

CITY OF AVON
Minutes of January 26, 2011
Special City Council Meeting

Pursuant to due call and notice thereof, a Special City Council meeting was duly held at City Hall on January 19, 2011 at 6 p.m.

THE FOLLOWING MEMBERS WERE PRESENT:

John Grutsch—Mayor, Councilors: Jim Stang, Kurt Marthaler, Margie Evens, Hugh Knox.

Absent: Jodi Austing-Traut, City Clerk/Administrator.

Also present, City Attorney Mike Couri.

The purpose of the meeting was to discuss the potential purchase of the Avon Estates property and the potential purchase of the lien claim of Kramer, Lees DeLeo on the same property.

Attorney Couri reviewed the proposed purchase agreement, under which the City would receive a quit claim deed from the New Market Bank in exchange for \$100,000. The City would retain the New Market letter of credit in the amount of approximately \$70,000 and would be able to claim on that letter of credit later in 2011. The City would be purchasing all but three of the platted Avon Estates lots (somewhere around 90 lots), and the two unplatted larger parcels to the west, consisting of approximately 70 acres and 100 acres. The Bank would not be paying the taxes on the properties. Attorney Couri estimated the unpaid real estate taxes at approximately \$85,000, but noted that this is an estimate as the exact amount has not been calculated by the County yet. The Bank would also not be paying any of the special assessments. The City would receive a release of the bank's mortgage, a release of its existing judgment, a lis pendens release and a stipulation of dismissal of the bank's position in the KLD foreclosure litigation.

Attorney Couri explained that due to the large number of lots and the correspondingly large expense of title insurance, the City did not order title insurance. Attorney Couri did state that he traced the title back to the owners before Percheron to make sure that Percheron actually received a deed for the property, and that the Bank had run at least two title checks on the property, the latest in 2009, and both came up clean except for the KLD lien claim and the Bank's mortgage.

Attorney Couri also reviewed the proposed Agreement to Assign Mechanic's Lien, under which the City would buy KLD's position in its lien claim against Percheron for \$30,000. This would include an assignment of the lien to the City, a

discharge of the lien, a discharge of the lis pendens, and a stipulation to dismiss the lien foreclosure lawsuit.

Once the City closes on both of these deals, the City will own the property free and clear, but would still have to pay the delinquent taxes, 2011's taxes and 2011's special assessments, although the Nodland money and the remaining bank letter of credit can be used to pay the specials in 2011. The City will need to put the property in tax exempt status after it purchases it, which it should be able to stay in for 15 years, after which time it would return to the tax rolls.

The Mayor commented that Avon needs to purchase this property in order to insure that it does not go tax forfeit and so that Avon can sell some of the lots this year and get some building permits issued. This will help pay the special assessments, will help with the sewer debt the City owes the State, and will eventually reduce the need for the City to flush the water mains in Avon Estates to keep the water from going stale.

Motion by Jim Stang to approve both agreements; seconded by Hugh Knox; Approved Unanimously.

ADJOURNMENT

Motion Hugh Knox to adjourn at 6:40 p.m.