

**A regular meeting of the Leelanau County Land Bank Authority was held on Tuesday, October 18, 2022 at the Leelanau County Government Center.**

## **CALL TO ORDER**

Meeting was called to order at 9:00 am by Vice-Chairman Heinz who led the Pledge of Allegiance.

**Members Present:** D. Heinz, T. Galla, C. Janik, L. Bahle, R. Foster, R. Isphording

**Members Absent**

(Prior notice): J. Gallagher

**Public Present:** T. Searles (zoom), S. Lautner, L. Mawby, J. Stimson, Z. Hilyer

## **Approval of Agenda**

***Motion by Foster, seconded by Isphording to approve the agenda as presented. Motion carried 6-0.***

## **Approval of September 20, 2022 minutes**

***Motion by Janik, seconded by Isphording to approve the minutes as amended. Motion carried 6-0.***

Typo – page 5 of 22, at bottom, option – update – Eckerle Rd.

## **Public Comment**

Zach Hilyer introduced himself as the new Housing Ready Program Director with Housing North, for Leelanau County and said he was excited to start and to be here as a resource for the community and work on workforce housing needs.

Heinz asked Galla if this was something that could be done with her presentations to communities on the EPA grant. Galla said yes, and she and Hilyer have spoken about this and doing presentations together regarding housing, and environmental work.

Bahle commented on her attendance at the Suttons Bay Village Council meeting last night.

**Unfinished Business – None**

## **Discussion / Action Items**

### **1. Property Update and Discussion**

a. Market Rate Lots RFP ~~pages 8-11~~

Heinz noted that Gallagher put this RFP together for one of the lots, the Cherry Home property. The Land Bank approved this parcel be on the RFP to list it for sale.

Members discussed the RFP process, how realtors were contacted in the past, and if they were interviewed. Janik noted we have used Three West and Brick for sale of properties, and also sold some on our own.

Foster questioned the map that was handed out and the property lines. Galla responded the maps are from the county's system and for reference only. The actual boundary lines are what is surveyed or recorded on the deed.

There was consensus by members to correct the dates of release and due date for proposals and release the RFP. Responses can be discussed at the next meeting.

*(Stimson present at 9:12 am)*

b. Marek Road discussion

Galla reviewed two requests from Jon Stimson, Executive Director for Homestretch. One request was for the cost of the road and the other is for release of the Warranty Deed from Escrow.

Heinz noted that last month we reviewed a proposal to enter into 1/3 match if the Road Commission and Suttons Bay Township each did 1/3 for the cost of the road.

Galla read the motion from last month.

Janik said we could wait until the Road Commission takes action. Or, take action and make a motion now, contingent on Road Commission action. We said we would strongly consider a match, not commit.

Galla asked Stimson if the Road Commission was acting on this request this morning and he replied that he did not know. They are meeting right now but Stimson made the Land Bank meeting a preference for attendance. He stated he also had another request for the Land Bank to consider today. Janik stated that based on what Stimson reported today with funding, he felt we should table this request.

***It was moved by Janik, seconded by Isphording, to table this funding request until next month.***

Bahle read from minutes of last month regarding Stimson's comment: 'road improvements enhance ability for next 2 parcels.' She thought it seemed like a tremendous reason to move forward faster.

Galla said she was not sure about improvements for county roads but she recalled the township and road commission usually get together and split the cost. Was that discussed in this case? Stimson said he proposed splitting the cost. Galla continued, saying said if there is a stretch of county road that needs improvement, there is usually an estimate and the township pays half and road commission pays half. She was confused why the developer was paying for improvements on a county road.

Stimson stated he has to go through the township and have them make the recommendation to the Road Commission. Protocol is he, as developer, has to go to the township and the township makes the recommendation to the Road Commission.

Heinz asked if the Warranty Deed is released does that make it easier to negotiate a bigger amount with the road commission? It doesn't take much to get to \$45,000 with the curb and cut and access. He asked Stimson about the cost to Homestretch.

Stimson said none of the road improvements for the \$93,000 is related to the private driveway on our property up to the development. Galla asked if it was all Marek Road and Stimson replied, yes. Galla said that was her point. She thought improvement costs to the road were split between the township and the road commission. Stimson replied that this development is triggering the cost for the improvements so it falls back on the developer. He is trying to achieve that financial goal. He will raise the money if need be, but it just keeps taking longer and longer. Releasing the Warranty Deed, may have an impact. We need a right of way easement to put temporary power in the ground. If they are going to get in the ground and get going this winter, they need separate power on site. He didn't feel comfortable signing the easement for the property. Perhaps real land owner would be listed as the Land Bank and you would sign it on behalf of the Land Bank and I can still get the easement.

Janik reminded members there was a motion on the table. As Stimson said, we should have the answer from the road commission before making a decision.

Heinz restated the motion.

***On a voice vote, the motion carried 6-0.***

Heinz noted we are now talking about the easement and this is not a temporary easement. Galla asked if there was a cost involved and Stimson said, no.

Heinz asked if there was an easement on the property now and Stimson replied, no. Stimson said this is an easement from Marek Rd onto the property. The owner is being asked to sign it. Heinz said our property doesn't start at M-204 and go inward, yet they need an easement from M-204 going north onto our property. He asked Stimson if there would be another easement for that stretch. Stimson replied there is an easement from M-204 down Marek Road. This is an easement from Marek Rd. onto the Land Bank property. Galla asked again if there was any cost. Stimson said the easement itself is zero dollars. There will be a fee he has to pay to the do the service to the property. They won't release that work order until the easement is recorded. Heinz wondered if there would be a need for the easement for cable. Stimson said this might serve for that utility and maybe they will share the conduit, or the pole. Heinz confirmed this is Cherryland Electric.

Galla said our attorney drew up the escrow agreement warranty deed and purchase agreement. We received a request on Friday for the other items and then received this agreement today. Galla felt more comfortable contacting our attorney and asking some questions – like are we ready to release the Warranty Deed out of escrow and who should sign this easement agreement?

Heinz noted that Gallagher said in an email we should be able to release the Warranty Deed but now Stimson is saying it may be better for him if the Land Bank still has the title in escrow. So, he's not asking to release the title in escrow. Stimson is trying to get the right of way easement with Cherryland. Do we want our attorney to look at this before someone signs it?

Stimson stated you have the right to pull that ownership back at any time. So, you could still, at any time, record that and relinquish my right to the property. It is not really ownership until that deed has been destroyed.

Heinz asked Stimson if the easement added marketability to the property. In the event Homestretch does not go forward, this could enhance the value of the property. Any legal agreement usually gets run through outside counsel.

Stimson said this just all came at once.

Heinz suggested stating this is subject to counsel's agreement and allowing it to be executed by Gallagher. Janik said that is a pretty standard action, to request corporate review before signing.

***It was moved by Foster, seconded by Bahle, to approve this agreement with Cherryland Electric for signing by Gallagher, subject to corporate counsel approval.***

Galla asked if the agreement was dated and Heinz said, no.

Heinz noted with the motion, we would not need to meet again if Corporate Counsel agrees to this.

Stimson asked if the Land Bank has counsel review it, should the Land Bank also have a motion to approve the release of the contingency, upon the attorney's review, which then allows Stimson to sign the easement agreement. Galla asked Stimson which way he wanted it as you are asking 2 different ways. You are saying 'contingency' and also saying 'release the Warranty Deed in escrow'. Stimson replied, correct. Galla stated the Warranty Deed and the purchase agreement each have a statement that the property has to be used for housing for at least 20 years. When you say contingency are you asking to release that in the Warranty Deed? Stimson replied, no - the funding contingency, the threshold.

Heinz commented that the escrow agreement is A. and B. A. is sufficient funding and zoning approval which you did. And then there are sufficient permits. Stimson replied that in hindsight, he thinks that should have been stricken. If he does the permits, he is spending dollars I think that should be stricken. If I do that, I'm spending dollars for building permits when I don't have real control over the property. Spending \$5,000 or \$10,000 in permits, now in hindsight, that seems improper. Heinz countered that if we have an attorney look at this to release those, we are going to get asked if you have those building permits. Has the county *health* department given a permit? Do you have your ADA requirements and other steps in place? It's in the document. Maybe we should have attorney look at it but that is another step and we might be told that if you don't abide by issuance of permits, then amend this.

Galla said she recalled from the discussion when we first entered this agreement with Homestretch, the Land Bank wanted assurance the project was going to move forward and there was understanding that there would be costs and the Land Bank was not going to incur those costs. So yes, Homestretch would be incurring those costs but also, the transfer of the property is \$1 and we originally talked about it being a \$5,000 fee and that was removed. Yes, you have to get the permits and there is a cost and you knew that up front. Stimson said he was not arguing with that. Galla replied she was not in agreement with his comments that we should strike that requirement. It's already in the agreement. It was executed a couple years ago. Galla felt we should move forward and have the attorney review these other documents, as well.

Stimson asked that his request be stricken and we take the path that we are on.

Heinz said the easement would enhance the property and allow for the start of work such as clearing the land, and getting easement area ready.

Heinz questioned if footings would be put in this year. Stimson said he has a subcontractor lined up and they could begin. Heinz replied he didn't think the Land Bank had a problem with the owner signing the easement now as it stays with the property and enhances the value of it. Galla noted the Land Bank is still the owner. Heinz said the easement would go with the Warranty Deed and the transfer of the property. Stimson commented that was his thought, and maybe if we just got rid of the threshold requirement, he would feel comfortable signing the easement.

Heinz restated the motion.

Galla commented that if our attorney agrees with this being signed, it will need to be changed to the Land Bank and John Gallagher as signer. It currently has Homestretch on it and Jon Stimson as the signer.

***On a voice vote, the motion carried 5-1, Isphording opposed.***

Heinz felt it was premature to have our attorney again look over the 1.5-year-old escrow agreement and Warranty Deed to get clarification on what we need to do with the issue of permits for development. It is not a stumbling block right unless Homestretch is ready to pull permits and we have to revisit it again. But, you are probably not going to need to pull permits this winter with deer season coming up, frost

laws, and trying to pour cement in bad weather. Plus, asphalt plants are closed. Stimson replied that would not do asphalt. His goal would be to get the foundation in. If it sits all winter, then in spring we have to wait for frost laws to come off and get in and start. It may not sit all winter. It may turn out we get framing contractors in and if weather cooperates, we'll go.

Galla asked Stimson if he could still pull permits without the Warranty Deed being released. In the Building Safety department, they have contractors who pull the permits when they are building a home for the owners. Stimson commented the requirement in the document for the threshold, is the way the lawyers do it. In the future he wanted to see that taken off.

Heinz suggested we hold off having our attorney look at the escrow agreement.

Stimson said the easement could be handled next month. He could pull permits and that would meet the threshold requirement. It is more of a contingency. Heinz remarked that the attorneys may look at it differently.

*Claims and Accounts - None*

*Post Audit - None*

*Correspondence/Communication Items – None*

**Public Comment – None**

**Member / Chairperson comments – None**

### **Adjournment**

Meeting was adjourned at 9:41 am.