

PORT ST. LUCIE CITY COUNCIL
Agenda Item Request

COUNCIL ITEM 12C
DATE 11/14/11

MEETING: CITY COUNCIL Regular Special

DATE: November 14, 2012

Public Hearing Ordinance Resolution Motion

ITEM: Sale of NSP Property 1458 SW Bougainvillea.

EXHIBITS: Memo with overview of issue and Minutes from October 10 Council Meeting. Agreement between two adjacent property owners.

SUMMARY EXPLANATION/BACKGROUND INFORMATION: The City purchased a blighted, foreclosed property for demolition. It was brought to our attention that the property is located in a conversion area and it would be more beneficial to have the property utilized as commercial rather than demolish and rebuild a single family home. HUD will allow us to sell the property for exactly what we have expended in NSP funds, we cannot sell for a profit. Both adjacent property owners are interested in purchasing the property and have signed an agreement. Staff recommends that Council sell the property for the amount we have in it to Mr. Petrillo as stated in the agreement attached.

IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?

SUBMITTING DEPARTMENT: Community Services DATE: 11/8/11

Memo

To: JERRY BENTROTT, CITY MANAGER

C: GREGORY J. ORAVEC, ASSISTANT CITY MANAGER

From: TRICIA SWIFT-POLLARD, DIRECTOR, COMMUNITY SERVICES

Date: NOVEMBER 8, 2011

Re: 1458 SW BOUGAINVILLEA-SALE TO ADJACENT PROPERTY OWNER



The NSP program purchased a blighted foreclosed property that was targeted for demolition, then it was brought to our attention that the property is in a commercial conversion area. We contacted HUD, and were told that because we did not want to demolish and rebuild a single family home in a commercial conversion area, we could sell the property for exactly what it has cost us to purchase and maintain. We then contacted the two neighbors adjacent to the property and found that they were both interested in purchasing the property. We were told that they had an agreement that "just needed to be signed" prior to the October 10, 2011 Council Meeting on this issue (minutes from the meeting are attached). However, at the Council meeting it was discovered that the agreement had not been signed and the two neighbors did not have an agreement, at that point Council asked us to further evaluate the issue.

Staff looked at different scenarios with regards to the sale of this property. The City could use other funds to buy the property and then sell to the highest bidder without HUD restrictions, or we could open up the purchase to a wider group of buyers. However, because we have to sell this property for exactly what we have in it and no more, and because of the complexities involved in zoning this area General Commercial, including a two lot depth and not "isolating" any of the lots (a map showing the lots is attached), it is staff recommendation to sell this property to Mr. Petrillo one of the two adjacent property owners. We believe these adjacent property owners, now that they have a signed agreement to have Mr. Petrillo purchase the property (signed agreement attached), have the best chance of being successful in meeting the requirements to zone the property general commercial.

I recommend that Council approve the sale of the property to Mr. Petrillo for the amount we have expended (which at this point in time is \$26,921.99. We will continue to update any expenditures for this property up to the time of the sale.

AGREEMENT of 10-24-2011

This Agreement is between Thomas Petrillo aka Bayview Real Estate of SLC (hereinafter referred to as "Petrillo") and Joan George (hereinafter referred to as "George"), who are both current owners of properties located in Saint Lucie County.

George is the current owner of six parcels in Saint Lucie County, whose property description is as follows:

1. 1486 SW Bougainvillea Avenue, 3420-6100-665-0001
2. 1476 SW Bougainvillea Avenue, 3420-6100-666-0008
3. 1449 SW Gatlin Blvd., 3420-6100-706-0001
4. 1461 SW Gatlin Blvd., 3420-6100-707-0008
5. 1473 SW Gatlin Blvd., 3420-6100-708-0005
6. 1485 SW Gatlin Blvd., 3420-6100-709-0002

Petrillo is the current owner of one parcel in Saint Lucie County, whose property description is as follows:

1. 1466 SW Bougainvillea Avenue, 3420-6100-667-0005

It is understood that an additional parcel is currently available for sale from the City of Port Saint Lucie. The property is located at 1458 SW Bougainvillea Avenue, 3420-6100-668-0002. *It is mutually agreed that Petrillo will be purchasing this property and will be required to provide proof of purchase of this property, prior to making this agreement effective. This property currently has a home on the parcel, and any improvements, modifications, and code requirements to this property will be borne solely on Petrillo. If Petrillo does not exercise his option to purchase said parcel he MUST notify George who will exercise their option to purchase said parcel from City of Port St Lucie.*

For purposes of this Agreement, Petrillo will be considered the owner of two parcels.

THEREFORE, it is mutually agreed between all parties, to list for sale in and sell the six (6) parcels of land owned by George and the two (2) parcels of land owned and will be owned by Petrillo as described above, as a package of eight (8) parcels (hereinafter referred to as "Portfolio").

All parties agree to use a National Multiple Listing Service Agent (MLS) to list the Portfolio for sale. This Agent must be independent to all related parties. The Commission to be paid to an independent Agent for Listing the Portfolio shall not exceed three (3%) percent and the Commission to be paid to an independent Agent for Selling the Portfolio shall not exceed (3%) percent. If Petrillo participates in the sale of the Portfolio, there will not be any commission paid to him or his company.

The listing sales price shall be determined by an average of three separate Comparative Market Analysis (CMA). It is further agreed that of one the three can be independently sought by George and one by Petrillo. The third must be mutually agreed upon by both parties. If an agreement of the third realtor can not be agreed the selected other 2 realtors will pick the third realtor, however no less than \$85,000 per parcel listing price.

All parties agree to unconditionally accept any offers within a maximum of fifteen (15%) percent of the listed sales price. Any offers received lower than the above stated percentage would have to be agreed to by all parties, however, no less than \$72,500.

The sales price will be divided equally between all parcel owners, which for purpose of this Agreement, would be eight (8) parcel owners. The closing costs and other fees will also be divided equally between the parcel owners. However, any outstanding obligations on any parcel such as mortgages, real estate taxes, etc. will be



deducted from that parcel's individual share of 1/8 of the parcels owned by each. Sellers agree to pay all standard seller closing fees and costs, additional buyer incentives will be considered and must be mutually agreed.

All parties further agree that all carrying costs for each parcel will be borne by parcel's owner. This includes but is not limited to real estate taxes, insurance assessments, compliances, etc.

If any section of this agreement is deemed invalid all other section will remain in full effect. No other verbal statements will be part of this agreement, this document constitutes entire agreement.

Attorney's Fees: Costs: In any litigation, including breach, enforcement or interpretation, arising out of this Agreement, the prevailing party in such litigation, which, for purposes of this, shall include all parties acting in this Agreement, shall be entitled to recover from the non-prevailing party reasonable attorney's fees, costs and expenses.

Time is of the essence and all parties agree to act diligently in marketing and selling this Portfolio. Furthermore, shall any cost, excluding parcel 1466 SW Bougainvillea Avenue, 3420-6100-667-0005 (code compliances, modifications only) be incurred to enhance or increase the value of the Portfolio, the cost will be divided equally by parcel owners.

This Agreement shall have a term of five (5) years. In the event that at the end of this Agreement and the Portfolio did not sell agreement can be continued if mutually agreed. This agreement is deemed to be written by both parties. **IN THE EVENT OF THE DEATH OF EITHER PARTY, THIS AGREEMENT BECOMES NULL AND VOID.**

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

Thomas Petrillo Pres

10-30-11

Thomas Petrillo aka Bayview Real Estate of SLC

date

Thomas Petrillo

10-30-11

Thomas Petrillo individually

date

Joan George

11/2/11

Joan George

date

**CITY OF PORT ST. LUCIE
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 10, 2011**

A Regular Meeting of the CITY COUNCIL of the City of Port St. Lucie was called to order by Mayor Faiella on October 10, 2011, at 7:00 p.m., at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

1. MEETING CALLED TO ORDER

2. ROLL CALL

Council Members

Present:

Mayor JoAnn M. Faiella
Vice Mayor Linda Bartz
Councilwoman Michelle Lee Berger
Councilman Jack Kelly
Councilwoman Shannon M. Martin

Others Present:

Jerry A. Bentrrott, City Manager
Roger G. Orr, City Attorney
Sherman A. Conrad, Parks & Recreation
Director
Edward Cunningham, Communications Director
Marcia Dedert, Finance Director/Treasurer
Joel Dramis, Building Official
Kim Graham, Assistant City Engineer
Daniel Holbrook, Planning & Zoning Director
Jesus A. Merejo, Utilities Director
Karen A. Phillips, City Clerk
David K. Pollard, OMB Director
Brian E. Reuther, Police Chief
Cheryl Shanaberger, OMB Deputy Director
Tricia Swift-Pollard, Community Services
Director
Gabrielle Taylor, Assistant City Attorney
April C. Stoncius, Deputy City Clerk

3. INVOCATION & PLEDGE OF ALLEGIANCE

The City Clerk gave the Invocation, and Mayor Faiella led the assembly in the Pledge of Allegiance.

4. PUBLIC TO BE HEARD

e) **SALE OF NEIGHBORHOOD STABILIZATION PROPERTY, SELL 1458 SW BOUGAINVILLEA AVENUE TO AN ADJACENT PROPERTY OWNER FOR CURRENT INVESTMENT OF \$26,841.90, COMMUNITY SERVICES**

Ms. Swift-Pollard said, "The Community Services Office administers the Neighborhood Stabilization Program. At the end of last year as we were rapidly buying properties, we bought a blighted home in the Gatlin area. We slated the home for demolition and as we were getting ready to demolish the home, a gentleman approached us and indicated that it was in a Commercial Conversion area. The last thing that we wanted to do is to tear down that blighted structure and build a single-family home in the middle of a Commercial Conversion area. It was in the best interest of the City to let it go forward as Commercial. We talked to HUD and asked them what to do in this situation. They said that we could sell the property for the exact amount of money that we had in it. We couldn't go out to bid, we couldn't make any money, but we shouldn't lose money. I went to my supervisor, Mr. Oravec, and he asked me to get in contact with the two property owners that own the rest of the lots. Both property owners felt like they should be the ones to purchase the property. Mr. Petrillo owns one lot, and he was the one that brought it to our attention. Mr. George owns six of the lots. My recommendation was to put the names in a hat or a bowl, and pick one. I didn't know of a fairer process. I put them in contact with each other, but they could not come to an agreement."

Councilwoman Martin clarified, "I just want to make sure that you don't have a problem with this process, and you will accept the results." Mr. George stated, "Having two lots in a conversion area doesn't do that property owner or the City any good whatsoever. You would need a minimum of three lots. I wrote an agreement indicating that we would back off and have him buy the property at a fair market value, and sell all eight lots together. Mr. Petrillo refused to do that. I have six of them; three on Gatlin and two on Bougainvillea. Having only two lots would be a problem in the future for the City. It would put him in a position where his lots are worthless, and he can't do anything with them except to try to negotiate with me. I think that would be very unfair." Councilwoman Martin pointed out, "That is my concern, because we are boxing a property in potentially. That person can't do anything with that lot if he is able to purchase it, because there is a three lot minimum requirement to be able to do something with them." Ms. Swift-Pollard said, "I spoke to Mr. Holbrook earlier who advised me to convert it to General Commercial, as we cannot leave any lots

abandoned." The City Attorney advised, "It is the isolated lot that you can't convert, which is a part of the Conversion Program. If the first gentlemen were to pick up this lot from us, we would still have a problem converting it because it would leave the other lot isolated, and we can't do that."

Mr. Petrillo said, "I've tried buying this lot from the individual that owned it, as he was in foreclosure. He ended up letting it go back to the bank. I talked to the realtor who said the City had a shot at it first. This has been going on since 2009. I have a use for the property. I gave Mr. George a verbal agreement that I would sell it, but then I got a two-page document that was handwritten and it looked like an attorney wrote it. I looked through it, and decided I was not going to go through with it. He wanted me to sign off on it for five years at an agreed market value of the property at 10% to 15% below debt. I was not comfortable doing it, and that is why I agreed to the hat." Mayor Faiella explained, "I was under the impression that you both agreed to do the hat tonight." Ms. Swift-Pollard clarified, "I received an email indicating that my recommendation was understood." Mr. Petrillo pointed out, "I'm the one that brought it to the City's attention." Mr. George said, "We tried to come to an agreement. I promise, I wrote the agreement myself. My unbiased way of doing it was to hire three realtors where Mr. Petrillo could pick one, I'd pick another, and the third one would be independent. We would combine all three together to get an approximate CMA. In the agreement, I indicated that if we got a price that was within 50% of the CMA, we would agree to sell it. I wrote the agreement bias towards Mr. Petrillo, realizing I have four lots on Gatlin that are worth more than the lots on Bougainvillea. I agreed to split it eight ways if we sold them. It was the easiest way to do it, and not have a big discussion on it. I tried to present it fairly, and if we can't resolve it now, then it is going to be put off for another day. I'm willing to table this, and meet with Mr. Petrillo to see if we can come to an agreement."

Councilwoman Berger inquired, "Can we give this property to a non-profit group? We have done so in the past. Just so that we are not involved in litigation, because that is where we are headed. If that organization wants to sell it for profit, then we have nothing to do with it. We won't make any money on it." The City Attorney responded, "I don't know." Ms. Swift-Pollard pointed out, "I don't believe that HUD would like that agreement, because if we sell it for exactly what we have into it, we are basically telling HUD, 'Oops.' If we give it to a non-profit, they have to meet a national objective. That would

mean they would have to use the property that meets HUD's guidelines for low income." Councilwoman Berger commented, "To be honest, I really don't want to have this piece of property at all. This is the most ridiculous thing for us to be involved in. I don't want to hear about the background, and I'm sorry you guys have to figure this out in the Conversion Zone. I'm this close to changing the policy in the Conversion Zone to make sure we can fix this one loss that we have accumulated by accident. It is unfortunate, but it is something that we need to talk about. We need to table this, so that staff can work on it some more. If there isn't a resolution, then we need to talk about policy changes for that Conversion Area." Mayor Faiella remarked, "I was under the impression that they were in agreement, so we could resolve it." Councilwoman Martin pointed out, "That is why I asked the question, and I wanted it on the record. I didn't like it from the beginning when I reviewed my packet. We are getting involved with private property owners to try to work out a deal, and we shouldn't be doing that." Councilman Kelly said, "The good news is that we got rid of a piece of blighted property at no expense to us, and we have a piece of property that we can sell for what we paid for it. I say flip a coin, because I'm not going to get involved." Councilwoman Martin clarified, "They don't agree on the terms." Councilman Kelly stated, "It doesn't matter. We can sell this property to anybody that we want for the same price that we paid for it. It is not our problem, as it is their business. They are both going to have problems with that property that they will have to come back later to resolve."

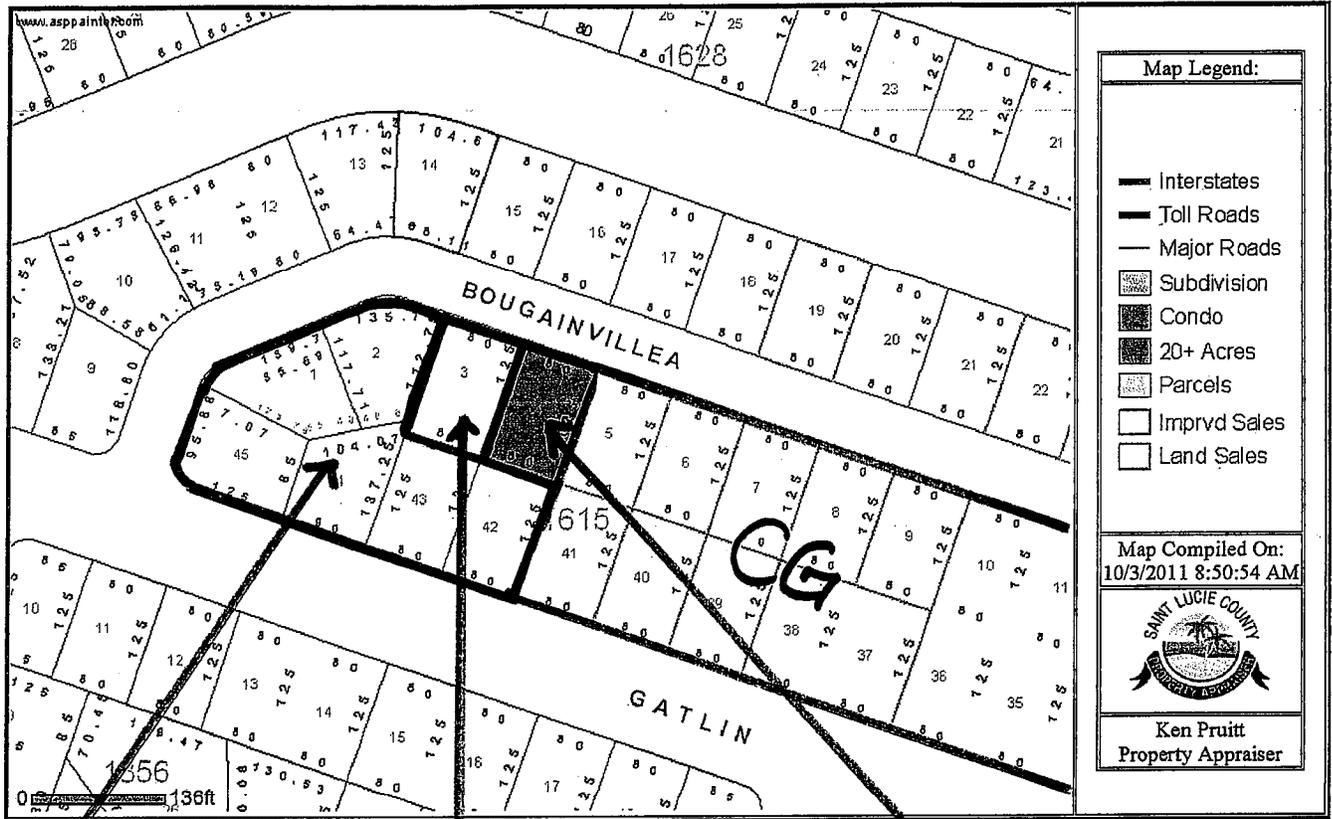
Councilwoman Berger said, "There are neighbors to the west of this property that are not part of the discussion tonight, because staff made the assumption that it would be of good use to the two property owners that are here. There is a whole block that may be interested." Mr. Cunningham advised, "We are broadcasting this right now on TV20, and the Federal Communication Commission License Regulations doesn't allow us to broadcast any kind of lottery or game of chance of any kind. If somebody here stands to gain financially, we would be putting our FCC license at risk." Councilman Kelly said, "Councilwoman Berger brought up a great point in that we have to open it up to the whole neighborhood to give everybody an opportunity."

Councilwoman Berger **moved** to send Item 13 e) back to staff for further evaluation to give more suggestions, which may include selling it outright. Councilman Kelly **seconded** the motion. The City Clerk restated the motion as follows: to send Item 13 e) back to staff for further evaluation. The **motion passed**

unanimously by roll call vote.

Saint Lucie County, Florida

Property Appraiser's - Internet Mapping Print Service



6 lots owned by
Property Owner #1

1 lot owned by
Property Owner #2

Property owned by
the City
1458 Bougainvillea