

MISSOULA REDEVELOPMENT AGENCY

CONDENSED BOARD MEETING MINUTES

July 16, 2013

FINAL

A **Regular** 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, Daniel Kemmis, Rosalie Cates

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

Public: Melissa Matassa-Stone, WGM Group

CALL TO ORDER

12:00 p.m.

APPROVAL OF MINUTES

May 15, 2013 Regular Board Meeting Minutes approved.

June 20, 2013 Regular Board Meeting Minutes approved.

PUBLIC COMMENTS & ANNOUNCEMENTS - None

ACTION ITEMS

Fifth Missoula Brownfields Cleanup Revolving Loan Fund Amendment #1 (URD II) – Request for Approval (Buchanan)

Buchanan said last year the Montana Department of Environmental Quality (DEQ) granted an extension for the closeout of the Voluntary Cleanup Plan (VCP) for the Old Sawmill District (OSD). The closeout was extended to July 2, 2013. She said around the same time, the Millsite Revitalization Project (MRP) requested and was granted an additional loan amount of \$250,000 to finish the VCP requirements. Along with the additional loan amount, the MRA Board recommended that a stipulation be added to the amendment saying “Loan proceeds not disbursed prior to July 2, 2013 shall be forfeited”. Buchanan said MRP has once again requested an extension to complete the VCP. DEQ has granted MRP an extension until October 31, 2013. Concurrently, MRP has asked MRA to extend the expenditure of Brownfields Loan proceeds to October 31, 2013. She said staff recommends the Board approve this extension. Moe asked Buchanan why she thought DEQ approved a year extension the first time and only a four month extension the second time. Buchanan said she thought DEQ assumed the twelve month period would be adequate time to complete the

VCP. She said DEQ probably granted the four month extension because they are trying to expedite the completion of the VCP.

Englund asked what work still needs to be done to complete the VCP. Buchanan said there's been discussion on how to ensure that there is methane abatement along the Civic Stadium because MRP is still receiving high methane readings on one area. They are considering installing mechanical fans in the vents to see if that helps. She said another reason for the extension is MRP submitted a closeout plan to DEQ and DEQ responded with a number of revisions. Once the revisions are complete, MRP will then need to resubmit to DEQ.

CATES: I MOVE TO APPROVE THE STAFF RECOMMENDATION.

Moe seconded the motion. No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.

Scott/Toole Intersection Improvements (URD II) – Additional TIF Request (Buchanan)

Buchanan said in 2011, Steve King, former Public Works (Development Services) Director brought a request to the MRA Board asking for a partnership between the City and MRA to build an urban mini-roundabout at the corner of Scott Street and Toole Avenue. At that time, the MRA Board agreed to allocate \$20,000 in TIF funds to pay for design of this intersection. Buchanan said the Board at that time wanted to expand the scope of the project and address the area on Spruce Street to the east of this intersection which added an additional \$50,000 to the Scott/Toole/Spruce Improvements project. In 2012, Buchanan said the Board approved an additional \$40,000 for street lighting, bringing the total MRA contribution to \$110,000.

Buchanan said bids for the Scott/Toole intersection came in higher than what Development Services estimated but were fairly close to the engineer's estimate. She said the street lights are about \$10,000 more than what was estimated and the Spruce Street improvements are approximately \$5,800 more than the \$50,000 that was originally approved. She said the City is asking MRA to contribute an additional \$15,800 and the City will provide the additional funds from transportation impact fees.

Moe asked Buchanan what the status was for the art within the roundabout. Buchanan said the art was discussed at one time but is no longer a plan since the radius of the roundabout is tight so large trucks will actually drive over the center area. She said at one point colored, stamped concrete was being considered but the color of it would be diminished over time because of tire tracks. Moe asked what it would cost to add the colored, stamped concrete. Buchanan said to add the colored concrete in the roundabout itself would be an additional \$12,909.60 and to add the colored concrete in the splitters would be an additional \$7,139.40. She said the colored stamped concrete was bid as an alternate.

Englund asked if the neighborhood has seen the design. Buchanan said a public meeting was held when this project was originally designed. She said the final design is not much different than the original design.

Cates said the idea of making the design better by using colored stamped concrete is a great but said she's not comfortable spending an additional \$20,000 or more to do so.

KEMMIS: I MOVE THE BOARD APPROVE AN ADDITIONAL \$15,810 FOR THE SCOTT/TOOLE/SPRUCE IMPROVEMENTS AND FUND IT FROM THE URD II PUBLIC WORKS CONTINGENCY.

Cates seconded the motion.

Cates asked Buchanan what additional amount the City will have to contribute for this project. Buchanan said the City's additional contribution is approximately \$20,000 to \$30,000.

No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.

Western Sidewalk Project Phase 3 (URD II) – Request to Award Construction Contract (Gass)

Gass presented an aerial photo of URD II and pointed out the different phases of the Western Sidewalk project. He said phase three of the URD II Western Sidewalk project, along Garfield Street and Idaho Street, will complete nearly all of the missing sidewalk links west of Russell Street.

Gass said the Invitation to Bid was advertised and four bids were received. He said staff recommends the Board award the construction contract to HM Concrete who provided the lowest bid of \$203,785 and was verified as a responsive bidder by the engineering firm, Territorial Landworks, Inc. (TLI). Gass said staff also recommends the Board authorize the MRA Board Chairman to sign the contract and authorize staff to sign the necessary documents to execute the contract (Notice of Award and Notice to Proceed).

CATES: I MOVE THE BOARD APPROVE THE STAFF RECOMMENDATION.

Moe seconded the motion. No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.

Western Sidewalk Project Phase 3 Street Paving (URD II) – TIF Request (Gass)

Gass said the Western Sidewalk project also includes a paving component where the City Street Division would mill and re-pave the street sections of phase three. He said staff recommends the Board authorize MRA to enter into a Memorandum of Understanding (MOU) with the City Streets Division in an amount not to exceed \$43,766 for the materials and equipment to mill and pave the streets in phase three of the URD II Western Curb & Sidewalk project, and authorize the MRA Director to sign the MOU.

Moe asked what the value is for the work that is being done by the City Streets Division. Buchanan said typically it's a 50/50 split between cost of materials and the cost of labor.

KEMMIS: I MOVE THE BOARD APPROVE THE STAFF RECOMMENDATION.

Cates seconded the motion. No further discussion. Motion passed unanimously. (4 ayes, 0 nays) Reineking absent.

Wyoming Street Project – Contract Amendment with WGM Group (URD II) – Additional TIF Request (Buchanan)

Buchanan said WGM Group is requesting an amendment to their Agreement for Professional Engineering Services for Wyoming Street Design and Construction Services in the amount of \$79,995. The original contract she said was for \$220,000. Buchanan said she and Melissa Matassa-Stone, WGM Group, have provided a break down of costs associated with the contract amendment request.

Buchanan said MRA did not issue a Request for Proposals (RFP) for Wyoming Street design but did issue an RFP for design of the MRL Trestle and for Silver Park. She said WGM Group had already completed a large portion of the design work for the streets, particularly Wyoming Street, and the utilities in the Millsite as part of their contract with MRP. Buchanan said when MRP deeded the park land to the City they also donated WGM's work to date. She said the value of that section of work was approximately \$50,000. There were some changes from the original design which are described in Buchanan's memo in more detail.

Buchanan said trying to estimate the cost of the Wyoming Street construction before the design was actually complete was difficult; therefore the Wyoming Street engineering fees associated with the construction costs increased by \$46,335. She said there is a typo in her memo on page three, second paragraph. She said the last sentence reading "This is the largest cost line item in this category at \$16,000", should really be \$20,000. Buchanan said because the project wasn't completely designed there were a number of miscellaneous changes and field changes. Because there are three different design firms and three different contractors involved in these projects, coordination is complex, Buchanan said. She said there are many other factors that have increased WGM's work including utility work, providing accessibility to the Civic Stadium, and later adding the Hickory/Clegg Lane intersection improvements. Buchanan said even though extra time may have been spent on the administration side, the decisions that were made ended up saving money. She provided a few examples.

- The City was reluctant to approve using onsite material to backfill utility trenches and to use under Wyoming Street because the City wasn't convinced the material would compact appropriately. WGM Group and Tetra Tech worked with the City and provided additional compaction tests. The result was the onsite material did compact to the needed compaction ratios; therefore the material that Missoula College students excavated and sifted was used. This was a cost savings because onsite material was used rather than having to import material.
- The original estimate for the Northwestern Energy (NWE) work was \$40,000. WGM Group was able to convince NWE to make different decisions which brought the cost down to \$9,300. The cost savings was over \$30,000.
- MRA's decision to directly purchase the irrigation ditch culvert and utilize WGM to prepare the bid documents and manage the purchase saved approximately \$30,000.

Buchanan said she could provide additional examples but more importantly the extra work and time that WGM Group has put into this project has provided a huge cost savings even with the additional \$79,995 that's being requested today. Discussion ensued relating to the budget sheet attached to the memo. Buchanan explained the numbers on the current budget sheet would adjust as real cost figures come in. For example, she said, under the Construction Costs, the Utility Relocation was

originally budgeted for \$40,000 but \$9,374 was spent. Buchanan said more importantly the amount from the URD II Bond fund that wasn't spent would be available for the first debt service payment. She said the first debt service payment will have a smaller impact on District II as a whole because of the dollars to put back towards the debt service.

Matassa-Stone asked if she could have the opportunity to explain what she thought went well during the project and what could have been better. She said on the construction side of the project, she kept good communication with Buchanan on a weekly basis. She said she could have been better with running a check and balance with the engineering services portion of the project. Matassa-Stone said she enjoys working with MRA staff and the Board and would like to have a post project discussion about expectations and how things could have been different.

Buchanan said the bulk of the extra costs, both with WGM Group and HDR Engineering, fall under the construction portion of the projects. She said it was very difficult to estimate these costs back in September of 2012, not knowing or anticipating the number of issues involved with this piece of land. Buchanan agreed that the requested amounts from WGM Group and HDR Engineering were large figures but, she said there are very few engineering contracts that MRA has entered into that haven't come back to the Board with a contract amendment. Buchanan said it's different when working with a private developer and payments are made once the project is complete.

Behan said, as an example, there were eight construction administration amendments with TLI's contract during phase three of the Silver Park project. Kemmis asked if those amendments were presented to the Board during the course of construction. Behan said yes. He said construction is still being done with Wyoming Street. Behan said punch list items were still being addressed on the trestle and the final payment hadn't been made when HDR approached the Board with their additional request.

Moe said when a contingency is added to a project, it shouldn't be the goal to expend the whole contingency estimate. She said in general, if there's money left over once a project is complete, then it goes back into the district for future enhancements. Moe said she feels the final outcome here is a great project and a project that was complete on time. She said she wants to maintain a good working relationship with WGM and HDR but is concerned with the 36% increase with WGM and a 20% increase with HDR. Moe said in the future she would like to see better communication from the MRA staff to the Board especially if staff is requesting, for example, the engineer attend pre-construction meetings. Moe said a cost was listed related to NWE's failure to perform in a timely fashion. She asked if there was an agreement between MRA and NWE. Buchanan said the staff did not have a written agreement with NWE that committed a date of completion, but NWE did attend all the preconstruction meetings and pre bid meetings and were aware of the schedule and timing constraints. Moe said MRA will continue to work with NWE in the future so she suggested implementing some sort of procedures such as a MOU between MRA and NWE to maintain a professional relationship. She said she would also like to see penalties in the contracts if work is not being performed.

Moe said there was a section in Buchanan's memo describing the Parks and Recreation Department changes. She suggested that once the Parks Department finalizes a plan and then later decides to make changes that cause additional work for the engineers, maybe the Parks Department should be responsible for those costs.

Moe said in Matassa-Stone's memo under the Storm Drain/Irrigation Ditch Design section she talked about the scope of the project. Moe said if "scoping a project" means all elements and professional experience have been considered, and Orchard Homes Ditch Company later asks for additional money, then that seems like a professional error whether it is on the ditch company side or the engineering side. Matassa-Stone responded that WGM Group has a great working relationship with Orchard Homes Ditch Company. She said the changes were due to the unique situations of changing conditions. Moe said she also saw that Mountain Water Company (MWC) was requesting additional funds and asked if a contract was in place between MRA and MWC. Buchanan said yes. Moe said since a contract was in place why not consider cost sharing. Moe suggested better communication between MRA and utility companies so that the project is clearer and there's more certainty. Buchanan said it's been a learning experience coordinating these three projects (MRL Trestle, Wyoming Street, and Silver Park) and working with the various companies.

Moe said the memo portrayed the various items as complete and that WGM Group is now asking for additional funds for reimbursement. Moe said she spoke with Buchanan before the meeting and was told some of the items under the Construction Observation Outside of Change Orders section were not complete, therefore the request today is more or less an 'up to and not to exceed' amount. She asked what items still need to be finished in order to complete the Wyoming Street project. Matassa-Stone said the street trees still need to be installed, the pavers installed, the sidewalk installed, construction staking, etc.

Cates said she agrees with Moe's suggestions and concerns but said out of the 15% contingency that was set aside in the URD II Bond, only about 8% was spent.

Kemmис said contingencies are built into the construction contracts and asked if the engineering contracts could include a contingency. He said with the magnitude of the Wyoming Street project and the MRL Trestle project, a contingency amount in the engineering contracts might have solved the questions and concerns of the Board. He said he does not want to set a precedent and have engineers think they can come back to the Board and ask for more money. During the June 2013 meeting, HDR (for the MRL Trestle project) proposed a request of \$20,156.20 for reimbursement. The motion was denied, and later in the meeting a motion to reconsider at the July 2013 meeting was passed. Kemmis said it was his understanding that after the motion to reconsider, HDR would have reviewed those costs associated with the request, and come up with items that could have been foreseen so that today's request wasn't the same figure as the original request. Kemmis said he believes the WGM Group and MRA should come up with a way to split the costs for the Wyoming Street project as well as HDR and MRA for the Trestle project. He said WGM Group should pay for the items that may have been foreseen and MRA could pay for the items that are appropriate.

Matassa-Stone said the scope of the Wyoming Street project as well as the Silver Park project and Trestle project was dynamic and on a fast track. She said as an example, during the Wyoming Street project, WGM Group was working with Development Services, the Parks and Recreation Department, and MRA to come up with a 30% design for the Clegg/Hickory Intersection. She said the time schedule was very aggressive with the opening of the Civic Stadium as well as coordinating these changes with the utility companies. She said there were cost savings for construction.

Buchanan said Behan mentioned there were eight change orders approved by the Board for Silver Park which wasn't subject to a specific timeline. She said what her understanding from the Board is, that the Board would like to approve any change orders incrementally even though it's going to add

up to nearly \$80,000. She said the issue with that concept, with the Wyoming Street project in particular, is the timeline was very constrained and bringing change orders to the Board on a monthly or even bi-weekly basis was not possible. Buchanan said maybe a contingency should be added to engineering contracts. Englund said he doesn't like the idea of encouraging contingency in projects. He said more importantly the question is was the work done and was it valuable. Englund said with this situation, he understands there were construction change orders but didn't realize that would include additional engineering costs.

Behan said the large change orders for the MRL Trestle project and the Wyoming Street project happened during construction. He said the engineering companies and construction companies were hired over eight months ago. He said because of the uncertainties with the soil, no one knew what issues may arise. Behan said for future projects, the administration contract could be negotiated once the project has been designed but that still is not going to solve all the unforeseen problems. He said with the MRL Trestle project, the changes that HDR made were within a matter of days, making it very difficult to schedule a Board meeting.

Cates said she was fine with the request. She said there was a large contingency amount included in the URD II Bond which happens to be more than what is needed and the end result is an incredible project. Cates said there are cost savings in other areas of the project as a whole.

Buchanan said the Board's possible perception of the contingency was that it was to be used for construction costs only. She said the contingency was built into the URD II Bond for the entire project (Wyoming Street, MRL Trestle, Silver Park) including engineering costs. Buchanan said she can't think of a City project where additional professional services weren't requested. Buchanan said MRA staff has done a great job containing costs and working with engineers to keep the projects on time and within budget if possible.

CATES: I MOVE TO APPROVE A REQUEST OF \$79,995 FOR THE CONTRACT AMENDMENT WITH WGM GROUP, IN AN UP TO AND NOT TO EXCEED FASHION, BASED ON SUBMISSION OF ACTUAL HOURS AND ACCORDING TO ALL OF OUR USUAL CONTRACTING STANDARDS.

Moe seconded the motion "based on the understanding that we (Board) expect no additional amendments to the engineering contract".

Cates accepted the addition to the motion.

Englund asked if the motion included authorization for the Chair to sign the contract amendment. Cates said yes.

Kemmis said he will vote against the motion because he wants to avoid this situation from setting a precedent. He said one vote against the motion will provide a signal of concern. Englund said the complexity and tight time frame related to this project sets this request apart from any other project. He said the Millsite is a very unusual and complicated site because it's a brownfield site and because of the multiple projects within this site. Englund said there was also a very tight time schedule with Missoula Baseball and the opening of the Civic Stadium. Kemmis said if he understands Englund's comments, this request is not to be taken as a precedent. Englund said that was correct. Moe and Cates agreed. Buchanan said in the future any change orders will also include the engineering costs associated with the construction costs.

No further discussion. Motion passed. (3 ayes, 1 nay) Kemmis voted against the motion. Reineking absent.

MRL Trestle Project – Contract Amendment with HDR Engineering (URD II) – Additional TIF Request (Behan)

Behan said the original budget for the MRL Trestle was estimated at about \$1 million. He said the engineers estimate was slightly below the \$1 million. To date MRA has spent approximately \$743,000 and if the request is approved today then an additional \$20,156.20 will be added. Behan said the cost savings is approximately a quarter of a million dollars. Behan said he does not believe the project would have finished on time, or been a quality project, or received acceptance from Montana Rail Link (MRL) without the extra work done by HDR.

Englund asked about the engineer's procedures and when it's necessary for their presence on the site or if they call MRA first before making that decision. Buchanan said it depends on the circumstance. She said sometimes the engineer is needed on the site to assess the problem and then develop a solution. Buchanan said the engineer then typically contacts MRA staff to let them know what the issue is, how to solve it, and what the estimate is to fix the problem.

Englund said he doesn't want to set a precedent by approving a second request of the same fashion but the MRL Trestle project probably had more timing constraints than the Wyoming Street project in regards to accessibility to the Civic Stadium.

CATES: I MOVE TO APPROVE HDR ENGINEERING, INC.'S REQUEST FOR \$20,156.20 AND PAY THEM PURSUANT TO OUR NORMAL OPERATING PROCEDURES.

**Moe seconded the motion. No further discussion. Motion passed.
(3 ayes, 1 nay) Kemmis voted against the motion. Reineking absent.**

YWCA Secret Seconds (URD II) – Additional TIF Request for sidewalks (Gass)

Gass reviewed his memo. He said the City is requiring YWCA Secret Seconds to replace additional sidewalk panels on West Broadway. Gass said the request from YWCA was received late in the week prior to the Board meeting. He said before Board packets were delivered he received an estimated cost of \$5,800 to replace this section of sidewalk. The day before the Board meeting Gass received an email with the final estimated cost being \$3,723 which included a tree replacement allowance of \$1,500. **Gass said staff recommends the Board approve the additional TIF request for the YWCA Sidewalk Replacement project in an amount not to exceed \$3,723.**

KEMMIS: SO MOVED.

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

Moe asked if a memo could be sent to the Parks and Recreation Urban Forester communicating the loss of these trees could have been prevented if there would have been a maintenance program in place.

NON-ACTION ITEMS

Milwaukee Trail Lighting (URD II) – Review MOU between MRA & MPO

At the June 2013 meeting, the Board asked to review the Memorandum of Understanding (MOU) between MRA and the Missoula Metropolitan Planning Organization (MPO) for the use of federal Surface Transportation Program - Enhancements (STPE) funds. An updated MOU was distributed to the Board for review.

STAFF REPORTS

Director's Report

Moe asked what the progress was on the Kmart site. Buchanan said copper is being stripped from the building and demolition has started. She said the pad for one of the stores should be delivered by the end of July 2013.

Behan mentioned an upcoming change order in the amount of \$8,076.60 with the Silver Park project. He said the City of Missoula has decided that MRA needs to pay impact fees. He said an appeal will be submitted to either reduce the impact fee amount or have it waived. Behan said the contractor for Silver Park needed to move forward with inspections, so a reimbursement may be requested. He said this was not foreseeable nor was it in the bid.

Moe said several business people have approached her with thanks to MRA for their hard work and demolition of the old Kmart site.

Kemmis said he appreciates the staff's dedication with the Millsite projects and getting work done in a timely fashion. He asked if there were any inquiries with the Mercantile building. Buchanan said there is a developer out of Salt Lake City, UT who has shown interest in the Mercantile building. She said there may be interest from a developer from Boise, ID as well. Englund asked if the building was out in the real estate market. Buchanan said yes the building is for sale.

Budget Reports

ADJOURNMENT

Meeting adjourned at approximately 1:55 p.m.

Respectfully Submitted,

Juli Devlin

Juli Devlin