build will be benefitting. We may have to eat some money but then we will have a house there that will generate revenue. For the amount of money that we paid for those properties, we have definitely made our money back.

Mr. Wells said when we made that decision, there was a bank and a developer making those decisions and they walked away which is why we are in this predicament.

Mr. O'Keefe said we are not going to be able to go past the bond issue date. Mr. Conn has a good plan and could build it in to the purchase agreement.

Mr. Austin said he thinks that is a brilliant thought Mr. Conn had, assuming it doesn't damage the marketability of the subdivisions.

Mayor Zelenko asked if the there is a subagent working on the property, what percentage they will get.

Mr. Conn said they split the 6%.

Mr. Martinbianco said we did get that conditional intent to purchase for Trail Ridge at $568,000 the listing agreement reads $560,000 and asked if that could be changed.

Mayor Zelenko said it is because under the intent to purchase they were thinking there were 71 lots but under our listing agreement we verified there are only 70 lots. The correct price is on the listing agreement.

COUNCIL ACTION:

Heffner moved and Smith seconded the following motion:

1. Approve and authorize the Mayor and Controller to Adopt a Resolution APPROVING LISTING AGREEMENTS TO SELL VACANT LAND IN TRAIL RIDGE, BURTON ESTATES AND MALLARD PONDS DEVELOPMENTS AND AUTHORIZING THE CITY ATTORNEY TO COMMENCE QUIET TITLE ACTIONS TO CLEAR TITLE TO PROPERTIES

WHEREAS, the City of Burton owns vacant land in the Trail Ridge, Burton Estates, and Mallard Ponds development which are encumbered with special assessments which were imposed to finance infrastructure improvements within each development;
and

WHEREAS, all of the City owned property within said developments have been removed from the tax rolls as exempt since the time of it acquisition;
and

WHEREAS, the City has not been successful in marketing these properties and returning said property to the tax roll, and it appear necessary to engage the services of a real estate professional to assist in the City in marketing and selling the property;

NOW THEREFORE BE IT RESOLVED as follows:

1. That the City Council of the City of Burton ehreby approved the three (3) prepared listing agreements (entitled Exclusive Right to Sell Contract) with ReMax Grande for the bulk sale of vacant City owned land in the Trail Ridge, Burton Estates and Mallard Ponds developments, a copy of each of these Agreements being attached to this Resolution.

2. That the listing agreements shall each be for a one (1) year period.

3. That the Mayor and the City Clerk are hereby authorized to execute said listing agreements and related legal documentation including, but not limited to Addendum or Amendment to Listing Agreement attached to each agreement to effectuate the listing of said properties with ReMax Grande.

4. That the City Attorney is further authorized to initiate Quiet Title actions in the Genesee County Circuit Court to clear title to these properties as required by the terms of said listing agreements.

Motion carried 6-0.

Meeting adjourned at 7:00 p.m