

Dexter, Michigan
Downtown Development Authority

MEETING NOTICE

OCTOBER 18, 2012

7:30 AM

**DEXTER SENIOR CENTER
7720 ANN ARBOR STREET
DEXTER, MICHIGAN 48130**

Dexter Downtown Development Authority

Meeting Agenda

October 18, 2012 <> 7:30 AM

Dexter Senior Center

7720 Ann Arbor Street

Dexter, MI 48130

1. Call to Order:

2. Roll Call

Bellas, Rich

Brouwer, Steve

Covert, Tom

Darnell, Don

Finn, Doug

Jones, Carol

Keough, Shawn

Lundy, Dick

Model, Fred

O'Haver, Dan

Schmid, Fred

Willis, Randy

3. Approval of Minutes from September 20, 2012:

4. Approval of Agenda:

5. Arranged Audience Participation:

6. Non-Arranged Citizen Participation:

7. Treasurer's Report: **SENT IN SEPARATE EMAIL**

a) Invoices: US Bank \$61,273.13 US Bank \$47,689.38

b) Approval of Treasurer's Report-October

8. Correspondence / Communications:

9. Action Items: None

10. Discussion and Updates:

a)Broad Street Redevelopment Update-

11. Village Reports:
 - a) President
 - b) Staff Update

12. Chairman's Report:

Items for November Agenda:

- DDA Reappointments
- 2012-2017 CIP Review

13. Non-Arranged Citizen Participation:

14. CLOSED SESSION FOR THE PURCHASE OF PROPERTY MCL 15.268 Sec. 8

15. Adjournment

Dexter Downtown Development Authority

September 20, 2012 <> 7:30 AM

Dexter Senior Center

7720 Ann Arbor Street

Dexter, MI 48130

MINUTES

1. Call to Order: Called to order at 7:32 by Chairman Steve Brouwer.
2. Roll Call

Bellas, Rich	Brouwer, Steve	Covert, Tom
Darnell, Don	Finn, Doug-ab	Jones, Carol
Keough, Shawn	Lundy, Dick-ab	Model, Fred
O'Haver, Dan-ab	Schmid, Fred-ab	Willis, Randy

Also in attendance: Courtney Nicholls, Assistant Dexter Village Manager
3. Approval of Minutes from August, 16, 2012: Motion by Randy, second by Tom to approve the minutes of August 16, 2012 as presented. Motion carries.
4. Approval of Agenda: Motion by Fred M, second by Rich to approve the agenda as presented. Motion carries.
5. Arranged Audience Participation: None
6. Non-Arranged Citizen Participation: None
7. Treasurer's Report:
 - a) Invoices: None
 - b) Approval of Treasurer's Report: Motion by Rich, second by Don to accept the Treasurer's Report for September as presented. Motion carries.
8. Correspondence / Communications: None
9. Action Items: None
10. Discussion Updates:
 - a) Broad Street Redevelopment Update – ON HOLD
 - b) Purchase of Banners for Light Poles Downtown – This is being pursued with the Arts, Culture and Heritage Committee with a possible contribution coming from the DDA.
 - c) 3115 Broad Street Parking/Fire Lane – Looking for a subcommittee to work on this issue in order to resolve what was proposed in the original agreement.

11. Village Reports:

- a) President - Shawn reported on that most of the infrastructure projects are wrapping up and the Village is looking into a major streets project from Federal Fund monies that would improve Ann Arbor Street from Baker Road to Kensington Street to begin possible in October 2013 which would include parking on both sides of the street, bike lanes and continue the crosswalk improvements.
- b) Staff Support Update – Courtney reported that the DDA will be looking at the Capital Improvement Plan and updating the roster at the next meeting.

12. Chairman's Report: Steve reported on the progress of the Wellness Center and that there will be a Ground Braking Ceremony on August 24.

13. Non-Arranged Citizen Participation: None

14. CLOSED SESSION FOR THE PURPOSE OF DISCUSSION OF POTENTIAL PROPERTY PURCHASE IN ACCORDANCE WITH MCL 15.268 Sec. 8

Motion Tom and second Don to move into Closed Session at 8:03 AM for the purpose of discussion of potential property purchase in accordance with MCL 15.268 Sec. 8.

Ayes: Rich Bellas, Steve Brouwer, Tom Covert, Don Darnell, Carol Jones, Shawn Keough, Fred Model and Randy Willis

Nays: None

Absent: Doug Finn, Dick Lundy, Dan O'Haver, and Fred Schmid

Motion carries

Motion Tom and second Don to leave closed session at 8:28 AM. Motion carries

15. Adjournment: Motion by Don and second by Randy to adjourn the meeting at 8:29 AM. Motion carries.

Respectfully submitted,

Carol Jones
Secretary

VILLAGE OF DEXTER

ddettling@villageofdexter.org

8140 Main Street Dexter, MI 48130-1092

Phone (734)426-8303

Fax (734)426-5614

MEMO

To: Board Members Dexter Downtown Development Authority
From: Donna Dettling, Village Manager
Date: October 18, 2012
Re: Tupper Properties LLC Purchase Agreement
Closed Session

Attached is a copy of the First Amendment to Purchase Agreement (redline doc and clean doc) for your review. Scott Munzel will be attending the meeting this week to discuss the status of the amendment.

FIRST AMENDMENT TO PURCHASE AGREEMENT

This First Amendment to Purchase Agreement (Agreement) is made _____, 2012, by and between the Dexter Downtown Development Authority, a Michigan municipal corporation, whose address is 8140 Main Street, Dexter, Michigan 48130, (DDA), and Tupper Properties, L.L.C., a Michigan Limited Liability Company, whose address is 2500 Bishop Circle East, Dexter, Michigan 48130 (Seller).

Recitals

- A. The DDA and Seller entered into a Purchase Agreement, dated March 25, 2008 (the Purchase Agreement) for the purchase and sale of property located at 3045 Broad Street, Dexter, Michigan (the Property). Section 14 of the Purchase Agreement contained a closing date of September 21, 2012. The Purchase Agreement also anticipated that at the time of closing, there would be no tenants in the Property.
- B. While the DDA performed an environmental investigation of the Property in the Fall, 2008, Section 11 of the Purchase Agreement provided the DDA with the ability to update its environmental investigations prior to closing on the purchase of the Property.
- C. The DDA retained ASTI to update its earlier environmental investigations, and ASTI delivered its updated report to representatives of the DDA on August 8, 2012. ASTI's updated report indicated contaminants at a greater magnitude than in its 2008 report.
- D. Notwithstanding the anticipation that there would be no tenants in the Property at closing, the DDA now desires that existing tenants be able to remain in the Property after the DDA purchases the Property.
- E. The DDA and Seller desire to amend the Purchase Agreement to allow both parties to address the situation appropriately.

Agreement

Based upon the Recitals, and other valuable consideration, the DDA and Seller agree as follows:

1. The date for closing the purchase and sale of the Property, contained in Section 14 of the Purchase Agreement, is extended until November 28, 2012; provided however that the parties can mutually agree to close sooner. Any defaults by either party caused by the extension of the closing date are waived.
2. If any tenant in the Property desires to continue renting space, and such tenant is reasonably complying with the terms of its lease, Seller may extend the lease of such tenant; provided however that any extension shall only be on a month to month basis.

3. The Inspection Period contained in Section 11 of the Purchase Agreement is extended to November 2, 2012; provided however that the only issue for which this extension is given is for environmental issues, and provided further that the parties can mutually agree to revise this date.
4. ASTI has prepared a proposal for work to be performed at the Property (the Proposal), a copy of which is attached, which includes, in general, the removal of contaminated soils in areas of concern; verification sampling to confirm removal of contaminated soils; installation of three groundwater monitoring wells; and sampling of indoor air quality. Seller shall bear the cost of preparing the Proposal, and the Proposal shall be considered the property of Seller. If the DDA desires that ASTI conduct additional investigations beyond those contained in the Proposal, those investigations shall be at the DDA's cost.
5. Seller shall, consistent with all of its obligations under all applicable laws, inform the tenants in the Property of the environmental conditions of the Property and the actions to be taken to address the conditions, or in the alternative, Seller may direct ASTI to undertake such notifications.
6. Consistent with the Proposal and the "work plan" it anticipates, Seller shall, as soon as is reasonably practical, remove those soils and any other material contaminated with "trichloroethane" (TCE) so that no such soils or material remain on the Property that contain levels of TCE greater than the Michigan Department of Environmental Quality's "soil volatilization to indoor air inhalation" standards (Generic Residential Cleanup Criteria or GRCC) for TCE. The DDA's obligation to close on the purchase of the Property is contingent upon the removal of all such soil or material from the Property.
7. ASTI's updated report also indicated A) the presence of TCE in the groundwater greater than the GRCC standards for "groundwater contact" and "groundwater volatilization to indoor air inhalation" standards; and B) the presence of several "volatile organic compounds" (VOCs) in the sub-slab soil gas samples greater than the Michigan Department of Environmental Quality's draft standards for "Sub-slab Residential Soil Gas" or "Building Foundation" criteria. The presence of TCE in the groundwater, and VOCs in the soil gas, may require some type of removal, remediation, or other treatment in the future, or may not. The parties agree that, if the DDA purchases the Property, all Michigan and federal laws that would otherwise apply shall remain in effect, and any provisions to the contrary contained in the Purchase Agreement, including but not limited to Section 11(B) (Page 4 of the Purchase Agreement) and Section 11(a) (Page 5 of the Purchase Agreement), shall be and are void.
8. Seller reserves the right to commercially reasonable access to the Property after closing in order to undertake and complete any required investigation, remediation, or monitoring (Access Rights); provided that Seller shall undertake all tasks related to the Access Rights with the minimum amount of disruption to the Property, and that Seller shall return the Property to its original condition prior to the tasks completed as

part of Seller's Access Rights. Furthermore, the DDA agrees that it shall not allow any drinking water wells to be installed on the Property. The Seller's Access Rights and the prohibition on installation of drinking water wells shall be included in the deed from Seller to DDA.

9. If some alternative form of remediation (short of removal) for the TCE in the groundwater and/or VOCs in the soil gas allows for the development of the Property (for instance the installation of a vapor barrier or a sub-slab system), the expense of such alternative form of remediation shall be paid by Seller. Given that the payment for such alternative form of remediation may not be required for some time in the future, the parties shall negotiate in good faith to reach an agreement on how Seller shall pay for such future alternative form of remediation that provides adequate security to the DDA. The DDA's obligation to close on the purchase of the Property is contingent upon the parties reaching an agreement on or before November 2, 2012 on how to address Seller's payment for the potential alternative form of remediation.

10. The DDA and Seller reserve all rights contained in the Purchase Agreement, and except as stated above, all other terms of the Purchase Agreement remain in effect.

Tupper Properties, L.L.C.

Dated: _____, 2012

By: _____

Its:

Dexter Downtown Development
Authority

Dated: _____, 2012

By: _____

Its: Chairperson

Dated: _____, 2012

By: _____

Its: Secretary

FIRST AMENDMENT TO PURCHASE AGREEMENT

OCTOBER 10, 2012 VERSION

This First Amendment to Purchase Agreement (Agreement) is made _____, 2012, by and between the Dexter Downtown Development Authority, a Michigan municipal corporation, whose address is 8140 Main Street, Dexter, Michigan 48130, (DDA), and Tupper Properties, L.L.C., a Michigan Limited Liability Company, whose address is 2500 Bishop Circle East, Dexter, Michigan 48130 (Seller).

Recitals

- A. The DDA and Seller entered into a Purchase Agreement, dated March 25, 2008 (the Purchase Agreement) for the purchase and sale of property located at 3045 Broad Street, Dexter, Michigan (the Property). Section 14 of the Purchase Agreement contained a closing date of September 21, 2012. The Purchase Agreement also anticipated that at the time of closing, there would be no tenants in the Property.
- B. While the DDA performed an environmental investigation of the Property in the Fall, 2008, Section 11 of the Purchase Agreement provided the DDA with the ability to update its environmental investigations prior to closing on the purchase of the Property.
- C. The DDA retained ASTI to update its earlier environmental investigations, and ASTI delivered its updated report to representatives of the DDA on August 8, 2012. ASTI's updated report indicated contaminants at a greater magnitude than in its 2008 report. ~~The DDA believes that this is a change in the condition of the Property, and pursuant to Section 11 of the Purchase Agreement, on August 10, 2012, the DDA sent written notice to Seller of the DDA's objection to the change in the condition of the Property and the DDA's request that Seller restore the Property.~~
- D. Notwithstanding the anticipation that there would be no tenants in the Property at closing, the DDA now desires that existing tenants be able to remain in the Property after the DDA purchases the Property.
- E. The DDA and Seller desire to amend the Purchase Agreement to allow both parties to address the situation appropriately.

Agreement

Based upon the Recitals, and other valuable consideration, the DDA and Seller agree as follows:

1. The date for closing the purchase and sale of the Property, contained in Section 14 of the Purchase Agreement, is extended until November 28, 2012; provided however that the parties can mutually agree to close sooner. ~~Any defaults by either party caused by the extension of the closing date are waived.~~
2. If any tenant in the Property desires to continue renting space, and such tenant is reasonably complying with the terms of its lease, Seller ~~may~~ shall extend the lease of

such tenant; provided however that any extension shall only be on a month to month basis.

3. The Inspection Period contained in Section 11 of the Purchase Agreement is extended to November 2, 2012; provided however that the only issue for which this extension is given is for environmental issues, and provided further date by which Seller must elect to either repair or restore the Property, contained in Section 11 of the Purchase Agreement, is extended until October 26, 2012, provided however that the parties can mutually agree to revise this date.
4. ASTI has prepared a proposal for work to be performed at the Property (the Proposal), a copy of which is attached, which includes, in general, the removal of contaminated soils in areas of concern; verification sampling to confirm removal of contaminated soils; installation of three groundwater monitoring wells; and sampling of indoor air quality. Seller shall bear the cost of preparing the Proposal, and the Proposal shall be considered the property of Seller. If the DDA desires that ASTI conduct additional investigations beyond those contained in the Proposal, those investigations shall be at the DDA's cost.
5. Seller shall, consistent with all of its obligations under all applicable laws, inform the tenants in the Property of the environmental conditions of the Property and the actions to be taken to address the conditions, or in the alternative, Seller may direct ASTI to undertake such notifications.
6. Consistent with the Proposal and the "work plan" it anticipates, Seller shall, as soon as is reasonably practical, remove those soils and any other material contaminated with "trichloroethane" (TCE) so that no such soils or material remain on the Property that contain levels of TCE greater than the Michigan Department of Environmental Quality's "soil volatilization to indoor air inhalation" standards (Generic Residential Cleanup Criteria or GRCC) for TCE. The DDA's obligation to close on the purchase of the Property is contingent upon the removal of all such soil or material from the Property.
7. ASTI's updated report also indicated A) the presence of TCE in the groundwater greater than the GRCC standards for "groundwater contact" and "groundwater volatilization to indoor air inhalation" standards; and B) the presence of several "volatile organic compounds" (VOCs) in the sub-slab soil gas samples greater than the Michigan Department of Environmental Quality's draft standards for "Sub-slab Residential Soil Gas" or "Building Foundation" criteria. The presence of TCE in the groundwater, and VOCs in the soil gas, may require some type of removal, remediation, or other treatment in the future, or may not. The parties agrecintend that, if the DDA purchases the Property, all the Michigan and federal laws that would otherwise apply in such situations shall remain in effect, and any provisions to the contrary contained in the Purchase Agreement, including but not limited to Section 11(B) (Page 4 of the Purchase Agreement) and Section 11(a) (Page 5 of the Purchase Agreement), shall be and are void. Thus, if after the DDA's purchase of the Property, the DDA submits a baseline environmental assessment to the appropriate division

~~within the State of Michigan, and remediation or other response activity is required, Seller shall remain as a potentially responsible party under State law.~~

8. Seller reserves the right to commercially reasonable access to the Property after closing in order to undertake and complete any required investigation, remediation, or monitoring (Access Rights); provided that Seller shall undertake all tasks related to the Access Rights with the minimum amount of disruption to the Property, and that Seller shall return the Property to its original condition prior to the tasks completed as part of Seller's Access Rights. Furthermore, the DDA agrees that it shall not allow any drinking water wells to be installed on the Property. The Seller's Access Rights and the prohibition on installation of drinking water wells shall be included in the deed from Seller to DDA

~~7.~~

9. Furthermore, if some alternative form of remediation (short of removal) for the TCE in the groundwater and/or VOCs in the soil gas allows for the development of the Property (for instance the installation of a vapor barrier or a sub-slab system), the expense of such alternative form of remediation shall be paid by Seller. Given that the payment for such alternative form of remediation may not be required for some time in the future, the parties shall negotiate in good faith to reach an agreement on how Seller shall pay for such future alternative form of remediation that provides adequate security to the DDA. The DDA's obligation to close on the purchase of the Property is contingent upon the parties reaching an agreement on or before November 2, 2012 on how to address Seller's payment for the potential alternative form of remediation.

~~8.10.~~ The DDA and Seller reserve all rights contained in the Purchase Agreement, and except as stated above, all other terms of the Purchase Agreement remain in effect.

Tupper Properties, L.L.C.

By: _____

Its:

Dated: _____, 2012

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Dexter Downtown Development
Authority

Dated: _____, 2012

By: _____

Its: Chairperson

Dated: _____, 2012

By: _____

Its: Secretary