Meeting of the Housing and Redevelopment Authority
Held at the Elk River City Hall
Tuesday, August 20, 2024

Members Present:	Councilmember Jennifer Wagner, Commissioner Dennis Chuba, Commissioner Nate Ovall, Commissioner Lynn Caswell
Members Absent:	None
Staff Present:	Economic Development Director Brent O'Neil, Economic Development Specialist Joshua Mollan, and Recording Secretary Jennifer Green

1. CALL MEETING TO ORDER

1.1 Special HRA Meeting Notice

Pursuant to due call and notice thereof, the meeting was called to order at 2:30 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. AMEND MAIN AND GATES PROPERTY PURCHASE AGREEMENT

3.1 Consider Amendment Four to Main and Gates Purchase Agreement

Mr. O'Neil presented the staff report. Mr. Touchette arrived at 2:32 p.m.

The HRA reviewed each request to amend the purchase agreement as outlined in the staff report. Regarding the Onsanger property at 425 3rd St. NW, which has not been acquired as part of this project, Mr. O'Neil explained the encumbrance of the water pipe which staff believes runs underneath the adjacent corner parcel from Gates. Mr. Touchette has asked the city to warranty that pipe if at a future time, he develops the parcel, that he is not responsible for the cost of the pipe.

Secondly, Mr. Touchette is requesting that if there were any utilities (water and sewer) left in the ground during the demolition phase that he not be responsible for them. Mr. O'Neil explained the difficulty in confirming these types of details with records. He states that they strongly believe they have been disconnected and removed, but there was a small chance they have not, and Mr. Touchette is requesting this is also warrantied. Mr. O'Neil stated both issues could cost the HRA upwards of $25,000.

Commissioner Caswell asked whether there was water service available along 3rd Street. Mr. O'Neil confirmed there was.

Thirdly, the 90-day cure period, which is tied to the statutory reversion clause and the language outlined in the draft amendment included in the staff report, is supported by the city attorney. Lastly, the buyer is requesting the buyer's right to extend due diligence through the building permit application and approval process.

Mr. O'Neil added that initially a Development Agreement was considered to be a requirement for this project but has since concluded that it won't be necessary. This requirement can be removed from the agreement or a statement of affirmation can be agreed to that either both parties decline it or feel this provision has been met.

Mr. O'Neil noted the quote that Mr. Touchette obtained for restoration of non-compacted soils should be discussed.

Ron Touchette, Rock Solid Companies, stated it was his understanding, based upon documents obtained from the city and his own soil samples, that where the four basements were excavated was where the fill was needed. He stated he felt when the basements were removed, it was cheaper to fill in with construction debris and leave the sites uncompacted.

Chair Chuba asked if in the original agreement with Veit, who was the contractor who removed these buildings, was it noted how the sites would be left.

Mr. O'Neil stated in a follow-up with Veit, the scope of work did not call for compacting the soils.

Chair Chuba stated a project called for underground parking it wouldn't be an issue, but with the proposed slab on grade, it is problematic.

Mr. Touchette explained the building was proposed to be on the corner but was moved due to project timelines and other circumstances.

Commissioner Beaudry asked Mr. Touchette if these concerns could have been brought up sooner.

Mr. Touchette stated he didn't have the soil report. He had requested all the reports and documents, but they weren't all available and felt it was because of a change in staff.

Commissioner Ovall stated the HRA now knows it's a learning curve.

Commissioner Caswell asked when the report was sent to Mr. Touchette. Mr. O'Neil stated he felt it was last summer prior to the first amendment during due diligence.

Mr. Touchette stated it wasn't a new issue as it was brought up when discovered.

The HRA discussed the previous soil borings.

Commissioner Wagner stated she could support the warranties in the amount of $25,000. She stated she came onto the HRA after this project had started. She felt the HRA has been willing to work with the seller and agreed it was a unique site but also had to look at it from the point of the taxpayers. She wondered if the seller and HRA could share in the cost of the soil repairs.

Mr. O'Neil asked if the soil repairs quote included all seven basements.

Mr. Touchette stated the quote is to correct the problems on the entire site and he can't make it work economically if they only build one building. He stated they are paying for a shovel-ready site that isn't shovel-ready.

Commissioner Wagner wondered about the meat market site.

Mr. O'Neil stated initially one proposal for the Main and Gates properties was for a building with underground parking. He stated when the meat market site was demolished, they discussed the same thing, thinking there was a very good chance the site would be dug up.

Commissioner Ovall stated he wasn't sure if the HRA was selling this as a shovel-ready site or rather a 'clean canvas.'

Commissioner Caswell asked if any other city staff were involved in this project.

Mr. O'Neil stated staff included the city engineer as well as utilities, Elk River Municipal Utilities, and a consultant who did the inspections. He stated they were who they were trying to get better records from the consultant. He stated he sent the soil report to Mr. Touchette in July 2022.

Mr. Touchette discussed the finances of his project and the hope of seeing the benefits of the recent highway projects.

Mr. O'Neil stated per Mr. Touchette's proposal that the quality and scope of this project will be very nice for this site, and price per square foot will be above the norm of what would normally be placed here. He stated he has thought of different scenarios to address these requests.

Commissioner Caswell stated he felt a conversation between the city attorney and the company that did the inspection.

Mr. O'Neil stated the soil issue was more based upon the scope of the project and how staff addressed it at the time. He does recall a conversation on the Elk River Meats property about how to fill in the excavated portion.

Commissioner Caswell asked if all the sites had full basements.

Mr. Touchette stated the 414 address had a half height basement. The rest were full basements.

Commissioner Ovall stated he would have to look back at meeting minutes, but he had a hard time believing Veit wouldn't have brought up compaction options. But because they didn't know what would building be proposed, he stated they probably went with a blank slate, free of debris.

Chair Chuba recalled the vision for this corner was substantial and included apartments, which would have necessitated an excavation, but for whatever reason based upon the economy or the pandemic, that has changed. If the HRA denies the additional costs to mitigate this, he wasn't sure if Mr. Touchette would walk away from this project, but felt the six years these properties have been evolving, it would be nice to get it wrapped up. He wondered if there could be some compromise.

Mr. Touchette proposed the HRA agree to the seller credit of $53,939.00, and he would worry about the utility connections. He stated he would also deal with the water pipe at 425 3rd Street and accept it with the encumbrance.

The HRA discussed where the utilities were shut off from the curb stop, the city felt highly confident event without evidence, that they were removed from the properties; but they could have been abandoned under the road. Mr. O'Neil stated that per utility standards, water would be disconnected at the main and sewer at the property line.

Commissioner Caswell wondered if the HRA would be willing to agree to a sum up to a certain dollar amount.

Commissioner Wagner asked Mr. Touchette if he'd ever bought a property where he hasn't had to do some remediation.

Mr. Touchette discussed his experience with a building in Maplewood and the proposed language in the draft amendment is directly from that project.

Commissioner Wagner stated she would be willing to share in the costs of remediation but not fully at the expense of the taxpayers. She appreciated what Mr. Touchette was negotiating and didn't feel he would have any trouble filling the second building when built.

Commissioner Ovall agreed with Commissioner Wagner's comments and while it was an inherent nature of these projects, he also had sympathy for the current dynamics. He stated he wouldn't blame Mr. Touchette if the economics didn't work out, but the city needs to consider the constituents with reasonable accomodation.

Mr. O'Neil provided some suggestions for negotiating a resolution and the HRA discussed the language.

Commissioner Ovall suggested a $40,000 seller credit in exchange for removing the representations and warranties from Amendment 4.

Commissioner Wagner agreed with Commissioner Ovall's suggestions, noting it makes sense to do a credit..

Mr. Touchette suggested a seller credit of $46,000.00.

Commissioner Ovall noted $45,000 would be 10% of the purchase price.

Moved by Commissioner Ovall and seconded by Commissioner Wagner to approve the following proposed amendments to the purchase agreement for the sale of the Main and Gates Property:
-A seller credit of $45,000.00 to repair and restore non-compacted soils and buried debris associated with demolition and fill of former structures on the properties.
-The buyer is aware of the existing water service at 425 3rd St. NW and accepts the encumbrance.
Motion carried 4-0.

Mr. O'Neil stated with the HRA's motion that staff would work with Mr. Touchette to draft an updated Amendment 4 document with the agreed upon terms, including the known water utility encumbrance on the property and potential remaining other utilities being the responsibility of the buyer, for the himself, Chair Chuba, and Mr. Touchette to execute.

4. MOTION TO ADJOURN MEETING

Moved by Commissioner Ovall and seconded by Commissioner Caswell to adjourn the meeting. Motion carried 4-0.

The meeting adjourned at 3:19 p.m.

Minutes prepared by Jennifer Green.

Denny Chuba, Chair

Tina Allard, City Clerk