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Big Questions Remain on eBay Land Sale ^[1]

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By:

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Above: City Council Members at the meeting where the purchase agreement was approved.

Although the City of East Lansing never played up the eBay auction of a million-dollar property while the auction was going on ? something that might have attracted more bidders and a higher price ? of late, the City has been working hard on downplaying concerns about the auction.

The City?s most recent edition ^[2] of its weekly e-newsletter led with a dry report aimed at explaining the City?s actions leading up to the purchase agreement ^[3] with Kodiak Landarc LLC,

a marijuana-industry player.

But documents released by the City Clerk since our last report [4], plus a look at the timeline of this scene, tell a different story than the one conveyed by the City.

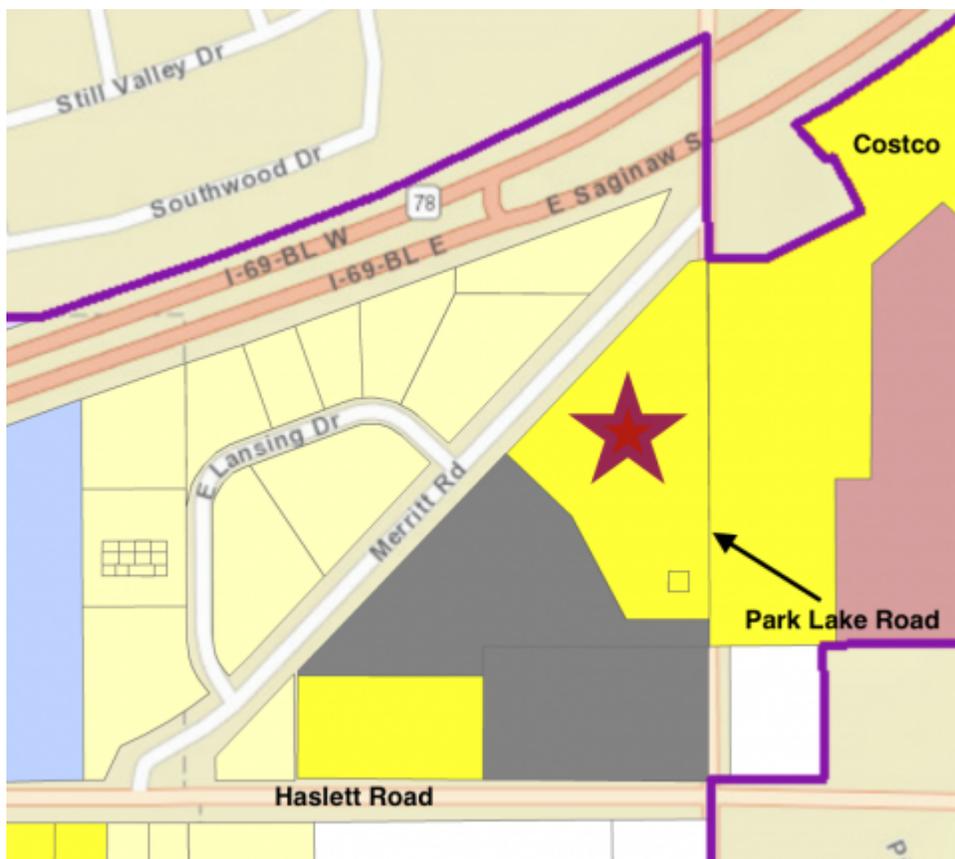
Five big open questions remain:

1. Why did City staff and City Council Members stay so very quiet about the sale, when advertising it might well have driven up the price obtained?
2. Who made Director of Planning Tim Dempsey's special notification list [5]?
3. Did others in the City notify others?
4. How were the people specially notified by Dempsey chosen?
5. And why did the City decide to sell the property before passage of an ordinance specifically designed [6], according to the Mayor and Mayor Pro Tem, to drive up the value of the property?

The background:

ELi has been reporting on the surprise appearance of the million-dollar purchase agreement for this land on City Council's March 5 consent agenda [7]. In advance of the vote, few details were available other than that the City was entering into a contract to sell 6.4 acres near Costco to Kodiak Landarc for \$1,000,900.

The purchase agreement allows the purchaser to back out if Council doesn't approve the company's forthcoming application to construct and run a medical marijuana provisioning center.



ELi started asking questions before Council voted [8] to approve the agreement. We got no answers. Only after we kept pushing did the City reveal the surprising news that the purchaser had been chosen via an eBay land auction [9] that had never been announced.

From there, a tip to ELi got us the eBay listing [10]. When the City wouldn't reveal [11] who the approximately 12 interested parties? were who got to know about the sale, further pushing via the Freedom of Information Act (FOIA) got us a list of some but not all [4] of those notified about the auction.

What newly-released documents show:

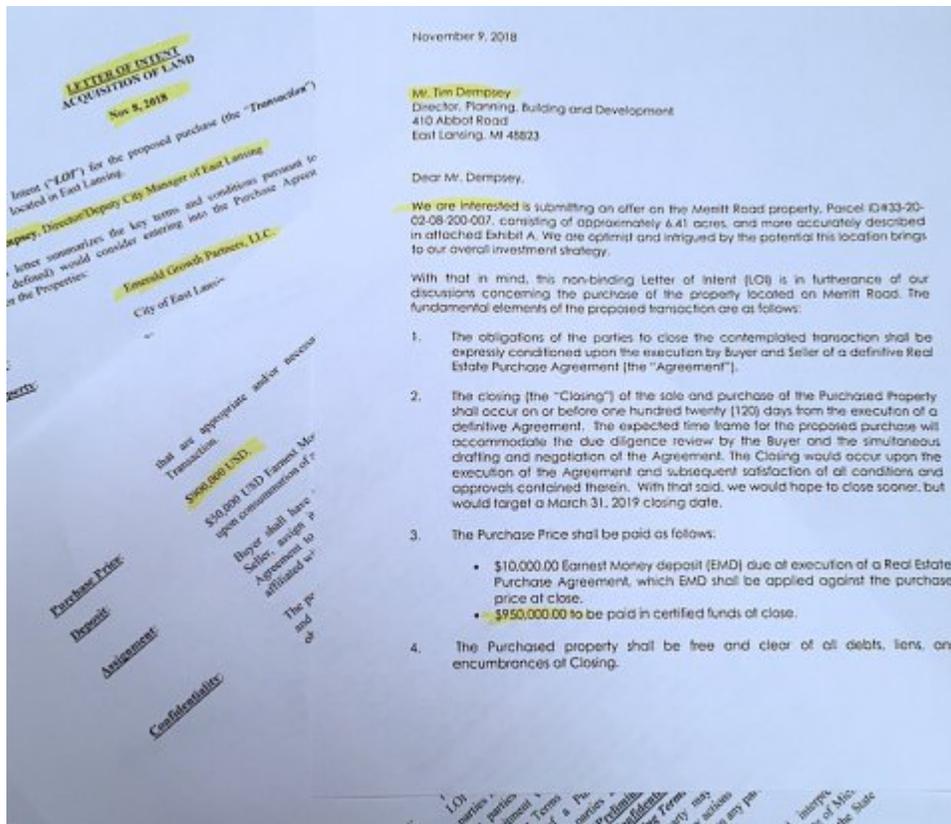
Our review of the City's response to our last FOIA request related to this story indicated that the City had improperly withheld some documents from us. When we asked City Clerk Jennifer Shuster to look into that, she came back to us with two additional important documents: two letters of intent? offering to buy the property in November 2018.

Both appear to have been from marijuana companies other than the one that ultimately won the right, in the auction, to enter into a purchase agreement.

The first letter of intent (LOI) was from Emerald Growth Partners. (See it here. [12]) It arrived on November 8, 2018, just a few hours after City Council voted 5-0 [13] to allow provisioning centers and to include the Merritt Road property as one of the places where provisioning centers could be located.

The week before, on October 30, 2018, Meadows had put forward a "mayor's suggested replacement for 1416a," [14] which (newly) included the Merritt Road property. That ordinance was voted down in 2-3 vote, with Altmann voting against. A couple of days later, Mayor Pro Tem Erik Altmann had suddenly reversed his previous opinion [15] on the matter, reintroducing the matter at Council.

On November 8, Council voted 5-0 in favor of the ordinance, including Merritt Road as a provisioning center location, and within a couple of business hours of that vote, Emerald Growth Partners presented an offer of \$900,000 for the City's Merritt Road property.



The second letter of intent came in just a day later, this time from Green Peak Innovations. (See it here. [16]) Green Peak was offering \$950,000 for the property.

In their latest communication on the land sale controversy, the City says that "The City has faced many challenges with selling . . . this property over the years due to the poor soils and environmental remediation that is required to build on the land. There has been little interest in purchasing the site without an approved brownfield plan."

The site has environmental problems because it is the former site of the Department of Public Works. The City says it doesn't want to provide Brownfield tax increment financing (TIF) on this land to a developer, because that would reduce the tax revenue the City would obtain.

That makes sense? except that all of the offers we know were received (Emerald Growth for \$900,000; Green Peak for \$950,000; and Kodiak Landarc for \$1,000,900) appear to be offers made without expectation of Brownfield TIF funding. We also know that the day before the land

auction closed, another set of developers (brought by Virg Bernero ^[17]) expressed serious interest in the property.

All this again raises the question of whether the City could have gotten still a higher price if it had widely advertised the sale and let many more possible comers know, well in advance of the auction close, that the property was up for bid.

As we've previously reported, the City staff and City Council remained strangely silent ^[11] about the auction before and while it was going on, even as the property was being discussed in open meetings.

What else is odd about the City's statements on the sale?

The City's statement on the sale makes it sounds like the property value has been stagnant. The City refers to an appraisal of the land (including adjacent property that has already been sold) from 2009.

Yet the value of this land has surely been rising rapidly for two reasons.

First, last year, Costco opened ^[18] right across Park Lake Road. The City has acknowledged in open discussions of the area's potential for redevelopment that the Costco location has increased land values in that area.



Second, the decision by City Council to allow provisioning centers ? and specifically to allow them in this area ? surely increased interest in and the value of the land. The City said so explicitly in its most recent communication on the matter. As noted, within 48 hours of the Council?s vote, the City had received two unsolicited offers.

The City says that when it put the land up for auction on eBay, it ?notified all of the parties that came forward with an interest in buying the property.? But that doesn?t seem to be the case based on ELi investigations [7], nor does it appear that the City tried to see if others in the marijuana industry or in other industries might have been interested in bidding on the property.

Was this an invitation-only auction?

Technically, no. Anyone who found out about the auction could bid.

But the City did break its silence only for what seems to be a select group. Among those notified were Samuel Eyde, who had expressed interest years before, brokers for Emerald Growth Partners and Green Peak (who had sent in LOIs), and others for whom there are no records provided as to their supposed prior interest in the properties.

There?s a lot we still don?t know about how the invitation list was composed. We do know that Emerald Growth Partners had donated \$1,000 [19] to the ?vote yes? income tax campaign

(below), which was supported by all five members of Council. But that company had also already made an offer on the property by the time the invitations to the auction went out.

3. Contribution # 2
4. Date of Receipt 07/16/18
Name & Address:
Emerald Growth Partners LLC
40950 Woodward Ave., Ste. 360
Bloomfield Hills, MI 48304
\$1,000.00 \$1,000.00
5. If over \$100.00 cumulative, please provide:
Click Here for Memo Itemization
Occupation _____ Employer _____
Business Address _____
Type of Contribution: Direct Loan from a person Fund Raiser

A broker for another set of marijuana industry Yes Campaign donors (the Piedmonte brothers of Traverse City) also was sent the notification. But, based on discussions with inside sources who do not wish to be named, it isn't clear that a donation to the Yes campaign represented a necessary or sufficient condition for making the special invitation list. (See the "yes" campaign disclosure here [20], and see our article on the donors here [19].)

The questions that remain:

So why did the City notify only some people about the sale and otherwise stay so very silent on the matter? Who else was on the list of approximately 12 interested parties? who got the notice, and did they get on the list? (Again, the list we were supplied through FOIA only included ten people.)

And why did the City decide to auction off the property in January when Council is set *next week* to take up Ordinance 1448, an ordinance that is designed, according to Mayor Mark Meadows and Mayor Pro Tem Erik Altmann, to drive up the value of that public property?

On those questions, we're still looking for answers.

Note: This article was corrected to fix an ambiguity regarding actions on Ordinance 1416a. On October 30, 2018, Meadows put forward a "mayor's suggested replacement for 1416a," [14] which (newly) included the Merritt Road property. Altmann reintroduced this ordinance [13] a week after it had been voted down in a 2-3 vote [21].

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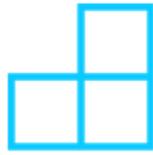
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- [12] https://eastlansinginfo.org/sites/default/files/emerald_growth_partners_loi_on_merritt_road.pdf
- [13] <https://eastlansinginfo.org/content/council-reverses-previous-decision-medical-marijuana-sales>
- [14] http://eastlansing.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=1067
- [15] <https://eastlansinginfo.org/content/altmann-proposes-another-try-marijuana-provisioning>
- [16] https://eastlansinginfo.org/sites/default/files/green_peak_loi_on_merritt_road.pdf
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