

MINUTES OF THE STARK COUNTY LAND REUTILIZATION CORPORATION
May 18, 2015

The Stark County Land Reutilization Corporation met for their Regular Meeting on Monday, May 18, 2015, 9:00 a.m. in the Stark County Regional Planning Commission Conference Room.

Board Members

Alex Zumbar
Janet Creighton
Bill Smith

Lem Green
Tom Bernabei

RPC Staff

Bob Nau
Sarah Peters
Jill Gerber
Beth Pearson
Lynn Carlone
Brenda Sarsany
Dave Thorley

Others

Jerry Yost
Maureen Austin
Deana Stafford
Jaime Allbritain
Jim Wallace
Nancy Molnar
John Anthony

- 1) **CALL TO ORDER BY SCLRC CHAIRMAN - Alex Zumbar**
- 2) **ROLL CALL**

Board Members Present:

Alex Zumbar, Stark County Treasurer/Chairman
Tom Bernabei, Stark County Commissioner
Janet Creighton, Stark County Commissioner
Lem Green, Municipal Representative
Bill Smith, Township Representative

- 3) **MINUTES OF THE APRIL 20, 2015 MEETING**

Bernabei moved, Green seconded, and the motion carried to approve the minutes of April 20, 2015.

- 4) **PUBLIC SPEAKS**

No Public Speaks

- 5) **TREASURER REPORT - Jim Wallace**

Wallace stated the bank reconciliation statement for the month of April ended with a checking account balance of \$584,509.79. Revenues for the month were \$68,625.20 and expenses were \$119,701.48. Regarding the Star Plus funds, there was a balance for the end of April of \$1,001,674. Bernabei moved, Smith seconded, and the motion carried to accept the Treasurer's report.

6) **FISCAL REPORT - Beth Pearson**

- a. Approval of Post Payment of Invoice
 - 1. Press News - Side lot publications - \$2,494.05

Green moved, Creighton seconded, and the motion carried to approve the above-noted invoice.

- b. The Financial Statement for year ending 12/31/14 was distributed. This report will be filed with the State Auditor.

7) **NEIGHBORHOOD INITIATIVE PROGRAM (NIP) REPORT – Lynn Carlone**

Carlone presented the Neighborhood Initiative Program (NIP) Update - City of Canton:

- * **153 - Total number of acquired properties to date**
- * **176 - Total Number of Properties Identified on a Current Active List for Acquisition**
 - **81 - Number of Properties the Prosecutor’s Office is currently pursuing for Board of Revision Foreclosure**
 - 58 10-Day Demand letter(s) sent
 - 0 PJR ordered; waiting to be received
 - 0 PJR ordered and received; waiting for complaint to be filed
 - 0 Complaint filed; waiting for hearing date
 - 0 Regular foreclosure docket
 - 4 Hearings scheduled for 4/16/15 Est. Redemption Date 5/14/15
 - 2 Hearings scheduled for 5/14/15 Est. Redemption Date 6/12/15
 - 6 Hearings scheduled for 6/11/15 Est. Redemption Date 7/10/15
 - 8 Hearings scheduled for 6/25/15 Est. Redemption Date 7/24/15
 - 3 Waiting to be reviewed/holding for payment
 - **2 - Auditor acquisitions pending**
 - **41 - Pending BOR foreclosure procedures to commence**
 - **52 - Number of anticipated properties to be acquired through direct purchase or deed in lieu of foreclosure**
- * **129 - Additional properties on the “Waiting to be Active” list**

Further Discussion on NIP

Attorney Yost stated the demand letters have been done for some of the properties that have just been added over the last month, but they have held onto them. The reason they haven’t been submitted for PJRs and initiated any complaints on them is because they have some concerns about the City’s ability to follow through. They started turning properties over as early as October, and we’ve gained ownership of some of these. The first three properties came down within the last few weeks, so they’re just beginning the demolition process, and as of now, they still haven’t submitted anything for reimbursement.

The Prosecutor's office and the Treasurer's office along with RPC are wondering how quickly the 170 properties will come down, and whether the deadlines will be met and be reimbursed by the June 2016 deadline. Yost was concerned right now about continuing to pile property upon property of ownership without the ability to tear them down and get reimbursed, and who is going to get left holding the bag on the acquisition cost, and he didn't want it to be the Land Bank. The City has one year from now to get these properties leveled, graded, greened and ready to be reimbursed in whole.

Green asked if the experience in the first demolition program was relevant to this. Carlone stated they are not utilizing the same offices. Yost stated they're not utilizing the same system either as far as they could tell. Carlone stated that Planning and Development is doing this program, but the other program was handled under the City's Building Department. RPC's office did send a fairly straight forward email to them last week, pointing out the ownership and taking of additional properties. Currently there are 176 properties on the list, which was a concern as we have no reimbursements submitted yet. We asked for a response back to various questions but have not heard back from them yet.

Yost stated the cost estimate from the State was about \$25,000 per property with our mandate being roughly 170 total properties with an approximate \$4.2 million ceiling. We hope to spend the whole \$4.2 million and not leave money on the table. Instead of \$25,000 per property as originally estimated by the State, OHFA is seeing an average of about \$12,000 to \$15,000 per property from other communities and other Land Bank's as they are getting properties down and getting their reimbursement. Canton has told us their estimates are somewhere around \$18,000 per property. Calculating that out, they're looking at the ability to demolish somewhere around 230-250 properties instead of the 170 that could be done for \$4.2 million. The problem is they keep looking at acquisition, and they're up to 350 properties, but even at low cost, there isn't going to be enough money to tear them all down. They need to switch gears, but they haven't done it. Yost didn't even know what their hard numbers are going to be, because they haven't submitted on the three properties they've taken down. If their hard numbers are more than \$15,000 or \$18,000, we've got to go to the back end and see how many properties we really want. We will have ownership of 185 properties by the end of August, so we're going to well exceed the 170 without a problem. The question is when the acquiring of properties ends. We've taken the position in the Prosecutor's office to sit back and see what they do with getting their packets in for reimbursement.

Yost stated we've had problems with the City approving purchase orders to cover the PJRs and the Press News. They don't want the County, the Land Bank, and our other programs to start to experience problems with title companies that don't want to do our work and Press News not publishing our announcements because the bills aren't getting paid, because Canton didn't have enough PO money approved.

Green stated he was starting to worry that they would end up with some properties with buildings on them because Canton isn't getting them taken down, and he asked if the Land Bank was at risk for that. Yost stated that was exactly their concern. The plan from RPC is if they don't get them torn down, Canton will get title to them with buildings on them. Green asked if the Land Bank could legally do that. Thorley stated it's in the original contract, and the City has been told numerous times that if they can't take them down, they are going to be titled back to them. Green thought that the Land Bank had to have title. Yost stated the Land Bank will own properties with buildings on them, and we will then transfer those titles out. Zumber stated the City won't get reimbursed for them because they failed to meet the deadline and/or they failed to get them down. Carlone stated that if the demolitions are not done by June 30th of next year, whatever stage they are at, if it's not 100% done, those properties will be transferred back to the City. That has been clearly explained verbally and in writing numerous times.

Yost stated the other problem is that the City allocated \$1 million of up front money, and their plan was to use revolving type funds when the reimbursement came in. They burnt through the first million and never got a single reimbursement. They've allocated the second million now and are burning through that also. His fear is that city council is going to say enough, we didn't buy into spending \$4 million; we simply allotted money until we got it back, and we're not seeing it come back. He saw a

problem with a stopping of cash flow at some point. Zumber stated they have to pay those contractors to demolish the properties, and he didn't know what they have put back in terms of reserves to complete that work and pay for it. Yost stated the potential reimbursements he saw coming are two or three that they've said are down and are working on the packets. At \$12,000-\$13,000 a piece, even \$18,000 a piece, those three properties are not going to replenish that fund very quickly.

Green stated they were impressed how they did on the MOF in Columbus and asked if they are going to be pretty quick to reimburse once they get the reimbursement package on this. Carlone stated they don't know, but once they submit the reimbursements, OHFA has to give approval on it, and at that point they develop their mortgage and send it back. This is the mortgage that they are placing on the property for the entire cost for the three years. We then have to go through, process that, then send it back, and after that time they will then reimburse. OHFA has actually asked for reimbursements to only be submitted once a month, but she thought they would be willing to take them more often. It's not as simple as the MOF because there's a lot of ownership involved, where MOF was directly just demolition. Yost stated the problem is that we don't have a test case to even judge that on, because the City of Canton hasn't submitted the paperwork on the first one yet. Once the RPC has the opportunity to go through that with them, and it gets sent down, we'll have some more solid answers, but right now we are just waiting.

Zumber stated the other component with this type of reimbursement is that you only get one submission which means you can't go back and resubmit. Bernabei asked Carlone to forward to him the email she sent to Canton. Zumber stated that he had all the emails and would print them out and give them to him.

Yost stated they had a meeting with the City to discuss these issues with them. Creighton asked who came to the meeting from the City. Zumber stated Lisa Miller, Jeff Harris, Tim Cugini, Nick Brumbaugh, Tom Burns, Mary Jackson, and Victoria Gill. Yost stated they were concerned about liability with the standing structures that were open, because many of them weren't even secured and boarded up. When they brought that to the City's attention, they said it was hard to keep up with it. Yost understood that it was hard, but it's because they didn't tear the first group down. It shouldn't have been more than 20-30 properties in holding at any point, but we now have 153 properties, and it is a logistic nightmare keeping the boards on the doors and windows and keeping them secured, because as fast as they are doing that, they are being torn off, but the City created that nightmare by not tearing them down.

Carlone stated they have been asking the City since the Land Bank took ownership in October if they would be completing the demolitions. She didn't get a straight answer, but thought part of it was because they didn't have the purchase orders in place for the demolitions and because they had money tied up in other purchase orders. Green asked if SIRAK that insures us is notified when we have properties. Carlone stated yes, they are notified. Yost stated that is another cost involved which adds to this. Green stated but we shouldn't care about that because it's just a \$300 annual fee. Yost stated no we do care, because the more properties we have, that's more money coming off of that allocated cost. Green stated he understood that, but it doesn't cost us anymore to ensure it for a year than it does for a month. Pearson stated we're running an average of \$145 a year, per property, but they don't appraise each one. When she spoke with SIRAK they said that it is a complicated formula and they couldn't even explain it, but it goes back to the date of when we first purchased the insurance, so for how many days were remaining in the year for that property, that is what they are charging us right now. We'll get another invoice after they have been on for a year, but they are running at about \$145 per residential property. There are a couple that are apartment buildings and that is \$290 each and the vacant lots are \$20 each. We have invoiced the City \$145 for each property that we have added, but we have not received any of those funds back yet. Green stated that is clearly a reimbursable fee. Yost stated but it is all up front money right now until they start their reimbursements. Carlone stated once the property is down, it drops to \$20 a year.

SIDE LOT PROGRAM REPORT – Sarah Peters**Sarah Peters presented the Side Lot Program Update:****Total Applications Submitted: 765**

Communities: Cities – 660: Canton: 543; Massillon: 61; Alliance: 56

Other Communities – 105

Bethlehem Twp – 5, Brewster – 2, Canton Twp – 18, East Canton – 5, East Sparta – 3, Hartville – 3, Jackson Twp – 2, Lake Twp – 1, Lawrence Twp – 1, Lexington Twp – 14, Minerva – 1, Nimishillen – 3, Osnaburg Twp – 4, Paris Twp – 3, Perry Twp – 6, Pike Twp – 1, Plain Twp – 22, Sugarcreek Twp – 4, Tuscarawas Twp – 1, Washington Twp – 3, and Waynesburg – 3.

- Total Number of Applications Under Preliminary Review: 12
- Total Number of Applications Denied: 280
- Number of Canceled Applications/Fee Refunded: 23
- Total Number Pending Approval by Community: 48
- **Total Number of Approved Applications: 402**
- Total Number of Approved Applications Pending Deposit Receipt / Request for Foreclosure / Completed Foreclosure Proceeding: 220
- Total Number Being Prepared for Transfer: 33
- **Total Number Transferred to Date: 149**

Vacant Lot Program Update:

Peters stated letters went out to applicants that were denied through the Side Lot program because the applicants were not contiguous to the property they requested. The required deposit is 10% of the auditor's assessed value or \$500, whichever is more, plus legal and administration costs, which are at \$1,100.

Total Applications Submitted: 12

- The SCRPC has received 12 Vacant Lot Applications for parcels located in the City of Canton. All applications are currently under preliminary review. Once these applications have been determined eligible, the SCRPC will request the City review the applications for approval/denial.

9) **NEW BUSINESS**

There was no new business.

10) **OLD BUSINESS**

a. Private Letter Ruling from IRS

Zumbar stated since the discussion surrounding the Private Letter Ruling from the IRS at the last Land Bank meeting, they had taken the wait and see approach with the other Land Banks also seeking a similar type of ruling. A number of county Land Banks were pooling together to pay a large fee that will be spread it out among the number of counties that would be participating to get this ruling. It was discussed at the County Treasurer's Association meeting last week where Robin Thomas explained that they had eight county Land Banks that were looking to partner together to share in the cost, but Stark County is not participating in that. The Board did not give them the green light to participate.

Zumbar asked if anyone had additional information on the 501(c)3. Green asked what motivates the Board to pursue that, because that is not for our benefit and it doesn't affect our tax exempt status, but only affects the deductibility of any donation. Zumbar stated we don't know in the future who is going to step forward and have a large tract of land that they would like to donate to the Land Bank, and if we are a 501(c)3 we would have a letter stating that the Land Bank is accepting this donation and it is for tax deductible purposes. Thorley stated it also affects our tax status because as a Land Bank, we could be obligated to pay taxes. It is potential income that would be taxable to us. Bernabei asked when the Land Bank filed its 501(c)3. Zumbar stated that when he filed the Land Bank's Articles of Incorporation with the State, he checked the box that we were a 501(c)3. Bernabei asked if there was an application asking for approval of our status with the federal government/IRS. Thorley stated there is an application, but it would only be affective from the date that we actually put it in the mail back to them. Bernabei asked why we have not filed one. Thorley stated there is a cost associated with that also, and it would be the same status whether we do the private letter ruling or we do the 501(c)3. Bernabei asked what the cost was associated with filing an application for the 501(c)3 status. Zumbar stated about \$200-250. Thorley stated it may be more than that, but it is less than the cost for the private letter ruling. Bernabei asked what the cost was for the private letter ruling. Pearson stated when she talked with Ms. Thomas on May 14th, she indicated that in addition to the \$3,700 that would be our responsibility, there would be an additional \$2,000, so it would be a total of about \$5,700. There is one small Land Bank that had previously indicated that they were on board, but may withdraw. At that point there were 17 of the 21 Land Banks participating, and that was on Friday. Bernabei asked if RPC could investigate for the Board and send him either an email or call him. Nau stated they would check this out and put numbers together for both.

b. Parcel #113245 - Main St., Alliance (Lighthouse property)

Thorley stated that Mr. Mazzola had indicated last month that they had demolished the Kroger Building (parcel #104961) for less than the contract amount and requested funds to demolish an additional property referenced as the Lighthouse (parcel #113245). RPC recommended to the Board that if they were going to approve that request, that it should be done by separate contract. An email was sent to Mr. Mazzola on April 23rd asking for documentation on the demolition of parcel #104961. Carlone stated that they have received partial documentation, but as May 6th, the Kroger Building was not completely down. One of RPC staff went to take pictures on April 30th, and at that time part of it was down, but there was still debris on the property. She was not aware that any bill has been submitted by the demolition contractor to the City of Alliance. The City is planning on submitting all documentation to us once completed, so we can wrap up that contract and begin on this new one.

Correspondence regarding 12777 Mogadore Ave.

Zumbar referenced a letter the Board received from Attorney John Juergensen regarding the 12777 Mogadore Ave. property. Thorley stated the discussion last month on this topic was that the BTAC had approved this property to complete Phase 1 and Phase 2 assessments. RPC will come back to the Board with the recommendation at that point whether or not the Board should proceed to acquire the property based on the ability to conduct remediation. Attorney Juergensen had made a public records request of all documents that the RPC and the Land Bank had regarding this property, and this letter is his response to that information. Right at this moment, the BTAC has taken no action on their behalf and no contract has been let with any company to actually proceed with that assessment. Bernabei referenced a sentence in the letter that stated, "We are content letting taxpayer dollars do the work for us before we redeem the property. This seems like a waste of your time and public funds. The simpler, more cost-effective solution is simply to let us on the property to conduct the necessary testing to determine the extent of the clean-up. Even if we do not redeem the property, the SCLRC can still use the information to clean up the property."

Thorley believed there needed to be further discussion between RPC and the BTAC as to whether they should go forward with that project. Green stated he was very much opposed to offering them the cooperation of doing their own evaluation or proposing a plan or anything that might result in their getting the property after the Land Bank has done the work. Nau stated the RPC has to decide as the administrator of this grant with the EPA whether they want to move forward with the Phase 2 in light of this recent correspondence. He didn't know the answer at this point, but probably some of the legal maneuvers will have to work themselves out. The grant has been authorized and the property has been approved, but we don't have a contract to do a Phase 2 yet. Green stated he wanted that decision to be made by this Board, not by RPC. Nau explained that this is not a Land Bank issue. The RPC has a grant with the US EPA to fund Phase 1 and Phase 2 assessments. The role of the Land Bank will be if the Board is interested in taking title to the property at some point, but the grant is through the RPC. Green wanted it clarified that there is no chance that the Land Bank money is going to be spent for the Phase 2, and the RPC has the jurisdiction to decide whether to spend their money in that respect. Nau stated, yes that is correct, it is RPC's decision whether to spend the grant money, but the decision would come to the Board on whether or not they want to accept title to the property. Zumbar added that the Land Bank would then remediate it.

Nau stated in prior discussions it was determined that if the value of the land exceeds the cost to remediate it, then it would make some sense for the Land Bank to acquire it, but if the cost to remediate it exceeds the land's value, then it won't make as much as sense, but that is strictly the Land Bank's decision. Zumbar stated the property has been foreclosed upon. It was set up for Sheriff's sale, but did not sell. It went to the Auditor's forfeited lands and that is presently where it sits today. Thorley stated that Attorney Juergensen filed in court asking for permission to enter onto the property for purposes of doing his own testing, but permission has been denied by Auditor Harold. He was in Columbus for another matter, and was in the office of the Attorney General and had a meeting with their council. They are going to file some sort of motions in opposition to Attorney Juergensen, so there is some legal maneuvering by Attorney Juergensen trying to get onto the property for purposes of conducting his own testing.

Yost stated that he talked with the Assistant Attorney General, and they are of the belief that he is not entitled to enter the premises because the property has been forfeited and his client lost all interest in the property. But there is a pending case, and they filed a motion, and Bishopsgate is a defendant that has been ordered to clean up the property. That is still a pending order out of that case, but now with the forfeiture, the Judge has to decide whether they are going to give permission. They do not have the right to be there any longer, unless they would redeem. They also filed a motion with the court, but they are challenging their redemption amount. They could walk in there now and pay that amount and the discussion is over because they will get the title back. The redemption amount is about \$40,000.

Green stated that the Land Bank should be interested in the property, because he has someone that is going to exploit the gas on it for more than it's worth, so if we could get title to it, why wouldn't we. Yost stated this case started back in 2008, and he's been under several orders. The case has gone inactive several times, and the EPA has been assessing damages daily on it. The Attorney General is aware of the interest of the Land Bank in this case, so they are going to oppose him going onto the property and conducting his test. He has not paid his taxes for five or six years, and if he doesn't have money to pay the taxes, he won't have the money to remediate it. He believed that was the approach.

Bernabei asked if there was any update on the matter discussed in executive discussion last session. Yost stated yes. Thorley asked to amend the agenda because he thought Attorney Anthony wanted that issue to be handled in executive session and is prepared to do that today. Creighton moved, Green seconded and the motion carried to amend the agenda to reflect the executive session for purposes of litigation, and that would include the Board, Bob Nau and Attorneys John Anthony, Jerry Yost and David Thorley. Roll Call: Tom Bernabei, Alex Zumbar, Lem Green, Janet Creighton and Bill Smith. It was 9:41 a.m.

Bernabei moved, Creighton seconded, and the motion carried to come out of executive session at 10:02 a.m. The Board proceeded in regular session.

Zumbar asked for a motion regarding the pending litigation matter that would authorize Attorney Anthony to settle the tax lien certificates of Aeon Financial aka TCF, not to exceed \$25,000. Green moved, Bernabei seconded, and the motion carried to extend that authorization to Attorney Anthony.

13) **NEXT MEETING - Monday, June 15, 2015 at 9:00 a.m.**

11) **ADJOURNMENT**

There being no more business, the meeting was adjourned.

Respectfully submitted,

Jill Gerber, RPC Office Manager