

1. 2021.08.09 Agenda

Documents:

[2021.08.09 AGENDA.PDF](#)

2. 2021.41 Land Purchase

Documents:

[2021.41 LAND PURCHASE.PDF](#)

2.I. 2021.41 Land Purchase EX A

Documents:

[59_S._COLUMBUS_ST._PURCHASE_AGREEMENT_FOR_SIG.PDF](#)

AGENDA OF BUSINESS
REGULAR MEETING OF COUNCIL
SUNBURY, OHIO
August 9, 2021
7:30 P.M.

SILENT PRAYER & PLEDGE OF ALLEGIANCE

ROLL CALL: Mr. Joe St. John, Mr. Timothy Gose, Mr. Martin Fisher, Mr. David Martin, Mr. Damin Cappel, Ms. Cooper, Mr. Greg Elliott.

ORDINANCES:

Third Readings

Second Readings

First Readings

ORDINANCE NO. 2021-41

**AN ORDINANCE RATIFYING AND APPROVING A THE PURCHASE OF REAL ESTATE
LOCATED WITHIN THE VILLAGE OF SUNBURY AND DECLARING AN EMERGENCY**

ADJOURNMENT.

ORDINANCE NO. 2021.41

AN ORDINANCE RATIFYING AND APPROVING A THE PURCHASE OF REAL ESTATE LOCATED WITHIN THE VILLAGE OF SUNBURY AND DECLARING AN EMERGENCY

WHEREAS, on or about the 9th day of August, 2021, the Sunbury Village Administrator, Steve Pyles, pursuant to the direction of Sunbury Village council submitted a bid via public internet auction to purchase real estate located at the intersection of Columbus Street and Granville Street in the Village of Sunbury known as 59 East Granville Street (tax parcel number 417-411-18-005-000) for the price of One Hundred Seventy-Six Thousand One Hundred dollars (\$176,100.00) plus a ten percent (10%) Buyer's premium of Seventeen Thousand Six Hundred and Ten dollars (\$17,610) for a total purchase price of One Hundred Ninety-Three Thousand Seven Hundred Ten dollars (193,710.00).

WHEREAS, Council for the Village of Sunbury wishes to ratify and approve the purchase of said real estate and to further approve said Contract by Ordinance and authorize the Village Administrator to execute the associated real estate purchase contract (a copy of said contract is attached hereto as "Exhibit A"); and any and all other necessary documents necessary to complete the purchase;

NOW THEREFORE, BE IT ORDAINED by the Council for the Village of Sunbury, Delaware County, State of Ohio, that:

SECTION I: The purchase of real estate located at the intersection of Columbus Street and Granville Street in the Village of Sunbury known as 59 East Granville Street (tax parcel number 417-411-18-005-000) for the price of One Hundred Seventy-Six Thousand One Hundred dollars (\$176,100.00) plus a ten percent (10%) Buyer's premium of Seventeen Thousand Six Hundred and Ten dollars (\$17,610) for a total purchase price of One Hundred Ninety-Three

Thousand Seven Hundred Ten dollars (193,710.00), pursuant to bid at public auction by the Sunbury Village Administrator is hereby ratified and approved.

SECTION II: The Sunbury Village Administrator is authorized to execute the attached auction documents including the Contract to Purchase at Public Auction, Agency Disclosure Statement and Environmental Addendum Assumption of Liability, Waiver and Release (a copy of which is attached hereto as "Exhibit A"); and any and all other necessary auction documents and closing documents to complete the purchase.

SECTION III: The Director of Finance is further authorized to submit the non-refundable earnest money deposit in the amount of Seventeen Thousand Six Hundred and Ten dollars (\$17,610) pursuant to the terms of the auction and associated contract to purchase.

SECTION IV: It is found and determined that all formal actions of this Council concerning and related to the adoption of this Ordinance were adopted in open meetings of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public, and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION V: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the citizens of the Village of Sunbury, Ohio to allow ratification of the purchase, the timely execution of the real estate purchase contract and all necessary documents and tendering the non-refundable earnest money deposit as required by the terms on the public internet auction.

WHEREFORE, this Ordinance shall take effect and be in force immediately from and after its passage.

VOTE ON SUSPENSION OF THE RULES	YEAS	NAYS
	_____	_____

VOTE ON THE EMERGENCY	YEAS	NAYS
	_____	_____

VOTE ON ORDINANCE NO. 2021.41	YEAS	NAYS
	_____	_____

PASSED: _____, 2021

Timothy P. Gose, Acting Mayor

ATTEST:

Kathy Belcher, Director of Finance

CERTIFICATION

I hereby certify on this 9th day of August 2021, that the foregoing is a true and accurate copy of the Ordinance passed at the meeting held on August 9th, 2021, of the Council of the Village of Sunbury of the County of Delaware, State of Ohio.

Director of Finance



AGENCY DISCLOSURE STATEMENT



The real estate agent who is providing you with this form is required to do so by Ohio law. You will not be bound to pay the agent or the agent's brokerage by merely signing this form. Instead, the purpose of this form is to confirm that you have been advised of the role of the agent(s) in the transaction proposed below. (For purposes of this form, the term "seller" includes a landlord and the term "buyer" includes a tenant.)

Property Address: 59 S. Columbus Street, Sunbury

Buyer(s): Sunbury Ohio

Seller(s): The estate of Marion Sparks

I. TRANSACTION INVOLVING TWO AGENTS IN TWO DIFFERENT BROKERAGES

The buyer will be represented by Stephen Barbeau, and Forman Realtors.
AGENT(S) BROKERAGE

The seller will be represented by Barry Baker, and Ohio Real Estate Auctions.
AGENT(S) BROKERAGE

II. TRANSACTION INVOLVING TWO AGENTS IN THE SAME BROKERAGE

If two agents in the real estate brokerage _____ represent both the buyer and the seller, check the following relationship that will apply:

- Agent(s) _____ work(s) for the buyer and Agent(s) _____ work(s) for the seller. Unless personally involved in the transaction, the broker and managers will be "dual agents", which is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information.
- Every agent in the brokerage represents every "client" of the brokerage. Therefore, agents _____ and _____ will be working for both the buyer and seller as "dual agents". Dual agency is explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* _____

III. TRANSACTION INVOLVING ONLY ONE REAL ESTATE AGENT

Agent(s) _____ and real estate brokerage _____ will

- be "dual agents" representing both parties in this transaction in a neutral capacity. Dual agency is further explained on the back of this form. As dual agents they will maintain a neutral position in the transaction and they will protect all parties' confidential information. Unless indicated below, neither the agent(s) nor the brokerage acting as a dual agent in this transaction has a personal, family or business relationship with either the buyer or seller. *If such a relationship does exist, explain:* _____
- represent only the (check one) seller or buyer in this transaction as a client. The other party is not represented and agrees to represent his/her own best interest. Any information provided the agent may be disclosed to the agent's client.

CONSENT

I (we) consent to the above relationships as we enter into this real estate transaction. If there is a dual agency in this transaction, I (we) acknowledge reading the information regarding dual agency explained on the back of this form.

BUYER/TENANT _____ DATE _____

BUYER/TENANT _____ DATE _____

SELLER/LANDLORD _____

SELLER/LANDLORD _____

DocuSigned by:
Gerald R. Sparks, Executor
E3D751D0ED424BB...
DATE

DUAL AGENCY

Ohio law permits a real estate agent and brokerage to represent both the seller and buyer in a real estate transaction as long as this is disclosed to both parties and they both agree. This is known as dual agency. As a dual agent, a real estate agent and brokerage represent two clients whose interests are, or at times could be, different or adverse. For this reason, the dual agent(s) may not be able to advocate on behalf of the client to the same extent the agent may have if the agent represented only one client.

As a dual agent, the agent(s) and brokerage shall:

- Treat both clients honestly;
- Disclose latent (not readily observable) material defects to the purchaser, if known by the agent(s) or brokerage;
- Provide information regarding lenders, inspectors and other professionals, if requested;
- Provide market information available from a property listing service or public records, if requested;
- Prepare and present all offers and counteroffers at the direction of the parties;
- Assist both parties in completing the steps necessary to fulfill the terms of any contract, if requested.

As a dual agent, the agent(s) and brokerage shall not:

- Disclose information that is confidential, or that would have an adverse effect on one party's position in the transaction, unless such disclosure is authorized by the client or required by law;
- Advocate or negotiate on behalf of either the buyer or seller;
- Suggest or recommend specific terms, including price, or disclose the terms or price a buyer is willing to offer or that a seller is willing to accept;
- Engage in conduct that is contrary to the instructions of either party and may not act in a biased manner on behalf of one party.

Compensation: Unless agreed otherwise, the brokerage will be compensated per the agency agreement.

Management Level Licensees: Generally the broker and managers in a brokerage also represent the interests of any buyer or seller represented by an agent affiliated with that brokerage. Therefore, if both buyer and seller are represented by agents in the same brokerage, the broker and manager are dual agents. There are two exceptions to this. The first is where the broker or manager is personally representing one of the parties. The second is where the broker or manager is selling or buying his own real estate. These exceptions only apply if there is another broker or manager to supervise the other agent involved in the transaction.

Responsibilities of the Parties: The duties of the agent and brokerage in a real estate transaction do not relieve the buyer and seller from the responsibility to protect their own interests. The buyer and seller are advised to carefully read all agreements to assure that they adequately express their understanding of the transaction. The agent and brokerage are qualified to advise on real estate matters. **IF LEGAL OR TAX ADVICE IS DESIRED, YOU SHOULD CONSULT THE APPROPRIATE PROFESSIONAL.**

Consent: By signing on the reverse side, you acknowledge that you have read and understand this form and are giving your voluntary, informed consent to the agency relationship disclosed. If you do not agree to the agent(s) and/or brokerage acting as a dual agent, you are not required to consent to this agreement and you may either request a separate agent in the brokerage to be appointed to represent your interests or you may terminate your agency relationship and obtain representation from another brokerage.

Any questions regarding the role or responsibilities of the brokerage or its agents should be directed to an attorney or to:

Ohio Department of Commerce
Division of Real Estate & Professional Licensing
77 S. High Street, 20th Floor
Columbus, OH 43215-6133
(614) 466-4100





Ohio Real Estate Auctions, LLC CONTRACT TO PURCHASE AT PUBLIC AUCTION

(This is a legally binding contract. If not understood, seek legal advice. For real estate advice, consult your Realtor)

DATE: August 9, 2021

- PROPERTY DESCRIPTION:** The undersigned Purchaser agrees to purchase from the undersigned owner (seller) through *Ohio Real Estate Auctions, LLC*, (Broker), the following described real estate in Sunbury, Delaware County, OH and known as 59 S. Columbus Street PID 417-411-18-005-000.
- PRICE AND TERMS:** Purchaser agrees to pay the amount of the high bid \$ 176,100 plus the buyer premium of \$ 17,610 for a **Total Contract Price of \$ 193,710** for the Real Estate as follows: A non-refundable (except in the case of a non-marketable title) down payment of \$ 17,610 to apply toward the Purchase Price and to be deposited by Broker, upon acceptance of this offer, in a non-interest bearing trust account pending closing. In the event this Contract to Purchase does not close for any reason other than as agreed, Purchaser agrees that the down payment shall be disbursed by Broker 5 days from closing date unless Broker is previously notified in writing by purchaser that litigation has been filed with a court of competent jurisdiction. A copy of the filing must be attached.
- BALANCE & CLOSING:** The balance of the Purchase Price shall be paid in the form required by the closing agent on date of closing, on or before September 9, 2021. The closing date shall be automatically extended up to 30 days if Auctioneer deems necessary.
- Buyers will close through Nova Title Agency, 440-600-5550, smannarino@novatitleagency.com.
- If buyer does not close on or before scheduled closing date, seller may, at seller's option, extend the closing date in consideration for a sum of \$ 200 per day after original closing date.
- OBTAINING FINANCING:** This purchase is not contingent upon the Purchaser obtaining financing. There are no buyer contingencies.
- BINDING OBLIGATION:** Purchaser is buying the property **As-Is, Where-Is and without Recourse**. If Purchaser fails to close for any reason whatsoever, except a nonmarketable title, Purchaser voluntarily agrees to forfeit entire down payment and may be held liable by Seller for any deficiency, plus court costs and reasonable legal fees, resulting from subsequent resale of the property. Time is of the essence and this is an irrevocable offer to purchase, with no contingencies. In the event Purchaser fails to perform according to the terms of this contract, the down payment shall be forfeited as partial liquidated damages, and not as a penalty, without affecting any of Seller's further remedies. Either party may demand specific performance of this agreement.
- OWNER'S CERTIFICATION:** Seller(s) certifies to Purchaser that, to the best of Sellers's knowledge: (a) there are no undisclosed latent defects; (b) there are no pending orders or ordinances or resolutions that have been enacted or adopted authorizing work or improvements for which the Real Estate may be assessed, except Open Bustr case; (c) there are no City, County or State orders that have been served upon Seller(s) requiring work to be done or improvements to be made which have not been performed, except Open Bustr case. Inspections regarding habitability and use of the Real Estate shall be the responsibility of the Purchaser. All Inspections must be completed prior to Auction. PURCHASER IS RELYING SOLEY UPON HIS EXAMINATIONS OF THE REAL ESTATE, AND THE SELLER'S CERTIFICATION HEREIN FOR ITS PHYSICAL CONDITION AND CHARACTER, AND NOT UPON ANY REPRESENTATION BY THE AUCTIONEERS/REAL ESTATE AGENTS INVOLVED, WHO SHALL NOT BE RESPONSIBLE FOR ANY DEFECTS IN THE REAL ESTATE.
- INDEMNITY:** Seller and Purchaser recognize that the AUCTIONEERS/BROKERS are relying on information provided by Seller or his/her agents in connection with the Real Estate, and agree to indemnify and hold harmless the AUCTIONEERS/BROKERS, their agents and employees, from any claims, demands, damages, suits, liabilities, costs and expenses (including reasonable legal fees) arising out of any misrepresentation or concealment of facts by Seller or his/her agents.
- CONVEYANCE AND CLOSING:** Seller shall convey marketable title to the Real Estate by Fiduciary deed with release of dower right, if any, AND SUBJECT TO THE RIGHTS OF THE TENANTS, if any, under existing leases and state law. Title shall be free and unencumbered as of Closing, except restrictions and easements of record and except the following assessments (certified or otherwise):

Buyers Initials _____

- 11. **CONDITION OF IMPROVEMENTS:** The risk of destruction or substantial damage by fire or Act of God prior to delivery of deed is assumed by Seller. Seller agrees that on possession, the Real Estate shall be in the same condition as it is on the date of this contract, except for ordinary wear and tear. If the Real Estate should be damaged or destroyed by fire or other casualty and if, prior to Closing, the real Estate shall not be repaired or restored by and at the Sellers expense, to a condition as good as it was prior to the damage or destruction, then Purchaser, at his option, may terminate this contract by written notice to Seller and the Down Payment Shall be returned to Purchaser. While this contract is pending, Sellers shall not change any existing lease or enter into any new lease, nor make any substantial alterations or repairs without the consent of the Purchaser. In addition, the Purchaser also has an insurable interest in the property from date of this contract. Purchaser is hereby notified that insurance should be placed upon the property immediately to protect Purchasers' interest.
- 12. **DISCLOSURE:** Buyer Seller - is a licensed Real Estate Broker or Sales Person.
- 13. **POSSESSION:** Possession shall be given at closing, _____ days after closing @ _____ AM PM, subject to Tenants' Rights, with deed. (Until such date, Seller shall have the right of possession free of rent, but shall pay for all utilities.) No work can be done on the property by the Purchaser until possession is given.
- 14. **AGENCY DISCLOSURE STATEMENT:** Purchaser acknowledges having reviewed and signed the Agency Disclosure Statement.
- 15. **SOLE CONTRACT:** The parties agree that this offer constitutes their entire agreement and that no oral or implied agreement exists. Any amendments to this offer shall be made in writing, signed by all parties, and copies shall be attached to all copies of the original offer. This offer shall be binding upon the parties, their heirs, administrators, executors, successors and assigns.
- 16. **TERMS:** The property sells: to the high bidder regardless of price, *or* subject to seller's confirmation.
- 17. \$ 10% must be deposited at the time of Auction as down payment by company, corporate or personal check (presented with positive I.D). This non-refundable down payment will be applied to the contract purchase price at closing and will be held in the trust account of aaaaaaaaaaaaaaaaaaaaaaa **OREA** aaaaaaaaaaaaaaaaaaaaaaa escrow agents for the sellers.
- 18. A ten percent Buyer Premium will be added to the high bid amount to determine the final contract-selling price paid by the purchaser. No Buyer premium will be charged.
- 19. Taxes will be prorated using the method in which Seller's share is based upon the number of days from the date of the immediately preceding semiannual installment (June 30 or December 31) to the date of closing. Buyer will be assuming 6 months of accrued taxes.
- 20. This property is being sold at Public Auction, without recourse. Personal on-site inspection/s of the property or properties is strongly recommended. The property will sell "as is, where is," with no warranty expressed or implied as to improvements, availability of utilities, zoning, or environmental and wetland issues. Information contained online was obtained by sources deemed reliable. However, neither Ohio Real Estate Auctions, LLC nor their agents will be responsible for any errors or omissions herein. Announcements made at the auction will take precedence over written material, advertisements, or any other oral statements made prior to the day of auction. Purchasers should carefully verify all items and make their own decision as to the accuracy thereof before relying on same. Except in the case of an absolute auction, Auction Firm reserves the right to bid on behalf of the sellers. Auctioneer reserves the right to bid on behalf of himself at any auction. The seller and Auction Company reserve the right to preclude any person from bidding if there are any questions as to the person's credentials, fitness, etc.
- 21. Auction Firm hereby acknowledges that they represent the Seller. An Agency Disclosure Statement must be signed by the high bidder.
- 22. The buyer, seller shall be responsible for all transfer taxes, recording fees, title search, and deed preparation. Seller is responsible for real estate tax prorata, mortgage releases and will convey a good and marketable title. The buyer, seller, split 50/50, is responsible for survey cost, if a survey is required for a transfer. ***Buyer is responsible for all other costs associated with closing.**
- 23. By bidding, the buyer agrees to waive the 10 day post inspection for lead based paint. Buyer also agrees to waive their right to receive a Residential Property Disclosure form and their right to rescind the Contract to Purchase.

Buyers Initials _____

24. Real Estate is sold through Ohio Real Estate Auctions, LLC.

25. OTHER:

Environmental addendum, assumption of liability, waiver and release attached for signature and fully incorporated in this contract.

26. EXPIRATION AND APPROVAL: This offer is void if not accepted in writing on or before _____ o'clock A.M. P.M. Noon Midnight EASTERN STANDARD TIME _____, 20 **21**.

27. Make Deed to: (print) **Sunbury Ohio (or assigns)**

The Purchaser has read, fully understands and approves the foregoing offer and acknowledges receipt of a signed copy.

PURCHASER: Steve Pyles
PURCHASER: Signer for Sunbury Ohio
FULL ADDRESS: PO Box 508, Sunbury, Ohio 43074
PHONE NUMBERS: 740-965-2684, mobile is 740-616-2594. Email is SPyles@SunburyOhio.org
WITNESS: _____

28. ACTION BY OWNER: The undersigned Seller has read and fully understands the foregoing offer and hereby: accepts said offer and agrees to convey the Real Estate according to the above terms and conditions, rejects said offer, or counteroffers according to the modifications initiated by Seller(s). Counteroffer shall become null and void if not accepted in writing on or before _____ o'clock A.M. P.M. Noon Midnight EASTERN STANDARD TIME _____, 20____. Owner acknowledges that Agency Disclosure Statement has been signed.

29. SELLING FEES AND EXPENSES: Seller is to pay an auction selling fee and reimburse agreed expenses as per the Auction Contract.

SELLER: Gerald R. Sparks, Executor
SELLER: _____
FULL ADDRESS: 137 S. Main St. Utica, Oh 43080
PHONE NUMBERS: _____
WITNESS: _____

DocuSigned by:
Gerald R. Sparks, Executor
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30. RECEIPT BY Ohio Real Estate Auctions, LLC: DATE 8-9-21. I hereby acknowledge receipt of \$ 17,610
 cash cashier's check personal check # To be wired made payable to aaaaaaaaaa **Ohio Real Estate Auctions** aaaaaaaaaa as
downpayment; other _____ in accordance with terms herein provided.

Forman Realtors \$ 2,763 X _____ % Stephen Barbeau
CO-OP REALTOR /BROKER FIRM CO-OP AGENT / BROKER
PHONE 614-778-8574



ENVIRONMENTAL ADDENDUM
ASSUMPTION OF LIABILITY, WAIVER AND RELEASE

AS OF THE CLOSING DATE, PURCHASER REPRESENTS THAT IT HAS INSPECTED THE PROPERTY, AND IS RELYING SOLELY ON ITS INSPECTION AND THE RESULTS THEREOF IN ITS DECISION TO CONSUMMATE THE TRANSACTION CONTEMPLATED HEREIN. PURCHASER HAS NOT, AND SHALL NOT, RELY UPON ANY STATEMENT OR INFORMATION FROM WHOMSOEVER MADE OR GIVEN, INCLUDING, BUT NOT LIMITED TO, ANY ATTORNEY, AGENT, EMPLOYEE OR OTHER PERSON REPRESENTING OR PURPORTING TO REPRESENT SELLER, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, AND SELLER IS NOT AND SHALL NOT BE LIABLE OR BOUND BY ANY SUCH STATEMENT OR INFORMATION.

AS SET FORTH IN PARAGRAPHS 7 AND 20, PURCHASER ACKNOWLEDGES AND AGREES THAT IT IS PURCHASING THE PROPERTY IN ITS “**AS IS, WHERE IS AND WITHOUT RECOURSE**” CONDITION. THERE ARE “BUSTR DUE DILIGENCE DOCUMENTS” AVAILABLE ON THE AUCTION WEBSITE INDICATING THAT THE PROPERTY PREVIOUSLY CONTAINED UNDERGROUND STORAGE TANKS AND THERE WAS A PETROLEUM UNDERGROUND STORAGE TANK RELEASE AT THE SITE ABOVE ACTION LEVELS FOR SOIL AND GROUNDWATER AS SET BY THE OHIO BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS (“BUSTR”). THE DECEASED OWNER OF THE SITE WAS NOT FINANICALLY CAPABLE OF COMPLETING NECESSARY CORRECTIVE ACTION REQUIRED BY BUSTR AND THEREFORE THE PROPERTY REMAINS AN ACTIVE BUSTR SITE.

PURCHASER AGREES TO ASSUME ALL LIABILITY RELATED TO THE PROPERTY, INCLUDING BUT NOT LIMITED ALL LIABILITY RELATED TO ENVIRONMENTAL CONDITIONS AT THE PROPERTY AND ANY BUSTR OBLIGATIONS.

PURCHASER AGREES TO WAIVE ALL CLAIMS AND HEREBY RELEASES SELLER, INCLUDING THE ESTATE OF MARION SPARKS, EXECUTOR OF THE ESTATE AND ALL HEIRS AND BENEFICIARIES AND THEIR ATTORNEYS AND AGENTS, FROM ANY AND ALL LIABILITY RELATED TO THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY LIABILITY RELATED TO ENVIRONMENTAL CONDITIONS AT THE PROPERTY AND ANY BUSTR OBLIGATIONS.

THIS ENVIRONMENTAL ADDENDUM IS INCORPORATED INTO THE CONTRACT TO PURCHASE THE PROPERTY AND IS FULLY BINDING ON PURCHASER AND SELLER.

AGREED TO BY:

PURCHASER
Steve Pyles

Print Name

Sign Name

Date

SELLER
Gerald R. Sparks, Executor

Gerald R. Sparks, Executor

DocuSigned by:
Gerald R. Sparks, Executor
E3D751D0ED424BB...

8/9/2021 | 2:42 PM EDT

Sign Name

Date