Omaha Municipal Land Bank Board

MINUTES

Wednesday, October 12, 2016

Regular Meeting:
9:00 AM, Jesse Lowe Conference Room – 3rd Floor
Omaha/Douglas Civic Center
1819 Farnam Street

Meeting Minutes: This document states the minutes before the Omaha Municipal Land Bank Board at the Public Hearing and Administrative meeting held on Wednesday, October 12, 2016.

Certification of Publication: Omaha Municipal Land Bank Board Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Wednesday, October 5, 2016.

Members Present: Jamie Berglund, Chair
Cathy Lang, Vice Chair
Tom McLeay (arrived at 9:12)
Randy Lenhoff
Ken Johnson
Rob Woodling
John Heine
Julie Stavneak
Mike Riedmann
Julia Plucker (arrived at 9:12)
James Thele, Planning Director

Members Not Present: Diane Battiato

Director Present: Marty Barnhart, Executive Director

Staff Present: Jennifer Taylor, City Law Department
Rikki Flott, Recording Secretary

PUBLIC MEETING:

Jamie Berglund, Chair, called the meeting to order at 9:00am.
Roll call was taken with twelve (12) board members present (Diane Battiato was absent). Tom McLeay and Julia Plucker arrived late.

Berglund informed the public that a notice of the meeting was published in the Daily Record on October 5, 2016. Berglund stated that the Nebraska Open Meetings Law is in effect and a copy is available in the room for review. She further stated that copies of the agenda are located on the table by the door.

**Board Meeting Minutes**

Motion by Randy Lenhoff to approve the minutes from the September 14, 2016 meeting as submitted. Rob Woodling seconded the motion.

AYES: Johnson, Lenhoff, Lang, Woodling, Berglund
MOTION CARRIED: 5-0

**Financial Report**

Marty Barnhart, Executive Director, referred to Heine regarding the August 2016 financial report. Heine added that $20,000.00 was paid to ePropertyPlus for technology. Barnhart stated that the ePropertyPlus subscription was paid for 2017 and 2018 because of the grant dollars received. Lang stated she is concerned and cautions against paying in advance in case, if for some reason, there is dissatisfaction with a contractor. Lenhoff added that the committee agrees to not pay in advance. Barnhart added that there is a refund clause in the agreement with ePropertyPlus in the event of cancellation and monies would be refunded.

Motion by Randy Lenhoff to approve the August 2016 financial report. Cathy Lang seconded the motion.

AYES: Johnson, Lenhoff, Lang, Woodling, Berglund
MOTION CARRIED: 5-0

**Legislative Updates 2016-2017**

Barnhart stated that he is in the process of amending the Land Bank Act. He referred to Trevor Fitzgerald, 10407 Y Street, legal counsel for the Urban Affairs committee, regarding upcoming legislative updates for the Land Reutilization Commission and Tax Lien Certificate Foreclosure. Fitzgerald stated that, currently under state law, the land bank cannot take title to property located outside of the city limits. The draft discussed would allow an exception to that statutory restriction for properties acquired from the Land Reutilization Commission (LRC) within Douglas County. In response to Berglund, Barnhart verified that there is currently an inter-local agreement between Sarpy and Otoe counties and would not be influenced by the proposed legislation.

Barnhart referred to Jennifer Taylor, City Law Department, with regard to tax lien certificate foreclosure in a local agreement. Taylor stated that there has been discussion on how to transfer
some of the properties that are held by the County that have gone through both public and private sale and have not been purchased or not been acquired by a private tax certificate buyer and are cycling through and have not gotten back into productive use. The question is how to transfer those properties most economically from the County to the land bank and back into productive use? It was acknowledged that, per the statute, should the land bank want to directly acquire those certificates from the County, the taxes would have to be paid. The County is not foreclosing the certificates but one idea was that, on the County’s behalf, the land bank could undertake the foreclosures and any property that went to foreclosure sale would automatically go to the land bank by default.

Tim Dolan, Deputy Douglas County Attorney, stated that he is working on behalf of the County’s tax foreclosures. Dolan stated that Nebraska law had tasked counties with foreclosing delinquent properties but did not give the counties any latitude with dealing with the properties. He added that the legislature clearly envisions something a lot broader in giving the municipal land banks a lot more authority to be creative by combining properties and taking them off the tax rolls once they are in the land banks inventory. Even as Douglas County is foreclosing on properties the taxes continue to accrue while the properties continue to become less attractive and less likely for someone to purchase. Dolan further added that the legislative solution is to get the property into the inventory of municipal land banks and break the cycle of taxation and foreclosure. A major obstacle is that the legislation says that if the land bank wants to acquire the inventory of approximately 660 properties then the taxes would need to be paid which is equal to over one million dollars.

Lang questioned whether the proposed inter-local agreement would only cover properties with the city limits or will it intend to cover properties county-wide after the legislation is passed and is it interrelated to one another? Dolan stated that the inter-local agreement is written flexible enough to anticipate existing limitations or changes to those limitations. He added that the agreement is a draft and is not for immediate signature and has not yet been presented to the County Board. Dolan further stated that the inter-local agreement cannot vary State law which currently limits what the land bank can acquire. Taylor stated that one section of the agreement states that it applies to properties that can be acquired under a State statute as may be amended from time to time.

In response to Heine, Taylor answered that the inter-local agreement will not require the land bank to acquire all 660 properties but the goal is to take as many as the land bank can handle. She stated that once the property goes to foreclosure sale, the land bank is the default bidder and is required to acquire the property. Barnhart added that there is an option to inventory property and not take title to it until there is a buyer.

Barnhart stated there is an approximate estimated cost of $300.00 per property to foreclose and bring through a sheriff’s sale. He stated that a donor has given a verbal consent to agree to split the cost of foreclosure at approximately $70,000.00 to close the first set of properties.

Linda Richter, County Attorney’s office, stated that 2014 tax sales were the biggest with 660, 2015 was lower but in 2016 the Green Meadows SID was offered for sale and the number of properties will go over 500.
McLeay pointed out that the land bank cannot acquire SID property outside of the city limits at the present time. Barnhart agreed unless the legislation is changed. Dolan stated that the taxation stops once a property is in the land bank’s name and not just parked with the land bank and still in the name of the original owner.

In response to Berglund, Barnhart stated that there has been no cost analysis for the properties but the foreclosure time will be about nine months for the first cycle to take place so it is possible that there will be very few properties in 2017. He further added that the acquired property could be inventoried but not take title until there is a buyer which would take away from maintenance and upkeep. The property title remains in the name of the original owner which is in default. The cycle of taxation and default continues and perpetuates itself to take it through the tax lien structure again as well as deterioration. Barnhart recommended looking at all factors of the available county properties and there may be some properties that are not viable to acquire. Barnhart stated there will be a full analysis regarding the cost of purchasing the properties.

Taylor recommended that the board review the inter-local agreement and provide any questions, revisions and suggestions before the agreement will be presented to the legislature. Fitzgerald confirmed that bills will not be introduced until January 2017 and the timeline to get any bill passed would be the beginning of March 2017 at the earliest.

Barnhart explained the process regarding the Sheriff’s Sale on foreclosed property offered to the public pursuant to the taxes owed, the cost involved and anything else that might be in the foreclosure petition. The land bank would not be a competitor against the public at the Sheriff Sale but would become the default bidder by virtue of the Sheriff Sale and foreclosure action and can take the opportunity to file a tax deed, if desired, but are not required to do so.

Plucker stated that it will be a challenge to find a sponsor that understands the issues. She added that Trevor Fitzgerald will be a good resource to point the land bank in the right direction.

Berglund suggested that the board review both the inter-local and LRC piece and provide feedback to Barnhart, Taylor and Dolan before the November meeting.

**Finance and Audit**

**Audit 2016**

Barnhart referred to Taylor who stated it was determined that the City of Omaha is not required to conduct an audit of the land bank. Barnhart stated that he will acquire three quotes with regard to cost and analysis for an audit.

**Director’s and Officer’s Liability Insurance**

Barnhart proposed an additional layer of liability insurance for directors and officers because of the possibility of being sued and the possible personal impact as a volunteer board member. He stated that the statute does not make any provisions for directors and liability insurance but the
by-laws state that directors/officers are protected under the law. Barnhart received a proposal for $3,100.00 annually for additional liability insurance. Taylor stated that because of the language per statute NE 19-5204, the OMLB is covered and means there cannot be a suit and no one can be held liable but if someone acts in a way that is grossly negligent then there can be exceptions. After further discussion, regarding additional liability insurance, Lenhoff and McLeay recommended adding the extra officer liability insurance. Barnhart recommended holding over an approval until the November meeting.

2017 Budget – First Reading

Barnhart submitted the first draft of the 2017 budget to the board for review and offered to answer any questions. Lang recommended there be a program budget. Berglund suggested that the strategy be bold with regard to the donors by taking the opportunity to use the $463,000.00 holdover from 2017 and do something sensational. Lenhoff stated that there will be continued discussion and a meeting with Jay Davis regarding assisting with accelerating the process of cleaning up more properties. McLeay stated the OMLB needs to be a super hero land bank and could be considered “Clean and Green” by taking a large bite out of the demolition process and targeting the worst of the worse condemned properties. There are nearly 4,000 parcels/properties in Omaha that have an “unfit/unsafe” designation.

James Thele, Planning Director, stated that the demolition budget for 2017 is $1,050,000.00 and includes federal funds. The cost of demolition for residential properties would be between $5,000.00 and $25,000.00 but the cost increases substantially with a commercial property. In response to Berglund, Thele stated that the leverage is $200,000.00 with Habitat but the properties are not necessarily on the list for demolition. Lenhoff stated that it makes sense to demolish properties but this is the early stages and cautioned that there are only so many contractors in the city that do demolition. In response to Barnhart, Thele explained that with the new process that is set in place and after firm deadlines are set and after all appeals are taken into account, the property would move into placarding for demolition.

Lang recommended taking the entire budget used to operate the land bank, without any property, and grow it for 2018 and 2019. She further stated that all grant dollars are to be used for operation and should be reported separately. Lang added that she strongly recommends building a separate spreadsheet for the entire year for 2017, 2018 and 2019 related to program expenses and income. Berglund added there needs to be transparency of the budget from the donors’ perspective and asked the board to review the 2017 income and expense budget with an approval of the revised budget at the November or December meeting.

2017 Fund Raising Discussion

Barnhart stated that the overall plan is to raise $8 Million in funds over a five year period by reaching out to the foundations/donors for acquisition, demolition and granting of dollars for redevelopment. There are currently four foundations within the City of Omaha that are supporting the land bank with operational dollars but three out of the four donors would like to see a program budget. Heine added that the demolition program is one program to look at but the budget would be higher if there are other programs the land bank would consider.
Barnhart explained that the data driven model will be used to determine the fiscal cost of the property, the physical condition of the property and whether it can be redeveloped and the social cost of the property within a given neighborhood. He stated that his vision is to acquire 100 properties over five years that can be redeveloped. In response to Berglund, Barnhart stated that the average property would have a minimum of $5,000.00 profit with an average profit between 10-30%. Berglund suggested using a realtor and/or an appraiser to determine the assessment of properties. Barnhart responded that there is a need for an acquisition/disposition specialist to assist with research with regard to fiscal, physical and social and then hand off to an appraiser. He added that the end result is to negotiate with a private owner to obtain a title.

In response to Woodling, Thele stated that if the City is interested in purchasing a property then the price goes up but the land bank can walk away if the price is unacceptable. Thele cautioned purchasing a white elephant in a neighborhood where there is no redevelopment potential. There was further discussion by the board.

Lang left at 10:26am.

**Executive Director (Key Performance Indicators Review, Board Member updates)**

Barnhart listed the five objectives he would like to meet by July 2017: 1) obtain and sell 100 properties in 2017, 2) work on relationships with the community, for profit and non-profits to maximize revitalization, 3) community engagement and forming collaborations and partnerships, 4) continue to work with investor/donors and attempt to enlist five additional donors, and 5) hire an acquisition/disposition specialist, communication/marketing individual and a possible third person to assist with the demolition/contracting work. Berglund questioned the ultimate benchmarks that need to be accomplished by the end of a twelve month period. Lenhoff added that neighborhoods need to be engaged and made to feel that they are part of the process. Johnson added that the goal of the land bank is to build and develop communities and not to be in the business of making a profit. He stated that he is concerned because there are some investors in north Omaha that are slum landlords who buy and sell rental properties.

Barnhart reported that there is a different individual that lives and works in District #4 who will be submitting her resume to the Mayor’s office.

Barnhart thanked Jamie Berglund and gave her a plaque for her service and leadership to the land bank. Berglund stated her term will be expiring in November 2016 but she will serve until another person is appointed to take her place.

**Other**

Barnhart introduced Bess Raynor and Ann Pedersen from OBI Creative. Raynor announced that there will be a Round Table discussion at 3:00 on Thursday, October 27th at the CEC Building, UNO Campus.
General Public Comments

There were no general public comments.

It was the consensus of the Board to adjourn the meeting at 11:01am.

Debbie Hightower, Planning Department
Recording Secretary