

The Leelanau County Land Bank Authority (LC-LBA) held a meeting on Tuesday, May 19, 2020 the Leelanau County Government Center.

Proceedings of the meeting are being recorded (audio and video) and are not the official record of the meeting. The formally approved/accepted written copy of the minutes will be the official record of the meeting.

CALL TO ORDER

Meeting was called to order by Chairman Gallagher at 9:00 am. The meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay MI and via ZOOM.

ROLL CALL

Members Present: Richard Isphording, Patricia Soutas-Little, Dan Heinz
(via ZOOM)

Members Present: John Gallagher, Trudy Galla, Chet Janik
(At Government Center)

Members Absent: Rick Foster

Staff Present: L. Evans, Executive Assistant
(At Government Center)

APPROVAL OF AGENDA

Gallagher requested adding #2 under New Business – late agenda item for Habitat for Humanity.

It was moved by Heinz, seconded by Soutas-Little, to approve the agenda as presented. Motion Carried 6-0.

APPROVAL OF MINUTES: February 18, 2020

It was moved by Soutas-Little, seconded by Heinz, to approve the minutes as presented. Motion Carried 6-0.

PUBLIC COMMENT - None

UNFINISHED BUSINESS

DISCUSSION/ ACTION ITEMS

Homestretch extension request – Jonathon Stimson

Gallagher asked if all members had time to review the request. Soutas-Little asked what else Homestretch needed do that required a 2-month extension. There are no particulars as to what he did before and what he has to do now. Gallagher replied that because of the shutdown, Stimson could not do some of the fieldwork he needed to in order to get the property surveyed. He didn't say if it was plan review, or permits. He wasn't specific.

Heinz asked about the sketch that was included. Last time we talked and approved this deal, he said he was hoping to get 2 maybe 3 duplexes on it. Now it looks like there are 10 units with a common septic system/drain field. Is this going to have to go as a condominium site plan with a drain field? Gallagher replied, yes Part 41 and it would have to be approved by Suttons Bay township. Heinz said because it is multiple dwellings it probably has to be rezoned. Gallagher said that was his understanding. That's why he has noted optional duplex units. It looks like 7-10 are the primary ones. With approval from the township, there would be Units 1-6. Gallagher saw it as positive that he is being this ambitious. Heinz agreed and said it would be more economical feasible if they could get more than 6 units on it. Gallagher said traditionally they have retained the management of their sites so if they were a condo association, Homestretch has the resources to maintain the day to day and month to month management duties. This would not be turned over to private sector. That's the precedence that Gallagher has seen in the past. Heinz said the county has about \$5,000 into this so if there are more than 2 duplex you could get this back quicker

with more tax revenue. Gallagher agreed.

Gallagher said Stimson was asking for approval that due diligence be extended by 2 months to the end of December 2020, due to Covid complications. Gallagher said he had no issue giving the extension. As we all know, Covid has impacted our day to day life and with construction shut down the first 2 months of almost making this purchase agreement, he assumes that other facets of that have also been impacted. Additionally with the state working remotely, he knows that working with the state has been slower and difficult because most of their staff are working from home so if Stimson is looking for MSHDA funding or other funding sources at the federal level, just his due diligence could have been delayed because of stay at home orders.

Motion by Heinz, seconded by Janik, to accept the 2-month extension request.

Galla asked if there were any market rate units on this site? His letter mentions 8 units and the drawing is for 10. Is that for market rates and the other are for affordable units? Gallagher did not know. Stimson wanted to pursue what zoning would allow and Gallagher said this indicates more units. Gallagher could follow up and see if there is an update.

Motion carried 6-0.

Madison Ave. – Habitat for Humanity Discussion

Gallagher said he tried to send everyone a letter this morning from the Habitat Finance Committee. With new members on the Authority, he would like to address the issue at hand. The Land Bank Authority and Habitat for Humanity entered into a purchase and development agreement for property located in Suttons Bay at 112 W. Madison Ave. The property was acquired through tax foreclosure. Property itself needed demolition. We sold it to Habitat for \$5,155.41. However, in their pursuit to develop the property for affordable housing, they were turned down by the Village of Suttons Bay for a variance. They have been holding the property for over a year now. At this point, they are selling the property for the assessed value of \$36,000. Gallagher said his concern was we discussed this as a board in the past but have not taken action of giving a release to Habitat. Gallagher read #4 of our agreement, Failure to Complete Construction. He wanted to bring this back to the board. Habitat has presented a letter from their finance committee along with a spreadsheet for expenses incurred on the property. Gallagher read the letter. The letter was sent last night from Wendy Irvine.

Soutas-Little said it would be a shame to lose affordable housing, particularly in that area. How much do they have into this? She could appreciate them wanting to put the extra dollars into the Maple City project. But to sell that property for \$36,000 - if we really want to capitalize on funding – do we know the value of that property? Has it been appraised in terms of what the value actually is? And if we are going to move in that direction and put proceeds to Maple City, do we have opportunity to put in a whole lot more. This is complex.

Gallagher said it was complex. Their intent was to build a market rate home. Unfortunately, due to Covid restrictions this year and funding resources available to Habitat, it has been expressed that their board has moved to sell the property and Gallagher requested this letter. All proceeds are to be allocated to our next project. We won't have any zoning issues (Maple City). It is already zoned for the intended purposes. As far as appraisal and fair market value, it is subjective. They have taken down the garage. This building was in 3 sections. There was the garage that was added on, a lean-to on the north end attached to the garage, and then the main structure. It was all one contiguous building and 3 separate constructions. They (Habitat) made the assessment it would not be cost effective to bring that property up to code. It has a Michigan basement, and construction faults with the property as far as the foundation, the roof, the windows, the floor transition between old and new construction. For Habitat to be able to provide a maintenance free house for workforce housing or affordable buying, they could not allocate the resources to make it affordable. As we know, demolition is a costly expense and doesn't matter if it is blighted or not. We incurred significant costs on Mill St property (Maple City). Gallagher asked Galla about demolition costs for Mill St and she replied it was over \$50,000. Gallagher thought a good amount of that was to deal with asbestos.

Gallagher continued, saying the Land Bank purchased it for \$5,155.41. Costs incurred: Suttons Bay Village for \$500, DTE disconnects - \$720. Williams Bay - \$117.50. Leelanau County Construction - \$100, Village of Suttons Bay - \$29, Design - \$5,182.70, Kal Excavating - \$4,450, David Hanawalt Consultant - \$500, Project Manager -

\$226.91 for a total of \$16,981.52.

Soutas-Little asked if the project manager was outside Habitat for Humanity. Janik said he is a local consultant. Galla asked if this property was already listed with a realtor. Gallagher replied, yes. Galla said the reason she brought it up is because in the agreement we have the opportunity to purchase the property back. Was there some misunderstanding and it got listed for sale before we had the opportunity to say we want it back? Gallagher replied that is why he is bringing it back to the Authority. He found out last week that there was intent to sale and it already had been listed. We have not as a body, to his knowledge, made that exception. So, he needs direction. Also, he wants to update the board on what has been going on. In the last 2 months there has been radio silence between the two organizations. They have moved from their site and working from home, in term having to work with their board.

Galla said she understands that but it doesn't take much to make a phone call and say this is not going to work for us. There are clauses in the agreement and they could have said - we want to sell the property do you want to purchase it back? We have opportunity to purchase it back and recover cost and put it to its initial intent. Or let it go and get back whatever we are going to get back with the 5/50 rule. Galla said we sold this property to them as a non-profit so there are no taxes on it. Gallagher agreed. Galla then asked if the 5/50 rule kicked in when the property was sold. Gallagher said, no. Galla commented that when we sell a property, we get 50% of the taxes for 5 years. Gallagher replied there was nothing to collect. Galla stated her question was on when the 5 years started. Did we lose a year already because of this sale? Gallagher suggested asking Hawkins and Galla replied he was probably on the line if we wanted to ask questions.

Heinz left meeting briefly at 9:30 am (technical issue).

Janik asked how much time we had in the agreement to notify them. Gallagher said 30 days. Janik asked when that starts. Gallagher said he was made aware of the situation on Friday.

Janik asked if Gallagher had ever been contacted about this by Habitat. Gallagher said it was presented to this body in discussion. As far as future options for the site, the last time we did discuss it, our understanding was they were going to do a market rate house. And that was acceptable to this board, simply because of the zoning restrictions.

Soutas-Little said Galla's point was well made - a phone call could have been made to us. How is this worded in the contract? Gallagher read from the agreement. Basically, we can terminate the contract unless the developer cures the default, within 30 days.

Soutas-Little said placing this for sale without notification to us is a violation of the agreement. Can we advise them we have an interest in taking the property back? What would that take and what are the demolition costs? There are a lot of unknowns here. What would be the property value that we would have in that land. We know we have the cost of reimbursing them or perhaps negotiating that. Or, we can look at what Galla laid out, too. We can explore what would be the value of the property, how much to actually have it removed, and then what would be the value of the property. She hated to see the property go for just \$36,000.

Gallagher said from a financial perspective and also amicable working relationship with Habitat as we move forward, we have to take into account the cost they incurred on this property, albeit the failure allows us to purchase the property back for the price paid. He wanted to make sure we have a long standing relationship with them and we continue to move forward. Soutas-Little replied she was not suggesting we don't treat them fairly.

Hawkins (on phone call) mentioned the 5/50 rule and said basically you have a 5-year exemption which starts in the assessment year following the year the property is conveyed by the Land Bank. Gallagher said it confirms Galla's assumption we have already lost a year or more since we transferred it. Hawkins said from the brownfield perspective, this is different from the Mill St project in Maple City. The building and structure are still on this site. You could get it back into the Land Bank and it would be considered blighted again and it would qualify for a brownfield plan, or you could get the municipality to declare it blighted, followed by a brownfield plan. You would do that prior to the taxable value increasing. If it is ultimately purchased by private entity, that's going to uncap and you will lose tax increment to repay yourself for anything you may want to try and recoup.

Gallagher said Hawkins has been through the property for Phase I and asked about an estimate for demolition. Hawkins mentioned maybe \$18,000-\$22,000. He would have to go back and look at the asbestos survey on that. He didn't think there was much asbestos.

Galla said she wanted to suggest we follow our agreement and perhaps even check with our attorney if we need to but to get that 30 day notice out to Habitat for Humanity and then use that time to explore our options. Perhaps even ask Hawkins to put together some costs and how we might be able to recoup those, through a brownfield plan or the 5/50 rule.

Janik agreed. We just got notified of this. We have had no contact with them. They have a real estate agent. In theory someone could make an offer this week. Notify them in writing we want to explore our options, remind them of our 30 day right, we could even have a special meeting and have them give their version of what is going on. We need to exercise our right, in writing.

Motion by Janik, seconded by Soutas-Little to authorize Gallagher to officially notify H4H we are exercising the terms of the Agreement under the 30-day notice.

Heinz said you are referring to the purchase & development agreement. Did we enter into this agreement – it is not even dated. Gallagher replied it was a draft copy he had on his computer. We do have an executed agreement on file. Heinz asked about the potential funds on this deal that could be applied to the Maple City deal (the Flaska property). Gallagher replied we did a different deal on Flaska property. We entered into it as partners. Transfer of ownership is parcel by parcel and the 5-year time clock has not started on that one yet. We release our ownership once property is transferred to a homeowner.

Isphording felt we need to revisit this and see where the 30 days ends up. Janik recommended if the motion passes that Gallagher call Habitat for Humanity today.

Gallagher said he was very aware and conscious of the cost incurred by Habitat and therefore would be in support of further discussions and explorations with the consideration of the cost incurred by Habitat in the amount of that \$16,000 plus. Further, if we invest an additional \$20,000 for demolition, we have a lot, basically \$37,000 invested. Is it this Board's intent to try and build an affordable house there or a fair market value house? Janik replied we need to do our research first. Our next meeting is June 16. If this motion passes, invite them to June 16 meeting. We are within our 30 days. We need to look at our options and make a decision after getting all the information. They need to know they can't sell the house before we meet on this.

Gallagher said if a non-profit housing developer cannot feasibly build an affordable home on that property, what makes us think we can. And how much money and time are we going to tie up into this and do a fair market value home? Where is the profit going to be coming from? If we have \$17,000 in it and assessed value is \$36,000 right now the difference is \$20,000 applied to the Maple City project. If we end up with a property clean and clear and buildable but we have \$37,000 into it, are we going to have the same margin as selling it as a lot or are we going to be the developer? These are things we need to think about. This is a vetted organization that has looked at all the options and decided to move forward.

Soutas-Little thought Gallagher was raising good points. They are an organization with a particular perspective. They are operating their company's assets. It is important we do our due diligence and see what our options are, taking into consideration the kind of questions you are raising. It would be unfortunate if we gave up a valuable piece of property which we could utilize to gain money to put into other affordable housing, without first exploring what is the best option for the Land Bank to benefit the community.

Galla commented that we don't have \$37,000 into this yet. She realizes Habitat does, but according to our agreement we can purchase it back for what we sold to them. That may not be what we end up doing. She realizes they have incurred some expenses, however if you are selling something say on a land contract and an individual defaults after putting money into a property under a land contract – they don't get that back. That's just another way to look at it. We don't have a lot of opportunities where we can acquire a piece of property and put it into

some type of affordable housing. They were trying to put 2 units on this site. It could have been 1 unit; zoning was appropriate for that. According to their dollar figures, they didn't go forward with the 2 units. Galla was going to support the motion because she wanted the Authority to look at all the options, and have more information before a decision is made.

Gallagher said he was just stressing the importance of keeping this working relationship and not penalize them for doing their due diligence and trying to use property to best of their abilities. He could see more projects in the future where we can collaborate and didn't want to jeopardize that.

Galla asked if we entered into agreement with homestretch already on Marek property? Gallagher said technically we have. They requested this due diligence period before they entered into an agreement. Galla commented said they will probably incur cost for their due diligence. So, are we setting any precedent by taking a property back and making sure the other party is made whole from their due diligence and expenses? That is something we should think about. Gallagher said these are not for profit agencies. Their scope being to try and minimize cost. We have the ability, a limited ability, to try and recoup some of these costs. Galla understood but said on the other hand we could have done that and incurred those costs ourselves and then sold it. Gallagher agreed. Galla continued saying that's not what we did. According to our past discussion we did not want to get into that. We wanted to get the property out of our hands and have someone else handle it and now we are back to "are we going to make them whole?"

Janik said this is why we need more time. It would have been good for Habitat to join us on the phone today. Janik called the question.

Motion carried 6-0.

Gallagher will contact the Director after this meeting, and also call Tim Perrone (attorney) for proper procedure and forward this to next meeting for further discussion.

CLAIMS & ACCOUNTS

Motion by Heinz, seconded by Soutas-Little to approve Claims & Accounts in the amount of \$410.00. Carried 6-0.

POST AUDIT

Motion by Janik, seconded by Galla, to approve Post Audit in the amount of \$61,185.00. Carried 6-0.

CORRESPONDENCE / COMMUNICATION ITEMS

Heinz asked about the \$285 bill from Envirollogic. Gallagher explained. Heinz asked if this is the property that we have a loss on and Gallagher replied, yes. But we are not going to be able to recoup our costs with a brownfield plan.

MEMBER COMMENTS

Soutas-Little said this experience brings to mind something we have discussed before and she hoped we could find a way to move forward and that is to work with for profit companies. We have been very fortunate to work with nonprofits like Habitat for Humanity and Homestretch but this is an example of one where there are ways we can bring for profit companies into the mix and explore that. Perhaps we could devote some time to that discussion in the future.

Gallagher commented on the presentation done by Jim Tischler and Jeff Hawkins. That was instrumental in showing how to make all the resources available. Things have been at a standstill for the last 6 months – one from the winter, and two from Covid-19. Those resources from land bank and brownfield partnerships are available and hopefully we see uptick soon. However, he will not be presenting to this board any foreclosures this year. He is giving people until next year to pay taxes. There will be no involuntary transfers from foreclosures to the Land Bank Authority. If we pursue anything, it will be through an active acquisition.

PUBLIC COMMENT

Wendy Irvine, Habitat for Humanity, said she had been attempting to get into the meeting every way she could. On behalf of their board, they value the relationship with the Land Bank and know you know that. Recollection may be dated but had a conversation on March 3 and her board directed her to reach out to discuss opportunities and options. From that discussion, the deed restrictions are indicated in the letter and they were hoping that would cure all invested interests and then use those funds (inaudible). She would love to answer questions or have a discussion.

Gallagher mentioned the motion that was passed and that Habitat would be invited to the next meeting and he would be calling Irvine directly after this meeting to summarize and follow up from there.

Irvine said in good faith they tried to reach out. She hoped they could work together for both organizations so this could be worked out. We had prior conversation; board was informed of the direction to take. In good faith, they appreciate and value this relationship and want to continue the conversation and make it work for everyone. They were doing what they thought was approved. She wanted to be sure we were aware of that and they want to continue the conversation.

CHAIRPERSON COMMENTS

Gallagher will follow up with everything and provide the 30-day letter to Habitat for Humanity.

ADJOURN

It was moved by Janik, seconded by Soutas-Little to adjourn. Meeting adjourned at 10:01 am.