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By:

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Above: Paul Vlahakis (left) and East Lansing staff Tom Fehrenbach at a DDA meeting last month.

Could developer Paul Vlahakis and his partners tie up East Lansing's debt-ridden, publicly-owned Evergreen Avenue properties for eight more months with an exclusive purchase agreement ? potentially prolonging public debt ? and wind up paying nothing for the privilege?

It's looking that way after a meeting yesterday of the Downtown Development Authority's Project & Infrastructure Committee. The committee discussed terms of a draft Purchase and Sale Agreement between the DDA and a development team that wants to develop "Park Place." ^[2] That team includes Illinois-based Royal Apartments and Vlahakis Development, which owns the Dublin Square building.

There's been no site plan submitted for the proposal, but the project has been described as including the Dublin Square property along with the DDA-owned Evergreen Avenue properties (below). The developers want to put a 12-story building along Evergreen Avenue near Valley

Court Park, and another 12-story building along Abbot Road, where Dublin Square now stands. ([Read more.](#) ^[2])



The DDA owes about \$5.58 million on the Evergreen properties, which were originally purchased for a different, failed project. The DDA wants to unload the debt, and has been negotiating a Purchase & Sale Agreement with Vlahakis and partners, rather than opening the properties up to all bids via a Request for Proposals (RFP).

Since at least August, and possibly much longer, an RFP has been held off as negotiations over Park Place have been going on, mostly behind closed doors. At yesterday's meeting, the committee reviewed both a new version of a contract between the developers and DDA and a draft RFP, prepared in case the Park Place deal doesn't materialize. (See the draft contract and RFP [here](#) ^[3].)

The contract includes a \$5.58 million purchase price for these properties, to be paid by a federal bank wire transfer on the date of closing. But the agreement as drafted would establish far more than that price ? and could ultimately cost the DDA and City prolonging of major debt.

Below: City Attorney Tom Yeadon at a City Council meeting



Near the beginning of yesterday's discussion, City Attorney Tom Yeadon and committee members expressed dissatisfaction with the developers' latest demands in contract negotiations. These included that the developers can get all their "earnest money" (deposit funds) back if they simply say they cannot get the project financed.

The developers also want to be able to back out and get all their earnest money back if they can't reach a deal to buy an adjacent property for the project, namely 404 Evergreen Avenue, which is owned by landlord/developer Matt Hagan.



While the committee's discussion started out with lots of dissatisfaction about these terms, by the end of yesterday's meeting, the DDA committee members had decided it seems to make sense to suggest that the full DDA approve a contract that would allow the developers 90 days plus five additional 30-day extensions to try to get various parts of the deal in place.

During that time, the DDA could not seek other possible buyers of the properties. That means no RFP could be issued during that time, a period that could extend over 8 months after the contract is signed.

The current draft calls for earnest money of \$100,000 to be put up by the developer. The DDA committee decided yesterday that the developers should have to put up an additional \$15,000 in earnest money for every 30-day extension. But again, the developers could get all that back if they simply state they could not finance the deal or come to agreement with Hagan.

Below: The property owned by Hagan (left) next to properties owned by the DDA



The figure of \$15,000 per extension was arrived at after discussion in which City staff estimated

that this would cover what it's costing the DDA to pay interest on the debt every month, after taking into account rental income on the properties.

City Manager George Lahanas (below) expressed concern at the meeting about allowing so long an exclusive contract potentially without any loss of earnest money by the developers to the DDA.



But DDA Vice Chair Jim Croom said that so far as he could see, the developers were "operating in good faith." He said they were "spending money and they are here at every meeting." So, he said, his assumption is that they are "a real, viable player" with a project "folks are generally supportive of."

Croom did say he wanted to hear more from the developers about why they would need so much time. Paul Vlahakis, the only member of the development team at the meeting, responded that they are trying to move quickly but that there are a lot of moving parts.

Vlahakis said the developers had spent about \$150,000 of their own money so far on the proposal.

Questions were raised about why Vlahakis's name has appeared, disappeared, and reappeared on various iterations of the contract, but no explanation was offered.

By the end of the meeting, there was some discussion of requiring the developers to give up

\$25,000 if certain benchmarks were not met by the developers ? with Croom, Dewan, and Mayor Pro Tem Erik Altmann suggesting that they were more comfortable with that.

But it was not clear whether the next version of the draft contract will contain that type of language. There were no votes taken on the matter at the meeting.

The current draft contract also contains numerous specific terms regarding property owned not by the DDA but by the City of East Lansing, including parking lot 4 (below), which is just south of Dublin Square at the corner of Albert Avenue and Abbot Road. Agreements like this over City-owned property can only be approved by a majority of City Council.



Yet there has yet to be *any* discussion of this project at City Council. And the draft contract calls only for Peter Dewan ? Chair of the DDA ? to sign it on the public side, with no one signing for the City itself.

The agreement that Dewan could sign includes details of a tax-increment financing plan that would have to be agreed to by a majority of City Council. It even obligates the City of East Lansing to certain actions, in spite of the City not being a party to the agreement.

City Attorney Tom Yeadon, who was at yesterday?s meeting, seemed to not see a problem with the contract including terms to which only City Council could agree. The developers also apparently have no concerns with a contract requiring certain obligations of the City even though the City is not a legal signatory to the contract.

ELi has previously reported [2] that Mayor Mark Meadows and Altmann have been in on closed-door negotiations with the developers. Responding to a question from ELi at a City Council meeting last month, Meadows said Dewan was the lead negotiator, but Dewan expressed surprise [2] upon hearing that from ELi the next day.

Below: Erik Altmann, Shanna Draheim, and Mark Meadows



Council Member Shanna Draheim, who for our last report [2] told ELi she has not been privy to the negotiations, has called for discussion of the project at this coming Tuesday's City Council meeting, on December 11. That is a discussion-only meeting, so not a meeting where votes would ordinarily occur.

The Council's disclosure page on meetings with developers [4] shows Draheim first met with the Park Place developers, on November 19, to discuss "initial plans/concepts for a proposed Park Place project," a few days after we reported [2] that only Meadows and Altmann had been in on the negotiations.

The current draft agreement also weakens the requirement to use Michigan construction labor and Michigan-made materials to the greatest extent possible. Under the current version, the developers can go outside Michigan if they find it's economically to their advantage ? effectively making this language toothless, especially when compared to firmer language about preference for Michigan workers that the City has required of other big developers.

The committee members also initially seemed unhappy with this change to the contract, but did not specifically instruct Yeadon to restore the previous language.

Yeadon made clear that what the developers were asking on this latest round would represent significant concessions by the DDA, particularly with regard to the ability to get back the earnest money very easily.

Various people in the room, including Yeadon, said they could understand the developers' reasoning. But, Yeadon said, the developers could now ?walk away on a whim.?

Yeadon noted that the developer is sinking money into things like site plan development, but, he also noted, the City and the DDA are obtaining nothing from those private expenditures. Yeadon told the committee that the developer is ?not buying an option here, but they're kind of [just]

getting one.?

He pointed out that in the current draft, the clock on the seller doesn't even start when the document is signed ? it starts after the title report comes back, which could be weeks or months after the signing of the contract itself.

Below: Ruth Beier and Aaron Stephens at Council.



The full DDA meets next Thursday to possibly vote on this contract. It could alternatively vote to send out the RFP, opening up the land to proposals from other developers. Council Member Aaron Stephens, who has also told ELi he has not been privy to the negotiations, has said he favors sending out an RFP.

But the option of sending out an RFP seems unlikely, given the amount of time that has gone into negotiating the agreement with Vlahakis and Royal Apartments.

Issuing an RFP would allow the Park Place developers to still submit a site plan if they had permission from the DDA to include the DDA's properties in that site plan. But theirs might not be the only project under consideration at that point, and that would represent a greater risk to the developers.

Croom, an attorney by profession, said he wished he had had this material sooner in order to digest this? and suggested the DDA members will need to have materials in advance of next Thursday's meeting.

East Lansing Economic Development specialist Tom Fehrenbach said staff would try to incorporate any changes the members wanted to see into a new contract version and would try to get the developers to sign it before the meeting next week.

So, City staff's hope is to present the DDA with a finalized contract next Thursday, along with an explanatory staff memo.

On a number of points, like restrictions on construction labor and material, committee members said they understood Council would have the final say. But it was unclear why, if that is the case, the material is in this agreement.

Meadows, who is not on the Committee but is a member of the DDA and was at the meeting, also said he wanted to see language allowing the City to try to fix anything it is responsible for that might derail the deal. (In legal terminology this is called "curing a defect.") Yeadon indicated he would add such language.

As of now, it looks possible that Vlahakis and his partners will get a low-risk, exclusive purchase option on public land for up to eight months, before ever submitting a plan, and with only two members of Council — Meadows and Altmann — party to negotiations involving terms that only a majority of City Council is supposed to approve.

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Note: *This article was updated at 12:15 pm on the day of publication to note that Draheim has now met once with the developers, on November 19.*

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