

METROPOLITAN COUNCIL
390 North Robert Street, St. Paul, Minnesota 55101

REGULAR MEETING OF THE COMMUNITY DEVELOPMENT COMMITTEE
Monday, October 15, 2007

Committee Members Present: Richard Aguilar, Sherry Broecker, Georgeanne Hilker, Annette Meeks, Vice-Chair; Tony Pistilli, Kris Sanda and Natalie Steffen, Chair

CALL TO ORDER:

A quorum being present, Committee Chair Steffen called the regular meeting of the Council's Community Development Committee to order at 4:40 p.m. on October 15, 2007. Guy Peterson, director, community development, introduced two new staff: Deb Jensen, sr. project administrator, Housing & Livable Communities, and Karen Barton, assistant manager, Local Planning Assistance. Steffen welcomed staff.

APPROVAL OF AGENDA & MINUTES:

It was moved by Meeks, seconded by Hilker, to approve the agenda. The motion carried.

It was moved by Broecker, seconded by Meeks, to approve the minutes of the October 1, 2007, regular meeting of the Community Development Committee. The motion carried.

BUSINESS:

2007-320 – Request for Acquisition Opportunity Grant to Partially Finance the Acquisition of Katarik Parcel in Grey Cloud Island Regional Park and Request for Reimbursement Consideration in Future Regional Parks CIP for Local Match, Washington County. Jan Youngquist, senior planner-parks, provided an overview. Washington County has negotiated the purchase of an 8.19-acre parcel within the boundary of Grey Cloud Island Regional Park, hereafter referred to as the Katarik property. The cost to purchase the property and to finance related costs for the appraisal is estimated to be up to \$455,235. The land is for sale now. The County has requested that up to \$182,094 be granted from the Metropolitan Council's Park Acquisition Opportunity Fund to finance 40% of the cost to acquire the Katarik parcel. The County also requested that up to \$273,141 financed with County funds be eligible for reimbursement consideration in a future regional park CIP. The property tax equivalency payment will be paid by Washington County. The amount is not known at this time because the parcel lies partly within the City of Cottage Grove and partly in Grey Cloud Township, and is split off from other land owned by Ms. Katarik. The amount owed to both entities will be calculated by the County and paid with County funds. Youngquist reported conclusions drawn from an analysis of this issue, stated that the Metropolitan Parks and Open Space Commission considered this matter at its October 2nd meeting, and unanimously approved the recommendations.

There were no questions from the committee. Broecker moved, seconded by Hilker, that the Metropolitan Council:

1. Authorize a grant of up to \$182,094 from the Park Acquisition Opportunity Fund to Washington County to partially fund the acquisition of the Katarik parcel in Grey Cloud Island Regional Park as shown on Attachment 3. The grant is financed as follows:

\$109,256 Environmental Trust Fund appropriation from 2007 in the State Acquisition Grant Account
\$ 72,838 Metropolitan Council bond match
\$182,094 Total Grant

2. Allow up to \$273,141 of the acquisition costs of the Katarik parcel to be eligible for reimbursement consideration in a future regional park CIP. However, the Council does not under any circumstances represent or guarantee that reimbursement will be granted, and expenditure of local funds never entitles a park agency to reimbursement.

Motion carried.

2007-327 – Funding Request to MN Housing’s Preservation Affordable Rental Investment Fund (PARIF). Terri Smith, assistant manager, public housing, provided a brief history about the Family Affordable Housing Program (FAHP) which is a federal public housing program that provides rental housing for low-income families. The FAHP operating revenue consists of resident rents and operating subsidy from the U.S. Department of Housing and Urban Development (HUD). Due to insufficient appropriations and the scattered-site nature of the program, the FAHP may never be financially self-sufficient. HUD’s level of funding support for its low-rent public housing in 2007 has fallen to the lowest level in the past 25 years. In 2007, housing agencies are funded at only 83% of the eligible subsidy amount meaning PHA’s are expected to find their own method of funding the 17% gap not provided by HUD. FAHP budget deficits are projected to be \$170K in 2007 and grow to \$250K by 2010. The FAHP currently has a reserve account balance of \$1,296,941. These funds will continue to cover FAHP projected deficits through the year 2011 after which Section 8 reserves will need to be used to cover FAHP budget deficits.

Staff requests approval to submit a funding application to MN Housing in response to a Request for Proposals for Preservation Affordable Rental Investment Fund (PARIF). The intended purpose of the funds is to support public housing units at risk of loss due to insufficient funds. MN Housing has available a \$5 million, one-time set aside. The amount available to small housing authorities (under 250 units) is \$25K to \$150K. Staff will request the maximum amount available, \$150K, to assist with reducing the use of reserves. If awarded, the funds will be used to cover FAHP day-to-day operating expenditures and reduce the use of program reserves.

There were no questions from the committee. Sanda moved, seconded by Pistilli, that the Metropolitan Council:

Approve submittal of a funding request to MN Housing for funding through its Preservation Affordable Rental Investment Fund (PARIF) for use in the Family Affordable Housing Program (FAHP) operations and authorize the Regional Administrator to execute the funding application and any other necessary documents.

Motion carried.

2007-328 – Adoption of 2007-2008 Utility Allowance Schedule – Tenant Based and Public Housing Programs. Beth Reetz, manager, housing and redevelopment authority, explained that utility allowances are used to determine the gross rent and tenant portion of rent for a Section 8 participant leasing an apartment, town home, or single family unit. Allowances are provided for the following utilities or services if paid by the tenant: heating, cooking, other electric, water heating, water/sewer and trash collection. An allowance is also provided when a kitchen range or refrigerator is required to be provided by the tenant in a rental unit.

Implementation of the new utility allowance schedule will result in an increase in the utility allowance of \$4.00 for approximately 71% of the Section 8 participants assisted in one and two-bedroom multifamily units where electricity allowances only are used. For the remaining participant population living in townhouses, duplexes, and single family homes, where most, if not all, utilities are the tenant’s responsibility, it is anticipated that the decrease in the natural gas rate will mitigate the increased rate in other utilities. A copy of the PPT presentation handout was made available, and utility allowance examples were shared based on the following chart.

Reetz applied in the affirmative when Pistilli questioned whether the HRA was doing what federal standards require and also provided a snapshot of housing prices in the current market in response to a question from Sanda.

Sanda moved, seconded by Hilker, that the Metropolitan Council:

Approve the attached 2007-2008 Section 8 Utility Allowance Schedule for use by the Metro HRA in the administration of the Section 8, Family Affordable Housing, and other Rent Assistance Programs, effective November 1, 2007.

METRO HRA

Section 8 Existing Housing Allowances for Tenant –Paid Utilities and Appliances

Effective 11/1/07

Tenant Name _____ Address _____

To calculate the utility allowance, circle the amount of the allowance listed for all utilities you must pay. Be sure to use the proper column for the bedroom size (BR) and circle the amount for the proper unit type. The "Range and Refrigerator column is only for tenants who own those appliances. DO NOT circle them if provided by the owner.

UNIT TYPE: A = Apartment/Multiple Dwelling T/D = Townhouse/Duplex H = Single Family Home
 (3 or more units attached) (2 units attached) (1 unit)

UTILITY/APPLIANCE	0-BR	1-BR			2-BR			3-BR			4-BR		5-BR	6-BR
		A	T/D	H	A	T/D	H	A	T/D	H	T/D	H	H	H
HEATING Gas	23	34	44	50	44	55	69	55	65	80	85	101	117	132
Electric	26	38	50	63	45	63	80	57	80	96	96	119	134	149
Oil		107			135			170			183		226	255
Propane		82			99			122			151		169	192
COOKING STOVE Gas	3	4			7			7			11		11	12
Electric	4	6			8			9			10		11	12
OTHER ELECTRIC (lights)	23	28			31	32	36	36	41	47	47	50	55	59
WATER HEATING														
Gas		12			13			16			21		23	26
Electric		21			23			25			29		31	35
WATER & SEWER		19			26			29			38		44	47
TRASH COLLECTION		18			18			20			20		21	21
RANGE (tenant-owned)	3	3			3			3			3		3	3
REFRIGERATOR (tenant-owned)	4	4			4			4			4		4	4
TOTAL UTILITY ALLOWANCE														
+ RENT														
= GROSS RENT														

Motion carried.

2007-329 – Recommendation from CDC Review Panel on Longfellow Station LCA Agreements. Guy Peterson, director, community development, provided background information about the issue. The Council received a letter from the City of Minneapolis dated September 6, 2007, “requesting approval of certain modifications to previously approved project outputs” described in two Livable Communities grants (one from the Tax Base Revitalization Account [TBRA] and one from the Livable Communities Demonstration Account [LCDA]) for the Longfellow Station project. The proposed changes were the result of the downturn in the condominium market. On Sept 26, 2007, the Metropolitan Council directed staff to implement proposed grant administration procedures to address requests for revisions to the end projects (not LCA-funded elements) originally proposed as the development or redevelopment outcome in proposals assisted by Livable Communities grant awards. The procedures establish a three-step process to be used by the Community Development Committee (CDC) to determine whether to approve such requests.

As prescribed by the procedures, CDC Chair Natalie Steffen appointed a Review Panel consisting of Chair Steffen, Council Member Georgie Hilker and Council Member Brian McDaniel. Chair Steffen also invited Livable Communities Advisory Committee Vice-Chair Dan Marckel to participate in the October 4th meeting during discussion of the LCDA grant. Following a thorough discussion, Council Member Hilker moved, seconded by Council Member McDaniel, that the Community Development Committee be advised that the Review Panel’s recommendation was that staff be directed to amend the project description shown as Attachment A of Livable Communities Demonstration Account Grant SG006-162 Longfellow Station Project) and Tax Base Revitalization Account Grant SG007-041(Longfellow Station) to incorporate City of Minneapolis-requested post-award changes to the project necessitated by the downturn in the condominium market.

Peterson provided an overview of Steps 1, 2, and 3 and explained the rationale for staff findings. He further responded to Meeks’ question regarding how the process worked indicating the meeting went well and that a thorough discussion among the participants occurred. Pistilli thanked the subcommittee and stated that the level of detail provided in discussions was important.

Meeks moved, seconded by Hilker, that:

The Community Development Committee direct staff to amend the project description shown as Attachment A of Livable Communities Demonstration Account Grant SG006-162 Longfellow Station Project) and Tax Base Revitalization Account Grant SG007-041(Longfellow Station) to incorporate City of Minneapolis-requested post-award changes to the project.

Motion carried.

INFORMATION:

2007-330 – Smoking Ban Consideration in FAHP Units. Beth Reetz, manager, housing and redevelopment authority, and Terri Smith, assistant manager, public housing, were available for questions.

Chair Steffen expressed that she had met with staff prior to today’s meeting to develop a few questions that she believes need to be answered before the committee would take action on the smoking ban issue raised at the last CDC meeting. She then asked if there was a process for renters to allow them a hearing if an eviction is being considered or for when complaints are received.

Smith responded that federal regulations require a due process. Every time there is a negative action taken against a resident in the public housing program, a public hearing is offered. The housing authority hires a hearing officer who hears both sides of the case. The hearing officer decides whether policies were followed in terminating a renter’s lease. If the hearing officer upheld the decision, the tenant would need to move. If the tenant would want to pursue that decision further, they would need to initiate an action in a court of law. Steffen inquired if this process costs the tenant. Smith replied that tenants are often times represented by

legal aid which is at no cost to the tenant. If a private attorney were hired by the tenant, it would cost the tenant. The process does cost the Council money in terms of each time an eviction action is filed – it takes time for the hearing process, the hearing officer is paid, and our legal attorneys may also be involved.

Steffen asked about the history of the cost to this process. Smith introduced Mary Dobbins, an attorney retained by HRA, who specializes in landlord and tenant rights issues. Dobbins explained that it depends on how far the tenant takes it – district court is usually a one-day hearing, at most, at a cost of approximately \$1,000. If the tenant lost, they would have an absolute right to take the matter to the Court of Appeals, and that would result in another \$3,000 - \$4,000 for the Council to pay. Smith explained that one case has gone to court since 2004 and provided background about that specific matter. Steffen inquired how a judge may react to attempting to evict someone for a smoking violation. Dobbins stated that it is not known how a judge would react dealing with evictions based on the differences of judges in different counties, however, the bar can be pretty high for public housing landlords.

Meeks questioned if pets were allowed in public housing. Smith replied that HUD requires a pet policy that allows certain types of pets. The policy is restrictive in what is allowed because of the nature of the program and the difficulty in monitoring it. Fish tanks (up to 20 gallons) and caged birds are allowed. Dogs and cats are not allowed. Meeks then inquired how the pet ban is enforced. Smith stated that animals may be discovered during a routine inspection or a call may be received from a neighbor. A lease violation letter is then sent to the tenant, and a follow-up inspection is conducted. Meeks commented that presumably the Council could then do the same with a smoking ban. She further stated that if a no pet policy can be enforced, it would seem that the Council could at least ensure the health of the tenants who live there by having a smoking ban and enforce it much the same way. Meeks also asked if it was possible, since there seems to be roadblocks about existing leases, that this not be retroactive to current tenants but only proactive when they renew their leases. Could tenants be informed within a certain number of days prior to renewal that there will no longer be smoking effective the renewal date of their lease, and is that possible to do proactively? Smith stated that if lease provisions were made after the 30 day comment period, a new lease could be implemented immediately for all 150 families who would sign the new lease starting January 1.

Sanda shared an example where utility companies are getting stuck with significant unpaid utility bills. She expressed that it was more important to test these houses for radon before the Council decides whether or not to ban smoking. Sanda stated that this is different than a public building because taxpayers pay for public buildings. The Metropolitan Council is cooperatively renting these units with private individuals who pay some of their money. She further commented that she understands what the committee is trying to do. She felt the committee should think about what is the public good and what is the Metropolitan Council's role in supervising this program.

Steffen called for any further comments. Aguilar stated that he recollected the committee reached this discussion while talking about the damage that has been done to some of the rental homes. Enforcing the new state law on banning smoking is up to individuals to turn someone in or to call and complain, etc. He asked what is done in the private sector in housing. Is there a ban against smoking if you are renting someone's apartment? Dobbins stated that some landlords do have that kind of a smoking ban, but the vast majority do not.

Smith reported that Council staff also contacted other housing agencies including the St. Paul Public Housing Authority, the Minneapolis Public Housing Authority (MPHA), the Dakota County Community Development Agency, the St. Louis Park Housing and Redevelopment Authority and the Washington County Housing and Redevelopment Authority. All have considered adopting a smoke-free policy for their apartment buildings. None have considered adopting a smoke-free policy for their scattered-site programs due to inability to monitor and enforce. Several reasons for non-implementation of a smoke-free policy by these entities were highlighted.

Steffen reiterated that this is not an action item today. The purpose of listing this matter as an information item was to research what other governmental entities were doing in addition to identifying any pitfalls in order to enforce a smoking ban policy.

Pistilli stated that he would have vehemently opposed entertaining any kind of an idea of having a smoking ban in public housing three years ago, however, much has transpired as far as public policy that has been determined by others, particularly at the state level. For some of the restrictions, hotels and motels, people are paying to stay there, home offices, etc. The Council has the option of establishing and enforcing these policies, HUD allows us to do this, and residents can sign a lease addendum that they won't smoke. Rather than just dismiss it summarily by citing reasons we shouldn't or can't implement this policy, and having this matter as only an information item, he asked if the committee had a desire to advance this discussion to the full Council. Broecker agreed with Pistilli and said it would be wise to get full Council approval or denial.

Meeks suggested that consideration of a smoking ban policy be a Committee of the Whole item for the full Council to consider only because it is a council-wide policy. Since it is a policy supported by the Pawlenty Administration, it would be wise for this Council to consider it as well. She then expressed that she would like to take this matter one step further to include not only just the Council's scattered sites but also in other policies where the Council administers public housing. Meeks restated her recommendation that this policy be considered by the full Council.

Steffen asked if the committee wanted to vote on this matter today. Dave Theisen, legal counsel, Metropolitan Council, as a point of clarification, asked Council Member Meeks what other housing was being referred to. He indicated that if it is Section 8, those are all privately-owned properties. The Council would have no control over those properties as to whether or not a smoking ban could be imposed on private property. Meeks stated that any program administered by the Metropolitan Council should be drug free and smoke free, and she felt this would be a great opportunity to further that. Steffen clarified that Section 8 housing is privately owned, and the Metropolitan Council does not have the authority to ban smoking in privately owned buildings if the owner permits it to tenants with a Section 8 voucher. Meeks commented that perhaps she had misspoken and restated that she would be willing to consider other options for smoke free buildings in the future.

Steffen stated that the action to send a smoking ban policy discussion to the Committee of the Whole required a motion. Meeks moved, seconded by Pistilli, that the Community Development Committee send the smoking ban policy issue to the Committee of the Whole for further discussion.

Motion failed.

Steffen thanked staff for their research and ability to provide answers to the committee during today's discussion.

Committee & Liaison Reports:

There were no reports.

OTHER BUSINESS:

Peterson stated that it was highly unlikely the Community Development Committee will meet on November 5. If a determination is made to cancel the meeting, members will be notified well in advance. Should the meeting be cancelled, the next meeting of CDC is November 19.

ADJOURNMENT:

Business completed, the meeting adjourned at 5:30 p.m.

Respectfully submitted,
Diane Jadwinski
Recording Secretary