

MISSOULA REDEVELOPMENT AGENCY

CONDENSED BOARD MEETING MINUTES

December 16, 2009

FINAL

A meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held at MRA Conference Room, 140 W. Pine, Missoula, MT 59802 at 12:05 PM. Those in attendance were as follows:

- Board:** Hal Fraser, Rosalie Cates, Karl Englund, Daniel Kemmis
- Staff:** Ellen Buchanan, Chris Behan, Kari Nelson, Tod Gass, Jilayne Lee, Lesley Pugh
- Public:** Kyle Johnson, Western Excavating; Brian Hensel, Street Dept.; Kathy Mehring, Parks & Rec Dept.; Jamie Lockman, MRA rep to the HPC

APPROVAL OF MINUTES

October 21, 2009 Regular Board Meeting Minutes were approved as submitted.

PUBLIC COMMENTS & ANNOUNCEMENTS

HPC Update from Jamie Lockman

Lockman said the Historic Preservation Ordinance went back to the Planning Board. She said the HPC is working on updating the Preservation Plan. They are also putting together a Preservation Fair like they did last spring.

Kemmis said he spoke with a concerned property owner in the Downtown about the proposed Ordinance. Kemmis said his understanding of what the property owner said is that a building permit could be denied on historic preservation grounds for the buildings that are not on the historic register that are proposed for renovation. He wondered if this was accurate. Lockman said she thinks he was referring to a non-contributing resource within the historic district. She said the last thing the Planning Board did with the Ordinance was to remove it from applying to Downtown. Buchanan said that did not pass. Lockman said it's gone back and forth. She said it will not prevent an owner doing what they want with their building.

Buchanan said the Ordinance as written that came out of HPC and Planning Board would have applied the Ordinance to any building within an historic district, whether it's contributing, non-contributing or a building to be built on a vacant lot. She said a lot of the folks who were involved with the Downtown Master Plan became concerned about that because there are no definitive design standards, in their opinion, by which to judge a proposed renovation or a new building. Buchanan said the proposal that came out of that

group of people was that the Ordinance should initially apply only to buildings that are on the National Register and once design guidelines are in place for any given district then it would apply to anything that might be built in that district. Buchanan said the City Council seemed to concur with that. Dave Strohmaier made a motion to exempt the Downtown in those terms and let it apply to everything in the other historic districts. She said that vote failed in PAZ. It went to City Council and there were questions that came up, particularly with respect to demolition by neglect and what the penalties are in doing that. Buchanan said those questions weren't answered and the item was sent back to PAZ.

Kemmis said the concern that was raised in his conversation was that good redevelopment might be hindered by some of the provisions of the Ordinance. Buchanan said the Secretary of Interior's Standards are the only guidelines they have to apply. She said the business community and others want to see design standards in place, otherwise it becomes very subjective. Lockman said one of the reasons this even came forward was to put in place a means of putting neighborhood overlays in. She said her understanding of the Ordinance is that it's supposed to become a place holder so that the neighborhoods will put their overlays together using the standards they want. Lockman said when there was a proposal to eliminate non-contributing structures in the district it negated the whole purpose for having an historic district or a neighborhood overlay.

Kemmis said he thinks the historic considerations are so crucial to redevelopment, particularly long-term. He said it makes him appreciate Lockman's role as the go-between for MRA and the HPC and thinks it's important for the MRA Board to be kept informed of the progress of the Ordinance.

Fraser asked if other cities have successful guidelines. Buchanan replied yes, they're all over the country. Lockman said the guidelines the HPC is trying to put in place are less restrictive than what other communities have and are looking into Bozeman's ordinance.

STAFF REPORTS

Director's Report

Old Sawmill District

Buchanan said there was a recent meeting with several attendees. Kemmis asked if MRP ended up renewing their option to purchase. Buchanan said MRP was not able to purchase the fee, but they got a six month extension that doesn't have any costs associated with it. If they have to extend it to the end of the calendar year they will have to pay money. Englund asked what MRP is doing. Kemmis said his sense of it is that the project, in terms of the development, has been on hold since the economy crashed. He said he thinks MRP was hoping that the cleanup was going to be accelerated, especially with stimulus funds. He said he thinks it's worth checking into to see if there are other little pockets of money. Buchanan said MRP is starting to get serious inquiries about the land. Buchanan said she thinks after the New Year the group will reconvene and see where they're going with the project. Discussion ensued.

Downtown Master Plan

Buchanan said the N. Higgins project is on schedule. All property and business owners were invited to a meeting. She said the attitudes were positive, but there was apprehension about the disruption it's going to cause. She said BID and MDA will be the focal points for information on this project.

Buchanan noted that a non-profit was formed by Rick Wishcamper and his partners to develop the old 4Gs Plumbing building next to the Intermountain site. They've applied for EDA money to help with the home resources piece of it. EDA requires that they have the City as a co-applicant because they don't want to deal with a newly formed non-profit. Buchanan said the City agreed to do that as part of the pre-application process with the Mayor signing everything. She said the non-profit will look to MRA to be the contact for the City on it. She said it's looking positive that they will get a \$1.4 million grant. Cates said MCDC has a loan in it. Buchanan said First Security and the Board of Investments do as well.

FY10 Budget

Lee included several pages of the FY10 finalized budget in the Board packets. She said the audit is wrapping up and Anderson-ZurMuehlen will be at the January Board meeting to review the audit.

ACTION ITEMS

URD II & URD III Streets Projects – TIF Requests

Buchanan said Staff received a request from the Street Division to assist with three street projects that are in URDs II and III. She said the City is having some serious challenges financially, with revenues being considerably below what it's experienced in past years. She said departments have now been through three budget cuts to the general fund so far and it doesn't look like it will get any better next year. Buchanan said the City is struggling to not reduce services to the citizens. MRA is one of the agencies that has funding available and consequently received the request to assist with some streets projects. Buchanan said MRA has historically assisted with streets projects and it's certainly within MRA's mission.

The three streets projects include Dearborn from Brooks to Garfield (\$50,517), Cedar St. from W. Broadway to Hawthorne (\$21,523), and Burton St. from Toole to W. Broadway (\$12,484). She said MRA has more than adequate funds in the Districts to do the projects without adversely impacting other projects that may come along. Buchanan said Staff is recommending that the Board approve, up to the above listed amounts, to mill and repave the streets.

Buchanan said MRA will be getting another request to chip seal the streets after they're repaved and also to go in and chip seal a project previously approved by the MRA Board on Fairview & Washburn. She said the chip seal substantially extends the street life. Fraser asked Hensel if he knew what the estimate would be for chip seal. Hensel replied \$52,389. Hensel said he will go out to bid for materials in February and he has tried to guess what the cost of asphalt materials will be because they use an oil-based petroleum

project. He said the numbers change and it's just an estimate. He said the milling and paving estimates are correct.

Cates asked how the street projects in the Downtown worked. Behan replied it started out as a program that was proposed by the Engineering Dept. Cates asked if there was an annual request or if it was just used when needed. Behan said for the most part there was an annual request. Cates said she didn't have any problem helping out with this request, but thought MRA should get its thoughts organized as to what the purpose is of doing these projects in the other districts.

Hensel said he drove through URD II and URD III and tried to find streets with curb and gutter. He said it was easy to find in URD III and tough to find in URD II. He said a lot of the streets in URD II that are bad don't have curb and gutter, therefore he doesn't want to put money into rebuilding the streets if there's not adequate drainage facilities. He suggested MRA prioritize in URD III by looking at the heavily traveled streets that are in bad shape but have adequate drainage structures. Buchanan suggested that MRA Staff work with Hensel so that next year the streets can be budgeted in if that's what the Board wants to do.

Kemmis asked if the chip seal follows immediately the year after the milling and repaving. Hensel said there are a couple of schools of thought on that. He said MDT will chip seal immediately after the project, partly because of the way they're budgeting and for time reasons. Hensel said his preference is to wait one year because the asphalt will not deteriorate substantially within a year's time and it will add a little more life to the street. He said he's done it both ways with success. He said he has no scientific data to support him, but said he prefers to wait one year.

Kemmis said MRA has resisted financing regular maintenance on an ongoing basis in the past. He asked if Hensel was talking about a one-time chip seal as part of the process of milling and repaving. Hensel said overlaying a street is an integral part of it. Kemmis asked if there was a city wide chip seal schedule. Hensel said yes. Kemmis said MRA has resisted getting drawn into helping finance that and said he's more comfortable with paying for chip seal when it immediately follows a new project. Hensel said he agrees with that.

Change tape 1 s1/s2

MOTION

KEMMIS: I MOVE THAT THE BOARD APPROVE THE REQUEST TO MILL AND REPAVE DEARBORN AVENUE FROM BROOKS TO GARFIELD, CEDAR STREET FROM W. BROADWAY TO HAWTHORNE, AND BURTON STREET FROM TOOLE AVENUE TO W. BROADWAY AND AUTHORIZE THE CHAIR TO SIGN AN AGREEMENT BETWEEN THE MRA AND THE CITY DEFINING THE PROJECTS AND THE TERMS OF PAYMENT. Cates seconded the motion. 3 ayes, 0 nays with Fraser abstaining. Motion passed unanimously. Moe absent.

California St. Bridge Improvements – URD II TIF Request

Lee said MRA received a request from the Parks and Recreation Dept. to consider funding a portion of the proposed California St. Bridge Improvements project. She said earlier in the year the Parks Dept. had HDR do an assessment of the Bridge. HDR submitted a preliminary cost estimate for proposed improvements and Parks and Rec applied for a CDBG grant to help fund the project. At this time, Lee said the Parks Dept. is asking MRA to consider matching certain items in the proposed improvements that they felt were not maintenance related. More specifically, the revised lighting system and security camera as outlined in Lee's memo. The estimate for the revised lighting is \$37,500 and the estimate for the security camera system is \$5,000.

Lee said the Bridge has been the target of repeated vandalism. She said Staff feels it is important to protect MRA's investment in the Bridge, especially because of nearby investments in the Old Sawmill District and Silver Park. Lee said similar cameras were installed at MOBASH Skatepark and have been very successful in deterring and helping to capture vandals. She said the modifications will help to deter vandalism, reduce repair costs to the City and offer a safer environment for those who use the bridge.

Lee said historically, MRA has provided similar assistance to projects including Caras Park, Kiwanis Park, Locomotive 1356, Northside Pedestrian Bridge, A Carousel for Missoula, Downtown Street Trees and corner sidewalk pavers. She said the Staff recommendation is to approve TIF not to exceed \$5,000 for the security camera system and \$37,500 for revised lighting.

Buchanan made a request of the Parks Dept. that MRA Staff be involved in decisions about the new light fixtures. Kathy Mehring from the Parks Dept. said they will include MRA. Fraser asked Mehring what the general situation was with the Parks budget. Mehring said they are at 6.75% cuts right now and FY11 is not looking any better. She said a lot of the cuts will be happening in their staff and supplies. She said Donna Gaukler, Director, has been successful in getting stimulus money for different projects to get them built or make improvements, even though they have limited supplies and people.

Fraser said he's in favor of this, especially because he's a weekly user of the Bridge and trail system. He said there are other areas where MRA has put money into things where maintenance is supposed to be done by the Parks Dept. He wondered if MRA would be facing some issues because the Parks Dept. is budgeting where in order to keep things that MRA has participated in well maintained, MRA be asked to step up more often than normal. Mehring said it's hard to say.

Englund asked Mehring how comfortable Parks and Rec is with the engineering estimates. Mehring said they will put out requests for proposals/bids to make sure they're not getting too high of costs. She said Gaukler felt pretty comfortable with the numbers. Buchanan said she assumed the actual construction work will be bid in such a way that the items are discreet and will show exactly how much the lighting and camera system will cost.

MOTION

CATES: I MOVE WE APPROVE UP TO \$37,500 FOR REVISED LIGHTING AND UP TO \$5,000 FOR A SECURITY CAMERA SYSTEM AND AUTHORIZE THE CHAIR TO SIGN AN AGREEMENT BETWEEN MRA AND THE PARKS AND RECREATION DEPARTMENT DEFINING THE PROJECT AND THE TERMS OF PAYMENT. Englund seconded the motion. 4 ayes, 0 nays. Motion passed unanimously. Moe absent.

Silver Park Phase II Change Orders – Request for Approval

Issue #1 Major discrepancy in quantity of soil excavated for the parking lot.

Behan said Silver Park is to be built in four phases. Phase I was completed last year and included the trail. Phase II is to build a parking lot and boat ramp to the river. Phase III is completion of the trail including a bridge going over an irrigation canal. Phase IV includes building the main body of the Park.

Behan said Phase II has been stymied for months. He said there was a series of events in the initial phase of construction that derailed it. In addition to it being frustrating and embarrassing for MRA Staff and Board, the City and the public, the long delay has also caused the contractor (Western Excavating) to lay off workers, continued sub-standard parking for Civic Stadium, set back of final design and bidding of Phase III, and increased costs. Behan said resolution of some of the issues has required redesign of certain systems and re-permitting for building, flood plain, use of the river bottom, etc.

Behan said there were two main issues he wanted to discuss. The first one is the major discrepancy in the quantity of soil excavated for the parking lot. He said when the item was put out to bid there was an estimate of 500-600 cubic yards of soil that would have to be moved to put the parking lot in, or that's how it appeared on the plans. In reality, Behan said that estimate was between 11x and 12x too little. Behan said the project has been put on hold to try and find out what happened with this situation. He said the engineer (Abbotswood Design Group) felt like there were communication problems and the contractor didn't alert them well enough. Western Excavating says they were building to the Plan. Behan said there was enough conflicting information that Buchanan approved Staff bringing on an independent engineer to look at the project from beginning to end and figure out where the problem was. Behan said the Plans show the finished elevation and there was probably an expectation that the contractor would figure out what the extra footage increase was with all the layers to get to the top of the asphalt. However, there was a number on the Plans. He said all in all, there's no change to what the finished elevation should be and the amount of material that needs to be taken out of there to make the parking lot work is what was taken. Ultimately, the material needed to come out and in Staff's opinion it was MRA's responsibility. Buchanan said the other thing that's kind of important is that there were five bidders on this Phase and every one of them bid it the same way because of the quantity that was on the bid tab.

Behan said the engineer has recommended not approving this. Behan said the engineer have not received MRA's independent review. Behan said Staff recommendation is to

approve the monetary portion of Western Excavating's Change Order #1 in an amount not to exceed \$48,642.40. Behan said the approval amount will most likely be \$4,000 less than this.

Englund asked why the amount of excavation that had to occur wasn't in the bid documents. Buchanan replied it was because of the engineering. Kemmis said if none of the contractors saw it then the documents must have been misleading. Kyle Johnson, Western Excavating, said he appreciated the Board listening. He said ultimately the way Montana Public Works Standards work and the way that contracting in Montana and the City works is that the way the excavation is bid, the required excavation to get to subgrade level is considered excavation and the quantity given in the bid tab was a lot less than what was actually needed to build it to the plans and specifications. Johnson said once he became aware of this he did what he could to communicate. He said Nelson was the only person that would respond to him. They were under a tight contract time frame and he had to move forward. Johnson said it's unfortunate that the bid tab had an error but to make everything correct and matching on the project, it had to be done. Discussion ensued regarding the bid docs. Behan said regardless of who should have known what at what time, this is what MRA would have had to pay to have dug anyway.

Behan said MRA is really trying to figure out ways to make sure this doesn't happen again. Englund asked what the total contract amount for Phase II was. Behan replied \$463,559. He said there will be a couple of other little change orders that would have been expected anyway.

Change tape 1/tape 2

MOTION

KEMMIS: I MOVE THAT THE BOARD APPROVE THE MONETARY PORTION OF WESTERN EXCAVATING'S CHANGE ORDER #1 REQUEST IN AN AMOUNT NOT TO EXCEED \$48,642.40. Cates seconded the motion. 4 ayes, 0 nays. Motion passed unanimously. Moe absent.

Issue #2 Redesign of storm water drainage system.

Behan said originally the storm water was going to be kept on-site. Toward the end of the design when it was ready to go out to bid, the MRP environmental consultants said the water shouldn't be put back into the ground because it could be perceived in the future as exacerbating methane production in underlying organic soils. Behan said in his opinion the decision was made quickly and not bid to the point that it should have been. Cates asked by whom. Behan replied by the consultant. Behan said ultimately the storm sewer had to be redesigned, as described in his memo.

As Behan mentioned earlier, Staff is working very hard to find ways to prevent any of this from ever happening again. There is a design that has been approved by the City Engineer and it will change the contract amount by \$48,108.

Cates asked if the design team approved a design that couldn't pass City muster. Behan said they claim to have had verbal discussions on the telephone and felt like they were going in the right direction.

MOTION

CATES: I MOVE APPROVAL OF CHANGE ORDER #2 IN AN AMOUNT NOT TO EXCEED \$48,108. Kemmis seconded the motion. 4 ayes, 0 nays. Motion passed unanimously. Moe absent.

NON-ACTION ITEMS

"Rule of 10" Discussion

This item was not discussed.

2010 Summer Board Meeting Dates

This item was not discussed.

COMMITTEE REPORTS

OTHER ITEMS

ADJOURNMENT

Meeting adjourned at 1:40 pm.

Respectfully Submitted,



Lesley Pugh
Secretary II