

MINUTES OF SPECIAL MEETING OF THE TOWN COMMISSION OF THE TOWN OF BELLEAIR, FLORIDA HELD AT TOWN HALL ON JANUARY 2, 2014 AT 6:00 PM

PRESENT: Mayor Gary Katica
Commissioners
Stephen Fowler
Tom Shelly
Michael Wilkinson
Kevin Piccarreto

Town Manager Micah Maxwell
Town Attorney David Ottinger

Mayor Katica led the Pledge of Allegiance.

Quorum was present on roll call with Mayor Katica presiding; the meeting was called to order at 6:00 pm.

DISCUSSION OF THE SALE/LEASE OF THE BELLEVIEW BILTMORE GOLF COURSE

Mr. Maxwell stated that last February the commission entered into a six month management agreement with Green Golf Partners for the Belleview Biltmore Golf Club; that there an extension to that agreement at the end of the six month period which had now expired; that an Invitation to Negotiate went out in November and was closed in December; that staff was now ready to discuss with the commission about the future of the course and bids received; that he did receive a proposal last week with an update late today; that he did explain that he would not be able to put that proposal in with the other proposals received in December; that the commission would be the only group that had the ability waive some of those informal rules; that he just wanted to bring the information to the commission for their consideration.

Commissioner Fowler stated that the Invitation for Proposal was properly advertised and the bids were received in a timely fashion; that he did not think the proposal could be accepted; that he felt that in doing so the town could be subject for a law suit.

Commissioner Piccarreto asked Mr. Ottinger if other bids could be accepted.

Mr. Ottinger stated that the terms of the Invitation to Negotiate provided that the town could reject any response or proposal submitted; that the commission could reject the previously submitted bids and start over; that it was somewhat inappropriate that the proposal was submitted after the advertised date; that by rejecting the other bids the process would begin over.

Commissioner Shelly asked for an outline of what was in the late submittal.

Mr. Maxwell stated that the commission but the rules would have to be waived in order for him to provide and information.

Commissioner Piccarreto asked about the procedure to be followed at the meeting; that normally each item was considered and then commission taken; that he would like to discuss some items before a motion would be made.

DISCUSSION OF THE SALE/LEASE (Continued)

Mr. Maxwell stated that it was the idea was to discuss all the issues under Item 1 of the agenda; that the other two items on the agenda were more mechanical in nature; that if the commission wanted to discuss this item some action would be required by the commission.

Mayor Katica stated that time was important on the issue due to the nature of the golf business; that this was the height of the golf season; that further delay on making a decision could have a negative impact on the golf course operations; commented on a previous proposal some years ago for the development of the golf course property; stated that the decision was to be whether to lease or sale the property; that the town should move forward on this issue.

Discussions ensued regarding whether to move forward or not with including the latest proposal in the discussions; regarding whether the latest proposal should be considered as an after the fact proposal.

Mr. Ottinger commented on procedures for action by the commission; stated that the item on the agenda was for consideration and staff's analysis of the bids received in response to the Invitation to Negotiate; that the proposals were review, evaluated and ranked and are now set forth; that one proposal was selected and negotiations have been ongoing regarding the terms of a lease arrangement; that the finance board had heard the issue at their 4 o'clock meeting this afternoon; stated that a proposal was hand delivered during the time frame between today's finance board meeting and special commission meeting; that he thought it was a little late to submit something to be considered as far as equitable treatment and the notice of the agenda; that it would be his recommendation that the commission did not necessarily have to reject it or not considered it but he did not see how the commission could consider that proposal tonight.

Mr. Maxwell stated that there would not be any staff recommendation of that proposal as well; that if the commission wanted to waive the rules he could discuss the proposal; that the proposal had not be analyzed at all.

Commissioner Piccarreto asked about the rules in waiving the formalities of the bid process.

Mr. Maxwell stated that the commission did have the right to waive any formalities of the bid process; that the formality to be waived would be the requirement for the bids to be received by 9:00 AM on December 5, 2013; that by waiving the formalities the commission would be allowing bids received after that date.

Discussions ensued regarding waiving the formalities; regarding the terms stated in the Invitation to Negotiate; regarding any the town's ability to entertain another offer regarding the golf course.

Mr. Maxwell stated that the rule in question was a town rule and not a county, state or federal rule; that most entities have their own rules but generally speaking the rule was the same as Belleair's.

DISCUSSION OF THE SALE/LEASE (Continued)

Mr. Shelly moved to waive the rules of formality and consider all bids. Motion seconded by Commissioner Piccarreto.

Discussions: Commissioner Wilkinson asked if the town would be setting a precedence for future bids by waiving the formalities. Commissioner Fowler stated that he felt it was unfair to those who submitted the bids in a timely manner. Mr. Ottinger stated that it would put those who did respond in a timely manner at a disadvantage. Commissioner Wilkinson stated that he would not be comfortable in discussing the proposal since it did come in after the date and staff had not seen the proposal.

Mr. Maxwell stated that Commissioner Piccarreto was in his office when the proposal was delivered and he did see the proposal; that if the other commissioner did want to see it, it would be fair for everyone to see the same information; that in terms of considering the proposal there seemed to be some difference in considering the proposal and seeing it; that he would like to have action to consider.

Commissioner Piccarreto commented on the town's priority regarding the golf course; asked if the town was looking to lease or sale the property or retain the course and have it managed by someone; that in sitting through the Finance Board meeting today, the discussion was more towards a lease of the property; that undertones were a sale of the property at some point in time; that if the town were to move forward with a lease at any given time, anyone could come in with an offer to purchase the property and could be considered by the commission; that he did not see this situation would be any different; that if the town wanted to sale the golf course it could be a different process; that he did appreciate the comments made by other commissioners, however he did not see it as something underhanded or something not fair as at any given time the town could entertain and offer to purchase.

Vote on the motion was: Piccarreto – yes, Shelly – yes, Fowler – no, Wilkinson – no, Katica – no. Motion failed by a vote of 2 to 3.

Phil Doganerio, 224 Ponce de Leon Blvd., state that he could appreciate the circumstances under which the decision was made; that he did feel the commission had all the facts as Bruce Orr was a part of the original bid and has had a long experience in operating golf courses; that Green Golf Partners had been award the lease for a six month period; that Mr. Orr had expressed an interest in being involved in the rebid; that Mr. Orr was not notified of the process and did not hear of it until after the deadline; that it was not a situation where they were coming as an unknown by the town; that they appreciate the fact that they did miss the deadline; that it was his understanding it was the priority of the commission to sale the golf course and as he understands could still be the priority; that they were trying to make an attempt to meet the commission's desires by making what they felt was a valid offer for the golf course; that he was not sure if everyone understood what was being offered in terms of the lease; that he felt the facts were not provided and he felt it would premature to make a decision without all of the facts.

DISCUSSION OF THE SALE/LEASE (Continued)

Mr. Ottinger stated that it would be his recommendation that Mr. Maxwell provide a copy of the offer received today; that it would not be considered today and the commission always had the ability to consider the offer at a later time.

Mr. Maxwell stated that six bids were received, that two were for sale and four for lease; that after the scoring system the higher rated bid for sale was from Green Golf Partners at the \$3.4 million range with a twenty year pay back; that the other terms were within that document; that in comparing the sale offer with the lease offer presented by GGP staff felt the lease offer was probably more beneficial to the town and did not pursue the sale option; that the other sale offer was from Belleview Biltmore Partners for \$3.5 million for a one year financing at 6.5% interest and was contingent of the BBP purchase of the Belleview Biltmore Hotel; that as far as staff knows there was no dedicated time line for the close of the sale of the Hotel; that staff could not recommend the commission to move forward with the offer to purchase until more information was presented regarding the time line.

Commissioner Piccarreto asked how long Belleview Biltmore Partners had been working on the purchase of the Hotel.

Mr. Maxwell stated that it had probably been approximately two years.

Mayor Katica stated that he had received a call from Daniel Ades saying that they had nothing to do with the Heisenbottle Group and that it was a dead issue.

Commissioner Shelly stated that he did think it was a good time to sale a golf course; that they were selling at lower values than in the past; that values would go up with a longer lease and an better established financials.

Mr. Maxwell stated that four lease options were received; that one proposal from Cypress Golf Management did not have the requested information submitted with their offer; that staff did not pursue that offer; that there were three other bids, one from Club Pro Golf Group with a 10% gross revenue number at \$2.3 million with \$230,000 to the town; that Green Golf Partners bid a combination of lease payment and percentage at \$96,000 plus if it was over \$4,000,000 in gross revenue it would be 7% of gross revenue; that it was between \$2,000,000 and \$4,000,000 it would be 5% of gross revenue and if it was under \$2,000,000 it would be 3% of gross revenue; that it calculated out to \$2.3 million to be about \$211,000; that in discussion and negotiations changed a bit; that Clearwater Golf also bid a 3% gross revenue number that had a \$60,000 floor; that the calculation at \$2.3 million was \$69,000.

Mr. Maxwell stated that in the scoring staff did select Green Golf Partners as the highest score; that they scored a 79 with Club Pro coming in at 48 and Clearwater coming in at 34; that when discussion started with Green Golf one of staff's concerns was such a heavy percentage being based on gross revenues; that they did discuss with them and they agreed to shift some of that to the lease

DISCUSSION OF THE SALE/LEASE (Continued)

payment and they came up with a \$160,000 lease payment to be broken up into four quarterly payments at \$40,000 each; that it would be 6.5% of anything above \$1.6 million gross revenue that would be put it at about 78% at the \$2.3 million level; that the 78% would be guaranteed money and would net about \$205,000 and was a little less at the \$2.3 million level; that in the numbers that came in between \$1.7 and \$2 the town would get a little less in the range between \$2.1 and \$2.6 but was not a tremendous amount; that staff felt that having the guarantee seemed to make more sense; that there was some agreement on major points supplied in the document; that the major lease points with Green Golf were 1) the major financial point was the \$40,000 quarterly payment totaling \$160,000 annually; 2) the town would receive 6.5% of all revenue generated over \$160,000; 3) the lease was for ten years and renewable only on the agreement of both parties; 4) the notice of non-renewal would be at least 1.5 years prior to actual lease expiration; 5) GGP would expend a minimum of \$500,000 on town approved capital improvements over the life of the ten year lease and an additional \$500,000 if the lease was renewed for an additional ten year period.

Mr. Maxwell that there was another item that was not in the document provided to the commission but staff did want to discuss; that item pertained to an early termination clause that would affect Green Golf; stated that should the town want to break the lease early for years 0-3 there would be a \$480,000 penalty to the town; that for years 4-6 there would be a \$320,000 penalty to the town; that beyond that for years 7-9 there would be a \$160,000 penalty; that for year 10 would be in the non-renewal period and there would be no penalty; that there would also be ability for Green Golf to continue to lease with a future group in event of a sale of the property.

Commissioner Shelly asked if the town could sell the golf course if the lease was in place.

Discussions ensued regarding the scenario of selling the golf course property with the lease agreement in place.

Mr. Maxwell stated that the motion from the Finance Board, with a vote of 4-3, was to not to move forward with the lease agreement; that the motion was based on a request for additional information and review of the actual lease agreement.

Discussions ensued regarding the motion and the reasoning for the motion made by the Finance Board; regarding the lack of discussions by the Finance Board on the major lease points.

Commissioner Fowler moved that the Belleview Biltmore Golf Course not be sold. Motion seconded by Commissioner Shelly.

Discussion: Commissioner Piccarreto stated that he was not sure where the commissioners was getting direction from staff to move forward with the lease; that he had heard allegations that this was not the time to sale the golf course; that he had not seen any facts supporting one way or the other; that such information had not been presented; that should the golf course be leased Mr. Maxwell could provide information in that regard; that the town should need to know the risks and

DISCUSSION OF THE SALE/LEASE (Continued)

what liability the town would face if the golf course were to be leased; commented on the need for due diligence in the matter.

Commissioner Fowler withdrew the motion not to sale the golf course. Commissioner Shelly withdrew the second on the motions.

Tom Olson, Chairman of the Finance Board, commented on expectations of the lease agreement; commented on the expectations of the gross revenue to increase for the golf course; commented on reasons to not to sell the golf course based of the expected growth of the golf course; commented on the reasons for rejecting offers to purchase the golf course property because had the town financing the purchase; stated that financing the purchase of the golf course would not be in the best interest of the town.

Commissioner Fowler asked the urgency in the town taking action at this time; asked why it was necessary to consider a lease agreement; stated that GGP was doing a great job managing the course; that why not extend their contract for another year.

Mr. Maxwell stated that the current agreement had expired with GGP; that GGP may be willing to move forward with something; that they may have some concerns; that the timing of starting a lease could affect the revenues for GGP and the town; that there could be discussion for entering into a longer extension of the current lease contract.

Commissioner Fowler commented on concerns expressed by Commissioner Piccarreto.

Commissioner Piccarreto commented on expected criticism for taking action at this time; that he would like some feedback from the Finance Board after they discuss the major lease points that were addressed by Mr. Maxwell; commented on the pros and cons of the lease and the effects on club membership and revenues; commented on establishing the development restrictions for the property and sell the property; asked if the bids received were sufficient for the town's due diligence.

Mr. Maxwell stated that it was staff's recommendation to lease the golf course based on gross revenues for the last year under the management of GGP; that the lease amounts could be brought back into the town and put a portion of the funds away for capital improvements on the golf course; that the property could be more valuable at a later time; that staff had confidence in GGP; expressed concerns in the ability of Club Pro to get the job done; commented on the staff proposed by Club Pro; commented on the restrictions placed on GGP based on the short term lease; commented on expectations for future revenues.

Commissioner Piccarreto commented on remarks of Mr. Olson regarding the sale of the golf course with the town holding the mortgage on the property; commented on concerns expressed and impact on the town should the town hold the mortgage on the golf course.

DISCUSSION OF THE SALE/LEASE (Continued)

Mr. Olson stated that the problem was financial information provided and that necessary financial information was not provided from any of the proposed buyers of the property.

Commissioner Piccarreto asked if there was an appropriate value for the golf course had been determined.

Mr. Maxwell stated that the multiplier used during the evaluations was \$161,000 per \$100,000 at \$2.3 million; that market would also have to move with that calculation; that the multiplier would remain the same and maintain the same level of performance and effective infrastructure.

Commissioner Piccarreto asked the urgency in taking any action at this time.

Mr. Maxwell stated that there were a lot of factors including the impact on membership; that continuing another year of the manage agreement may not be favorable to the successful management of the golf course operation; that if enter into a management agreement it would be best to have a multi-year agreement; that a multi-year agreement would at least ensure some stability for membership and provide for some increase in revenues; commented on the capital improvements the town would be responsible for with a short term agreement.

Commissioner Shelly commented on resident's fear and unexpected management of the course with short term agreements.

Mayor Katica commented on the impact of past issues with employees that GGP did not have any control over since they were not in total charge.

Commissioner Fowler stated that he was aware of three legitimate offers for purchase of the hotel to be restored and make it a destination resort; that within 30 to 60 days Mr. Heisenbottle would have his funding in place; that the golf course was a vital portion of the sale of the hotel.

Mr. Maxwell stated that Mr. Ottinger had staff with golf course expertise in his office working on the agreement.

Commissioner Fowler asked if a lease document was received.

Mr. Maxwell stated that a proposal was received; that the lease agreement would be prepared by the town attorney and town staff; that typically the entire lease contract would not be provided and would not ask for comment on the entire contract; that those legal, liability pieces to ensure the protection of the town and getting the commission to move on the main points of the agreement.

Commissioner Fowler asked if the Finance Board did not take action on the matter because there was not lease agreement to review.

DISCUSSION OF THE SALE/LEASE (Continued)

Commissioner Piccarreto stated that he felt it was the opinion half the Finance Board members wanted to see the lease and the other members were in favor of the lease and did not feel it was their responsibility to critique the lease; that it was the responsibility of the commission to make the decision on the lease.

Tom Kurey, 153 Palmetto, commented on the vote by the Finance Board and stated that it was not against GGP; stated that the board wanted more information and felt more time was needed for due diligence; that he was not in favor of having either the Finance Board or the commission making a decision at this time; that he felt seeing the lease document should be considered; commented on what he felt was the objective for the town's purchase the golf course; stated that the commission should consider all the risks to the town and do their due diligence.

Commissioner Piccarreto asked Mr. Kurey what the board was looking for with a time extension; that he did not hear what the board wanted to do in the two week extension they were asking for.

Mr. Kurey stated that they were not experts on golf course management and operation; that they wanted a better explanation of the risks to the town; that he asked what risk would the town retain by continuing to lease or own the golf course; that he felt waiting a week would be helpful.

Commissioner Piccarreto asked whose due diligence was necessary.

Mr. Kurey stated on the town's part.

Commissioner Piccarreto asked Mr. Maxwell how much due diligence had he done on this matter.

Mr. Maxwell commented on the efforts put into the process over the past few months; provided comments on the early termination clause in the lease agreement; that staff had done a lot of research on the golf course operation and management.

Commissioner Piccarreto asked Mr. Maxwell if due diligence had been done on GGP.

Mr. Maxwell stated that staff had done their due diligence on GGP and all was positive; that he had had conversation with different municipal and non municipal groups GGP had done business with; that he had several conversations with Mr. MacAtee and Mr. Rodems and those conversations had been very straight forward; that there had also been conversation with local folks that worked with the tourism board who were very complimentary of GGP; that he had very good references on GGP.

Commissioner Piccarreto stated that staff had been working on the matter for over 11 months; that it was not accurate to say the town had not done their due diligence; that he felt there might be a comfort level with the Finance Board in wanting to know all of the ingredients to the agreement was the issue; that the commission wanting to make sure they were doing the right thing based upon the information they were presented was a different matter and not the fact that Mr. Maxwell and the

DISCUSSION OF THE SALE/LEASE (Continued)

town had not done their due diligence; that the commission could not micro manage Mr. Maxwell but only them what they wanted from him.

Discussions ensued regarding information lease agreement and expectations from GGP; regarding the 6.5% of revenues from GGP; regarding the overall amount of the bids presented; regarding the comparison of GGP to other bidders and the comfort level with information provided by GGP; regarding the higher \$200,000 guarantee amount presented by GGP; regarding the advantages of a long term 10 year lease agreement; regarding a deadline included in the Invitation to Negotiate for making a decision on the proposals submitted.

Phil Doganiero, 224 Ponce de Leon Blvd., asked what the objective of the town regarding the golf course property; that it was his understanding that the town was in the position to sell the property; commented on the difference between the bids; commented on the town's intention for money received from the golf course operation; stated that he would like to see some improvement made in town; commented on the amount of taxes he pays.

Commissioner Shelly asked to hear from the representative from Green Golf Partners.

Matt MacAtee, President and principal owner of Green Golf Partners; stated that he does a lot of business with municipalities; that he has three municipal leases that total more than 40 years; that he had a good working relationship with the town; that golf business was tough; that he expect to improve the course and membership in the long term; that the course was in good condition; that he could not state what risks the town could face; commented on the expected positive revenue; that there were no early termination clause in any other agreements and asked for one in this agreement because of the potential sale of the property; that they would work with the town in any decision made; that he and his staff wanted to be in Belleair.

Commissioner Piccarreto asked Commissioner Wilkinson his thoughts.

Commissioner Wilkinson stated that he felt the finance board and everyone in the audience wanted the best for the town; that he did not think it was a good time to sell the golf course; that it would be more profitable down the road; that he did not think the town manager and town attorney should be micro managed; that the commission needed to make a decision; that if the hotel was sold the golf course could still be an option for purchase.

APPROVAL OF ORDINANCE NO. 493 – APPROVING LEASE FOR BELLEVIEW BILTMORE GOLF COURSE

Commissioner Shelly moved approval of emergency Ordinance No. 493 – regarding the lease of certain real property in excess of one year in the name of the town. Motion seconded by Commissioner Fowler.

Discussion: Commissioner Fowler asked what was in place to protect the golf course from development. Mr. Maxwell stated that with the lease the town would control land use; that GGP would not have the ability to develop the property; that there could be reasonable expansion with golf course related uses.

Mr. Ottinger stated that the lease would acknowledge that the town would retain the right to facilitate the proposed conservation easement.

Commissioner Wilkinson asked the next step for the town if the lease agreement were to be approved.

Mr. Maxwell stated that if the commission approved the ordinance then Mr. Ottinger and he would prepare the lease; that the commission would then authorize him to sign off on the lease and execute the final lease.

Commissioner Fowler stated that he thought the commissioners should review the final lease agreement.

Mr. Ottinger stated that if in concept the commission agreed to a lease proposal basic structure would then give the manager and he the authority to negotiate the details; that the lease could then be presented to the commission for final edification at the next meeting.

Discussions ensued regarding the time line for preparing the lease agreement and presenting to the commission for final review; regarding the comfort level of the commission approving a document they have not seen; regarding avoiding discussion of specific legal issues; regarding the expected goal of the town for the golf course; regarding the protection of development on the property; regarding the town holding onto the property for a period of time; regarding the comfort level of the commission with the overall concept for the golf course property.

Discussions ensued regarding the procedures for final approval of the lease process and the significance of emergency Ordinance No. 493; regarding scheduling a special meeting for final approval of the lease agreement; regarding appointing a point person to be involved in the review process of the lease agreement.

Commissioner Shelly amended the motion to approve the drafting of a lease agreement with Green Golf Partners. Motion seconded by Commissioner Fowler.

Vote on the motions was unanimous.

It was the consensus of the commission to have a Special Meeting on Wednesday, January 15, 2014 at 5:00 PM for the purpose of drafting a lease agreement with Green Golf Partners for the operating and ongoing maintenance and up keep of the golf course and all assets associated with the course.

It was determined that it was not necessary to take action on Agenda Item 3, approval of authorization of town manager to enter into final lease/sale agreement, at this time.

ADJOURNMENT

There being no further business to come before the commission the special meeting was adjourned in due form at 6:40 PM.

Town Clerk

APPROVED:

Mayor