

MISSOULA REDEVELOPMENT AGENCY

CONDENSED BOARD MEETING MINUTES

April 4, 2008

FINAL

A **Special** meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held at the MRA Conference Room, 140 W. Pine, Missoula, MT 59802 at 12:00 p.m.

Those in attendance were as follows:

- Board:** Hal Fraser, Nancy Moe, Rosalie Cates, Karl Englund, Daniel Kemmis
- Staff:** Ellen Buchanan, Chris Behan, Kari Nelson, Tod Gass, Lesley Pugh
- Public:** Don MacArthur, MMW Architects; Colin Lane, MMW Architects; Betsy Hands, homeWORD; Heather McMilin, homeWORD; Joe Easton, homeWORD Board; Bob Oaks, North Missoula Community Development Corporation; Roger Millar, Office of Planning & Grants; Mae Nan Ellingson, Dorsey Whitney; Kevin Sullivan, U of M Student; Mayor John Engen

PUBLIC COMMENTS & ANNOUNCEMENTS

ACTION ITEMS

homeWORD Request for TIF Assistance for Equinox Project – Request for Approval

Behan said at the last MRA Board meeting there were discussions regarding policy decisions and guidance for Staff on how to proceed on this project because pieces of the project were out of the traditional range of things done by MRA. Behan outlined the primary cost factors in his memo. He said he's talked to homeWORD staff about materials and systems that may be impacting the overall project cost and said he's found nothing outlandish included. He said they've done a good job of determining long term maintenance and long term efficiencies so that the affordability factor stays in place. Behan also talked about the opportunity to extend utilities and other basic infrastructure services into the site that enable a future Phase II project.

Behan reviewed terms for three reimbursements over three fiscal years. He also talked about a payment in lieu of taxes (PILT) that could be put into place within the Development Agreement, which is defined in his memo. Moe asked if the annual PILT would be \$10,000. Behan replied it would be after the fifth year of no construction on Phase II. He said \$7,500 is the perpetual payment and the \$2,500 comes in after the fifth

year and goes to the tenth year, at which a balloon payment of \$150,000 would be made by homeWORD.

Moe asked how long the units will remain affordable. Heather McMilin from homeWORD said they're required through the MT Board of Housing and restrictive covenants to keep them affordable for at least 46 years. Moe asked who enforces that. McMilin replied the MT Board of Housing tax credit department maintains the ongoing compliance. Moe asked if the units will ever be sold. McMilin said they have not considered that and would have to go back and amend their restricted covenants. She said at year 15 it could be restructured, but homeWORD doesn't have any intentions of doing that at this point. Moe asked what continuing responsibilities homeWORD has to maintain the affordability. McMilin replied they have to do annual tenant certifications on all residents by working with their asset management department. They also have to go through annual certifications and the first year tenant files have to be triple checked by the investor, the MT Board of Housing, three other funding sources and internally. McMilin said any time anyone moves out they have to get recertification. She said there's also an annual audit for the next 46 years. There will be accountants, certified property managers, homeWORD staff and any additional funders that are still invested will be running checks and balances. Moe asked if the leases are long term. Betsy Hands from homeWORD replied some are year to year and some are month to month. She said homeWORD prefers year leases and are required for the first year for tenants to have a six month to one year lease. Moe asked if tenants are allowed to sublease. Hands replied no.

Moe said the reason she's concerned is because she recently became aware of market rate unit sales at Emma Court and the fact that it was supposed to be retained as low income housing. She said the units were sold and the new buyers were not qualified for low income. Hands said she was recently informed of that as well. Discussion ensued. McMilin said Equinox is a different type of project and has far more things assured on affordability. Moe said Emma Court had rental restrictions on it too. Hands replied it was a rent-to-own project which was a very innovative concept that the state was willing to try out. She said homeWORD is no longer doing rent-to-own. She said it's incredibly complex because there were no other projects like it to model the deed restrictions and legal documents after. Discussion ensued.

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Cates said she was trying to get some philosophy on the PILT and asked if it was MRA's thought that they should fully pay all the TIF assistance back. Behan said not necessarily because there's no policy or anything to govern that. Cates said she liked the idea of holding feet to the fire to get the private Phase II part done. Buchanan said in the discussions MRA has had with homeWORD, the premise starting out was that they want to be either revenue positive or neutral to the tax increment district. She said the thought was always that the private piece would bear the freight or if it didn't there might be a PILT, but the preference was that there wouldn't be so the affordable piece wouldn't be burdened. Cates said if there was a private project there probably wouldn't be a PILT at

all. She said she liked using that for incentive to get the private piece done and would like to see the PILT go away if the private piece comes into play. Buchanan replied it does. Behan said if nothing happened to Phase II land, homeWORD would pay \$2,500 for five years, \$150,000 on year 15 and continue to pay the \$7,500. Cates said she thought that was a pretty heavy PILT to do affordable housing. She said she doesn't want to hamper the effort to make the affordable housing happen.

Moe asked if the funds listed in Behan's memo and an attachment from homeWORD in his memo are all committed. She also wanted to know if there were any contingencies and if so, what they are. She pointed out that the total in Behan's memo should be \$8,557,767 instead of \$8,489,347. McMilin said the Low Income Housing Tax Credits (LIHTC) are the ticking clock with them closing their partnership agreement by May 31, 2008. She said they are secured and homeWORD has a commitment letter with a list of due diligence items they have to meet and as soon as all the pieces are in place that money will be secured. McMilin said homeWORD has already spent the Community Development Block Grant (CDBG) and HOME funds through the City; the state HOME funds are secured; the Anonymous Donor is committed; the 2007 federal appropriation is committed and they're waiting for a HUD advisor to tell them how to draw the funds (there is no expiration date for this); the permanent mortgage is a partnership with U.S. Bank and is a loan number they have approved and as soon as they sign the partnership deal it's secured; the deferred developer fees are committed on homeWORD's part and the equity and developer fee comes from the tax credits and homeWORD's choice to defer it keeps getting bigger and bigger, although they'd like to defer less, but it's their second front of contingency and their first front when they have additional construction costs and interest; the land seller lease space for one year, \$24,000, is money paid by Liberty Lanes to homeWORD in rent while they were operating. The request to MRA is \$554,550.

Moe referred to the demolition line item in the Budget Status Report for URD II. She said Behan's memo said \$150,000 will be drawn for demolition, but the demolition line item in the report is \$100,000. Moe asked if there will be a budget adjustment. Behan replied money will be pulled out of contingency to cover the cost. Moe asked if other projects are foreseen in URD II that MRA wants to allocate or save money for. Buchanan said she met with the Mayor and his budget staff about projects coming down the pike and the status of projects already on the books and they thought it was okay. She said there's roughly \$949,000 in contingency funds.

Kemmis referred back to the PILT. He said if MRA wants to be promoting affordable housing the easiest way for MRA to attribute to that would be to avoid the proposed PILT on the affordable housing portion of any given project. In this case, with the mixed development, he assumed the PILT was suggested to cover the unexpected occurrence of not being able to move forward with the market rate project simultaneously with the affordable. Kemmis asked Staff if that's how they sized the proposed PILT. Behan replied that was more or less the case and that his intent was to give a range of things to look at and ways to do it. Discussion ensued. If there is a PILT, the \$7,500 payments would come out of general operating for the affordable housing Equinox project which

would impact the rents they're able to charge. The \$2,500 and \$150,000 payments would be guaranteed by homeWORD.

Kemmis said building in some incentive to move Phase II along is a good idea. Cates said she would like to see that a PILT wouldn't start until whatever date MRA and homeWORD think Phase II should start.

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Fraser asked Cates and Kemmis if they were in favor of supporting not doing the \$7,500 payments in 2010 and moving it to 2015. Cates said yes and to move payments to the full \$10,000 in 2015 if Phase II hasn't been developed. Buchanan asked if that still ties back to a minimum investment in the for-profit piece of \$5 million. Kemmis and Cates concurred.

There was discussion regarding Phase II. MacArthur said there are some costs that will clearly have a direct benefit for Phase II, one being the water main extension. Englund asked if the site would not be developable without it. Joe Easton, homeWORD board member, replied the more amenities there are, the more desirable it will be to a developer. Discussion ensued.

Fraser said he counted up \$58,000 of loan fees. He said typically he's used to seeing part or all of the loan fees being waived for nonprofits. He wondered why homeWORD is paying someone \$12,000 for inspection fees when they're a nonprofit. He said the loan fees bother him. McMilin and Hands responded to Fraser's question about the fees. McMilin said she's going back and pushing on every one of the numbers. Fraser also asked what operating reserves are. McMilin replied they're reserves homeWORD has that the tax credit investor requires. She said typically its four months of general operating coverage. Basically, she said it's assurance that the project will remain affordable should someone come in and take it over. Fraser also asked what commissioning for \$10,000 is. McMilin said it's an outside, independent engineer that homeWORD hires to come in and review design drawings and during construction they require the general contractor to do certain checks on the systems by running all of the mechanical systems to make sure they work before people move in. McMilin said homeWORD saved over \$80,000 in change orders on a project they did in Billings by having the reviews.

MOTION

CATES: I MOVE TO APPROVE \$554,550 FOR ELIGIBLE COSTS, SUBJECT TO A DEVELOPER AGREEMENT THAT PUTS IN PLACE CONSTRUCTIONS THAT THE PHASE II IS DEVELOPED AT A VALUE OF \$5,000,000 OR MORE BY 2015; OR THE PAYMENT IN LIEU OF TAXES OF \$10,000 BEGINS IN 2015 UNLESS THE PROPERTY IS DEVELOPED; OR THEY START A PAYMENT IN LIEU OF TAXES BY 2015 AND THERE'S \$150,000 DUE TO MRA IN 2025 IF THE LAND IS SOLD WITHOUT AN APPROVED DEVELOPMENT PLAN FOR \$5,000,000 OR MORE.

Kemmis seconded the motion. 5 ayes, 0 nays. Motion passed unanimously.

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Affordable Housing Policy – Discussion and Request for Approval

Buchanan said a large part of the Mayor's initiatives is to solve the problem of affordable housing. She said MRA needs to get involved and while MRA has supported a number of affordable housing projects, it's never had a program, policy or set aside for affordable housing and how to do it. Mayor Engen said his affordable housing video presents the challenges and said there are four substantial questions that need to be asked and answered: 1) What does affordable housing mean for Missoula? (2) Where do we do affordable housing? (3) What does affordable housing look like? Design matters. (4) How do we pay for affordable housing? Mayor Engen said one of the models he thinks about a lot is CDBG money. He said if there are funds available for programs that are in place it would make a huge difference. Also, he said he likes the Land Trust concept, which is proving its worth in Missoula and many other communities.

Mayor Engen referred to the Safeway project and said the City has a land reservation there with zoning for residential housing units. He said it's time to help someone figure out a way to hold that land in trust and do something remarkable in terms of creating a housing opportunity there.

Moe asked what the Affordable Housing Committee is doing and how it will mesh with MRA's discussion. Roger Millar, Director of the Office of Planning & Grants (OPG), said the Mayor's team has worked to get the video together. They've also developed a format for a program, saying that it is their issue, design matters, affordable means 30% of the family's income is invested in housing and no more than that, and they have identified targets for production on an annual basis in order to meet the community's need as it grows and eliminate the backlog of need over a 10 year period. The Committee has also discussed doing things in terms of a general obligation bond, bonds through urban renewal, development incentives for affordable housing, enabling legislation for a real estate transfer tax, implementing inclusionary zoning that mandates affordable housing as a percentage of every project, etc. He said the Mayor is getting people engaged and the Committee will be coming to the City Council with a package to adopt a housing policy and move forward. Millar said there needs to be a mix of the development community through things like a real estate transfer tax or inclusionary zoning and a mix of the general public through things like bonding and grant monies. He said if they can put something together that everyone feels is equitable, that's where they'll have the most success. Bob Oaks from the North Missoula Community Development Corporation (NMCDC) passed out an article about housing issues in various communities.

Fraser asked if MRA would be restricted to the same provisions under the state statute if it were to do a bond issue. Buchanan said if MRA wants to do something that's not specifically allowed in the law she thinks MRA has the ability to go to City Council to declare that there is a public purpose served. Behan added that it has to be linked to something in the law.

Buchanan wanted to discuss how to fund the affordable housing program. She said MRA has the capacity in URD III to think about a bond issue. She said URD II has a larger revenue stream but also has more demands on it. She said she felt a bond could be the sort of catalytic thing needed to get URD III going.

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Fraser asked the Board if they wanted to direct Staff to start putting together research on doing a bond and give them ideas on what they want to see researched. Buchanan said some cities have set aside a portion of their tax increment revenues. She said Portland did that and their estimate for generating tax increment in the first six years is astounding. She said MRA's revenues wouldn't build up to a big pot of money very quickly. She said another option is to do a bond issue and figure out what size it should be. Fraser said he'd like to see something develop that would also be renewable, including the initial cash being recaptured some way so it can keep getting used, much like CDBG money. He said it needs to keep going past the life of the Districts.

Cates said she thinks MRA will move quickly on this issue and she liked the idea of getting some money on the table. However, she said MRA should also hold the hammer to other agencies. She said she doesn't want MRA to do a stand-alone affordable housing program. She also said she's not willing for MRA to stand out there and have an unfocused CDBG program alongside of it. She urged the City to get its CDBG program making the policy direction happen. Cates said she also wanted to see the Missoula Housing Authority (MHA) involved.

Kemmis said whether MRA decides to do a tax increment bond or not they would want some kind of a program or menu in place. He said he's not sure he would support a tax increment bond for the purpose of affordable housing, but it would be easier to get there if he has an idea of what the menu of programs will be. He said he didn't think MRA should get way out in front of other agencies. Mayor Engen agreed and said he didn't think MRA would want to think about a bond without a program in place. Buchanan said there are multiple months of front end work that have to be done before bonds can be sold. She said if MRA wants to do an affordable housing program and fund it with a bond there will be a lot of work to do to create the program and many months of work to do to sell a bond issue. She asked the Board if they want to go ahead and start that. Fraser replied he thinks they both have to be done. Moe said she would like to know at a future meeting what the other bonding capacity is since there can be more than one bond in a District.

Buchanan said one of the things that's driven her is the discussion around the Old Sawmill District development and affordable housing. She said if MRA does a bond it can make sure affordable housing happens there. Had this tool been in place three years ago, Buchanan said MRA would have been in a position to mandate that a certain percentage of the housing needs to be affordable.

Cates said she wanted to hear about the capacity to do affordable housing. Millar said a big part of the problem with capacity is that year after year the affordable housing entities are trying to do more with less. Mayor Engen said it's important to remember that affordable housing can be profitable as well so it's not just the nonprofit development community that can be enticed to do the work. Millar said it's also in the for-profit world's best interest to do affordable housing because they're not going to have a market for their market-rate housing if the people aren't here to staff the service economy.

Englund said MRA should figure out what specific program makes the most sense from a redevelopment standpoint. Buchanan replied that's the discussion that needs to happen so Staff can have a sense of direction on where the Board wants to go. Mae Nan Ellingson said with respect to URD II, the fact that there's been a bond issue and a set of documents done, the time to get bond proceeds for URD II will be a lot less than in URD III. She said once MRA decides it wants to do an issue of bonds for URD II it will take about 12 weeks to get everything together. She said it will be different for URD III because of the disclosure and the fact that there hasn't been a document done yet. She said developing the policy will be the most time consuming part.

Buchanan asked Mayor Engen and Millar to talk about timing and what they foresee with the other pieces that aren't tax increment. Mayor Engen said one of the simplest steps is talking with Council members about a resolution that says the City believes in affordable housing and will engage in a program that begins to chip away at the problem. Other pieces include planning processes, zoning and subdivision, inclusionary zoning, infrastructure and growth issues, as well as transportation. Mayor Engen said how those tools apply has a lot to do with where there's land. Millar added that the next step is to get together with the housing team in May to figure out what things are more doable than others and make a time frame for them.

Cates said it seemed like MRA was trying to set policy and that's not MRA's job. She said MRA needs a policy from the City, otherwise MRA will set one and maybe it will or maybe it won't work with other policies. She wanted to push the City to come up with an actual policy. Moe agreed and said otherwise MRA is jumping out in front. Cates said MRA is good at designing something to fit with a policy. She said the affordable housing team may need to turn into an agency. She said if she were on the Council she would pass a resolution supporting affordable housing and direct each agency to come up with a work plan of what they're going to do about it in the next year. She said that work plan would help MRA to know who's on board. Millar replied the affordable housing team is made up of the Mayor, MRA, OPG, all of the community housing not-for-profits and also for-profit developers.

Englund said he didn't necessarily agree with Cates and said that as part of the City government, MRA can be responsive to the Mayor and direct the Staff to put together a discreet program that meets the needs of redevelopment but has a significant component of affordable housing in it that can be achievable through the sale of bonds. Also, he said MRA is either able to do that and accomplishes something or MRA is able to do that and

accomplishes something and pushes the City to do more, which would be even better. Englund said he didn't see why MRA needed to wait for the other pieces.

Cates proposed that Staff put together more information with financing scenarios and a menu of possibilities and have another meeting by the end of May. Mayor Engen said the City will help MRA deploy a plan. The Board agreed with Staff bringing options back. Englund added that MRA needs to have a targeted program. Buchanan said she will bring back options with a financing plan and a set of guidelines. Fraser said he'd like to see the material at the May meeting and set up a subsequent meeting for discussion.

NO ACTION WAS TAKEN ON THIS ITEM.

OTHER ITEMS

ADJOURNMENT

Meeting adjourned at 2:45 p.m.

Respectfully Submitted,



Lesley Pugh
Secretary II