

9. [Discussion Item: Proposed Purchase of Lot 1, Block 29, Mineral Creek Subdivision ~ 137 Egan Drive \(Former Three Bears Property\)](#)

Council Member Smith asked about any new information regarding the property. Mr. Hozey stated it was not former Mayor Cobb's intention, nor was it City Administration's intention to acquire the property to hold on to it or turn it into a park. It is prime commercial real estate in the core downtown district and needs to be developed as such. Other communities have land trusts that do similar purchases to acquire property, develop in a way desired by the community, and put it on the market often with development requirements. Lacking a land trust in Valdez, City administration is proposing a similar transaction that will involve additional discussion with Council regarding the development of the property. The property is in the core downtown district, is not earning tax dollars, and with the City's beautification efforts underway using public funds to clean-up that entire corridor, is an eyesore. Foreclosure is an option, but with all the terms and conditions attached to that type of process it would be a very lengthy, very expensive process. Purchasing the property appears to be an opportunity at least worth discussing.

Council Member Smith asked if the property is currently for sale. Mr. Hozey stated, to his knowledge, it is not open for general sale. The current property owner approached former Mayor Cobb with the concept of selling the property to the City. Prior to formally presenting the item to Council, the City Community Development Department did research and ordered an appraisal on the property.

Council Member Moulton stated the property is certainly in violation of Code and asked what has been done to address those violations. Ms. Lisa Von Barga, Community Development Director, stated she is in the process of starting to address abatement issues on the property. Former Mayor Cobb advised her that the City had been approached by Larry Reynolds. At that point she began working on research regarding purchasing the property instead of pursuing the abatement process through code. Council Member Moulton quoted the definition of dangerous buildings from Code. Eleven items within that definition apply to the property in question. In the penalties section of Code, fines for such violations are not more than \$300. Each ten days that a violation continues after due notice has been served, shall be deemed a separate offense. He asked when the City issued a notice to the property owner. Ms. Von Barga stated a notice had not been issued. Council Member Moulton clarified, the City chose not to issue a notice of violation and, furthermore, he is not in favor of purchasing the property. He clarified that the property should not be referred to as the Three Bears property, as it is owned by a Larry Reynolds now. Ms. Von Barga explained the property is actually owned by Janice Reynolds and it is currently encumbered to Dr. Marcus Alexander. However, Dr. Alexander recently signed a deed of re-conveyance to Ms. Reynolds.

Council Member Moulton stated the situation is not unique, as outlined in the agenda statement. Across the street from the property is another building falling down. He asked if the city purchases the property in question, will the City need to buy other properties in disrepair around town. He asked if taxes on the property have remained unpaid for five years, at what point does the City start moving forward with foreclosure. He stated "trading" property for back taxes should not even be an option.

Council Member Wells said he will not support the purchase of the property for largely the same reasons as Council Member Moulton. Mr. Reynolds is also asking for \$11,755 in back taxes on his residence to be written off with purchase of the fish. Council Member Wells feels purchasing the property is a slippery slope that sets a bad precedence for the future.

Mr. Hozey clarified the City cannot waive property taxes by law and doing so is not what is being proposed. The property taxes on the main property would be cured with the proceeds of the sale, just like any other transaction where back taxes are due. Essentially, the property owner would receive less money from the sale. The City would be purchasing the fish for a set price. The price the owner of the fish requested is the amount of back taxes he owes on his residence. The City could structure the sale of the fish in a way that goes to pay the taxes. These are taxes the City will likely never see. Mr. Hozey wanted to be clear the City is not making any deals to relieve the property owner's taxes, as this is illegal.

Mayor Weaver stated he sees two different issues with the proposal. The first is the land; the second is the fish. The land has been appraised for a set amount which the property owner has agreed to, less the taxes he owes the City on that property. The City would be purchasing the property for the appraised value. He asked about the owner's back tipping fees for disposal of materials from the old building on the property, and if the fees were reimbursed to the owner through his insurance. Ms. Von Barga stated the fees have been written off and sent to collections. Mayor Weaver stated, if the tipping fees have already been turned over to a collections agency, the City would need to look at the collections agreement before taking any action on the fees. He added that one of the main concerns voiced by Valdez residents during his campaign for Mayor was cleaning up the property. However, he disagreed with purchasing the fish. Mr. Hozey stated that the proceeds from the sale of the fish would be used to pay back taxes and relieve a debt, prior to being given to the fish's owner. The fish would become property of the City and Council could decide what to do with it.

Council Member Moulton stated there are a lot of small business owners trying very hard to survive in Valdez. Purchasing the property sends a poor message that business owners will be helped out if they do not follow laws regarding taxes, condition of property, etc. If business owners pay their vendors, utilities, and taxes, it is much appreciated, but the City will jump in and help you out if you don't. He feels it is the wrong decision and also feels the appraised value is too

high and not fair market value. Mr. Hozey explained the appraisal was done by a professional appraiser, not by the City. He feels the City would not be rewarding the property owner.

Council Member Moulton stated the City would need to clean the property, if purchased, and he is aware of water main issues that will end up costing the City additional time and money to fix. He asked how the City would end up selling it, if there is not already another buyer interested in the property. He asked if there was anything that precludes the City from selling it right back to the current property owner or for him purchasing other property in town.

Council Member Wells asked for the resale value of the property, based on the proposed purchase price and any improvements the City will make. He does not disagree that something needs to be done about the property, but feels this is not the right decision. The City is not a land trust and what will happen the next time a similar situation occurs in town. If the public determines another property is not aesthetically pleasing, will the City purchase that as well? He is concerned about the end game for the property and if the City will end up losing money in the process.

Council Member Fleming asked if the City decided to go after the property from a Code enforcement perspective, what the process and timeline would be. Ms. Von Barga stated the City will need to send out an appropriate number of notices, then file with the court if the notices go unheeded in the timelines associated with them. A court injunction is needed for the City to go on the property and take care of the demolition of the old structure. The City successfully completed this process with two residential properties in the past. One of the residential properties took nine years to resolve. Since that time, Code has been changed to allow the City to take care of issues in a more timely manner. For the property in question, she estimated it would take approximately a year before receiving court approval to demolish the old structure. Council Member Fleming asked if the owner could sell the property to someone else to avoid responding to the City's notices. Ms. Von Barga explained Code allows both the owner and occupant to be held accountable for condition of the property. It would not matter who the property owner is, they will remain liable for the abatement issue. It will complicate the situation if the property owner changes with regards to notice, but consultation with legal may help resolve the issue if it arises.

Council Member Fleming asked if the City is responsible for costs associated with demolition work following a court injunction. Ms. Von Barga explained the City fronts the money to clean up the property. That bill is attached back to the property in the form of a lien second only to taxes. With the lien, in addition to back taxes, the City can foreclose on the property. Legal fees will also be associated with the entire process. Mr. Hozey added, in a foreclosure, any foreclosure proceeds over what is owed to the City for the lien, back taxes, and

legal fees, is returned to the property owner.

Council Member Fleming asked for clarification on eminent domain. Ms. Von Barga explained the City has the authority to exercise eminent domain, although we never have. The City would go through the legal process to do so, have the property appraised, and then pay the owner the appraised, fair market value for the property; it cannot be taken without reimbursement of its value. What is proposed in the agenda statement is the same process without involving the legal process because the City has a willing seller.

Council Member Smith agreed something needs to be done with the property. He is concerned that City Code and Ordinances are not being enforced. He asked, if residents are complaining about the condition of the property, why is this? Lack of enforcement needs to be addressed.

Council Member Knight stated she previously asked about the dangerous building portion of code in relation to the property. She received differing answers from different members of staff. She asked about the water main issue, as she believed it was already resolved. Ms. Von Barga explained the property in question and the adjacent property with the small mini-mall used to be one parcel. Those parcels were subdivided many years ago and at the time the subdivision took place, the water lines were not required to be separated. There was a main line going into the old Three Bears building and a Y-line that went to the Valdez Center Company building. The issue with the water line was resolved three to four years ago, well before the building collapsed. She was unaware of the condition of the water line currently servicing the property now.

Council Member Knight said she continues to receive negative feedback from the community regarding the condition of the property. She would support purchasing the property to resolve concerns, but asked how the original idea was suggested in the first place since she never saw a "For Sale" sign. She asked if the City did not purchase the property, will the owner attempt to sell it privately. Ms. Von Barga did not know the answer to the sale question.

Ms. Von Barga explained the City does not currently have a "Beautification Code" or architectural standards for appearance in Valdez, only a Zoning Code. The property is zoned "Central Business District" and anything that is allowed by right in the zoning district could be constructed on the property. If something is allowed by conditional use permit, the developer could apply for the permit through the Planning and Zoning Commission. There are no architectural or landscaping standards within City limits. Council Member Knight suggested the Economic Diversification Commission or the Beautification Task Force may want to address those issues in the future. She asked, if the City decided to purchase the property, how fast would the sale take place and how fast would the property be cleaned. Ms. Von Barga stated the purchase could be completed in approximately 30 days or as fast as the title company completed the work. The

property owner advised the Community Development Director that he would allow the City to enter the property prior to the sale being effectuated in order to clean it up.

Council Member Knight stated she received several suggestions to place a new museum on the property. Ms. Von Barga stated no conversations regarding use of the property have taken place except putting it back onto the market.

Council Member Moulton read the definition of a dangerous building from Code: "Whenever any portion of a building or structure remains on a site after demolition or destruction of the building or structure, or whenever any building or structure is abandoned for a period excess thereof, or attracts a nuisance or hazard to the public." He asked why enforcement never took place on the property. Ms. Von Barga stated the husband of the property owner was working with an engineer to develop the property and construct a new building. She has seen the plans and they have been submitted to the Community Development Department. The property owner intended to use a portion of what was left standing as foundation for the new building. A fairly significant period of time existed with visible activity towards new development on the activity. The project stalled and then City staff efforts went to researching a purchase option and abatement did not take place.

Mr. Joe Prax, Valdez resident, stated he found out about the situation from the previous Mayor and was told the Mayor approached Mr. Reynolds about selling the property to the City. Mr. Reynolds said he would sell the property for \$250,000. An appraisal completed by the City came in at \$242,000. Mr. Prax feels the appraisal is too high and not fair market value. He also feels the City does not enforce payment of taxes by property owners as required by law, which is not fair to those business owners who follow the rules and try to do their best. He expressed his displeasure with using tax money to purchase this property. It took him more than two months to follow the proper procedure to install a second driveway in the old Sugar and Spice building. Part of the delay in that approval was the efforts of the City's Beautification Task Force and installing the driveway around portions of the Egan Street beautification plan. Mr. Prax stated it is very expensive for business owners to do things the correct way, but he tries his best. By purchasing the Reynolds' property, which collapsed because the roof was not shoveled, a message is being sent to property owners that they do not have to follow the rules or take care of their property and then the City will bail them out. During the tax appeal process, Ms. Reynolds approached City Council after the building collapsed, asking for the previous year's property taxes to be forgiven for the building and the land. Mr. Prax did not vote in favor of the request. The Council at the time did end up voting to remove the taxes on the building even though the building was still standing on January 1st. They did not repeal the taxes on the land. That same Council received a request the same night from the Reynolds family asking to reduce property taxes on their residence because they stated snow shed from their roof had knocked the kitchen cabinets off the wall causing \$300,000 worth of damage. Mr. Prax feels most cities would never

reward this type of behavior. If codes had been enforced, the collapsed building would have been cleaned up three years ago. If the City chooses to purchase the property, they will incur the cost not only of the sale, but also for clean-up and fixing anything else discovered on the land, such as a buried fuel tank or water problems. He also strongly disagrees with not only purchasing the fish, but also the owner setting the sale price of the fish. He suggested speaking with Dave Winney, who he believes made the fish. Mr. Prax stated the City should be rewarding the people who do the right thing, not fixing problems for people who don't. He is concerned how the City has any vision for economic development while treating property owners like this.

Council Member Knight asked Mr. Prax what he suggested for dealing with the property. Mr. Prax responded that enforcing the rules needs to happen and that rules exist for a reason. Furthermore, he said if a child is skateboarding on the property in the future and falls and hurts themselves, who will the parents go after. Not the property owner who owes thousands of dollars in back taxes; they will go after the City for not enforcing Code and leaving a dangerous building in place. The City enforced abatement issues and dangerous building in the past, so why is this property not being addressed.

Selah Bauer, Valdez resident, asked if Council decides not to purchase the property, can they set a plan in place to deal with the property and enforce the rules set in Code. She works at the Visitors Bureau and the condition of the property is the very first thing visitors' comment on when arriving in Valdez. She asked if a plan is set in place, can it be done soon. Council Member Knight asked if the Community Development Department handles these types of issues, or would it take law enforcement to assist. Ms. Von Barga stated her department handles all administrative functions surrounding cleaning up abatement and nuisance locations. The only time the Police Department is employed is when there is fear of going onto the property to post notice or if, in violation of order, the notice of abatement is removed from a property and has to be reinstated. The removal of the notice is punishable by misdemeanor.

Ms. Pierce needed to make sure Council and the public understands that the property owner owing back taxes is merely a statement of fact. If the City purchases property from someone and there are taxes or other monies owed to the City, at the time of settlement the debt is settled as part of the agreement. The subject that the property owner owes taxes should not even be a part of the discussion. If the City pays the fair market value of the property, debt is taken from the sale. No deal is being made as part of the transaction. If a property owner does not pay taxes, the City forecloses on the property. There are certain tax exemptions, such as the senior citizen tax exemption, granted to property owners which are outlined in statute and municipal code. However, the law does not provide for the City to forgive taxes nor make a deal to trade property to settle back taxes.

Council Member Moulton added if we foreclose on the property, the City actually receives money for the back taxes. If the City buys the property, the value of the back taxes is not received unless the property can be sold for at least the purchase price. Mr. Hozey explained purchasing the property was intended to alleviate the cost and time associated with a foreclosure. Council Member Moulton stated he would rather follow the established process in code.

Council Member Knight asked for the name of the appraiser and if there were other appraisers available. Ms. Von Barga explained there are many other appraisers in the state, but many will not travel to Valdez. The person hired is the primary appraiser for both residential and commercial property in Valdez and does work for both the City and local realtors. Council Member Moulton pointed out the appraised value is not always the fair market value.

Council Members Fleming and Smith requested the City pursue enforcement of clean-up on the property as well as collection of back taxes. Council Member Moulton stated enforcement might motivate the owner to take positive action. All council members agreed.