

MISSOULA REDEVELOPMENT AGENCY

CONDENSED BOARD MEETING MINUTES

February 15, 2012

FINAL

A meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held at the MRA Conference Room, 140 West Pine, Missoula, MT 59802 at 12:00 PM. Those in attendance were as follows:

Board: Karl Englund, Nancy Moe, Rosalie Cates (phone), Dan Kemmis

Staff: Ellen Buchanan, Chris Behan, Jilayne Lee, Tod Gass, Juli Devlin

Public: Ashley Eby, University of Montana; Gwen Hoppe, Riverfront Neighborhood; Ashley Doll, University of Montana; Alan Bronec, CTA Architects Engineers; Helena Maclay, Attorney for MRP; Ed Wetherbee, MRP; Dusty Hutchins, Unite Here Local 427; Molly Moody, Montana Organizing Project; Dave Shaw, Parks & Recreation; Kevin Mytty, MRP; Kirby Christian, Attorney for Silver Foundation

CALL TO ORDER

12:00 p.m.

APPROVAL OF MINUTES

January 18, 2012 Regular Meeting Minutes were approved as submitted.

PUBLIC COMMENTS & ANNOUNCEMENTS

Englund asked if there were any public comments and/or announcements. Dusty Hutchins commented that he and Molly Moody were there in regard to the Fox Site project even though it was not on the agenda. They were there as representatives of the Missoula Community Benefit's Coalition. They thanked the MRA Board for everything that they've done with the Fox Site and said are eager to see this development in regards to community benefit. Englund said the Fox Site was going to be a lengthy public process and welcomed Dusty and Molly to participate.

Buchanan said that MRA has a new Administrative Secretary who will be working on minutes for the Board meetings. She asked that since the projects were all new to this person to please speak clearly so that the conversation can be listened to later; to limit the rustling of papers; and to clarify who "they" and "we" are.

Englund said that in reviewing the January 18, 2012 minutes for the Intermountain Site, there was some confusion as to what the Board was considering. Englund said that Buchanan had agreed, so he asked if in the future, the memos could include parameters defining what decisions needed to be made. The Board would be able to discuss outside of those parameters but at least everyone would be clear on what the parameters are for the various types of projects.

ACTION ITEMS

Walnut Street Neighborhood Landscape Improvement Project – URD II TIF Request (Buchanan)

Buchanan said that every year the City Council allocates money from the Office of Neighborhoods for small and large neighborhood projects. Buchanan is a staff member who reviews and comments on the requested projects. One of the projects this year was the Walnut Street Landscape Project, which was a request to add irrigation in a neighborhood garden that had been there since about 2003. Every year the Project Review Committee receives many requests and often the requests exceed the funding limits. Buchanan felt this was a great project and because it's located in District II, it is eligible for tax increment funding. Gwen Hoppe, Riverfront Neighborhood, originally submitted the request to the Office of Neighborhoods. Buchanan recommended that the Board approve \$2700 for this project.

Hoppe said that the Riverfront Neighborhood is asking for funds to provide a tap in an existing water line for irrigation purposes; making watering easier than dragging hoses from surrounding houses. The landscaped area is located on a boulevard next to Probuild, between 3rd Street and 1st Street, and is on city right-of-way. About eight years ago the landscape project was developed in that area and it has been difficult to maintain. Having the irrigation in place would help the lifecycle of the plants. They would also like to extend this garden down 1st Street. This would make a nicer walkway between the neighborhoods and the River Trail.

Englund asked if there were any questions.

Kemmis said that he drove down there and it would be a nice improvement. He asked Buchanan if she was concerned that more projects like this would be coming to the Board on a regular basis because of the overflow from the Neighborhood Grants Program. Buchanan said that sometimes these projects are directed to MRA because people don't know that their project is eligible for tax increment funding. She does not have concerns as long as they're appropriate projects.

Kemmis asked Hoppe who did the sidewalk and if that was part of the initial project. Hoppe said that in 2006 they did a sidewalk improvement which was funded by a SID.

MOE: I MOVE THE APPROVAL OF A GRANT OF \$2700 TO THE WALNUT STREET NEIGHBORHOOD FOR IMPROVEMENTS TO THE LANDSCAPE BOULEVARD ON WALNUT STREET BETWEEN 1ST AND 3RD STREETS.

Kemmis seconded the motion. No discussion. Motion passed unanimously.

Moe thanked Hoppe for keeping up with the project.

Milwaukee Trail Lighting – URD II TIF Request – Phase I (Behan)

Behan said this project is to provide lights on Milwaukee Trail. The project has been discussed previously. The first step was to review the design and make sure that it was appropriate for efficiency and aesthetic standards. That step is complete and has been presented to the Board. MRA has been working with the Parks Department and their consultant in putting together a map that breaks down into segments where there might be adequate electrical service. MRA Staff reviewed the budget and feel comfortable recommending lighting in the area between Orange Street and California Street; the darkest area on the trail. Staff recommends approval for this project to go out for bid with the understanding that costs may be up to \$205,000. Once the bids are in, they will come back for final approval from the Board.

Shaw said that the Parks Department appreciates the support from the Board and is excited about expanding the lighting system. He did some research and explained why these projects are so important. Recently the National Association of City Transportation Officials (NACTO), created a designation of different types of bicycle users. Even though there are different types of cyclists, they are all treated equal. The cyclist pyramid consists of the following.

- 1% of the total population is called the strong and fearless. These people will be walking or riding their bikes no matter what the weather is like, night or day, etc.
- 7% of the population will be out there most of the time but not always.
- 59% of the population is the interested but concerned group. They would walk or bike "if".
- 33% say no how, no way.

The City of Missoula has transportation goals of getting more people on their bikes or on foot. A large portion of the Missoula population falls in that "interested but concerned" category. Shaw feels by having lighting systems on the trails, then people will change their transportation habits from motorized to non-motorized transportation. He's very excited for the project to move forward and particularly excited to see a new lighting standard brought forward. They are looking at a very efficient light source and the equipment will be very durable. Shaw said Alan Bronec with CTA Architects Engineers was also at the meeting and could answer questions.

Buchanan said this phase would light the area between Orange Street and California Street.

Moe asked how long the bid process is. Shaw said it was going to be about a month and a half. Moe asked if they could expect construction this year and Shaw said yes. Englund asked if there were other current lighting bids to compare. Bronec said there wasn't a lot of building right now so electricians are generally slow this time of year, which is beneficial for the bid process. The bids should be pretty competitive. Englund asked Bronec if he was confident the bids would fall below \$205,000. Bronec answered yes.

Kemmis asked if they would be using about 1/5 of the URD II contingency funds for the project. Buchanan answered yes.

KEMMIS: I MOVE THAT THE BOARD PLEDGE UP TO \$205,000 FOR THE CONSTRUCTION OF MILWAUKEE TRAIL LIGHTING BETWEEN ORANGE AND CALIFORNIA STREET WITH FINAL APPROVAL UPON PRESENTATION OF CONSTRUCTION BIDS TO THE MRA BOARD BY THE PARKS AND RECREATION DEPARTMENT.

Moe seconded the motion. Motion passed unanimously. (4 ayes, 0 nays)

Moe asked if this project involved tearing up the trail. Bronec said this may involve trenching along side the trail or even under the trail. Electrical services are already in place so they'll be reusing these services along the trail. There will be minor landscaping disturbances but those will be replaced and patched. Shaw said that the Parks Department wants to avoid patching as much as possible.

Millsite – Brownfields RLF – Request for additional \$250,000 (Buchanan)

Buchanan said there are pending deadlines that are critical to this project. In response to this they have reconvened the Working Group. They've met a couple of times to see what they can do to move this project forward. The group identified the goals and priorities of each interest group. The groups involved include the developers, Millsite Revitalization Project (MRP), MRA/City, and Silver Foundation. One common denominator was to clean up the land. MRP has requested additional funds from the Brownfields Revolving Loan Fund (RLF) in the amount of \$250,000 to complete the cleanup. In the working group they discussed that of the \$250,000, \$190,000 would be for the completion of the work and \$60,000 for the contingency. There has been on-going concern regarding the amount of increment that is being generated from the land. The additional \$250,000 would increase the current loan to \$1,775,000. The loan is structured so that MRA is currently paying interest only with any excess increment being used to pay down the principal. In 2021, the principal and interest are to be amortized over 10 years because District II terminates in 2031. Staff does not believe there is adequate capacity in the revenue stream created only by the Millsite land to service the debt. A number of options were considered and discussed during the meetings. If a plat is recorded then the value of the land would increase. If the Department of Revenue (DOR) were to re-evaluate the land once the

cleanup was complete, then that also could add value to the land. Those are some examples that could increase the tax increment, which may or may not be sufficient to pay the loan. Buchanan talked with DOR and asked what triggers the increase in property value. DOR responded with a building permit, demolition permit, reappraisal cycle (done every 6 years), or the land changes ownership. If any of these examples occur, then DOR will look into it but not necessarily revalue the land. A number of years ago Idaho Timber asked to reduce the value of the land prior to the cleanup because the land was environmentally impaired. There is no proof that the reduction is still in effect or if it ever happened. There is no assurance that the cleanup will increase the value of the property. At the working group meetings, a number of options were considered and discussed. The three conditions discussed include:

- A guarantee from MRP to cover any deficiencies, only on the additional \$250,000, if it is added to the existing RLF loan at the same terms. The payment of interest will be based on 1.5% until 2021, when the principal and interest will be amortized over 10 years until URD II sunsets.
- MRP agrees to notify DOR when the Voluntary Cleanup Plan (VCP) is complete and closed out by the Department of Environmental Quality (DEQ).
- MRP agrees to cover certain levels of costs for the VCP closeout that exceed the additional \$250,000. That can be done with a cap, a percentage, an absolute number, etc.

MRP has agreed to the first two conditions but hasn't agreed to the third condition. Buchanan believes that the RLF has to be tapped at this point in terms of this piece of ground servicing the debt. MRA Staff recommends that the \$250,000 is added to the current debt, under the current terms but with the agreement of the three conditions listed above. Buchanan also proposed a cap not to exceed 20% of the additional loan amount if the cost of cleanup exceeds the \$250,000. Buchanan had asked Kevin Mytty and Ed Wetherbee to prepare some budget information for the board meeting.

Kemmis and Cates both attended the working group meetings and felt very strongly about the need to complete the Voluntary Cleanup Plan. Cates stated that the question is whether the recommended conditions for the additional loan are acceptable to the group. If so, there was no need to spend a lot of time on the cleanup budget and, if not, even if it is over budget, we have to know that the cleanup will be completed.

Wetherbee handed out a spreadsheet of the project budget for the cleanup. Cates reiterated that there was no reason to spend a lot of time reviewing the budget if MRP agreed to the three conditions outlined in the recommendation from the working group. Wetherbee responded that MRP and MRA knew that the \$833,000 grant to MRP from ARRA Brownfields funds would not fund all of the work needed to satisfy the VCP. He said that there was likely another \$500,000 to \$600,000 of environmental work needed that was not associated with the VCP requirements, one example being the landfill in the southwest portion of the property that needed to be cleaned up. He also stated that MRP had applied for the additional loan funds in September and that John Adams, Brownfields Coordinator for the City, expressed concerns about repayment since the increment from the property is at capacity servicing the existing debt. Wetherbee stated that he had told Adams at that time that, MRP agreed to guarantee the repayment if that was what was

necessary to get the VCP finalized but there have been challenges. DEQ had requested additional methane testing that Wetherbee stated was not necessarily related to the sawmill property and that MRP is uncertain as to what DEQ might require in the future.

The budget spreadsheet that Wetherbee handed out shows the completion of VCP will cost \$195,000 with \$55,000 in contingency costs. Wetherbee said there's plenty of work to be done that was not listed on the spreadsheet and that MRP will need to find additional funding sources. Mytty said that the VCP has to be completed. He does have concerns about the contingent liabilities including the ground water. There is still manganese in the ground water which is linked to the Hart Refinery, located next to the property. Mytty believes that the \$250,000 will complete the methane cleanup. He said that MRP may be willing to agree to the third condition if it pertains to the methane only and within the site. DEQ potentially can expand the request for testing outside of the site boundaries.

Cates said that the completion of the cleanup should be MRA's number one priority so this site can be prepared for future development. If MRA does provide the \$250,000 and it's still not enough to cover the cleanup then MRA is back at square one and we will have not accomplished the goal behind approval of additional funding. Cates said she was uncertain that MRP would come up with the rest of the funding to get the VCP complete. Mytty asked if MRP provided MRA some sort of language that the project would be complete even if it did cost over the \$250,000, if that would make MRA more comfortable. Cates said she was unsure because she first wanted to know if the \$250,000 was being used for VCP purposes only or if it would be used for other work as well. Wetherbee said there is a handful of other environmental work to be done once the VCP is complete and this was included in the \$250,000 of work detailed on the MRP spreadsheet. Cates said she was not interested in providing the \$250,000 unless it was strictly used for VCP purposes, based on the goal of the loan: to clean up the ground to the point of removing barriers so the title can be turned over, and provide a piece of ground ready for development.

Buchanan briefly explained what the spreadsheet listed, and she asked MRP for more clarification on those items. Mytty said that the alternates were not required for VCP but were the by-products of the VCP. He said concrete had been crushed already, but pipes could not be crushed and still remain on the site in a pile. The asphalt that was torn out from the access road is still sitting there and, even though it's not a VCP item, it can't be left on the site, along with waste material which was rejected by Eco-compost. He said these items are related to the VCP work. Cates said she still believes the \$250,000 should only be used for direct expenses to complete the VCP. Discussion ensued.

Kirby Christian with the Silver Foundation asked for clarification that the current VCP didn't require anything more than the methane abatement. Mytty said that was correct. Christian said that it's in the best interest for the Silver Foundation, MRP, and MRA that they get the property cleaned up and VCP closed out. Christian also stated that the Silver Foundation is willing to grant extensions to the buy-sell contract between Solver Foundation and MRP in order to get the cleanup done and close on the property. He hopes that MRA provides the funding for the VCP so that all groups can move forward.

Englund asked if the manganese and the Hart Refinery were outside of the VCP. Mytty said yes. Englund asked why this was part of the plan if it isn't part of the VCP. Wetherbee said that MRP has gone back and forth with DEQ as far as work not being done or not done to DEQ's satisfaction. Englund said he understood that but he still didn't understand why there were concerns outside of the VCP that weren't part of the original plan. Wetherbee agreed that wasn't part of the original plan until DEQ was asked to approve the methane portion of the VCP. DEQ is now asking for more work to be done which is why MRP is asking for the additional \$250,000. Wetherbee feels pretty confident about the dollar amount but if DEQ perhaps comes back and tells MRP that the west side of the stadium for example doesn't meet DEQ standards, then MRP doesn't feel that they should be accountable for that work since it's outside of the site boundaries.

Moe asked "what is the source of the anticipated RLF figures" on the chart that MRP provided. Discussion ensued. Mytty said that most of the figures on the spreadsheet were bid items and the rest were estimates provided by environmental consultants.

Mytty said that manganese was identified early on in the Phase 2 Environmental Assessment. He said it's almost impossible to take manganese out of the water. DEQ has a technical and practical waiver that basically says that removing the manganese is almost impossible and very costly. DEQ wouldn't allow MRP to use the waiver. The VCP requires MRP to clean this up within a five year period and Mytty says that's what they're struggling with now. DEQ said that if MRP were to put together a covenant that says there will be no drinking wells and that it will continue to be monitored, then DEQ will revisit the subject. Wood waste is the cause of the manganese but the petroleum is also a factor. After removing most of the petroleum the manganese levels went down tremendously. The refinery has done some remediation but the property is still not up to residential standards.

Behan clarified that the iron and manganese levels being discussed were not toxic but added a distinct smell or taste to the water.

Cates asked the Board if they wanted to spend the money with the uncertainty that the VCP would be complete so the fee could be purchased. Englund said there was always going to be some kind of uncertainty but MRP seems reasonably certain that the \$250,000 is enough but not certain enough to make the commitment to come up with any extra funding. Wetherbee said neither Mytty nor himself should have to come up with the extra funding if it's for items not on the site.

Buchanan suggested there might be some kind of language written in the agreement that best fits MRP and the City so the project can move forward. Of course, this will need to go to City Council since this is City debt. Discussion ensued.

Kemmis said MRA is not in a position to take a formal action to City Council without further language addressing the issues. He asked what the time line was and whether they

should meet before the next Board meeting. Christian said Silver Foundation is willing to do another extension but would like to see a final agreement in the near future.

Buchanan said the Board could recommend the \$250,000 to include the three conditions. MRP and MRA could discuss what the parameters are for any overages. That language could be discussed and the final approval could be made at a later date.

Helena Maclay suggested that the \$250,000 loan be recommended and that it be used for qualified costs in the budget whether they are required by the VCP or contingencies as a result of the remediation, with the following conditions:

- MRP will guarantee any deficiencies in TIF increment capacity to pay the loan at such time as there is amortization of the principal and interest. MRP's maximum liability to cover TIF deficiencies would be 15% of the total loan (\$1.775 million). MRP's maximum liability would be 15%, no more, no less. The new loan would be structured so that the loans are paid on a pro rata basis so that the \$250,000 isn't the last item paid and the \$250,000 is treated as part of the total \$1.775 million loan.
- MRP will notify DOR when the VCP in the current form is complete.
- MRP will cover up to 20% of the costs over \$250,000 to be spent on qualified costs that are shown on this budget; however, the VCP as currently submitted is the basis for this, not as it might be expanded by the DEQ. Any requirements placed on MRP as a result of the Civic Stadium or the Hart refinery property would not be subject to this requirement.

Cates asked Christian if the close out of the VCP was contingent in the buy-sell agreement. Christian said that the current agreement does have the contingency that the VCP is closed out but anyone can waive the contingencies. Moe asked what "closed out" meant. Christian explained, from prior experience, that a letter would never be received from DEQ saying MRP is completely done, but rather a letter saying that MRP complied with what was asked so the project is being closed out.

Kemmis said Maclay's outline of conditions satisfied him. Cates said her concern was that the working group had never talked about the maximum liability being 15% of the loan in regards to the TIF funds. Maclay said that the 15% of the loan was not based on the additional \$250,000 but of the full \$1.775 million loan. Cates said she was still uncomfortable using the RLF funds for anything over and beyond the VCP requirements. Discussion ensued.

Cates asked MRP what they were going to do when the public funding was no longer available. She said it seems that things are getting done with this project only when there's public funding. Wetherbee said he took offense to that and wanted everyone to know that MRP has spent \$1.2 million on the project for environmental remediation. Cates said she didn't want him to be offended but she did want him to realize how it affected the Board to have this continually occur.

Moe said she wants to see the agreement in writing before making a final approval. Buchanan suggested to the Board that they approve the agreement itself and the language of the conditions could come later.

Kemmis said that it comes down to sharing responsibility and he is willing to use the \$250,000 for VCP and contingency purposes, but that the VCP would need to be satisfied first before using the money for the alternates. Discussion ensued.

Moe asked if MRP could notify the Board once the VCP was complete, before any funding was used for the alternate items. Mytty said that was no problem.

Cates disconnected from the meeting at 1:30 p.m. Discussion ensued.

MOE: I MOVE THE CONCEPT OF THE ADDITIONAL \$250,000 SUBJECT TO REVIEW OF THE FINAL DETAILED STATEMENT OF THE CONCEPT AND HOW IT'S GOING TO BE GUARANTEED FOR FINAL DOCUMENTS.

Kemmis seconded the motion. Motion passed unanimously. (3 ayes, 2 absent)

NON-ACTION ITEMS

STAFF REPORTS

Director's Report

Buchanan said they were closing on the Civic Stadium on Friday, February 17th at 2:00 p.m. The Parking Structure was going well and the art submittals were interesting. There were seven artists who responded and the Public Art Committee narrowed it down to the top three.

Budget Reports – URD II; URD III, Front Street, Riverfront Triangle

Lee said that URD II revenue was low last month because the transfers hadn't been completed. Moe asked when the \$1.775 million loan gets amortized over the 10 years, does MRA know what the yearly amount due is going to be. Buchanan said she thought it would be around \$150,000 a year but wasn't sure because she didn't know what the principal amount would be. She said that MRA is paying interest only now, but that any excess TIF revenue is going towards the principal. Buchanan also said that the figures would be subject to whether the property was platted. If the land was platted then more TIF revenue would be received therefore more money could go towards the principal.

ADJOURNMENT

Meeting adjourned at approximately 1:40 p.m.

Respectfully Submitted,
Juli Devlin