

**ADMINISTRATION AND FINANCE COMMITTEE
CITY COUNCIL CHAMBERS
140 WEST PINE STREET
MISSOULA MONTANA
February 1, 2012 12:30 pm**

Members present: Cynthia Wolken, Chair; Jason Wiener, Bob Jaffe, Ed Childers, Dick Haines, Jon Wilkins, Alex Taft, Mike O'Herron, Adam Hertz.

Members absent: Caitlin Cople, Dave Strohmaier.

Others present: Rachel Doran, Ariel Muechel, Lori Davidson, Jordan Lyons, Gabriel Furshong, Jim Morton, Don MacArthur, Josh Kosar, Keithi Worthington, KD Dickinson, Mike Baton, Nancy Harte, Jerry Petasek, Bob Oaks, Keila Szpaller, Dee Andersen.

I. Administrative Business

A. Approve committee minutes dated: [January 23](#) and [January 25, 2012](#).

B. **Public Comment on items not listed on the agenda-None**

II. Consent Agenda

A. Approve claims (accounts payable). -Consent Agenda (Brentt Ramharter)

MOTION: The committee recommends the City Council approve [claims](#) totaling \$661,844.26 ([Detailed claims](#)) 02/07/12

III. Regular Agenda

A. Consider a request to convert all or part of the North Missoula Community Development Corporation (NMCDC) loan to a grant. ([memo](#))—Regular Agenda (Bob Jaffe) (Referred to committee: 01/09/12) **REMOVE FROM AGENDA**

MOTION: The committee recommends the City Council approve forgiving a portion of North Missoula Community Development Corporation's (NMCDC) loan with the City of Missoula in an amount not to exceed \$242,995.26, which includes principal of \$217,475.83 and interest of \$25,519.43. As a condition of partial loan forgiveness, NMCDC is required to pay \$14,500 at the time of signing the Loan Amendment Agreement and \$20,687.50 upon closing for each of the remaining eight units when they are sold.

Mike Barton, OPG Director, apologized for his staff's absence at the last meeting. He explained that this is a referral from Bob Jaffe and is either a partial or total forgiveness of the loan to NMCDC from the City. Staff and Administration have been in discussions to formulate an amendment agreement that forgives an amount not to exceed \$242,995.26, which includes principal of \$217,475.83 and interest of \$25,519.43. As a condition of partial loan forgiveness, NMCDC is required to pay \$14,500 at the time of signing the Loan Amendment Agreement and \$20,687.50 upon closing for each of the remaining eight units when they are sold. He said the motion now reflects that.

Jason Wiener asked for clarity on what Title One funds are, and how they are used.

Mr. Barton said they are named such, because they are the proceeds from the awards to the City under Title One of the Housing and Community Development Act. They are primarily from former CDBG and Title One Urban Development Action Grants that were administered here in the 1980's and 1990's. Back then, the City had a corpus then of funds that were paid back. All of those paybacks are complete now and the fund has been dwindling as the City uses it over the years. There is a resolution of the Missoula City Council on how that money is administered. Typically \$100,000 is drawn from the corpus each year. Half of that goes into small grants that are administered by the OPG staff, and the other half goes into projects that are HUD Title One eligible, administered by the Administration. Predominantly that has been for accessibility projects to City-owned property.

Public Comment:

Jim Morton, Director of the Human Resource Council, said they are a note holder on this project. He said he knows there have been some fluctuations in the appraisals, and some less than appraisal offers made on the available units. He said they convert their portion of the loan to individual homeowners, and then the homeowners have a 0% interest loan that will be due upon the sale of the property. If the sale proceeds won't cover that loan, they are prevented from pursuing any deficiencies and would usually take a default. That is part of the risk they take, but are eager to work with the City and NMCDC for rental or homeownership. He said he would like to discuss the scenario on when the purchase price is below the appraisal price.

Bob Jaffe said when if unit sells below the appraisal, Mr. Morton's concern would be on the sale of the subsequent units, on which there would not be enough money to recover their piece of the pie because the value is lower.

Mr. Morton says he knows they do take a risk going into these projects because they take a second mortgage. But they also understand after time, if the market changes and the appraised value goes down, there would not be enough equity to pay back their loan. He understands their loan is at greater risk of default in this situation. He said in some cases the appraisal is higher than market. In the case where the appraisal is higher will NMCDC sell for below appraisal? His concern is in future years if the market changes and someone sells, they have bought something below market value using public funds, is there a windfall gain.

Mr. Jaffe said he understood the concerns. With the limited equity restrictions, if the units sells below market and the market goes up there is a risk of a windfall.

Mr. Jaffe moved to approve the resolution.

Mike Barton added and to authorize the Mayor to sign the amended loan agreement.

Mr. Jaffe agreed.

Upon a voice vote, the motion passed with Hertz, Wilkins and Haines voting nay, and Ms. Wolken abstaining.

- B.** Approve a request for proposals for City surplus property and to approve funding up to \$2,100 to conduct title searches on the proposed properties. ([memo](#))—Regular Agenda (Nancy Harte) (Referred to committee: 01/23/12) **HELD FOR FURTHER DISCUSSION 2/8/2012**

Nancy Harte, OPG Grants Administrator, said the issue of surplus property has been discussed for over a year and half. Originally there were 24 properties listed including the Fox Site, but they have narrowed it down to 9. She gave some background on the referral and reviewed a [presentation](#). She said if the City donates the land it must be used for affordable housing. Title searches are the next step as the parcels in that area have a lot of ownership issues and it's important to make sure there are not hidden items concerns. She said they set a tentative deadline to submit RFP responses for March 15, 2012. She requested approval for both the draft RFP and funding the title searches on the proposed properties.

Mr. Jaffe expressed concerns over OPG's interpretation of the state statute regarding affordable and low income qualifying homeowners. The way it appears to be interpreted is that once they are low income qualifying, they have to remain that way or relinquish their home. He can't imagine the statute's intent would be to keep people in poverty permanently. He said he feels it's a flawed interpretation and would like to amend it.

Ms. Harte agreed and said he was right that it is a very narrow description. It appears that home ownership was considered as one of the possible of uses of the land . Basically we wanted to see what the proposals were. We think we can model it on the Home/CDBG program using the recapture method. That would be to qualify someone to purchase the home, but not turn them out, instead have them pay it back either at the time they go over income, or at the time of resale.

Mr. Haines had difficulty seeing how anyone would want to purchase the properties with such restrictions. He said he wouldn't want that. He asked Ms. Harte if she thought they would really sell.

Ms. Harte said it's worked for the CDBG program.

Mr. Wilkins said our options are open and we could sell for profit, do we get an appraisal with the survey?

Ms. Harte said no that would be additional.

Mr. Wiener moved to approve the RFP and title search. He pointed out that if the City disposed of the property at market rate, there would be no restrictions. If we donate, the affordability restrictions will remain with the property.

Mr. Haines said they were awkward pieces of land.

Ms. Harte reminded everyone that during the first discussions when the City was talking of donating land there were several agencies very interested in the properties.

Keithi Worthington, City Attorney, gave further insight into this requirement of providing permanent housing. She said the statute is awkward as Councilman Jaffe pointed out. Sub-section 5 talks about a city or town donating or selling the land at a reduced price to a corporation for the purpose of low- income housing. But it doesn't define low- income housing. Our best method of defining that is the HUD method of 80% of average median income or lower. Sub-section 6 talks about any land transferred for that purpose, must be permanently used for providing low- income housing. That is the way the legislation was written. She stated they haven't found an insight on what the legislature deemed to mean. The RFP was left open- ended. Because of sub-section 6 you've got to find some method of permanent affordability.

Mr. Hertz asked if there were ways to dispose of the property and get around this.

Ms. Worthington said if you sell it out right you don't have this restriction.

Mr. Wilkins said there has been no decision made and we could sell them at market to help balance the budget this year. He said the next step in the process is to see if we own the property by getting the titles searches.

Mr. Jaffe said he is supportive of the tile search, but on the issue of someone qualifying and then in a year or so, because of higher income would be required to relinquish the house, he cant support. It would be between each resale that you would re-evaluate and re-qualify the income. He then discussed the way Habitat for Humanity dropped out because of the restrictions and the interpretation.

Ms. Worthington asked Mr. Jaffe where this concept came from that the homeowner would need to relinquish the home if their income increased above qualifying.

Mr. Jaffe read the passage under the permanent affordable housing section as follows: "to be considered the household income may not exceed above AMI at anytime during residency".

Ms. Harte said that is why Habitat dropped interest in the properties. The restrictions were nothing they wanted for their homeowners.

Mr. Hertz said he was on the Habitat Board and that is correct, that program is designed for upward mobility to help people out, not to keep them in poverty.

Mr. Barton said you can dispose by auction; all you would have to do is take bids on them. He reminded everyone that initially this Council directed this staff to explore the affordable housing option. He said Council can also transfer the property to the Housing Authority.

Don MacArthur, MacArthur, Means & Wells, said he has been interested in the properties and has been out of touch since the last time this committee met. He said there was a discussion of surveying these parcels. These parcels are difficult to develop and they could be impossible to develop if something showed in the survey. So the survey will clear the way for developers to see what can be done with the properties in order to submit an RFP.

Ms. Wolken asked why the surveys can't be done at the same time as the title searches.

Ms. Harte said it was an issue of funding; if you would like to budget money for this we can pool our efforts. She suggested approving the title searches and property surveys, and holding the RFP over so we can make some revisions and address Mr. Jaffe's concerns.

Mr. Jaffe asked how much the surveys run.

Lori Davidson, MHA Director, said the last time they looked into surveying it was between \$5,000 - \$6,000 per parcel. She said it is pretty hard to respond to an RFP when you don't have the survey.

Mr. Jaffe suggested holding discussion over for a week to give staff time to get some bids on surveys.

Ms. Harte said she can get some bids and bring them in next week. The original thought was if we gave them away we wouldn't have to survey them.

Mr. Wilkins withdrew his motion.

The committee will continue the discussion 2/8/12.

IV. **Items to be removed from agenda**

- D. An ordinance amending the municipal code as it relates to bike licensing. ([A&F](#)) (Returned from council floor: 12/15/08) (Tabled 8/3/2011)
- G. Discuss outstanding third-party contracts. ([memo](#))—Regular Agenda (Lyn Hellegaard) (Referred to committee: 11/08/10)

V. **Held in committee**

- A. Approve claims. (Ongoing) (Consent Agenda)
- B. Approve journal vouchers. (Ongoing) (Consent Agenda)
- C. Approve budget transfers. (Ongoing) (Consent Agenda)
- D. An ordinance amending the municipal code as it relates to bike licensing. ([A&F](#)) (Returned from council floor: 12/15/08) (Tabled 8/3/2011) **REMOVE FROM AGENDA**
- E. Amend Council rules to change the Council's regular meeting schedule to two meetings per month ([memo](#)).—Regular Agenda (Marty Rehbein) (Referred to committee: 06/07/10)
- F. Discuss the disposition of surplus city land. ([memo](#))—Regular Agenda (~~John Newman~~ Nancy Harte) (Referred to committee: 10/25/10) **NOTE: NEW CONTACT PERSON**
- G. Discuss outstanding third-party contracts. ([memo](#))—Regular Agenda (Lyn Hellegaard) (Referred to committee: 11/08/10) **REMOVE FROM AGENDA**
- H. Review the city's current policy for charging the public for various city-produced documents ([memo](#))—Regular Agenda (Dave Strohmaier) (Referred to committee: 12/06/10)
- I. Review Missoula's insurance experience, particularly work comp; propose improvements if warranted. ([memo](#))—Regular Agenda (Ed Childers) (Referred to committee: 05/09/2011)

VI. **Adjournment**

The meeting was adjourned at 1:30 pm

Respectfully submitted,

Dee Andersen,
Administrative Secretary