

A regular meeting of the Leelanau County Land Bank Authority (LCLBA) was held on Tuesday, September 19, 2023 at the Leelanau County Government Center.

CALL TO ORDER

Meeting was called to order at 9:00 am by Chair Gallagher who led the Pledge of Allegiance.

ROLL CALL

Members Present: G. Allgaier, D. Allen, T. Galla, J. Gallagher, D. Heinz, R. Isphording
R. Foster

Members Absent: None
(prior notice)

Public Present: L. Mawby, T. Searles

Staff Present: G. Myer, Senior Planner

APPROVAL OF AGENDA

Motion by Foster, seconded by Isphording, to approve the agenda as presented. Motion carried 7-0.

APPROVAL OF AUGUST 15, 2023 MINUTES

Heinz pointed out a couple spelling errors.

Motion by Allen, seconded by Foster, to approve the minutes as amended. Motion carried 7-0.

PUBLIC COMMENT – None.

UNFINISHED BUSINESS

Update on Quiet Title/Marek Rd. property and RFP for oversight of demolition on Northport Hospital

Gallagher reported the Quiet Title has been completed through the courts and the LBA was awarded Quiet Title cleaning up the legal description. They are just waiting on a proper report from counsel that can be recorded. The previous one didn't meet the recording requirements.

Gallagher continued, saying the RFP was sent out and two firms contacted him. He is now answering their questions. The new deadline is October 2nd. Galla said she emailed the Village Manager to let them know what was going on because the council was wondering. Gallagher mentioned that the Michigan State Police (MSP) were looking for training sites and they reached out to him about the Northport Hospital site. Gallagher said he is reaching out to the owner to see if this site could be used.

DISCUSSION/ ACTION ITEMS

Review proposal for purchase and development of property (4parcels) RFP 2023-2007

Gallagher said this was the only proposal he received. It was not sealed and was received after the deadline. However, since it was the only one, he thought it was prudent to present it to the board and see if this is something they should move forward with. Heinz asked about excess proceeds they might receive from the sales. Gallagher said the excess proceeds for parcels sold through the LBA should not have a claim against them. That does not say that the court will not reach into the LBA in the future for excess proceeds. This is evolving in courts, and the state and feds are all weighing in on what is a "taking." Every time there is a new court case, they have to tailor their process a little differently. Up until now, there were no excess proceeds from the transfer of the property from the Treasurer's Office to the LBA. It is his understanding that there should not be any taking.

Heinz questioned whether they needed their attorney to review the proposal if it is approved today. Gallagher confirmed this. Heinz pointed out that the proposal states the homeowner only has to live there 9 months of the year, can they then rent it out as an Airbnb for the other 3 months? Are there restrictions on this or should they include a deed restriction to prevent this from happening? Gallagher questioned even with a deed restriction on this, who has the teeth to enforce it. Galla stated that a township does not enforce deed restrictions. When they did the condominium unit in Lake Leelanau, they specifically put in the association documents that they couldn't do short term rentals. Gallagher stated that is different than a deed restriction.

Galla mentioned that she was surprised that they did not receive a bid from the gentleman who expressed interest in one of the parcels at a prior meeting. Gallagher said he was also; he didn't hear anything more after that initial contact.

Galla referred back to Heinz and the excess proceeds asking if maybe it would be wise to put the excess proceeds aside just in case. Where would they get the money to pay it back if it was already spent? Gallagher said he would have to seek legal counsel for a remedy in that case. His guess is that it would fall under the tax foreclosure fund because it has been isolated statutorily for that process. Galla said that makes sense when going through the Treasurer's Office when they are tax foreclosed, but when the LBA gets the property, how do they have access to that fund? Gallagher explained that because the property was sold/transferred for a dominus value there is some inherent risk there. Fair market value is rather subjective; however, the courts have repeated that two time the State Equalized Value (SEV) may not be sufficient enough to establish evaluation. They have not had a positive claim yet for the Treasurer's Office to know how this is going to proceed. The LBA's concern is warranted. Through corporate counsel it might be wise to have an intergovernmental agreement between the Treasurer's Office and the LBA to hold the LBA harmless in the execution of the tax foreclosure duties. Gallagher continued, saying that some jurisdictions have looked at that as a way of layering some sort of insurance between them. He does not recommend holding those funds because it could be ten, twenty, thirty years or it could never happen because it's subjective at this point. Heinz questioned if it is a taking, is it with accumulated interest or just the original principal? Gallagher said the original principal is what everything has been calculated off of. The

principale based at the date of sale.

Galla pointed out something included in the proposal that HomeStretch is using on other properties now. The 15-year term is for the first buyer. If they sell within 15-years, the new buyer starts over again for another 15-years, they don't get the balance of the original 15-years.

Allen questioned if there should be a mention of no sublet/STR since it has been brought up? Galla mentioned possibly meeting with John Stimson from HomeStretch to negotiate a contract and then bring it back. Gallagher stated he could meet with Stimson and asked Galla to sit in on the meeting. They could then present it to corporate counsel. Galla then mentioned that a couple of the lots were worth more money, do they want to sell them for the highest amount they can get or is it important to get homes on them that would go to people at 100% of the median income? Allgaier said they want homes for people, they are not a "for profit." Galla said specific details are not in the proposal, such as when will they start, how long before the first home is done, will they all be built at once or in phases?

Isphording mentioned covering any costs incurred by the county above the \$8,000.00 if there are any. Heinz said they have learned that you need philanthropy to make the numbers work, especially if it's affordable. HomeStretch deals with this kind of stuff; they get grants and low interest rate financing to do all of this. A private contractor or individual couldn't make it work with these numbers.

Motion by Heinz, seconded by Allgaier, to approve the proposal to purchase all four parcels for \$32,000.00, subject to clarification with Homestretch regarding questions the LBA has raised regarding timeline of construction, subletting, STR's, and anything corporate counsel might come up with. Motion carried 7-0.

Allgaier commented that their mission is building home so that people can actually live and work here. Every step counts.

Approve oversight of Blight Elimination Grant – Brewery Creek

Heinz questioned the oversight work saying he was surprised that the proposal calls for only one site visit. How can all that work and oversight be done in one visit?

Searles explained that it is Fishbecks understanding that the administration funds pay for this and those funds are set below the standard 8% for this grant. So, to stick to that budget, they felt this was how to do that. She agrees, a best practice would be for them to be on site more than once. To work within this budget, it will be more administrative. Searles concluded by saying that additional services outside of this budget would have to be approved by the LBA.

Galla questioned if the developer would be submitting the invoices to the LBA who would then draw the funds from the state to pay them? Searles said the Blight Elimination Grant is set up as a reimbursement grant. The LBA would pay the invoices and then submit them to the State Land Bank for reimbursement.

Allgaier asked for clarification on whether the grant will only fund one site visit. Galla said they requested more money for this project, but this is what the state approved. There were activities that they would not approve.

Allen questioned if they could engage with the township for some oversight since they own the property? Gallagher said they have Wade Trim facilitating their engineering portion of it, so it would be redundant to have them oversee their own work.

Gallagher continued, saying that it was his understanding that the bids came back exceedingly high, he is not sure if they will move forward. Galla stated that they are running out of time. Gallagher explained the because of the backlog at the state, the state is requesting submission by September 27, 2023, for round one, and they won't be paid until potentially December 2023. He has reached out to the state regarding an extension and they have stated that they are willing to discuss it. However, in light of the timing, he doesn't know if the township would be able to turn it around fast enough before winter hits.

Gallagher said he recommends that they proceed with the Fishbeck proposal as presented, asking Fishbeck that if a situation arises that requires more time and services, could they go on retainer and work off a fee schedule, and could this be presented to the LBA. Searles wanted to know if Gallagher was looking for a formal proposal to address this. Gallagher said no, but is there a standard retainer schedule that Fishbeck uses for contingencies or overages? Searles said that before incurring additional costs, Fishbeck would reach out to the LBA to reach a mutual agreement and understanding. Searles clarified that oversight services are not required for demolition practices for this grant, but many in the industry feel it is a best practice to have some oversight. Typically for these services they are not 100% on site all of the time.

Galla questioned what would happen if the township does not proceed with this and Fishbeck has already spent time on it? Perhaps Fishbeck could address that in whatever agreement they have. Members agreed. Searles said if the township is handling demolition specifications the bidding process, and selection, she doesn't anticipate them being involved until that process is complete. In that case, Fishbeck would not be incurring any costs before the township gets going.

Heinz referenced the scope of services in the proposal and questioned if Fishbeck was saying they are more administrative in this process and they expect Leelanau County to be more hands on, making sure all of the required things are being done. Searles clarified that Fishbeck was talking about releasing the specification and coordination of things needed would be handled by the county. After that process has been handled, Fishbeck would step in to handle any further steps. Fishbeck is not doing the demolition, they are doing the administration tasks. Galla mentioned having the county attorney review the proposal. Gallagher said he didn't think it was necessary because it was a quid pro quo contract.

Motion by Isphording, seconded by Allgaier, to accept the proposal for blight elimination demolition oversight, from Fishbeck, subject to clarification on questions raised today, prior to the project beginning. Motion carried 7-0.

Any other business

Allen mentioned prior discussions with the County Board and the Leelanau County Economic Development Corporation (EDC) letter of support that was submitted on behalf of the LBA. Allen said the board put a pause on that so more info could be obtained. Galla said she spoke with Jim Tischler, from the State Land Bank Authority to understand the duties and roles of an EDC, LBA and BRA. He and Galla will be meeting in October to discuss. Allgaier said they really need to understand the difference.

CLAIMS & ACCOUNTS -None.

POST AUDIT- None.

CORRESPONDENCE/COMMUNICATION ITEMS - None.

PUBLIC COMMENT

Mawby said when he looked at the RFP on the tax parcels the LBA was selling, it indicated it was for purchasing all four parcels, which would eliminate the person who wanted to purchase the one parcel. He appreciates the work the LBA is doing so help with affordable housing in the county. His understanding is that the potential is there for the LBA to do similar or even the same scope of things that an EDC could do.

MEMBER COMMENTS

Heinz mentioned the Cherry Wood Ct. parcel that someone put a bid in on, but wanted a survey and then the deadline passed. Is this going back on the market? Gallagher said it was pulled for 30 days per the realtors' direction and will be put back on the market with updated information which will then put it at the top of the algorithm.

CHAIRPERSON COMMENTS - None.

ADJOURNMENT

Meeting adjourned at 9:45 a.m.