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## Revealed: Who the City Notified about the eBay Land Sale <sup>[1]</sup>

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**By:**

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*Above: East Lansing Mayor Mark Meadows (by ELi) and former Lansing Mayor Virg Bernero (by Symphy at English Wikipedia <sup>[2]</sup>).*

Freedom of Information Act (FOIA) results received by ELi yesterday have revealed names of ten of the "approximately twelve" people City staff notified about an eBay auction <sup>[3]</sup> of a publicly-owned property now under contract <sup>[4]</sup> for a million dollars.

The property includes about 6.4 acres where Merritt Road meets Park Lake Road and is East Lansing's former Department of Public Works site. Council voted in November to mark the property as a potential site for medical marijuana provisioning, driving up the value of the property.

As detailed below, a group of ten people personally notified about the auction in early January by East Lansing's Director of Planning included a mix of real estate brokers, developers, and political consultants.

What the results *don't* tell us is how these ten individuals were identified by City staff as interested parties? worthy of notification, or whether City officials notified additional people. An earlier statement from the City [5] said there were "approximately twelve" interested parties notified.

Results from the latest FOIA also don't tell us why some who were interested in purchasing the property weren't notified.

And the results don't tell us why City officials who knew about the auction kept so quiet on the sale, when it seems they might have logically wanted to maximize the chances of obtaining top-dollar for this land. This City Council has been trying to manage a financial crisis, slashing even small items from the budget and recently encouraging voters to pass an income tax to help the City's bottom line.

East Lansing's Director of Planning Tim Dempsey, who managed the auction for the City, still hasn't answered these big questions [6]. Nor have City Manager George Lahanas or Mayor Mark Meadows.

We know from FOIA that Lahanas and Meadows knew about the auction while Dempsey was managing it. That's because records released show that, just before the auction ended, Dempsey sent Lahanas a message [7] about having met with former Lansing Mayor Virg Bernero and developers interested in the property, a message Lahanas forwarded to Meadows.

What was Bernero doing on the scene? He now operates a political consulting firm, and the day before the auction closed, he met with Dempsey and two other members of the Planning Department to help potential developers interested in the property.

According to Dempsey's email [7], Bernero brought Nino Cutraro (developer/builder and Wahlburger franchisee) and Chad Proudlock (Canopy Affairs Group).

Wahlburger describes itself as a casual dining burger restaurant. Canopy Affairs Group is a marketing and consultancy firm based in Denver, Colorado.

Dempsey wrote, "They expressed strong interest in the DPW site and were hoping it could be structured as a RFP? a Request for Proposals, a way of soliciting ideas from all interested developers? as they believe a dispensary would only be one component, they would also look at a Wahlburgers and possibly a hotel."

But Dempsey informed them there was an eBay auction on the property, open for just one day more, and "that we would work with the highest bidder to negotiate a subsequent purchase agreement."

*Below: Tim Dempsey at City Council on the day the purchase agreement was approved by Council without discussion.*



Did Bernero's clients hurry up and bid? We don't know. All we know is that the two bidders who did not win the auction operated at eBay <sup>[8]</sup> under the names "h.e.wholesale" and "niey\_22".

There's also no way to know whether, if the City had opened up the property to an RFP, or had actively promoted the auction beyond a small circle of people, it might have brought an offer of more than the winning bid of \$1,000,900.

The City has noted that the property needs major environmental clean-up – likely at the cost of several million dollars for anyone who wants to redevelop it.

But the land has probably also risen in value considerably in the last few years since the Costco opened just across Park Lake Drive. There is also something of a gold rush occurring around properties identified by governments as suitable for marijuana industry use, as Council did with this property in November.

The winner of the eBay auction, Kodiak Landarc LLC, wasn't actually required under the terms of the auction to buy the property. The company won the right to enter into a purchase agreement with the City for the amount of the winning bid.

That agreement <sup>[9]</sup> allows Kodiak Landarc to get out of the deal if City Council doesn't approve the purchaser's application for a site plan and special use permit for a medical marijuana provisioning center (the legal name for a dispensary). Council approved that agreement <sup>[4]</sup> in a 4-

0 vote on a consent agenda on March 5.

Here's what else we now know.

### **Who made the list:**

On the day he opened the monthlong eBay auction, January 7, 2019, Dempsey sent ten people an email <sup>[10]</sup> with the subject line "City of East Lansing Property Auction." In that, he wrote:

"You have been included in this email as someone who has expressed interest in the former DPW site at the corner of Merritt and Park Lake Roads. This property is now online for auction (until 2/6 at 12:20 p.m.) and details can be found at the link below. Feel free to pass this email along to any interested associates."

The list of recipients included: Bill Jakovac, Brett Henderson, Dan Magnus, Daniel Crittenden, Donny Luberto, Jared Bundgaard, Randall Buchman, Samuel Eyde, Shawn O'Brien, and Walter Manju.

But remember, the City has said "approximately 12 interested parties" were notified. So who were the others, and how many were there, really?

The City hasn't said. FOIA only shows up written records, and only written records that City Attorney Tom Yeadon chooses to release <sup>[11]</sup>.

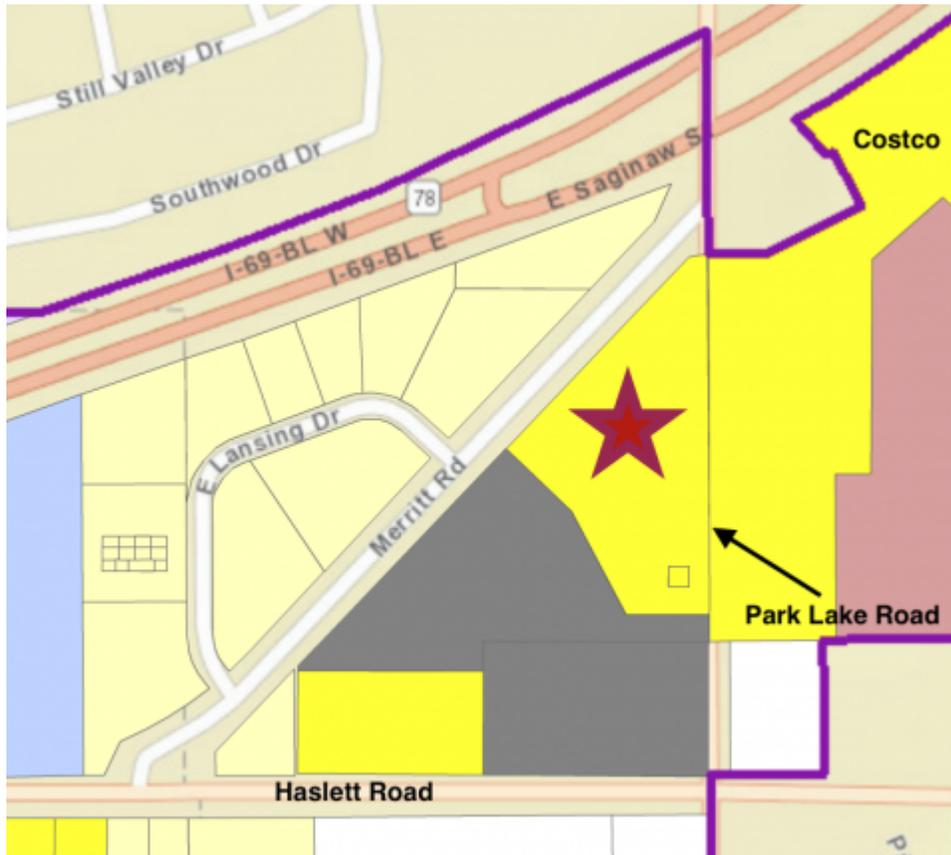
### **What we know with regard to who had expressed interest:**

Released emails <sup>[12]</sup> show Eyde, a major local developer, talking with the City about the property in February 2017. Eyde did make Dempsey's January 2019 notification list about the eBay auction.

Two brokers who contacted Dempsey in November 2018 with clients interested in the property also made Dempsey's January 2019 notification list: Jakovac and O'Brien. They were in touch shortly after East Lansing's Council voted to approve <sup>[13]</sup> the mayor's suggestion <sup>[14]</sup> of including the Merritt Road property in an overlay district for a marijuana provisioning center.

In both cases, Dempsey let the broker know that the City was trying to figure out what to do with offers being received. He then contacted the brokers when the property was listed on eBay.

*Below: Location of the property, marked with a star.*



Last year, the local franchise owners of College Hunks Hauling Junk, a moving company, expressed interest in purchasing the subject property. But they did *not* make Dempsey's notification list, and one of them ? Bill Willbrandt ? has told ELi [15] he would have been interested in that property. (Using it for a moving company would have required rezoning, but they could apply for that.)

### **So who knew it was up for sale?**

We reached out to all Council Members yesterday to ask when they knew the property was up for auction. Only Shanna Draheim responded, writing, ?I knew they were planning to put it up for auction a week or two (maybe 3) ahead. I found out it was actually up on the day it went up.?

Draheim said in a follow-up, "I think the approach of using eBay makes sense given the cost savings. My understanding from staff is that all parties who had made an offer or expressed [interest] in the site were made aware of the auction on eBay."

Draheim added that the property "has had little to no interest in recent years, until the medical marijuana ordinance and overlay was passed," putting the property in the marijuana commercial real estate game. "Given that, I think staff proceeded in a logical manner."

*Draheim at City Council on March 5.*



But why did City leaders and Planning Department staff all stay so quiet about this auction, if the goal was getting the best price while using the cheap option of eBay?

We reported earlier this week <sup>[6]</sup> that another FOIA request showed that City staff announced the auction of the property nowhere but eBay. The City made no mention of the sale on the City's website, did not issue a press release, and did not include information about it in the normal news channels.

Staff and whichever City officials knew about it also made no mention of it at City Council, Planning Commission, or the Downtown Development Authority (DDA), even as those authorities were discussing the property as part of consideration of provisioning center zoning legislation.

All of those methods of communication might have driven up the price.

### **Considering legislation to increase the value of the property *after* the sale?**

At its next meeting, on Tuesday, March 26, City Council will hold a public hearing <sup>[16]</sup> on Ordinance 1448. This is an ordinance that is designed to give a competitive advantage to the City in the provisioning center real estate game, by relaxing setback rules for the City's property on Merritt Road ? the one that's under contract following the eBay auction.

That draft ordinance was introduced in December 2018 with support from Mayor Mark Meadows, Mayor Pro Tem Erik Altmann, and Council Member Ruth Beier.

Draheim and Aaron Stephens voted against moving Ordinance 1448 forward, saying they thought the City should subject its own properties to the same setback rules as private properties in provisioning center regulation.

But Meadows specifically argued for moving Ordinance 1448 forward, saying that giving the City a competitive advantage and ultimately getting a higher price for the property would represent a clear benefit to the citizens of the City of East Lansing.

Altmann agreed with Meadows. Said Altmann, "Imagine the headlines if we *didn't* take an opportunity to drive its value up."

**You may also be interested in seeing the PDF of the email correspondence released under FOIA [12] and ELi's prior reporting on this story:**

[Who Knew about East Lansing's eBay Auction? City Leaders Still Won't Say. \[6\]](#)

[Answers to Your Questions about East Lansing's eBay Land Sale \[17\]](#)

[eBay Listing Reveals Details of Million-Dollar Sale by City of East Lansing \[3\]](#)

[City Auctioned Million-Dollar Property on eBay; Notified Only Interested Parties? \[18\]](#)

[City Approves Million-Dollar Land Contract; Details Yet to Come \[4\]](#)

[City to Sell Public Land in Deal Brokered by Marijuana Industry Player \[15\]](#)

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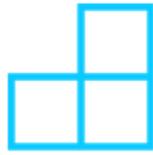
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