

METROPOLITAN COUNCIL
390 Robert Street N., St. Paul, MN 55101-1805
MEETING OF THE COMMUNITY DEVELOPMENT COMMITTEE
Monday, October 1, 2007

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

CALL TO ORDER:

A quorum present, Chair Steffen called the meeting of the Community Development Committee (CDC) to order at 4:05 p.m. on October 1, 2007.

APPROVAL OF AGENDA & MINUTES:

Steffen indicated that the October 1 CDC agenda had been amended slightly to change a consent item to a business item (City of Apple Valley Comp Plan Amendment) and that an information item regarding the Parks Capital Improvement Program had been added. Guy Peterson, Director, Community Development, reported that Chair Bell indicated business items should not be listed on the agenda as consent at any of the standing committees. Also, the Council's agenda changed on September 26 and the Capital Improvement Program was not heard which created an opportunity to bring the Parks Capital Improvement Program before CDC today.

McDaniel moved, seconded by Hilker, to accept the amended October 1, 2007, CDC agenda. Motion carried.

Broecker moved, seconded by Hilker, the minutes of the September 17, 2007, CDC. Motion carried.

BUSINESS:

2007-252 - Defining Minor Amendments for Adjacent Community Review. Phyllis Hanson, manager, local planning assistance, reported that the 2007 Legislative session changed the Metropolitan Land Planning Act to include the potential for the Council to waive the period for adjacent reviews that local communities need to notice their adjacent communities and comment regarding comprehensive plan amendments (CPA). Council and Metro Cities staff has discussed how to define what constitutes a minor CPA for the purpose of waiving the adjacent review. Major areas of potential impact to an adjacent community would be the size of the amendment area, generation of traffic to another community, and proximity of properties to the adjacent community. The waiving of the adjacent review by the local city, does not impact the Council's ability to administratively review a comprehensive plan amendment. The Council would still maintain full review authority even if the submitting agency determined that the amendment was minor and did not notice the adjacent communities.

Chair Steffen commented that she wanted to make sure that this does not waive any rights of a watershed or water management organization. Hanson read the exact language provided by David Theisen, Legal Counsel, Metropolitan Council, and confirmed that this would not impact watershed or water management organizations.

McDaniel moved, seconded by Broecker, that the Metropolitan Council adopt the following recommendation.

1. That a local community may waive the adjacent community 60 day review and comment period requirement for Comprehensive Plan Amendments if all of the following criteria are met.
 - a) the amendment involves a site of 40 acres or less;
 - b) the amendment does not change the community's growth forecasts for 2010-2030 or TAZ allocations;
 - c) the amendment site is 1) not within one quarter mile of an adjacent jurisdiction; or 2) according to the waiving city's adopted ordinances outside of the defined distance requirement to notice adjacent property owners of a comprehensive plan change, whichever is less.

2. That a local community may waive the adjacent 60 day review and comment period for a text change whose cumulative impacts would meet the criteria as set forth in number 1.

Motion carried.

2007-306 - 2007 Unified Operating Budget Amendment. Beth Reetz, manager, housing and redevelopment authority, stated that this is an amendment to the Metropolitan Council's 2007 unified operating budget which is part of the Family Affordable Housing Program (FAHP). The amendment is necessary to reflect the additional \$50,000 expenditure needed to maintain the Council's property. The Council owns 150 scattered site, single-family homes, duplexes, and townhomes which are federal public housing. The revenue necessary to maintain the properties is generated by rents paid by the families residing in the homes as well as an operating subsidy from the U.S. Department of Housing and Urban Development. The operating subsidy from HUD has not been sufficient to cover all costs associated with the program, and the program has a projected deficit in 2007 of approximately \$117,271. Although HUD calculates the operating subsidy needed to cover the costs to operate the program, funds appropriated by Congress have not been sufficient to fund 100% of the calculated need. Higher costs are due to mold issues in four of the FAHP homes that required abatement and remediation. Most expenses were not covered by insurance due to resident lifestyle issues, plus additional non-routine maintenance expense resulted from higher than anticipated turnover rates.

It should also be noted that 16 FAHP homes experienced roof and siding hail damage resulting in approximately \$100,000 in needed repair and replacement--the majority of this expense will be offset by insurance claims. FAHP currently has a reserve account balance of \$1,296,941. Funds will continue to cover FAHP projected deficits through the year 2011 and this budget amendment does not alter that projection. Staff has continued to pursue and research additional funding sources and will be seeking approval to apply for additional funds from Minnesota Housing at the October 15 CDC meeting.

Steffen called for discussion and expressed that some committee members may not know what FAHP is. Reetz provided a brief explanation about the Family Affordable Housing Program. Steffen also stated that the budget shortfall was due, in part, to residential lifestyle issues. She questioned whether current lifestyle issues could be corrected, do we inspect the homes that we own, and how can the Council make sure that this is not reoccurring frequently? Reetz responded that units are inspected regularly, and expressed that it was during regular housing inspections this year that we discovered the damage due to resident lifestyle issues. Since then, we have developed informational items that we give all families related to what they can do to mitigate reoccurring problems or to stop problems from happening. This issue really is a reflection of a diverse group of residents and their cooking/living habits that resulted in this level of damage.

McDaniel asked, "When an issue comes up due to resident error, I can understand how we might not be able to collect, but is there anything in the lease or the contract that would make the resident responsible for issues that arise from their own lifestyle choices?" Reetz replied that damage done to properties that is truly out of neglect or abuse is assessed as damage. At the point that the family moves out, or even before the family moves out, we assess damages and have numerous ways to collect.

Pistilli indicated that we don't have much flexibility in what we do, but "Do we have any opportunity to reduce the expenses rather than look for increases in revenues in this program?" Reetz indicated that the value of the homes is over \$25 million and is a very valuable resource of the Council. To not maintain the properties would not serve the Council well in the long run. Staff are cautious and conservative on the types of improvements that are made to the properties each year as part of our capital fund improvement—and try not to replace sidewalks, driveways, roofs, siding unless absolutely necessary--yet also remembering that promises have been made to communities of how the properties would be maintained, so that they couldn't be identified as rental property or public housing. Pistilli further questioned, "Do we budget for capital improvements like siding and roofs, and would we have had some monies set aside for the parital replacement of these 16 homes that incurred damage this year and would that funding now be available since we can start over with another lifecycle of reserve?"

Reetz stated that if we replaced a roof on a house this year because of storm damage, that was slated to have been replaced in 2010 given its age, then that helps enable us to spend less money that year or to do another capital improvement that we had pushed off to another year because of limitations on spending. Pistilli questioned, "Is there additional reserves available because of the siding and roof replacement that we were counting on replacing in the future that now we minus the \$1,000 we don't have to use?"

Reetz invited Terri Smith, HRA assistant manager, public housing, to join her at the table. Smith explained that when we determined there would be an operating deficit each year, we projected out to 2014 and that included capital improvements as well as operating. It was decided at that time to do only as many improvements as needed. None of the 6 roofs that were replaced this year were on the schedule for improvements in the next 5 years because they were in good condition. That is as far out as we can predict accurately in terms of replacing roofs and so on. Pistilli then restated that he wanted to confirm that a dollar amount was not being set aside for replacement in 20 years for all the roofs. Smith responded, "No." Broecker asked, "Do we have a dollar amount that is expected yearly that is set aside for these problems?" Smith responded, that "Yes" \$75,000 per year has been set aside for capital improvements, and then, year by year, a needs assessment is done to determine where that figure should be set. Reetz interjected that only \$25,000 had been projected for this year – the 2008 budget reflects increasing that amount to \$75,000 based on what we have seen during the last two years. Smith clarified that roof and siding issues were due to storm damage and the mold issues were due to lifestyle issues. Lifestyle remediation was not budgeted for. Reetz expressed that it is her hope we will not need to budget for lifestyle issues in the future. We are doing a better job of tenant education on the kinds of things that we can anticipate might lead to that kind of damage.

Committee member Meeks noted that the statewide smoking ban went into affect today. She questioned, "Do we allow smoking by the residents in this facility?" Smith responded in the affirmative. She indicated that the HRA looked extensively into the issue of banning smoking in all of our units. Because of the nature of our program and the 150 scattered site single-family homes, implementing such a policy would be near impossible for the HRA to enforce such a restriction. Smith provided an overview about how other public housing authorities have responded to this issue. Meeks then commented—"It just seems rather hypocritical for government to allow private businesses to ban it, but we don't do it ourselves." Smith responded that the smoking ban issue is something that could be looked into again.

Aguilar asked, "How are we communicating with these diverse groups that are renting from us. Are we utilizing some organizations we work with, or are we partnering with some of those groups—are we doing that?" Reetz stated that a great effort is made to ensure that families have the ability to get any communications from us interpreted into a language that they are more proficient in. The HRA has a contract with a company that is available each time a family asks to have a communication interpreted or when they call us and want to have an interpreter on the telephone. Aguilar stated that there are many organizations that are looking to help diverse communities get this kind of assistance with housing. He expressed that he would be happy to help with creating these kind of partnerships. Pistilli inquired, "Is there a minimum number of homes that we have to maintain that we are committed to?" Smith reiterated that the HRA currently owns 150 homes and that is the number committed to today. Pistilli questioned whether we own the homes free and clear, and Smith replied, "Yes, we do, we paid cash for all of the units with federal money and other in-kind funding grant money."

Meeks asked staff to expand on the issue of the homes having mold due to lifestyle issues. Reetz provided examples of things not commonly understood by some of the families. Smith also expressed that heat was excessive in the unit that sustained the most damage due to a lack of air flow. This situation was compounded by boiling food on the stove and that no air circulated through the unit.

Meeks said that in addition to dealing with mold issues, she is concerned about air quality. Meeks moved this motion with an addendum that says the Metropolitan Council would also institute an immediate smoking ban in all of these properties. Chair Steffen called for a second. Seconded by Pistilli. Chair Steffen stated that she recalled some discussion about this issue with the previous administration and inquired if this presented a legal question.

Steffen further noted this speaks to the question about how much staff can do to enforce a smoking ban through inspections in rental housing located throughout 11 different cities. Meeks responded that the smoking ban is statewide. Theisen joined staff at the table and stated that the smoking ban is statewide, but it does not cover living within your own house-- that smoking is a lawful activity. Steffen stated that Committee member Meeks' point is that this is a government-owned house, even if it is a private residence. Theisen stated that "Yes, it is, but there are also some things that we try to do in order to make these their homes." HUD requires that we permit some pets in some units. We cannot prohibit them and have also looked at that issue for pet damage. We do limit the types of pets and types/quantities of fish tanks, and the size and number of animals to keep the properties in the best condition we can. One thing we do look at if there is smoking damage is require the tenant to be responsible for it. Aguilar stated that before he voted on the amendment, he would want to know how we are going to regulate the smoking ban policy. He asked if the HRA is going to ask them to leave.

Meeks said question is: 1) While this is their home, it is government housing. If we can ban smoking in all government buildings, it seems to me this is a government building, per se, even though there is 150 of them disbursed throughout the metropolitan region, and 2) In terms of inspection, I don't expect staff to turn into smoking police. It seems only fair that we can have regulations especially concerning air quality. She indicated tenants should be very cognizant of the damage of their smoking—not only to their physical bodies but to those around them and to their physical surroundings. She indicated she "stands by my motion." At the very least, we should wait for them to challenge it.

McDaniel stated that he is very sympathetic to what Committee members Meeks is saying. The issue would be hard to enforce, but the legislature passes things all the time that gets a low level of enforcement. That doesn't necessarily mean that the intent is not OK—for example, the Department of Commerce is given the job of policing gas pricing and they have a few staff who look into that for a very large area. This doesn't get a lot of enforcement but still the policy has a point. What gives him pause is the legality of this. He agrees this is an issue we should definitely look into. McDaniel would like to see staff bring back to the committee the ability to vote on a smoking ban policy—where that is the only issue we are talking about. That would buy us time to make sure that we are applying the policy in an appropriate manner. Steffen agreed with McDaniel's comments and expressed her reluctance to pass this today without further legal examination. She suggested that the committee pass Item 2997-306 and then ask staff to report further investigation about this issue at the October 15 CDC meeting. Steffen restated that Committee member Meeks made the motion, including her amendment, which is on the table. If the feeling of the committee is that there should be further legal investigation, the need would be to defeat Committee member Meeks' motion with a call for new motion containing further direction to staff. Discussion followed.

Chair Steffen called for the committee to vote on Committee member Meeks motion that the Metropolitan Council amend the 2007 Unified Operating Budget by increasing authorized expenditures and revenues in the Family Affordable Housing Program, with an addendum that, in order to appropriate the revised budget, the Metropolitan Council would also institute an immediate smoking ban in all of these properties. The motion was defeated. The Chair then entertained a motion to go forward.

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

Amend the 2007 Unified Operating Budget by increasing authorized expenditures and revenues in the Family Affordable Housing Program as follows, including direction to staff to report, at the October 15 CDC meeting, both policy and legal ramifications regarding the implementation of a proposed smoking ban in the 150 FAHP rental units whereby CDC members will have an opportunity to vote on this issue:

Description	Approved	Revised
Revenue	\$ 836,084	\$ 980,272
Expenses	\$ 953,355	\$1,003,855
Projected Deficit	(\$117,271)	(\$167,827)

Meeks opposed. Motion carried.

2007-309 – City of Apple Valley Comprehensive Plan Amendment, Industrial Land Use Study Area “B,” Review File 16963-22. Phyllis Hanson, manager, local planning assistance, reported that on July 26, 2007, the Metropolitan Council received the City’s comprehensive plan amendment (CPA) proposing to reguide 154 acres from Mixed use to industrial. The site is located north of County Road 42 and east of Galaxie Avenue. The Metropolitan Council reviewed Apple Valley’s 2020 Comprehensive Plan Update (Review No. 16963-1) on September 29, 1999. The Council’s *2030 Regional Development Framework* identifies Apple Valley as a “Developed” community, which accommodates growth forecasts through reinvestment, at appropriate densities (5 units plus in developed areas), and targets higher density in locations with convenient transportation corridor access and adequate sewer capacity. The Metropolitan Disposal System serves Apple Valley through two regional wastewater treatment plants (WWTP)--Seneca WWTP serves the small, northwest part of the City, and Empire WWTP serves the remaining part of the City.

There were no questions from the Committee.

Pistilli moved, seconded by McDaniel, that the Metropolitan Council:

Allow the City to put the comprehensive plan amendment into effect with no plan modifications. Motion carried.

INFORMATION:

Background on Section 8 Project Based Assistance Program. Beth Reetz, manager, housing and redevelopment authority, presented a Powerpoint overview that contained a brief historical perspective background of the Section 8 Project Based Assistance Program. The presentation included information about the differing sizes, types, and locations of projects included in the program, as well as the application process, selection criteria, and linkages to the Council and State of Minnesota’s coordinated efforts to encourage and support market solutions to affordable housing production. A handout of the slides used in the presentation was provided.

Discussion followed. Pistilli asked if there was a limit on the total number of project based vouchers. Reetz replied that the housing authority has the ability to allow 20% of its total allocation.

Planning Grants Update. Phyllis Hanson, manager, local planning assistance, presented an overview about the local planning assistance grant applications received and reported that:

- 1) Of the eligible entities for the Local Planning Assistance Program, all but two have applied--Mendota and Randolph.
- 2) Of the \$1 million available, a total of \$1,015,000 has been committed.

A handout dated September 25, 2007, “2007 Local Planning Assistance Grant Program – Status Report” was provided. This handout provides a breakdown by county of the communities, townships, and counties that have applied, including the grant amount.

Meeks questioned that, since we committed \$15,000 more, are we confident that some will not come back for the second half? Hanson responded that we also have a planning loan assistance fund that could be potentially available as a grant. We are looking at 51 communities, of which 49 have applied. They don't get the second half until they have complied with all of the requirements of the grant which includes timeliness and consistency with Council policy and conformance. Peterson added that it is more likely we would have the ability to move a small amount of money out of the loan program to the grant program.

Comprehensive Plan Follow-Up from the September 17, 2007, CDC Meeting. Phyllis Hanson, manager, local planning assistance, explained that a one page memo had been prepared in response to the follow-up requested at the last CDC meeting regarding information that communities could hand out in their planning process to address why comprehensive plans are being updated. A draft handout "Updating a City's Comprehensive Plan: Extending Regional Planning Efforts Forward 10 Years" was provided and discussed.

Hilker asked if this addressed the issue about communities instructing their citizens about the process. Hanson replied that the handout indicates that this is an update that is done every ten years, and directed Committee members' attention to the back of the handout which she explained. Steffen thanked Hanson and expressed her appreciation for the effort that was put into the handout.

2008-2013 Regional Park Capital Improvement Program.

Arne Stefferud, planning analyst, provided a presentation regarding the 2008-13 Regional Parks Capital Improvement Program (CIP) which is part of the Council's unified capital improvement program. A handout containing the Powerpoint slides shown was provided. Stefferud explained that the parks portion of the unified CIP proposes that state funds finance 60% of the total amount and Council bonds would finance 40%. The allocation of state and Council funds is based on matching where taxes come from to pay for the state portion of it and the Council portion of it with where people recreate in the regional parks system. The Council's portion is \$7 million annually per year and that is a constant over this 2008-2013 period. That ensures that the property taxes that would be used to pay for the debt service on the bonds remains constant. The two components of the CIP were explained—project specific and land acquisition. Stefferud further explained the factors of splitting the project specific CIP among the ten park agencies. Funding requests are prioritized by each park agency and have to be consistent with Metropolitan Council approved master plans. Distribution of the funds from the project specific portion was then explained.

Steffen asked if the formula used had been approved by the implementing agencies. Stefferud explained that there was a consensus involved after four months of review. Steffen asked if there were circumstances under which park agencies would be allowed to change their prioritization. Stefferud indicated that we would allow agencies to come back every two years to give us a new list and further explained the six year process. Hearing no further questions, Steffen thanked Stefferud for this presentation.

Chair Steffen revisited the smoking ban discussion. She recollects that when that question was raised previously, discussion included federal and county owned buildings—nursing homes, hospitals, veteran homes. She requested David Theisen and staff to keep that in mind when they do their research. McDaniel commented that this is a resale issue. If we are going to fix the roof because of resale value or upkeep, it certainly makes sense to take care of the inside of the building as well.

Committee & Liaison Reports:

There were no reports.

OTHER BUSINES:

Peterson noted that the Community Development Committee meeting on October 15 starts at 4:30 p.m. – not 4:00 p.m.

ADJOURNMENT:

Business completed, Steffen adjourned the meeting at 5:05 p.m.

Respectfully submitted,
Diane Jadwinski
Recording Secretary