

# MISSOULA REDEVELOPMENT AGENCY

## CONDENSED BOARD MEETING MINUTES

May 11, 2016

### FINAL MINUTES

A **Regular** meeting of the Board of Commissioners of the Missoula Redevelopment Agency was held on May 11, 2016 at the MRA Conference Room, 140 West Pine, Missoula, MT 59802 at 12:00. Those in attendance were as follows:

- Board:** Melanie Brock, Karl Englund, Dan Kemmis, Ruth Reineking.
- Staff:** Dee Andersen, Chris Behan, Jilayne Dunn, Tod Gass, Annette Marchesseault.
- Public:** Kari Brittain, Kevin Slovarp, Monte Sipe, Jason Kindseth, Kim West.

### CALL TO ORDER

12:00 p.m.

### APPROVAL OF MINUTES

March 16, 2016 Regular Meeting-Approved

### PUBLIC COMMENTS & ANNOUNCEMENTS

### ACTION ITEMS

#### **S. Reserve Trail Crossing - Change Order #1 (URD III) - Request for Approval (Gass)**

Gass gave a brief update on the project. Jackson Contracting Group (JCG) is now six weeks into the project and most of the work to date has been done on the east side of Reserve Street. He said the piles have been driven for the east side abutment, and the east side ramp wall is being formed and poured. Sewer and fiber-optic lines are being relocated on the west side of Reserve Street. There is one potential conflict that this change order will resolve.

Gass said during the design phase of the bridge project the City Public Works Department Wastewater Division planned a project to upgrade the sewer line while old Hwy 93 was torn up during the bridge construction. The new sewer line would start at Reserve Street and run down old Hwy 93 to Miller Creek Road. However, the portion of the sewer project between Reserve Street and old 93 and Post Siding Road, overlaps with the current MRA bridge/trail project. During the project bidding process, Grant Creek Excavation was selected to complete the sewer line upgrade, which creates a scenario of two general contractors working different projects in the overlapping work zone. He said in order to avoid the overlapping work zones of the two projects, Public Works has proposed removing

the section of sewer line installation from Reserve Street to Post Siding Road from the Public Works sewer project, and adding that section of sewer line installation to the MRA bridge project, to be completed by JCG, the general contractor on the bridge project. Gass said it is very simple to add one piece of a construction project to another and it will be at no cost to MRA. The Public Works, Wastewater Division will fund the sewer line installation. MRA will enter into a Memorandum of Understanding (MOU) with Public Works to memorialize the funding agreement between MRA and the Public Works Department.

Slovarp concurred. He said having two separate general contractors working in the same area is a pain he would like to avoid. He said both contractors will understand their work will either be paired back or extended. JCG had the best price, so it will save the City tens of thousands of dollars.

**REINEKING: I MOVE THE STAFF RECOMMENDATION.**

**[MOTION: Staff recommends the MRA Board approve Change Order 1 to the South Reserve Street Pedestrian Crossing construction contract at no cost to the MRA, with the stipulation that MRA and the City Public Works Department will enter into a Memorandum of Understanding memorializing the agreement that Public Works will fund the sewer line installation added to the Jackson Contracting Group contract based on the actual cost incurred to complete the sewer line work identified in the Staff report.**

**Brock seconded the motion.** No discussion. No public comment.

**Motion passed unanimously. (4 ayes, 0 nays)**

**Tia's Big Sky - 1016 W. Broadway (URD II) - TIF Request & FIP Grant Request (*Behan*)**

Behan said the Big Sky Drive-in was very popular and operated out of the same location for 50 years until the former owners retired and closed it. The building was vacant for some time as its close proximity to the Poverello Center made any potential buyers apprehensive. The building is becoming dilapidated and is not up to current building codes. The Fire Marshall has found deficiencies in the electrical and venting.

In March of 2015, the MRA Board allowed the then prospective owners of this property to proceed with portions of their project prior to making formal applications for MRA assistance. Since that time, Big Sky Oasis, LLC (Kari Brittain and Kim West) purchased the property and completed planning, design, and initial construction activities for their project. The proposed project will be completed in two phases.

Behan said during phase one, the former Big Sky Drive-in will be renovated and expanded, to become Tia's Big Sky, a Mexican themed restaurant which will offer customers a menu of locally sourced and organic food. It will include take-out and a small dine-in area. Phase two will upgrade the parking lot to accommodate other food trucks and carts and create a plaza area for outside dining and space to display art. He said the developers have requested assistance under both the façade improvement (FIP) and tax increment financing (TIF) programs. The TIF eligible improvements include sidewalks, curbs, gutters,

drains, ramps and landscaping in the right-of-way. The developers have also requested fences to be placed in the right-of-way. Behan said Staff is reluctant to recommend fencing as a right-of-way improvement like sidewalks or landscaping.

Brittain said she and West were very excited and looking forward to seeing this project completed. She discussed the recycled building materials they were planning to use.

West said since construction began, they have been experiencing a lot of problems with the pedestrian traffic from the Poverello Center across the street. They have had people break into the building and sleep there. She said they are concerned that when they open for business people may be “put off” and not feel safe. She is also concerned for their employees as well. She would like the Board to consider their request for the fence.

Brittain said they met with the Police Department on site and PD recommended a see-through fence that is at least open at the bottom so patrol officers can see feet. She reviewed the fencing ideas for different areas around the location and said they also had plans to make a short 40” barrier fence to keep people from walking through the eating area. West said one of the problems they are dealing with is that while the drive-in building was vacant, pedestrians used the property as a direct path to walk back and forth from the Poverello to the Fresh Market. They are trying to re-direct the pedestrian traffic to use the sidewalks and alley.

Reineking asked if there was a way the Board could consider the fence as public benefit and not a private one. Behan said Staff struggled with that also. In the end, it was decided to recommend a conservative route and bring it to the Board for a decision. He said there is likely no legal hurdle either way. The Board could choose to call it landscaping, but would need a really good design approval process in place to uphold the idea of landscaping.

Brittain said the Police Department strongly recommended a security fence to keep non-customers out. The Assistant Police Captain wrote a letter outlining their recommendation which West submitted to Behan. Brittain said since the Poverello moved to their new location there has been increased vandalism in this area, not from clients of the Poverello, but from those who are turned away.

Behan said a high-security fence works for the Police Department. However, MRA has to consider if that would fit the overall aesthetics in the neighborhood and how it promotes more investment in that neighborhood. Brock asked if this would be precedent setting. Behan said yes.

West said she feels their situation is unique given their proximity to the Poverello, and how much traffic they get. She has lived a block and a half from the drive-in for 13 years and has never had a problem. Since the Poverello moved into the area a year ago crime has increased. She said the neighborhood cars get broken into weekly. People have tried to walk into her house in the middle of the night. She said in the last 6 months her food truck has been vandalized and everything was stolen off of her trailer. It’s not the Poverello clients, it’s the people who get turned away because they are drunk, on drugs, or violent, and now they are roaming the Westside Neighborhood.

Englund asked about the water line that the City wants moved. Behan said during the engineering process Brittain and West were informed that a water line for service to the adjacent motel ran under their building and would need to be relocated. The adjacent property owner is unwilling to participate in paying to relocate the water line and unfortunately service lines are ineligible for TIF assistance.

Reineking said she doesn't like setting precedent on building a new fence. She suggested adding a stipulation that the fence has some landscaping features.

West said they want to create something that is artful and inviting.

Englund said it seems the Board is in agreement. The fence is critical for the success of this project. He asked how the Board can assure it's a benefit to the right-of-way when there is no criteria. He suggested devising criteria now, subject to design approval by Staff and the Board.

West said she would like to hear the Board's input. Brock stated that it would be hard to justify hundreds of feet of chain link to the public, so that would be out as well as barbed wire, or electric. Brittain stated that there would be some chain link at the back of the property. She said she is intent on using recycled building materials in a unique and creative way. Her degree is in landscape architecture. She said she would work on some ideas and bring them back for the Board's approval.

The Board discussed how they would move this forward. Englund suggested it would be pending some type of design review.

Behan said Staff has considered assisting with the artful part of the fence and not the security fence near the alley but doesn't have a solution as to how to draw that line. He said if the Board would like, Staff can work with the developer and determine a "not to exceed" price and specify this would be considered on a case-by-case basis. It would be brought back for the Board's approval.

Kemmis asked if it would be feasible to price a chain link fence and offer that as a base price. Anything beyond that cost could be considered aesthetic value. West and Brittain agreed.

**Motion #1:**

**REINEKING: I MOVE THE MRA BOARD APPROVE UP TO \$39,385 IN TIF PROGRAM ASSISTANCE TO BIG SKY OASIS LLC., FOR ITS TIA'S BIG SKY PROJECT LOCATED AT 1016 WEST BROADWAY FOR SIDEWALK, CURB, GUTTER, AND CURB RAMP IMPROVEMENTS IN THE WEST BROADWAY AND HAWTHORNE STREET RIGHT-OF-WAYS, INCLUDING AN AESTHETICALLY PLEASING SCREEN, (NOT A HIGH SECURITY FENCE) WHICH IS SUBJECT TO STAFF REVIEW AND APPROVAL OF FINAL DESIGN AND INCLUDING THE TRADITIONAL CONDITIONS MRA PLACES ON SUCH ASSISTANCE**

**Kemmis seconded the motion.** No public comment. No further discussion.

**Motion approved unanimously, (4 ayes, 0 nays)**

**Motion #2:**

**REINEKING: I MOVE THE STAFF RECOMMENDATION:**

**[Staff recommends the Board approve up to \$27,830 in Façade Improvement Program grant assistance to Big Sky Oasis LLC., for its Tia's Big Sky project located at 1016 West Broadway subject to the traditional conditions MRA places on such assistance.]**

**Brock seconded the motion.** No public comment. No further discussion.

**Motion passed unanimously (4 ayes, 0 nays)**

**FY16-FY17 Audit Services** - Request for Approval (*Dunn*)

Dunn said this is to contract audit services with Anderson ZurMuehlen for Fiscal Years 2016 and 2017. She said this year's audit went well. FY16-17 audits will include two new Urban Renewal Districts and three or more bond issues requiring some extra work which explains the cost increase.

**KEMMIS: I MOVE APPROVAL OF AWARD OF AUDIT SERVICES FOR FISCAL YEARS ENDING JUNE 30, 2016 AND JUNE 30, 2017 TO ANDERSON ZURMUEHLEN, P.C. FOR AN AMOUNT NOT TO EXCEED \$11,700 AND \$ 12,100 RESPECTIVELY.**

**Reineking seconded the motion.** No public comment. No further discussion.

**Motion passed unanimously (4 ayes, 0 nays)**

**Relocation Policy** – Request for Approval (*Behan*)

Behan said relocation is a complicated and expensive process. In his research, he found that Missoula is the only city in Montana that provides both tax increment funds and a relocation policy. The one case of relocation he did find outside of Missoula was located in Butte and occurred several years ago. In the 1980s and 1990s, there were several MRA assisted projects that included relocation. More recently, relocation was provided to tenants of a building along West Broadway being acquired for a trail and sidewalks and to tenants of apartments being demolished in the West Broadway Safeway project. He said in the near future, there may be some projects that need relocation assistance, and Staff thought it would be a good time to update the existing MRA relocation policy. Behan said the main source of information about relocation assistance is the Uniform Relocation Act, as administered by the Department of Housing and Urban Development (HUD) and the Federal Highway Administration. He also looked at other states with relocation policies like Ohio, Washington and California. He said California's policy is the easiest to understand, however, the procedure manual is 600 pages long. If the Federal Relocation Act is followed completely, trained personnel would be needed to process the paperwork properly.

To produce the draft Relocation Policy attached to his Board memo, Behan said he used the previous MRA relocation policy, current HUD and FHWA policies and procedures, and a manual produced by the California Department of Transportation based on the Federal Uniform Relocation Act. The draft MRA Policy sets up procedures for the most basic actions and each step has alternatives that can be applied. It also allows the MRA Board to amend any eligibility requirement or procedure on a case-by-case basis to adapt assistance to specific needs and circumstances. Englund asked how the Board would begin to approach this. He said he has a number of questions pertaining to the draft document. He said he is in favor of taking some time to review the draft policy unless persuaded otherwise.

Reineking noted that apparently the statute requires that the MRA have a plan to relocate individuals and families. Upon review of the draft, she said she was mindful of some potential MRA projects and how the residents, businesses, and non-profits along the 400 block of East Front Street might be affected when the library expands. She stated that every dollar the MRA spends relocating people is less money available for URD improvements. She said her main concern and questions are in regards to the relocation of businesses.

Kemmis suggested approaching it in layers and work on the relocation policies first, and then move onto the procedures. Englund asked the Board if they wanted to start devising some policy today.

Reineking said her only concern would be if this applies to businesses. The statute only requires a plan for residences. Brock suggested the Board take it on a case-by-case basis like other cities have done. She said it might be making more work by codifying it.

Behan said the MRA should have a notion of what we are going to do in case we are ever challenged. Then Staff response could be, yes, we have a policy to assist families and/or businesses that have to relocate because of MRA participation. The plan could be that MRA will take it on a case-by-case basis and will not do anything less than the federal standards as governed by HUD or FHWA. In that case, Staff may need to hire someone to do the paperwork as was done with Safeway. Behan said his concern is that if the Board decides to adopt the HUD or FHWA guidelines, and Staff happens to not follow each and every procedure we could have some potential issues.

Englund agreed. If the MRA plan says we provide relocation assistance and we will follow these federal guidelines, then we have incorporated the 600 page manual into our program. He said Reineking is correct, the statute only addresses relocating families. Behan said that is absolutely all that is required. In the 80's and 90's, MRA did quite a bit of downtown relocation, some of residences and several of businesses. That is when Staff incorporated businesses in the MRA Relocation Policy. Brock asked when the responsibility to relocate the tenants falls upon the developer.

Behan said federal guidelines say it's up to the federal agency or individual agency that the developer is working with to make sure the rules are followed. So, any notification to tenants would have to come out of that agency. Behan said he amended the draft policy to

make it a project that the Board would have previously approved, so there would be no notifications sent out until after the project was approved. Therefore the Board would know if relocation was required up front and choose whether to take on the project or not.

Brock asked if the Missoula Library comes to the Board for help with deconstruction would the MRA be responsible to move all those people off that block. Behan said if the Board adopts this policy and approves the project they would be responsible. Brock asked who else would be responsible if not the MRA. Behan said that is something that is not clearly defined. He suggested adding language that assured the residents have been relocated properly, either via the relocation policy, or by the developer like, as was done with the Thompson Apartments project last month. He said Staff followed that relocation and the tenants are actually better off now than they were before, and that is the end goal.

Brock asked if it is only saving a local developer from saving \$30,000 from his overhead, does it make sense for the public to get involved. She said hypothetically, MRA could put \$32,000 toward a project and also end up writing a check for \$40,000 to relocate the tenants. Behan said yes. However, if there were rules-of-thumb based on a percentage of what the Board felt was appropriate for the a project, that ratio could be used to determine whether the Board would support or decline the project due to the relocation assistance.

Kemmis asked if an applicant comes to MRA for assistance on a project that involves people being relocated, do we start with the assumption that that cost should be covered by the applicant or MRA. Englund said MRA has to make sure under policy that this is done right. He said as he has always understood it, if MRA puts one dollar into a project for demolition MRA is responsible to relocate any residents, or ensure that the relocation is done right. Behan said language could be added to the draft policy that people are dealt with fairly, and preferably relocated by the developer. If it is a City or public project, it would be under the following procedures. Whatever the Board decides, the law states that if an agency uses tax increment financing it has to provide relocation to the displaced in the case of demolition or acquisition. Behan said he and Buchanan are looking at the Missoula Library project and how many apartments are on that block. It could be an enormous cost to relocate them.

Englund said if someone comes to the Board with a demolition project we have to ensure the relocation is done right. So maybe one option is that they have to prove to the Board that people have been properly relocated, then we can add that as an eligible cost reimbursable by MRA. Kemmis recommended adding the phrase reimbursed in whole or in part. Englund recommended adding "in whole or in part up to the maximum allowed by federal standards". He stated isn't that a policy right there?"

Brock said so it can be added as another proposed enhancement to a project, but it's not a guarantee. She said that sounds much safer. Behan said this policy has not been updated since 1991. There is no rush. He can incorporate the Board's suggestions and bring it back for further discussion.

Kemmis suggested setting the procedure aside until the Board and Staff get the policy in place. He asked Behan to come back with a draft policy statement. Behan agreed.

Englund asked if the Board needed to resolve the business versus the residential question before Behan does that. Discussion ensued.

Reineking said there are some potential small businesses MRA may want to help, but there are so many red flags that she is not comfortable with it. Brock said she does not want to weigh in on businesses yet. She asked if they should put together a working group or committee.

Kemmis said at the very least, the Board should take a do-no-harm approach and that should be the top priority. He said he remembers when District 1 was getting launched there was a substantial opportunity to harm family businesses. He would like the option to offer some relocation assistance but doesn't want the Board to be bound to it.

Behan suggested designing a flow chart for each type of scenario. Discussion ensued.

**Demolition Alternatives Policy** – Request for Approval (*Buchanan*)

Englund said Buchanan drafted this policy involving demolition and deconstruction. He reviewed the revisions he made to the document.

**REINEKING: I MOVE THE MRA BOARD ADOPT THE DEMOLITION POLICY AS AMENDED.**

**Brock seconded the motion.** No public comment. No further discussion.

**Motion passed unanimously (4 ayes, 0 nays)**

**STAFF REPORTS**

Director's Report

Behan reviewed the Director's report.

Budget Status Reports

Dunn handed out the FY16 expenditure reports and stated the rainbow reports will be finalized and emailed out to the Board and Staff shortly.

**ADJOURNMENT**

The meeting was adjourned at 2:19 p.m.

Respectfully Submitted,

