

POA RECORDS REQUEST 0001: 2016 Land Deal Records

To: Jill Philmon / Big Canoe General Manager

Cc: The POA Board

THE FOLLOWING REQUEST IS MADE PURSUANT TO:

Big Canoe Policies and Related Procedures; Procedure 156.2 (POA Member Access to Records)

BACKGROUND:

In the February 2016 Smoke Signals, it was announced that the Big Canoe POA Board had entered into a Purchase-Sale Agreement with the Big Canoe Company to purchase 51 tracts of land, totaling 730 acres, for a combined total of \$9,400,000.00 ("The 2016 Land Deal"). It was further stated that property owners would be asked to vote on the matter, and that ballots were being sent out on February 5, and that voting would conclude on February 26, 2016. A detailed presentation schedule of information to be released was also promoted.

The aforementioned property sale was concluded on April 14, 2016. Subsequently the POA Board established the Land Use Task Force ("LUTF") to review the properties purchased, and to provide an initial recommendation for how the POA might use the property.

PURPOSE OF REQUEST:

A preliminary review of some data surrounding the transaction has revealed several improprieties, incorrect facts in the presentations made to the community, incorrectly filed records, pricing and appraisal inconsistencies, and questions of original ownership of the properties involved. For that reason I am requesting to review certain documents in the hopes that they will provide answers to some unanswered questions regarding The 2016 Land Deal.

As a Property Owner I am concerned that there were substantial improprieties in the deal, possibly involving illegal or fraudulent acts, and I would like to ascertain the complete facts for myself as it impacts my relationship to the community, and my relationship to those tasked with governing the community. As partial example of some things already discovered which are of concern, I offer the following:

1. The 135 Page LUTF 2017 Final Report lists (*pgs 132, 133*) ITEMS 11 & 12 as 2 parcels of land being part of The 2016 Land Deal. They were not. It even lists the actual (current) owners as "previous owners". These properties were clearly erroneously understood by the Land Use Task Force to be part of the 2016 Land Deal when they were not. These are not inconsequential tracts of land, one representing 23 acres that runs from the land south of the Main Gate Guard shack halfway to Cove Road, and the other represents 15 acres adjacent to Cove Road. I think it is important to understand how such gross misunderstanding and miscommunication could occur. The majority of property owners I have spoken to are under the misconception that these parcels are now protected from Developer buildout (*especially*

this large 23 acre tract bordering the entire south side of the Main Gate Exit - when in fact it does not appear they are, still owned and capable of development by the Developer.) If such basic information is not being correctly interpreted, and conveyed, it brings into question the entire findings of the Committee, and indeed raises questions about the competency of any Committee in the community, upon whose work and findings we rely upon to guide us.

Link to Report: http://bigcanoepoa.org/getmedia/a0de0f29-3c2e-4651-a475-9200b3cc2eee/Final_Report_-_Land_Use_Task_Force_2017_06_1.aspx

2. A recent report I did shows that 64.53 acres claimed to be "Sold" to the POA as part of the 2016 Land Deal - were actually already owned by the POA, not only as owners of record in County Tax Records, but to the extent that the POA has actually, and provably, been paying the Annual Property Tax Bills going as far back as 1998.
Link to Report: http://www.bigcane.themountainsvoice.com/docs/BCDBLD-016-157_Report.pdf
3. It has been discovered that another 9.54 acres known as the Treetopper Tract also shows ownership and history of the POA paying property taxes for 20 years prior to our "Buying" it as part of the 2016 Land Deal. My full report on this tract has not been released yet, but the facts referred to have been verified. Preliminary indications are that possibly up to 12 more more tracts also fall into the same category of ownership and historical tax payment discrepancy.
4. Massive discrepancies exist as to what we actually paid for certain tracts, in comparison to Appraised Values the community was presented with. For example... we paid 40+/-% "over" presented appraisal value for the 14+ acre Roundabout Commercial Tract, but almost 60+/-% "under" presented appraisal value for the High Gap land. Many properties we paid \$0.00 (Zero) for according to PT-61's filed. This all leads to questions of manipulation regarding valuations that might be being used to set ongoing Annual Property Tax Rates, or to fraudulently misrepresent Capitol Gains taxes on Seller's IRS filings.
5. There appears to be substantial discrepancy in the Sum Total of amounts paid for the individual tracts purchased, and the \$9.4 Million Dollar Total Sum that Voters were presented with as "The Sales Price" for the 2016 Land Deal. There is further lack of clarity regarding how much of the total went to commissions, and to whom those commissions were paid.
6. A review of appraisal documents has already resulted in several incorrect, and potentially improper/illegal, assumptions on the part of Appraisers (*or those providing them data*) which led to highly inflated and incorrect appraisal values being used to justify to the community this sale/purchase – prior to required vote.
7. Many discrepancies exist in regards to recorded documents, including substantial errors in cross referencing properties with county tax parcel data. 2 years later, the County Tax Records still show many of the Tracts we purchased - as still owned by the Developer. In example... the Cox Mountain Tract and the Sonti Tract still visually show as being owned by Potts Mountain Investors. In a sort of tongue in cheek humorous way.... I guess one concern would be.... are

they planning on selling us our own land for a 3rd time at some point in the future, after everyone forgets the details of this deal? And perhaps again point to erroneous tax records as "Proof of Ownership"

8. In regard to #7, above, and in a NOT so humorous way.... I should point out that according to an executive summary of the 2016 Land Deal prepared by Rochester and associates, the following comments were noted.....

*"Rochester & Associates, Inc (RAI) provided review of Client provided documents relative to the 51 individual parcels. The review included legal descriptions provided by Jim Crew of McGee & Oxford, LLP to determine their consistency with individual compiled plats provided by Cranston Engineering. RAI, researched Pickens and Dawson Counties' Tax Assessor information to determine parcel numbers, ownership information
Twenty-one parcels that appear on the Tax Assessor's website as being owned by the POA are actually owned by the Big Canoe Company per an email from Jim Crew (McGee & Oxford, LLP) dated March 7, 2016. The remaining parcels appear to be held by four different entities. No actual deeds were provided nor examined by RAI."*

The underlined sections in no way represent any form of legally accepted Title Search, nor verification of actual Ownership, and indicates that great reliance was made on "Pickens and Dawson County Tax Assessor Information" - the same information that is still incorrect 2 years after the sale. Taken into consideration that 21 parcels showed as being ALREADY OWNED by the POA (and other records showing that some of these parcels already had their annual property taxes being paid by the POA) this communication does not provide confidence that errors involving Ownership status did not occur as part of this sale, and raise the very legitimate possibility that the POA in effect purchased land that it already owned. Further, if we go back to an article in the October 2007 Smoke Signals, we see the following reference to incorrect county records and ownership questions....

"The inaccuracy of some county records raised the question of POA ownership of some of our common property. The developer agreed to a Quit Claim Deed signed June 30, 2006 to remove any doubt."

Link to Reference: http://www.bigcanoepoa.org/getmedia/b7cb2c1f-d13b-4c34-b26f-4f72f546ef46/Big_Canoe_ExecutiveSummary_-_FINAL.aspx

9. Inability to locate properly filed reference plats (declared in the recorded Special Warranty Deeds) to aid in visual identification of the acquired properties - further adds to the confusion of what exactly we acquired.
10. The degree of discrepancies raises questions of fraud, and potentially other illegal activities being involved, in how this was presented to the community prior to a required vote to approve, and in how the 2016 Land Deal actually was implemented.

"SPECIAL CIRCUMSTANCES" DESIGNATION REQUEST:

Procedure 156.1 (POA Records Storage) Section I. states in part,
"Confidential records will not be open to property owners except by special circumstances approved by the General Manager."

Procedure 156.1 (POA Records Storage) Section IV (c), (d) & (e) define Confidential Records in part as:

c. All matters relating to the purchase or sale of real estate.

d. All matters involving attorney/client privilege.

e. Exploratory sessions involving discussions/negotiations pertaining to joint Company-Association issues

While it is clear that much of what I am requesting falls into the definition of (c) and possibly (d) & (e), I am asking that my request for any records deemed to fall into one of those "Confidential" categories - be given "Special Circumstances" designation as allowed by 156.1 Section I. Many similar records have already been posted publicly online at the www.bigcanoepoa.org website, any requested plats are normally part of the public recordation process, and all other requested records are necessary to a full understanding of the process and details surrounding The Land Deal.

I AM FURTHER REQUESTING THAT THE BOARD REVIEW THIS REQUEST IN ITS ENTIRETY AND MAKE APPROPRIATE RECOMENDATION TO THE GENERAL MANAGER THAT THIS REQUEST IS APPROVED IN ITS ENTIRETY UNDER SPECIAL CIRCUMSTANCES DESIGNATION.

DEFINITIONS AS USED IN THE FOLLOWING REQUESTS:

"Board" means any elected board member or any committee member that serves on a committee under the board.

"Employee" means any employee of the POA; any individual, business or firm under contract to perform services for the POA; and any committee member that serves under the General Manager.

[Specific records requests to follow on next page]

REQUEST TO REVIEW AND COPY THE FOLLOWING DOCUMENTS:

1. Purchase-Sale Agreement referenced above in "Background"
2. All Closing Documents of The 2016 Land Deal
3. Copy of the Ballot used in the Vote to approve The 2016 Land Deal
4. Copies of all PT-61's filed as part of The 2016 Land Deal.
5. Copies of all Deeds recorded as part of The 2016 Land Deal
6. Copies of all Plats filed as a part of The 2016 Land Deal, or referenced in Deeds recorded as part of The 2016 Land Deal
7. Copies of all Non-Disclosure Agreements as part of The 2016 Land Deal, specifically, but not limited to, any NDA's which effectively limited information provided to Property Owners.
8. Any contracts, documents, checks or closing documents in which any commission or other compensation was paid to any Board member either by the seller or purchaser in conjunction with the purchase and closing of the property purchase.
9. All contracts, records, matrices, spreadsheets, emails, memos, letters, lists, texts, communications or documents of any nature (*electronic or paper copy*) that list the properties (tracts) acquired in the 2016 Land Deal, or properties that were at any time proposed to be acquired as part of The 2016 Land Deal. This should include any and all individual, partial, or comprehensive informational reports on said tracts - to include specifically, but not exclusively, information such as purchase cost breakdowns, acreage breakdowns, tract identification information, county record references, recorded deed references, plat references, previous owners, owner or deed or title or plat discrepancies, or any other data or information relevant to the properties, either individually, as any grouped subset of tracts, or comprehensively
10. Any contracts, memos, agreements, notes, letters, documents, emails or text between, or shared with, Big Canoe Board members or employees that mention or effect any of the following relationships involving the 2016 Land Purchase.
 - a. The Board or employees and any real estate appraisal firm including but not limited to it's members and employees.
 - b. The Board or employees and any Officials or Employees of Pickens or Dawson County regarding clarifications, questions, discrepancy, or any other information involving or mentioning discrepancies of record in regard to POA Ownership of land.
 - c. The Board or employees and anyone performing, or involved in, Title Search work done on properties as part of, or at any time proposed to be part of, The 2016 Land Deal.

d. The Board or employees and any members or employees of Rochester and Associates, including, but not limited to, any interim or final reports.

e. The Board or employees and any members or employees of The Norton Agency, including John Drew; specifically, but not exclusively to include any mention or effecting of the payment of any real estate commission or other fees to be paid, or paid to, The Norton Agency or John Drew by the Big Canoe POA or Developer as part of the 2016 Land Deal.

11. Any contracts, memos, agreements, notes, letters, documents, emails or text between, or shared with, Big Canoe Board members or employees that contain any elements of the following in regards to the 2016 Land Purchase

a. Pricing of individual Tracts as a subset of the overall Purchase

b. Discrepancies of county record, recorded deed, plat, or any other informational sources in regard to Ownership of any property acquired as part of, or at any time proposed to be part of, The 2016 Land Deal.

c. Mention or reference to myself, David Hopkins, in regards to recent comments, reports, or investigations made by myself in regard to The 2016 Land Deal.

12. Any written legal opinions involving or regarding any aspect of the sale transaction, regarding The Land Deal, between the Board and Sellers

13. On the following web page is a document link entitled "[Plat Deed Worksheet](#)" -

Reference link:

http://www.bigcanoepoa.org/Governance-2/Land_Purchase/Development_Potential_Estimate_of_Value.aspx

I would like to inspect the following records associated with referenced tracts, or directly referenced in that linked document....

a) a copy of the "memo" referenced in the footnote, ***** - Ownership information from memo from Jim Crew to Preston Manning dated 3/7/16"**

b) copies of ALL documents, files, plats, notes or reports containing the "comments" and/or "mark-ups" repeatedly referenced as **"Comments noted on mark-up"**

c) copies for **ALL Plats** that contain representation of the Tracts listed. This should include all versions, including recent plats, and any older plats that may or may not conflict. This should further include any smaller area plats that focus specifically only on an individual or small geographic set of tracts, but also should include any larger area Plats that can put the tracts into visual perspective as they relate to larger geographic land areas (*i.e. Master Plats showing the entirety of Big Canoe, or Neighborhoods, of large sectionals of Big Canoe etc*)

14. Copy of the "email from Jim Crew (McGee & Oxford, LLP) dated March 7, 2016" as referenced in the Executive Summary from Rochester and Associates previously mentioned, and which can be found by reference here:

[http://www.bigcanoepoa.org/getmedia/b7cb2c1f-d13b-4c34-b26f-4f72f546ef46/
Big_Canoe_ExecutiveSummary_-_FINAL.aspx](http://www.bigcanoepoa.org/getmedia/b7cb2c1f-d13b-4c34-b26f-4f72f546ef46/Big_Canoe_ExecutiveSummary_-_FINAL.aspx)

SPECIAL INSTRUCTIONS:

I request that where possible, records that are available in electronic format be compiled onto a Thumb Drive, CD, or other Electronic Storage Media for pickup by myself. Where electronic records are not available, I request that inspection occur at a location that maintains adequate equipment necessary to making copies of records. This should include the ability to copy any large format plats.

Please provide flexible scheduling for when I may expect to be able to review and copy the requested records. If there is a cost associated with Records Copying, please itemize and submit via return email so that payment may be tendered at the time of record inspection and copying.

Sincerely,
- david hopkins

_____ date _____

10887 Big Canoe; Big Canoe, GA 30143 / Owner Lot # 4002

themtnsvoice@aol.com / 706-265-0010 < office / 8 am to 5 pm weekdays, or leave message.