

MISSOULA REDEVELOPMENT AGENCY

CONDENSED BOARD MEETING MINUTES

November 1, 2017

FINAL

A **Special** meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held on Wednesday, November 1, 2017 at the Jack Reidy Conference Room, 140 W. Pine, at 2:00 p.m. Those in attendance were as follows:

Board: Karl Englund, Ruth Reineking, Melanie Brock, Nancy Moe, Natasha P. Jones

Staff: Ellen Buchanan, Chris Behan, Annette Marchesseault, Tod Gass, Jilayne Dunn, Lesley Pugh

Public: Martin Kidston, Missoula Current; David Erickson, Missoulian; Jim Nugent, City Attorney; Dan Semmens, Dorsey & Whitney LLP; Courtney Ellis, Dorsey & Whitney LLP; Jim McLeod, Hotel Fox Partners; Bill VanCanagan, Hotel Fox/Datsopoulos, MacDonald & Lind; Jeff Crouch, CTA Architects Engineers; John Engen, Mayor of the City of Missoula; Dennis Bragg, KPAX; Bryan von Lossberg, City Council; John DiBari, City Council; Gwen Jones, City Council; Pat Corrick, Hotel Fox Partners; Barry Fisher, Hotel Fox Partners; Will Greenway, Hotel Fox Partners; Jesse Ramos, Citizen; John Wolverton, Missoula Community Benefits Coalition; Dale Bickell, City of Missoula Chief Administrative Officer

CALL TO ORDER

2:00 p.m.

APPROVAL OF MINUTES

PUBLIC COMMENTS AND ANNOUNCEMENTS

ACTION ITEMS

Bitterroot Mural (Riverfront Triangle URD) – TIF Request (Buchanan)

Buchanan said staff received a request through the Mayor's office for funding that would be used for restoration, storage and ultimately ownership of the Bitterroot Mural. She said the mural is 6' x 90' and was originally in Bitterroot Room of the Florence Building. Most recently, it has been displayed at Missoula International Airport behind the ticket counter. Buchanan said the airport is going through a remodel and can no longer accommodate it. She said Mayor Engen was present to talk about what he would like to see happen with the mural. Currently, Dan Tabish has possession of the mural and has plans to restore it. She said the funding being requested is for \$15,120.50 to pay for restoration of the mural and proper storage of it until it has a new, permanent home. Buchanan said it will become property of the City if it agrees to give it a home in perpetuity that's available to the public for free to view it.

Mayor Engen thanked the Missoula Redevelopment Agency (MRA) Board for its consideration. He said the mural is an interesting piece of Missoula history and given the fact that it was on display for about 20 years in what was Missoula's premiere downtown hotel, and the fact that it is the largest oil painting of its kind in the United States today, and because it's looking for a home, it seemed to him that the City ought to be able to find one for it. He said he's had some conversations with Hotel Fox Partners and the mural could potentially land at the Hotel Fox conference center. He said it's a little piece of downtown and if it were to live on in downtown for a lot longer he thinks that would be a good thing.

Reineking said because the Missoulian article traces the chain of ownership of the piece to the Rocky Mountain Elk Foundation, and because Buchanan's memo says Dan Tabish is going to give it to the City, she wanted to make sure it belonged to Dan Tabish to give. Mayor Engen said Tabish has that right by virtue of his agreement with the Rocky Mountain Elk Foundation. Moe asked if that means he can pass ownership to the City. Mayor Engen said that was correct. Englund and how that is determined in a piece of art. Moe said it's through a bill of sale. Mayor Engen said there would be a conveyance and a contract as a function of this funding.

Moe asked where it will be stored. Mayor Engen said Tabish has secured some space and that will be part of the agreement as well. Moe asked if it is temperature controlled and if the \$15,000 request includes insurance. Mayor Engen replied it does not include insurance. Moe asked what would happen if something should happen to the work of art valued at \$100,000 by a 1988 estimate. Mayor Engen said he will talk to Tabish about getting it insured. He said his hunch is that Tabish has it insured today and would be surprised if he didn't.

Englund asked what the timing is on the City acquiring the artwork. Mayor Engen said the money secures conservators who will assist in the restoration and Tabish would like to get that done sooner than later, within a few months. Englund asked what the sequence of events will be. Mayor Engen said if the MRA Board approves it, the City will get a contract from Tabish, the conveyance agreement to restore and store, and then he will talk with Hotel Fox Partners about helping the City find a place for it to live. In terms of the conveyance, Moe asked who owns the copyright and whether it will be transferred as well. Mayor Engen said the artist is deceased and beyond that he didn't know. Moe asked if the City Attorney could look into that on behalf of the City to see what rights the City might have. Mayor Engen replied yes.

Englund asked who ensures that the artwork gets restored. Mayor Engen replied that Tabish will. Buchanan said restoration and storage are included in the contractual agreement between the City and Tabish. Mayor Engen said it will then belong to the City, provided they can find a home for it. Moe said they should be concerned about the storage. Mayor Engen told the MRA Board that during the course of long conversations with Tabish, who is extraordinarily passionate about this piece of art, it will be in a place where it is safe and sound because he is very concerned about that. Englund asked if that will be part of the agreement. Mayor Engen said yes.

Reineking said she realizes it's a fairly small expenditure for a valuable piece of art for the City to own. She said she wants to make sure that if the money is coming from the Riverfront Triangle Urban Renewal District (URD) that Hotel Fox is agreeing to display it. Jim McLeod, Hotel Fox Partners, said he has talked to Mayor Engen and believes they will be able to find a home for it as there will be plenty of wall space.

Brock asked if the funds would still come from the Riverfront Triangle URD if Hotel Fox can't house it. Buchanan said they think it's going to Hotel Fox and the money will come out of the Riverfront Triangle URD. If that doesn't work, she said another candidate might be the new library with the 4th floor meeting room, in which case Front Street URD would reimburse Riverfront Triangle URD for that expenditure. Mayor Engen said if in the event that it weren't to live in an URD, the City would reimburse the MRA.

REINEKING: I MOVE THE STAFF RECOMMENDATION.

Staff recommendation: Staff recommends that the MRA Board approve the Mayor's request to fund the restoration and storage of the Bitterroot Mural in an amount not to exceed \$15,120.50 and authorize the Chair to enter into a contract with Dan Tabish for these items in exchange for him granting ownership of the painting to the City of Missoula.

Brock seconded the motion.

No further discussion. No public comment.

Motion passed unanimously. (5 ayes, 0 nays)

Hotel Fox Agreements (Riverfront Triangle URD) – Request for Approval (Behan)

Englund wanted to thank members of the City Council who have been part of the Fox Working Group and were able to be present at the meeting. Behan thanked members of the legal teams that have been working on this so hard for several months now, both from the Hotel Fox side led by Bill VanCanagan from Datsopolous, MacDonald & Lind and the Dorsey & Whitney LLP side led by Dan Semmens & Courtney Ellis. Behan also thanked Jim Nugent, City Attorney, and Dale Bickell, Chief Administrative Officer for the City of Missoula. He said they have been absolutely invaluable to making this happen. He added that without the working group's input he didn't think they'd be in the position they are today to be able to start considering this.

Behan said Hotel Fox Partners initial response to the formal Request for Proposals (RFP) the City put out for this piece of property included a proposal for building a hotel that would have meeting facilities similar to other similar sized hotels in and around Missoula, approximately 10,000 square feet. He said after City Council approved to move forward with negotiating with Hotel Fox Partners, the City, through Mayor Engen, asked them to include a much larger conference center into their plan. Jointly, the City through MRA along with the Missoula Downtown Association (MDA) and Tourist Business Improvement District (TBID), funded a very extensive market and feasibility study conducted by a national firm, Conventions, Sports & Leisure International (CSL). Behan said the study found that there were three feasibility levels that could be supported in Missoula and be able to attract conferences that were not currently coming here for one reason or another. Behan reviewed the levels of conference center sizes. He said the one chosen for Missoula is a hybrid of levels and has regional significance with the ability to attract many different kinds and sizes of conferences. He said the other part of it is that it "floats all boats" and will benefit other hotels in Missoula. Behan said the key to this conference center that makes it really different is that it takes the piece from being all City responsibility and narrows it down to just the construction portion. He said Hotel Fox Partners will assume all of the risks that come with the facility including maintenance, repair and any ups or downs the facility might have while they're running it.

Behan said the mechanism to fund this will be Tax Increment Financing (TIF) which is the new taxes over a base year in a specified area that can be recycled within that area. So, as taxes increase because of new development (in this case the hotel and conference center), the new taxes because of the new development are rolled back into it to be able to finance it over time. He said there is no general obligation of the community; The City's general fund is not part of this.

Jeff Crouch, CTA Architects Engineers, reviewed design plans that are currently evolving for the hotel and conference center. He said he wanted to note that what grew out of this effort over the last five years has been a much larger project now because of the acquisition of the surrounding lands they call the Riverfront Triangle from St. Patrick's Providence Hospital. He said today's presentation would focus on the conference center and hotel, however they are also talking about it being a kick-off project of a multi-phase project that will include housing at all levels of income, more retail and parking, offices, park, etc.

Crouch referred to the CSL study and said during construction there will be just under 1,000 construction-related jobs. Once the conference center is up and running, he said CSL projects there will be \$14 million direct dollars over 100,000 distinct visitors to the community as a result of the facility per year. Crouch said the numbers are important, but more so the community is growing and the question we have as a community is how do we want to grow. He said eventually someone is going to build a conference center to attract larger events. He said CTA's effort over the last year has been to envision and create something that won't just house 100,000 new visitors every year, but will also create and enhance the things the community cherishes about Missoula.

Crouch said his presentation includes multiple images of architecture. He said the reason for that is that right now he has a crew of people working on what the hotel is going to be and it is evolving daily. He said as soon as the agreements are finalized and Hotel Fox Partners gives them the go, that's when they will really start the real work. Crouch said right now it is all conceptual design and he wanted to share some of the various looks and vibes they are looking at architecturally.

Crouch said the designs include a hotel, conference center, private condominiums on top of the hotel tower, and a parking garage. Those are the four major facets of the project and are all under one roof as one piece of architecture. Crouch said the facets have been broken down for both agreements' discussions and architectural discussions.

Crouch described the importance of the structural grid in the development. The hotel will be between 192-198 keys. The main floor level of the hotel, which is the same level as the street, will have a porte cochere serving both the hotel and conference center. The lobby will have a front desk, concierge services, elevators, waiting rooms, coffee shop, restaurant/bar, outdoor seating, conference and meeting room spaces. The second level has meeting rooms for small meetings, a pool with outdoor patio overlooking the river, fitness and spa areas, and "back of house" areas.

Crouch moved onto the conference center vision. He said the 15,000 square foot space will have room for 1,000 people to sit down to a dinner. He said the current cap for space for something like that in Missoula is about 500 people. He said the room has the flexibility to be sectioned off into multiple smaller rooms, giving it the ability to have multiple events at the same

time. Another thing Crouch identified was a pre-function hallway with glass walls overlooking the river, park and downtown Missoula. He said it will make the conference center something to remember for all who visit. The pre-function space will also serve as sellable space for vendors that want to try to sell their wares, goods and services to people attending a conference. Crouch said in order to operate this square footage effectively there is a large commercial kitchen and storage space.

Crouch said the top three levels of the hotel tower will be privately sold condominiums. He said they are estimating approximately 48 of them with one to three bedrooms in size. They are sold by choice of the owner so if someone wants to buy one-third of a floor and have it be a four bedroom condominium they are happy to accommodate. Crouch said the condominium owners will be able to take full advantage of the hotel amenities as well as enter their condominium into the rental pool for the hotel so the hotel has the ability to sell mega suites.

Crouch said the parking garage will be two levels of underground parking below the hotel tower. He said it will eventually connect to additional parking to the west under what they've earmarked as a housing development. He said there is also additional parking with an above ground deck immediately to the north. Crouch said the design challenge is to screen it and make it attractive on the river side.

Crouch said CTA and Hotel Fox Partners have defined the project and the budgets and are somewhere north of \$80 million. He said they have designed it enough to know they are ready to start schematic design. He said there is a lot of site work, including existing building demolition and mitigation that will have to occur, as well as getting infrastructure set and ready to go before they start construction of foundations. Crouch said one process they know they will have to go through is zoning because the hotel is slightly over the allowable height. He said it's because they are down in a hole and they will be requesting a variance to reflect that.

Englund asked what the City is buying when it buys the conference center. Crouch said they have tried to keep it clean in a facility that is used by both entities, the hotel and conference center. He said there have been lengthy discussions with the legal folks about shared use agreements. Crouch said in the desire to keep it clean geographically, they are attempting to draw a clean architectural line with everything on one side being for the conference center and everything on the other side being for the hotel. He said they can also go through and produce a spreadsheet of every space with percentage allocations, which gets very complex but is totally doable. Englund asked if that comes in the condominium agreement. Behan said yes and that is one reason they have some comments about how they are going to handle the condominium documents. Englund asked if at this point it was either one of the two options. Crouch said he just did the scenario and it was within 300 square feet. Englund asked if both of the options are on the table at this point. Crouch said he didn't know what the legal discussions had been, but said they balance nicely so whichever option the ownership team and City agree upon, CTA can go either way. Englund asked if they were both on the table. Behan replied yes.

Behan said the direction that the Fox Site Master Development Agreement set forth when it was passed by the MRA Board and approved by City Council last February was to enter into several collateral agreements. He said those include the Conference Center and Parking Facility Development Agreement, Conference Center Lease/Management Agreement, Land Disposition Agreement (Purchase Agreement), Parking Facility Lease Agreement, Condominium Documents and Land Use Agreement. Behan said the Land Use Agreement went a different route through Development Services because it has more to do with zoning and requested

street vacations. It was approved by City Council in July. As an aside, Behan said the Land Use Agreement also talks about design standards and what will be required in this project. It also talks about housing mix for the housing project to the west as well as how things might work with parking.

Behan said the basic deal is that Hotel Fox Partners will purchase the Fox Site from the City of Missoula. They will construct a seven story building. Attached to the hotel will be a conference center of approximately 60,000 square feet including all the extra spaces Crouch described. Behan said Hotel Fox will construct and retain ownership of at least 10,000 square feet of breakout meeting rooms. He said the first part of this will include Hotel Fox constructing a two-level, 405 space parking facility that will include some private spaces leased to the hotel and general public spaces. Behan said at this time it is anticipated that the City will own the parking facility and the Missoula Parking Commission would enter into an agreement with the City to manage it. Behan said the City will purchase the conference center and parking facility upon completion and for a set price or the cost of construction. He said that will be paid for with TIF revenue bonds. The parking structure will be paid for with parking revenue bonds and perhaps augmented with tax increment if necessary and if it's available. Behan said the only time the City will reach out of this box of the Fox Site into the other parts of the agreement will be that Hotel Fox will purchase the land for the appraised value from 2016 and, at a point in time, a credit will be available to them which will be the predetermined set value per square foot of land on an adjacent parcel to the north that the City may own for a future parking structure. Behan said there will be a credit for that on the purchase price. The City will lease the conference center to the hotel. The assigned manager will manage all facets of the conference center. In addition, Behan said the lessee will assume all maintenance, repair and replacement responsibilities of the conference center furniture, fixtures, and equipment as well as the structural systems such as the roof, heating, ventilating and air conditioning (HVAC) systems, and so on; Behan said this is unique in the country in terms of this kind of a deal. He said the City will also enter into a parking management agreement with the Missoula Parking Commission or other third party operator to administer and manage the public parking.

Behan spoke about the environmental conditions of the land and said the City and Hotel Fox Partners are waiting on some test results which will determine the language in some of the agreements. He said one of the test holes out of the 15 tested came back questionable and they need to find out more about it. He said more testing will be done. The agreements currently reflect that Hotel Fox Partners will be able to accept the environmental condition of the property.

Dan Semmens, Dorsey & Whitney LLP, reviewed the agreements. He said there are a lot of moving pieces. The Master Development Agreement was entered into earlier in the year and it set out the regime of documents that would address various elements regarding the purchase and sale of the development, ownership, use of conference center, use of parking facility, etc. He said Dorsey & Whitney LLP conceptually broke the elements into various agreements they think will fundamentally track what will happen going forward.

Conference Center and Parking Facility Development Agreement

Semmens said this is fundamentally the agreement regarding the development of the project. He said when they talk about the parking facility they are referring to the public parking facility including a number of spaces which would be leased to the developer/owner of the hotel and the lessee/manager of the conference center unit. Semmens said what Dorsey & Whitney LLP sees as the big deal with regard to that is the availability of parking spaces in connection with

the conference center unit, which is fulfilling a public purpose of bringing large events to Missoula and stimulating the economy of downtown as well as providing opportunities for folks in the downtown area.

Semmens said the focus of the development agreement from the City's perspective is the development of a City conference center unit, which is a portion of the larger conference center and is what the City will own. He said it is the grand hall space and the space that enables significant events to occur in downtown Missoula and all the benefits that flow from that. The parking facility unit is the public parking facility. Semmens said, as Behan mentioned, the acquisition price for the City conference center unit would be paid for by tax increment bonds, meaning the increment above the base taxable value that's generated from additional taxable value in the district would make the ability to service debt on bonds possible. He said one question was asked in a previous meeting relating to whether or not the City will realize the tax benefit from the City conference center unit, given it's a large piece of real estate. Semmens said the City will because it's going to be leased to and managed by the owners of the hotel. Therefore, under the Beneficial Use Doctrine of the Department of Revenue, he said Dorsey & Whitney LLP feel comfortable that it will be taxable property. He said the important thing about that is it will add to the increment which will make the servicing of the debt more realistic.

Semmens said the purchase price of the conference center unit is a lesser of a targeted number that will be subject to adjustment based on how it all turns out as they get closer and closer to construction financing and stuff coming out of the ground and/or the actual cost of construction. In any event, Semmens said the amount will be no more than the City can afford. He said the notion for that is lesser of a certain dollar amount or the cost of construction.

Englund asked if the formula for reaching the maximum dollar amount is established at this point with the only thing missing being the value of the numbers within that formula. Semmens said he thinks that is a fair way to put it. Buchanan said staff has been working with the local folks at the Department of Revenue to get some sense of what the taxable value will be on this facility. She said staff has also worked with them to understand what the taxable value is of the new Stockman Bank which is also in the Riverfront Triangle District. She said they know how much has been approved for that project for the public improvements that were made for Stockman Bank and there will be residual from that. She said they've calculated what they think that can bring to the table and have also run the numbers on what they think the increment will be from the hotel/conference center and the portion of the parking that's private.

Englund said that answers the question of how much money is available; he said his question had to do with the \$16,500,000 number that is in the Dorsey & Whitney LLP memo. He said as he understands it that number will change once actual construction is closer. Buchanan said it will also have to change based on MRA's capacity to service debt. Semmens said one of the functions that gave rise to that number is where things are at in design. He said it's fairly early on in terms of the design and it's based on a number of assumptions of costs, finishes, and quality, assuming a conceptual design right now. He said that is where he believes that dollar amount came from. As design progresses they will know a lot more details with regard to what exactly that dollar amount will be. Semmens said it is contemplated to be finalized by an addendum that's set out in the Development Agreement on or before the date of construction financing that the Developers would enter into to construct the project.

Dale Bickell, City of Missoula Chief Administrative Officer, said the mechanism established sets out a maximum price that the City would pay based on the amount of revenues available. He

said if there is a gap identified there is a mechanism for which the Developer can choose to fill that gap or not and at that point that is the go/no go decision point for the project. He said the date specified in the agreement is the date of the construction financing so both parties are on a concurrent path figuring out their capital needs on both sides and it terminates at that date which is listed in the agreement as no more than 24 months from approval.

Jim McLeod, Hotel Fox Partners, said the \$16.5 million number isn't a number they just put out there. He said Barry Fisher, Hotel Fox Partners, has been working with a contractor and they are looking at the programming, square footages, price per square foot, etc. to arrive at that number. He said they cannot get in and start value engineering until CTA gets into the design. He said the \$16.5 million is based on a per square foot basis that they are comfortable making a target number at this point. Buchanan added it is based on a conceptual design, not schematic at this point. She said it is safe to say CTA will be at 70% drawings before they have really good numbers. Crouch said even though they keep saying they're in conceptual design they've had to push well into schematic in order to get the numbers they have today, which are still based on square footages. He said they are many months away from having construction documents and a bid. Behan added that the \$16.5 million also reflects some negotiation the Developer and Architect have had with Buchanan, trying to make sure that it's actually a real number that's achievable.

Reineking said she understands that the \$16.5 million is also related to the 50,000 square feet of the conference center which may be actual, identifiable square feet or may be percentages of some larger footprint. She said in the last Board meeting MRA had earlier in the year regarding this, they were looking at a 29,000 square foot conference center. She asked about the decision to go to the larger conference center and what the benefits to the City are with it. Crouch said the difference between the two numbers is because the CSL study was basing their square footage estimates on a net square footage of meeting spaces and pre-function space. He said when they got into the details with their hotel/conference center guru architect Craig Smith, they realized there was a huge amount of back of house square footage required to support the front of house that wasn't in the front numbers so that reflects the big jump. He said it was a little bit of a surprise to all of them. Buchanan said she referred back to the CSL study and looked at the medium size conference center, which is where they started, and looked at the larger size conference center which CSL said would have to be publicly built, owned and subsidized. She said they are really close to having the larger model right now with the square footages being discussed; The large room got bigger and the number of people this conference center will accommodate has grown. Buchanan said it was the Developer's sense that that's what this community will support and they are willing to take the risk of the subsidy that's needed and go that route because of the type of facility they want to build. Crouch agreed and said there was very clear direction from Dieter Huckestein, Hotel Fox Partners, not to reduce the conference center, especially the main hall. He said it was laid out as a goal for the Architects from day one that it needed to be a clear differentiation in the facility and they have held to it.

Reineking asked what the benefit is to the rest of the downtown community and the City of Missoula. She said she realizes one benefit will be that if there is a conference with 1,000 people they will not all fit in the hotel and will stay at another accommodation. Crouch said that is one of the key points from the very first request to have the Developer's look at a bigger conference center. He said the Developer would never build this size conference center on their own. They would fill their hotel and stop. He said this fills up all of the hotels downtown. Buchanan said the economic impact of the larger model in the CSL study was significantly larger than the middle sized model they started out with in terms of job creation and revenue

generated from hotel nights, restaurants, retail, etc. Reineking said those criteria weren't included in the memos so she wanted to make sure those were out there and understood as additional benefits to the City.

Semmens said if in fact there is a gap they have provided for, at the option of the Developers and the City, and the gap is manageable, meaning the amount of tax increment is insufficient to pay the dollar amount, then the Developer could elect to provide a guaranty where they would make up the shortfall in annual tax increment to service the debt. He said it would come with a clawback provision, meaning that if there's tax increment generated from the project then the Developer would be entitled to recoup it from surplus tax increment and have the amount they contributed be made whole. He said that is one mechanism they devised in anticipation of a gap. Englund said the purchase price is subject to the City's ability to issue tax increment bonds and asked if it is in an amount of the increment generated by this project or in the amount of the increment generated in the entire district. Semmens replied it is the entire district. Moe asked if the clawback was related only to this project. Semmens said yes. Englund asked if the City Council was comfortable with the idea that to get this done the City may be using all of the increment from all of the district. Bryan von Lossberg and Gwen Jones, City Council members, said yes they are. N. Jones asked if this has been done elsewhere. Semmens said yes, they have and it was the Safeway project in Missoula. Reineking asked if they also had the clawback provision. Semmens said yes. N. Jones said it sounds like this won't be the first ever bond issuance like this. Semmens concurred and said it is optional and it's trying to forecast how to deal with a shortfall if there is one. Buchanan said there are really only two ways to deal with it. She said there's a finite amount of increment so either they cut back the project or come up with another revenue source; this will be the other revenue source. Moe asked if the clawback itself will affect the sale of the bonds. Semmens said what's critical to making it work for having the bonds be marketable is in the guarantee that whatever the difference is on an annual basis will be made up by the Developer. He said for the Developer to be willing to do that they are saying they'd like to be able to recoup their contribution in the future.

John DiBari, City Council, asked what the negotiation is with regard to how much of a gap the City and Developer feel comfortable with extending future tax increment financing in terms of the Developer clawing it back. Semmens said the clawback would only be after the annual debt service is paid and presumably would have to meet certain coverage and certain reserve requirements, etc. He said the only amount that would be available for the clawback is the amount above what is needed to satisfy the debt, including their contribution and any reserve and coverage requirement, from the tax increment of the project. Semmens said it is only the truly excess money that they would be able to clawback. He said the Developer would not be able to clawback in a fashion that would cause the debt service payment on the tax increment bonds to be in question. Englund said they will pledge the increment from this piece of property forever to clawback and he said he thinks DiBari's question asks if there is a percentage or number in there where even though the Developer may be willing to guarantee it the City says no. Behan said the City would have to sign the guaranty agreement. Bickell said when the City issues the TIF bonds related to the project the entire district is pledged to the payback of that bond. He said the clawback provision only applies to increment from the specific project which would be defined by conference center and hotel. He said increment generated in other areas outside the project are still available in the district.

DiBari asked how much gap the City is willing to extend the Developer because it is pledging future increment to them potentially if they claw it back. He said the City will have to negotiate within its comfort level. Englund said the answer to the question is that there isn't any because

it is the Developer's guaranty. Semmens said the thought is that this would be a major development that would spur other development in the area. By virtue of doing this major development and getting it done by virtue of the guaranty arrangement, Semmens said it's reasonable to assume there will be much more additional tax increment from the District. McLeod said the reason the guaranty was inserted was because they started talking about the furnishings, fixtures and equipment (FF&E). He said if there wasn't sufficient money for the FF&E then the Developer would have the right to purchase the FF&E and get paid back. He said if it's \$5-\$10 million they will not guarantee it; If it's \$1 million and they think the conference center really needs that money and it's in the best interest of the Developer and the City then they may take that risk and say they will guarantee it. Englund said the answer to DiBari's question is there is no cap on that and so as they think about it going forward they have to think about the possibility that all of the increment generated from this project will be used to pay for this project. Semmens concurred and said McLeod's point is well taken. McLeod said if there is a big gap they will go back to value engineering. N. Jones asked what value engineering means. McLeod said if they get the design and bids come in high they will have to sit down with the City and start to look at what areas they can cut out without compromising it.

N. Jones said it looks like with the conference center there will be a tax increment financing revenue bond to pay for it and with the parking facility there will be tax increment financing funds used. She asked Semmens to explain the difference between the two mechanisms as he works through the parking facility portion. Semmens said they are trying to locate buckets of funds that will pay for these projects that are project-related and so for the conference center unit the most obvious one is the tax increment as a result of taxable value of the project. He said for the parking facility another bucket of funds that's allowed under state law is parking revenues. He said under state law what they can issue are parking revenue bonds and in essence the net parking revenues will be pledged to the repayment of those bonds. He said to the degree that isn't sufficient, there will be a tax increment financing component (bond) to fill any gap. Semmens said the thought is that the parking revenues, to the extent they are available, would displace the tax increment pledge so that if there is enough money from net parking revenues to repay the annual debt service the tax increment wouldn't be used for that so they can free it up for other costs. Buchanan said that makes a pretty significant assumption that there will be excess tax revenue to go toward parking. She said right now they don't think there is. Englund said it is revenue from the district, not just from the project. Semmens said as the different phases are developed there will be more district-wide tax increment available to service the bonds.

Semmens said the parking facility (public parking structure) has the same notion conceptually in terms of the acquisition of the parking facility. He said the City would acquire that at completion or substantial completion. Right now, he said assuming the cost per space is \$26,800 and that there are 309 spaces in the public parking facility, the purchase price is estimated to be \$8,281,200. He said this is subject to adjustment in the same fashion the city conference center unit is subject to adjustment as design is further along. Englund asked about the ownership of the parking for the condominiums. Semmens said there would be approximately 96 additional private spaces owned by residential condominium owners. He said the control of those parking spaces would be in the hands of the owners of the residential condominium units. Semmens said what's nice about the 96 spaces is that they would be taxable from a state/property taxation standpoint which would assist in the tax increment.

Brock referred to the statement on page four of the Dorsey & Whitney LLP memo stating "the Developer currently expects to lease approximately 200 of the 309 spaces in the Parking

Facility" and asked if that means what is actually coming available to the public is 109 spaces. Buchanan said 109 would be short-term, hourly, leased parking spaces anyone can use. Brock asked if there was a monthly lease parking program in this garage. Buchanan said no. Semmens said to keep in mind that from those 200 spaces those would be serving the conference center as well. Brock asked how many leased spaces are on the property right now. Behan said there are 75. He said when the parking pad was built it was understood in the agreement that it was temporary.

Reineking said her understanding is that the larger development not being discussed today is going to include another parking structure. Buchanan said she thinks there are probably 1,000 parking spaces altogether and this is just phase one. She said the hope is that the parking on the corner of Orange and Broadway Streets (aka "chicken block") will not be too far behind this and it will hold the overflow for the conference center. DiBari asked if it was going to be an above ground parking structure. Buchanan said yes. Semmens said it will also be the parking facility that will create a credit.

Semmens said the Public Improvements Addendum includes infrastructure things like water, sewer, storm sewer, sidewalks, a public plaza, street and trail improvements. He said this is an important piece of the puzzle the City will jointly need to work together on with the Developers to determine paying the costs of the public improvements. Bickell said Fisher has provided the City a preliminary estimate that the public improvements will be about \$5.5 million and are excluded from the \$85 million project total costs that are in the agreement. He said the language now says that the City and Developer will work together to identify ways to do the infrastructure and what the City would bring is its traditional infrastructure building sources of revenue including impact fees, sewer development fees, water development fees, etc. if approved by City Council. Buchanan added that these improvements are needed for the entire development, not just the hotel/conference center.

Englund asked if all of the infrastructure has to be done in the pre-construction/financing period. Bickell said yes. N. Jones wanted to clarify that before they get to the go/no go stage they will have to put the \$5.5 million in for the infrastructure. Semmens said yes. He said there's no notion that the City's ability to provide financing mechanisms is going to be a silver bullet. He said the Developer is going to need to participate and they will have to find a way to make it all pencil out. Buchanan said there are costs that would be eligible for tax increment assistance, but the tax increment is tapped out with the conference center. von Lossberg emphasized it is an investment in the area the City knows is needed and that it can be done without being inattentive to other needs. Bickell said as part of the City's Capital Improvement Program (CIP) the infrastructure improvements will be ranked and approved by Council in order of merit. Reineking said it makes sense to her to make the investment up front and do it this way, she wanted to emphasize it is not a mill levy or general obligation that everyone else is ultimately going to pay for. She said it is still this district and development that will be paying for it.

Semmens said for a project this size there are a lot of different pieces that have to come together and these agreements are a big part of the puzzle. He said it all leans to the construction financing closing and that's where the Developer would finally pull the trigger and proceed with development of the project. Semmens said the construction financing is the date everyone is narrowing in on where the project will be a go. He said these things happening now have to happen in order for the next pieces to fall into place.

Semmens said the Conference Center Lease/Management Agreement is an agreement pursuant to which the City acquires a conference center unit and then leases it to the Developers to operate and manage and they may delegate some of the management activities to a third party professional manager. He said the notion is that the Developer will seek to make it a lively, vibrant and successful conference center for a long period of time for the benefit of the Missoula community. He said the term is a 25 year initial term with two terms of ten years each that the Developer can elect to renew (45 years total potential). He said a "turn-key" lease is what they are striving for. Part of the acquisition price would include the FF&E which is the personal property needed to operate the conference center. Semmens said the Developer would be responsible for all maintenance, repair and replacement.

Semmens said there are various mechanisms about improving the conference center over time because they're talking about a lengthy period time and a lot will presumably happen in the next 25-45 years. He said the City and Developer want to make it a competitive regional conference center and so they want to address in the documents how to deal with upgrades over time.

Semmens said another feature is the availability of the conference center unit for up to 12 days per year for the purpose of at-cost availability to large, non-profit events in the City. He said this is a further overture of public use of the facility.

Semmens said the Conference Center Lease/Management Agreement has been a highly negotiated agreement that has a fair amount of complexity that is not normally thought about in a lease. Reineking said because she knows all of these things have been negotiated she wanted to thank all the people that have been doing the negotiating including City Council members and members of the working group.

Land Disposition Agreement

Semmens said the Land Disposition Agreement is the Buy/Sell Agreement. He said the notion is that this would all happen concurrent with construction financing because lenders want to have a lien in property when they make large loans. He said the City, at the time of construction financing, would convey the property called the Fox Site to the Developers for the appraised value of \$2.3 million. Semmens said the wrinkle in this is it would be paid by a promissory note over time. He said a promissory note has a 15 year term: the first five years would be interest only and then principal and interest would amortize for ten years. Upon the payment of the promissory note, including the interest, the purchase price will be paid in full.

Semmens said the credits to the purchase price that have been alluded to include the "chicken block" parking facility and in lieu of the City paying for that out of pocket there would be a credit against the purchase price if that transaction goes forward. Englund asked if it is an agreed on square foot price. Semmens said yes, with a cap. He said it is \$32/square foot with a \$1.25 million cap. He said this would take Developer and City agreement along with City Council approval for this transaction to happen.

Semmens said the other credit is that the condominium units will share in a common ownership interest in the common elements which will include the land. In recognition of that and in recognition that the Developer would have full maintenance, repair and replacement responsibilities with regard to the conference center unit, he said there would be a credit against the purchase price of the land upon the acquisition of the City conference center unit and the parking facility unit. He said credit would be the relative square footage of all of the units compared to that unit up to a maximum of 40%. In no event would the credit exceed 40% of the

\$2.3 million. He said the debt service on the note would be re-amortized following each of the credits. Semmens said the deed will reserve unto the City certain rights, easements and a right to purchase the whole project 75 years down the road or later at fair market value.

Reineking said she reviewed the minutes from the meeting earlier in the year and she said former Board member, Daniel Kemmis, brought up the question about public art. She said according to the minutes Crouch said that the land disposition agreement does still include a requirement for the Developer to provide public interpretive areas and art. She asked if it is in the Land Disposition Agreement. McLeod said public art is in the Master Development Agreement under Land Use, page 17.

N. Jones asked about the timeline of 18 months with the option to extend another six months in the next period. Courtney Ellis, Dorsey & Whitney LLP, said the 18 month marker is to get construction drawings submitted for approval. She said there is 24 months to obtain building permits and for the construction financing closing and the City's bond closing. Buchanan said there's a six month cushion built in to get the permits. N. Jones asked if things could happen sooner than that. Semmens said he believes they could. Buchanan said the Developers have expressed their sense that it will move faster. McLeod said the design side will take eight or nine months and while that's being worked on there will be other items being worked on concurrently.

N. Jones asked if the Developer and City are pursuing financing together or if there was a City finance that is distinct from the Developer's that is going to occur. McLeod said with regard to the bond financing it will be concurrent. He said they will need to start talking to lenders that purchase the bonds and negotiate with them to figure out what the terms would be, as well as discussions with MRA and Springsted Inc.. He said they have already had discussions with one lender and will be talking to another one. Buchanan said typically on a project like this the Developer will bring to the City the private placement; the City doesn't go out and solicit it.

von Lossberg referred back to the public art. If it is in the Master Development Agreement but the Master Development Agreement becomes supplanted by the collateral agreements he asked if they need to memorialize the public art aspect of the Master Development Agreement somewhere else. Ellis said it is listed as one of the elements of the Land Use Agreement. von Lossberg asked if they need to amend the Land Use Agreement with language around public art. Semmens said they can either do that or include it in something else. The preference was to have it in the Master Development Agreement.

Agreement Regarding Condominium Documents

Semmens said the Master Development Agreement contemplates a number of collateral agreements, one of them is the Condominium Documents which consists of the traditional bylaws, articles of incorporation, and the declaration that sets forth the rights and obligations pertaining to units, common elements, etc. He said because of where they are in design it is very difficult to have the condominium documents finalized by the November 22nd deadline. He said what they have contemplated is that there would be an Agreement Regarding Condominium Documents which is a document whereby the City and the Developers agree that they will finalize all the substantive terms of the condominium documents, absent those terms that will be dependent on final plans and specs which will be a ways down the road. Semmens said they will be finalized by the construction financing date, but by the end of this calendar year they will complete the substantive terms of those condominium documents. He said what this agreement would do is authorize Jim Nugent, City Attorney, along with Bickell, Buchanan and

Behan to negotiate the condominium documents in accordance with the Master Development Agreement. After that negotiation the Mayor would be authorized to sign the Condominium Documents. He said if the Condominium Documents end up deviating materially from the other collateral agreements then they would have to go through another process and get them approved by City Council.

Moe asked when the Condominium Documents will be ready. Semmens said the substantive documents will be done by the end of this calendar year. He said the pieces that require the final site plans and specs would be finalized by the occurrence of the construction financing. Moe said she'd like to see a date on it in the motion, so if the Board approves the concept that is fine but she'd like to have it say "before December 31st, 2017" or have the MRA Board approve it in January. Buchanan said the way it is set up right now it would be staff approval. She said if the Board wants it to come to them then it can be changed to reflect that. She said today the Board is being asked to approve the agreement that says the City and Developer will have substantive terms done by December 31st, 2017. Englund said as he understands it the Board is approving delegating that authority to the Mayor, City Attorney, CAO and staff with the understanding that any deviation from the Master Agreement would have to come to City Council for approval. Behan said the actual motion would memorialize that into an agreement that would be signed by November 22nd.

N. Jones said the last line of the staff recommendation deals with the potential that the City Council would be asking for an extension. She asked if that is anticipated. Behan said it was added by request saying that "just in case" the Council cannot make a decision by November 13th and decides to extend it, they would enter into an extension agreement. He said it is a timing issue for a complex set of documents. von Lossberg said there is no plan to use it, but if City Council hits the wall on Monday, November 13th and don't see a quick path to resolution on it, rather than having wasted years of work there is approval for an extension. Reineking thanked Behan for putting that in the motion because the MRA is a party to the agreement.

Englund asked what it meant that one of the holes came back "slightly suspect" during soils testing. Behan said during testing they slip in a geoprobe to take a sample. They took a sample at eight feet in the northeast corner of the site with other probes all the way around it that came out perfectly fine. He said at the eight foot level they found some soil that was slightly above normal for heavy hydrocarbons which could be something like asphalt grade oil. Behan said it is a very isolated place and "slightly" means the acceptable level is 570 and the sample came in at 590. He said because it is within ten feet of the aquifer the 570 number is held; If it was 12 feet above the aquifer the number used would be 5,000. He said they will need to send the probes down to the top of the aquifer and make sure there is no oil in the aquifer. Behan said it could just be that a little piece of asphalt was drilled through. N. Jones asked if the City and Developer are comfortable moving forward with the project. Semmens said yes. He said there is a process by which the City, MRA and Developer would seek to resolve any environmental issues as they arise during the pre-construction financing period. Buchanan added that in 2005-2006 the City excavated the entire site down 12 feet below what is grade right now. She said this was found at eight feet so it is something that was in the fill that was imported back into the site.

MOTION #1

REINEKING: I MOVE THE STAFF RECOMMENDATION TO APPROVE THE CONCEPT OF THE FOLLOWING DOCUMENTS AND RECOMMEND THEIR APPROVAL BY THE CITY COUNCIL:

- CONFERENCE CENTER AND PARKING FACILITY DEVELOPMENT AGREEMENT
- CONFERENCE CENTER LEASE/MANAGEMENT AGREEMENT
- LAND DISPOSITION AGREEMENT (PURCHASE AGREEMENT)
- PARKING FACILITY LEASE AGREEMENT

Moe seconded the motion.

No further discussion. No public comment.

Motion passed unanimously. (5 ayes, 0 nays)

MOTION #2

N. JONES: I MOVE THAT THE BOARD ACCEPT THE RECOMMENDATION OF STAFF WHICH IS TO MOVE FORWARD ON COMPLETING THE CONDOMINIUM AGREEMENTS TO THE EXTENT THEY CAN TO THE END OF THIS YEAR, RECOGNIZING THAT CERTAIN PARTS OF THE CONDOMINIUM AGREEMENT CANNOT BE COMPLETED UNTIL PLANS ARE FURTHER ALONG.

Moe seconded the motion as long as it includes that once the documents are completed they are submitted to the City Council for approval.

N. Jones: I'll accept that.

DiBari said he thought it was only going to City Council if the team that was negotiating it thought there was a material or substantive difference in the intent of the agreements. He said it could go to City Council but it doesn't necessarily have to.

Moe said her addition to N. Jones' motion should be that the documents go to City Council for approval if necessary, meaning they have some substantive change from the Master Development Agreement.

MOTION #2 RESTATED:

N. JONES: THE MOTION AS RESTATED IS TO ACCEPT STAFF'S RECOMMENDATION THAT THE MRA BOARD APPROVE THE CONCEPT OF THE AGREEMENT REGARDING CONDOMINIUM DOCUMENTS TO COMPLETE THE CONDOMINIUM DOCUMENTS AS DESCRIBED IN THIS MEMORANDUM AND RECOMMEND THAT AGREEMENT TO THE CITY COUNCIL FOR APPROVAL.

Moe seconded the motion as restated.

No further discussion. No public comment.

Motion passed unanimously. (5 ayes, 0 nays)

MOTION #3

MOE: I MOVE THE STAFF RECOMMENDATION.

Staff recommendation: Staff further recommends that in the even the City Council extends the Collateral Agreement deadline from November 22, 2017, the MRA Board, as party to the agreements, approves such an extension.

Jones seconded the motion.

No further discussion. No public comment.

Motion passed unanimously. (5 ayes, 0 nays)

Jones said she is new to the MRA Board and having participated in a complex transaction the last couple of years in Missoula she has some understanding of how difficult this has been. She said she admires the work that has been done here and appreciates the effort. She said she is amazed by the vision and really excited to see it happening.

Moe said she thinks the reason they actually got to this point is that all of the parties respected their positions and responsibilities and limitations that the individual parties brought to the table and they represented themselves well and the people being stewards of public money represented themselves well too.

McLeod said it's been five plus years since Pat Corrick and he first sat with the MRA Board. He said Moe asked the question if they had the capacity to take this on when they were working on Corso Apartments. He said they built and sold Corso and this was a project that at the time, before the Mayor got involved, they felt they could get completed in a shorter period of time but with his vision it really worked out for the benefit of everyone and future generations because it is going to be a fantastic project now that they have the Providence property.

NON-ACTION ITEMS

STAFF REPORTS

COMMITTEE REPORTS

OTHER ITEMS

ADJOURNMENT

Adjourned at 4:14 p.m.

Respectfully Submitted,



Lesley Pugh