



# City of Madison

City of Madison  
Madison, WI 53703  
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## Meeting Minutes - Approved COMMUNITY DEVELOPMENT BLOCK GRANT COMMITTEE

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Tuesday, August 17, 2010

5:00 PM

215 Martin Luther King, Jr. Blvd.  
Room 260 (Madison Municipal Building)

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### CALL TO ORDER / ROLL CALL

**Present:** 8 -

Tim Bruer; Shiva Bidar-Sielaff; Marsha A. Rummel; Monya A. Choudhury; Charlie R. Sanders; Daniel A. O'Callaghan; Justin O. Markofski and Russ Whitesel

**Absent:** 1 -

Arthur V. Robinson

**Excused:** 1 -

Ken W. Pritchard

STAFF: Charnitz, Clingan, Dungan, Kenny, Miller, Rhodes, Rood, Short, Wallinger

OTHERS: Mark Olinger (City of Madison, Planning Dept.), Dean Brassler (City of Madison, Comptroller's), Anne Zellhoefer (City of Madison, Attorney's), Brenda Konkel (Tenant Resource Center & Third Sector), Tom Landgraf (CDA Committee), Ray Harmon (Mayor's Office) and Curt Brink (Housing Committee).

CALL TO ORDER: Sanders called the meeting to order at 5:05 pm.

### PUBLIC COMMENT

No one wished to speak at this time.

### BUSINESS REFERRED

1. [19605](#) 2011 - 2012 PRELIMINARY FUNDING RECOMMENDATIONS APPROVAL

Rood explained the packet information and said that the funding recommendations will go into the Action Plan. She noted two changes made to the recommendations since last Tuesday. First, The Road Home's recommendation is actually \$8,811 (for 2011 only), and second, there is actually \$164,838 in HOME funds for 2011, which was neglected on the spreadsheet handed out at last Tuesday's meeting.

**Bidar-Sielaff moved approval of the preliminary funding recommendations. Whitesel seconded. Unanimous**

2. [17266](#)

AMENDED ALTERNATE Amending Sec. 4.22 of the Madison General Ordinances to allow the payment of developers' operating costs from the Affordable Housing Trust Fund.

Clingan said that the language for the changes to the ordinance could be found on page 5 of the Affordable Housing Trust Fund Ordinance Change Summary document, which Mary Charnitz handed out to the Committee. Clingan said that the document summarizes changes made to the ordinance by the various bodies over the last couple of years. He said that the ordinance moves from CDBG to the Housing Affordability Subcommittee next and then to the Common Council on September 7, 2010.

Brenda Konkel passed out a copy of the ordinance with her suggested changes numbered from 1 to 27. She then explained point-by-point the changes she has suggested for the ordinance, which included a better name for the ordinance; naming the Trust Fund after a person, such as Hickory Hurie; changing 60% AMI to 50% AMI under Section (2)2; needing to add changes that allow the funds to be expended - IZ incentive payments, purchase of IZ lots or units; making the fund more flexible; terms of affordability; building standards/accessibility; etc.

Choudhury thanked Brenda Konkel for her input.

Ray Harmon said that the Mayor is opposed to using the Trust Fund for operating expenses because the money wouldn't be renewed in that case.

Clingan clarified which body made which changes to the ordinance.

Charnitz also explained the changes made by each body from the summary document. She said that items from the summary that the Committee still needed to address are as follows:

- 1) Section 8 - definition of accessibility standards; proposed language from the Attorney's Office is as follows: "The Committee will require recipients to be in compliance with existing accessibility standards as defined by federal, local and state requirements, whichever is applicable.
- 2) Section 1, sentence 2 of the strike out version of the ordinance states, "the Trust Fund shall be a permanent endowment and continually renewable source of revenue . . . ." In Section (4)(a), subsection a, sentence 1, it states "The Trust Fund is to function as a trust fund to fund loans and grants in accordance with this section." The Committee will need to determine consistent language for these sections.
- 3) Restore item (4)(m) - "a recipient may receive up to the CDBG Office Framework per unit maximum amount as a loan or grant for each Assisted Unit created, repaired or preserved by a disbursement from the Trust Fund."
- 4) (2)(g) - Add "Division" before the word Director
- 5) Section 6 - replace the word "interest" with "amount as required by the CDBG Framework that is above the original loan amount."
- 6) Adopt BOE proposed language to restore 4(a) to state "Unless

authorized by a vote of the Common Council the . . . .”

O’Callaghan said that drafting an ordinance by committee is tough; drafting by three committees is really tough.

Whitesel said he would prefer to call the fund a permanent endowment since it is not administered as a trust.

O’Callaghan said that the fund isn’t really a permanent endowment, that it is really a fund. The idea behind the Trust Fund is to put money to work in the form of loans so that the fund is still an asset to the City.

The Committee discussed what to call the fund - a trust fund versus a loan fund.

O’Callaghan said he prefers that the fund remain a “trust fund.”

Anne Zellhoefer said that the Committee ought to delete “permanent endowment” as a word choice in Section 1, sentence 2 to be consistent with the rest of the ordinance. She also said that the City decided on calling the Trust Fund a trust fund because the Federal government had, at one time, wanted to create its own affordable housing trust fund. Technically, the fund is not a real trust fund.

**For the purposes of discussion, O’Callaghan moved to approve the draft of the ordinance in front of the Committee with changes made by the Housing Affordability Subcommittee, the Board of Estimates, and CDBG staff. Whitesel seconded.**

**Rummel moved to delete the words “permanent endowment and” from Section 1, sentence 2 of the ordinance so that the sentence now reads, “The Trust Fund shall be a continually renewable source of revenue to meet, in part, the housing needs of . . . , etc.” Whitesel seconded. Unanimous to this motion only.**

**Whitesel moved to change language in Section (4)(a) to read, “The Trust Fund distributions shall be used to fund loans and grants in accordance with this Section.” O’Callaghan seconded. Markofski made a friendly amendment accepted by both Whitesel and O’Callaghan to adjust the language to read, “The Trust Fund shall fund loans and grants in accordance with this section.” Unanimous to this motion only.**

The Committee discussed adopting the BOE proposed language to restore 4(a) to state “Unless authorized by a vote of the Common Council the . . . .” The Committee concluded that the language is not necessary since Council inherently has that ultimate authority.

**Choudhury moved incorporation of the City Attorney’s language recommendation for accessibility to Section 8 that reads, “The**

Committee will require recipients to be in compliance with existing accessibility standards as defined by federal, local and state requirements, whichever is applicable." Markofski seconded. Unanimous to this motion only.

Whitesel moved to add the word "Division" before the word "Director" in Section (2)(g) so that it now reads, "Director' means the City's Community Development Division Director, or his or her designee." Markofski seconded. Unanimous to this motion only.

## ROLL CALL

Alder Rummel left the meeting at 6:30 p.m.

**Present:** 7 -

Tim Bruer; Shiva Bidar-Sielaff; Monya A. Choudhury; Charlie R. Sanders; Daniel A. O'Callaghan; Justin O. Markofski and Russ Whitesel

**Absent:** 1 -

Arthur V. Robinson

**Excused:** 2 -

Ken W. Pritchard and Marsha A. Rummel

### 17266

AMENDED ALTERNATE Amending Sec. 4.22 of the Madison General Ordinances to allow the payment of developers' operating costs from the Affordable Housing Trust Fund.

Bidar-Sielaff moved and Choudhury seconded acceptance of the CDBG Substitute Ordinance of 8/17/10 with a series of amendments to reflect the changes approved to the other ordinance earlier at tonight's meeting as follows:

- Delete the words "permanent endowment and" from Section 1, sentence 2 of the ordinance so that the sentence now reads, "The Trust Fund shall be a continually renewable source of revenue to meet, in part, the housing needs of . . . , etc."
- Add the word "Division" before the word "Director" in Section (2)(g) so that it now reads, "Director' means the City's Community Development Division Director, or his or her designee."
- Delete the word "Account" following the words "Trust Fund" in Section 3 and throughout the ordinance.
- Change the language in the first sentence of Section (6) to read, "The Trust Fund shall fund loans and grants in accordance with this section."
- Change the percentages indicated under Section (6)(b) back to 60 so that the CDBG Substitute Ordinance reads, "At least sixty percent (60%) of the funds eligible for disbursement annually shall be used to create, repair and preserve Affordable Units for households whose gross income, adjusted for family size, is at or below sixty percent (60%) of Area Median Income.

Unanimous for this motion only.

The Committee discussed the fact that Sections 3 and 5 reference the CDBG Framework and decided to take no action with respect to those sections because they refer to the Framework.

O'Callaghan handed out a substitute ordinance that he put together himself. He said it simplifies the ordinance further. It is copied in its entirety for the record below.

**“AN ORDINANCE**

**Amending Sec. 4.22 of the Madison General Ordinances to provide greater flexibility in authorizing disbursements from the Affordable Housing Trust Fund.**

**DRAFTER'S ANALYSIS:** This amendment revises the uses of Trust Fund monies to provide greater flexibility in authorizing disbursements, increases the amount that may be disbursed from the Fund, and makes certain definition changes.

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The Common Council of the City of Madison do hereby ordain as follows:

Section 4.22 entitled “The Madison Affordable Housing Trust Fund” of the Madison General Ordinances is amended to read as follows:

**4.22 THE MADISON AFFORDABLE HOUSING TRUST FUND.**

**(1) Creation; Purpose and Intent.**

There is hereby created and established for the City of Madison a fund to be known and denominated as the Madison Affordable Housing Trust Fund. The Trust Fund shall be a permanent fund and continually renewable source of revenue to meet, in part, the housing needs of low income households in the City, as defined in (2)(b) below. The Trust Fund is to provide loans and grants to for-profit and non-profit housing developers for the acquisition, capital and soft costs necessary for the creation, repair and preservation of Affordable rental and owner-occupied housing. Preference shall be given to those projects that ensure that the Assisted Units remain Affordable for the longest period possible. Projects funded by the Trust Fund shall be disbursed throughout the City so no single neighborhood experiences a disproportionate concentration of housing units for low income households.

**(2) Definitions.**

In this section:

(a) “Affordable” means a housing unit that has an Affordable Housing Cost.

(b) “Affordable Housing Cost” means an amount satisfied by:

1. for owner-occupied housing, a housing payment inclusive of loan principal, loan interest, property taxes, property and mortgage insurance, and homeowners association dues which allows a household, whose gross income adjusted for family size is at or below eighty percent (80%) of Area Median Income, to purchase a home;
2. for rental housing, a housing payment, inclusive of a reasonable allowance for heating, which allows a household, whose gross income adjusted for family size is at or below sixty percent (60%) of Area Median Income, to rent a unit,

while paying no more than thirty percent (30%) of their gross household income; and

3. for Housing Cooperatives and Limited Equity Cooperatives, a housing payment that allows a household whose gross income adjusted for family size is at or below sixty percent (60%) of Area Median Income, to purchase a home.

(c) "Area Median Income" means the median income for the greater Madison area adjusted for family size, as published by the United States Department of Housing and Urban Development.

(d) "Assisted Unit" means a housing unit that is Affordable and is assisted by the Trust Fund. Assisted Units shall be specifically identified in the deed restriction required under Sec. 4.22(7) M.G.O.

(e) "Committee" means the City of Madison Community Development Block Grant Committee created pursuant to Sec. 33.15, M.G.O.

(f) "Contingent Fund" means the fund created pursuant to Sec. 4.03, MGO.

(g) "Director" means the City's Community Development Director, or his or her designee.

(h) "Housing Cooperative" means a corporation that exists to provide housing to its owners, who are the individuals who live in the cooperative.

(i) "Limited Equity Cooperative" means a limited equity Housing Cooperative that limits the return allowed when its shares are sold.

(j) "Recipient" means any for-profit or non-profit housing developer that receives funds in the form of a loan or a grant from the Trust Fund Account. A Recipient may be an individual, partnership, joint venture, limited liability company or partnership, association or corporation.

(k) "Tax Incremental Financing Equity Participation Payment" means an equity payment received by the City from a developer pursuant to a TIF Development Agreement in which the tax incremental district has been dissolved.

(l) "Trust Fund" means the Madison Affordable Housing Trust Fund.

(3) Trust Fund Account; Sources of Trust Fund Moneys.

(a) There is also hereby established a Madison Affordable Housing Trust Fund Account, to be maintained by the City Comptroller. All funds received by the City on behalf of the Trust Fund shall be deposited in the Trust Fund Account. Principal and interest from loan repayments, and all other income from Trust Fund activities, shall be deposited in the Trust Fund Account. All funds in the Trust Fund Account shall earn interest at least at the same rate as pooled investments managed by the City Treasurer. All interest earnings from the Trust Fund Account shall be reinvested and dedicated to the Trust Fund Account.

(b) The Trust Fund shall consist of funds derived from the following:

1. Private cash contributions designated for the Trust Fund;
2. Payments in lieu of participation in current or future affordable housing programs;
3. Matching funds from a federal affordable housing trust fund;
4. Principal and interest from Trust Fund loan repayments and all other income from Trust Fund activities.;
5. The balance of the Inclusionary Zoning Special Revenue Fund.
6. Any other appropriations as determined from time to time by legislative action of the Common Council, including, but not limited to, (i) Residual Contingent Reserve funds; (ii) Amounts from the Operating Budget equivalent to City fees collected from dedicated uses related to housing, such as reinspection fees; (iii) Tax Incremental Financing Equity Participation Payments; and (iv) Proceeds from the sale or use of surplus City land.

**(4) Committee's Powers and Duties.**

**a) The Committee shall have the following powers and duties:**

- 1. Recommend policies, goals and objectives for the Trust Fund program to the Mayor and the Common Council;**
- 2. Review project funding requests and recommend to the Mayor and the Common Council all disbursements from the Trust Fund;**
- 3. Investigate and recommend to the Mayor and Common Council additional sources of money for deposit to the Trust Fund Account; and**
- 4. Publish and distribute requests for proposals and notices of funding availability.**

**b) All projects considered for funding will be reviewed prior to Committee action by the CDBG staff, and the Director shall submit to the Committee comments and recommendations.**

**c) The Committee shall within ninety (90) days following the close of each fiscal year prepare and submit an annual report to the Common Council on the activities undertaken with funds from the Trust Fund. The report shall specify the number and types of units assisted, the amount loaned per Assisted Unit, the amount of state, federal and private funds leveraged, the geographic distribution of Assisted Units and a summary of statistical data relative to the incomes of assisted households, including their monthly rent or mortgage payments, and the sales prices of owner-occupied Assisted Units.**

**(5) Evaluation of Applications.**

In evaluating requests for disbursements from the Trust Fund, the Committee and the Council shall give preference to developments:

**a) There is also hereby established a Madison Affordable Housing Trust Fund Account, to be maintained by the City Comptroller. All funds received by the City on behalf of the Trust Fund shall be deposited in the Trust Fund Account. Principal and interest from loan repayments, and all other income from Trust Fund activities, shall be deposited in the Trust Fund Account. All funds in the Trust Fund Account shall earn interest at least at the same rate as pooled investments managed by the City Treasurer. All interest earnings from the Trust Fund Account shall be reinvested and dedicated to the Trust Fund Account.**

**(b) The Trust Fund shall consist of funds derived from the following:**

- 1. Private cash contributions designated for the Trust Fund;**
- 2. Payments in lieu of participation in current or future affordable housing programs;**
- 3. Matching funds from a federal affordable housing trust fund;**
- 4. Principal and interest from Trust Fund loan repayments and all other income from Trust Fund activities.;**
- 5. The balance of the Inclusionary Zoning Special Revenue Fund.**
- 6. Any other appropriations as determined from time to time by legislative action of the Common Council, including, but not limited to, (i) Residual Contingent Reserve funds; (ii) Amounts from the Operating Budget equivalent to City fees collected from dedicated uses related to housing, such as reinspection fees; (iii) Tax Incremental Financing Equity Participation Payments; and (iv) Proceeds from the sale or use of surplus City land.**

**(6) Trust Fund Distributions.**

The Trust Fund is to function as a trust fund to fund loans and grants in accordance with this Section, to assist Recipients in the creation, repair and preservation of Affordable Units. The Trust Fund program shall be

administered by the Director. No disbursements shall be made from the Trust Fund Account without the prior recommendation of the Committee and authorization by the Common Council, subject to the following.

(a) The total disbursements from the Trust Fund Account in any calendar year shall be limited to fifty percent (50%) of the balance of the Trust Fund Account as of the prior January 1st.

(b) At least fifty percent (50%) of the funds eligible for disbursement annually shall be used to create, repair and preserve Affordable Units for households whose gross income, adjusted for family size, is at or below thirty percent (30%) of Area Median Income.

(c) At least fifty percent (50%) of funds eligible for disbursement annually shall be reserved for commitments to nonprofit corporations until September 1st, after which these reserved funds may be disbursed to any Recipient.

(d) The total disbursements from the Trust Fund Account for any one project shall be limited to twenty-five percent (25%) of the balance of the Trust Fund Account as of January 1st of the year prior to the disbursement.

(e) Recipients may use the funds directly or through an affiliated entity to pay for:

1. capital costs, including but not limited to the actual costs of rehabilitating or constructing Affordable Units;
2. preserving Affordable Units;
3. demolishing or converting existing non-residential buildings to create new Affordable Units;
4. real property acquisition costs;
5. accessibility modifications;
6. modifications for health, safety and energy conservation purposes; and
7. professional service costs, including but not limited to, those costs incurred for architectural, engineering, planning and legal services which are attributable to the creation, repair and preservation of Affordable Units, provided that no more than fifteen percent (15%) of the total funds allocated to the project from the Trust Fund may be used for such costs.

(f) Trust Fund moneys may not be used for operating expenses of any program, provided, however, that up to fifty percent (50%) of the interest income earned by the Trust Fund in the prior calendar year may be disbursed in the form of grants to be used by Recipients to pay for operating expenses of programs that provide direct assistance to buyers or renters, including, but not limited to, security deposit loan programs, private mortgage insurance guarantee programs, and homebuyer down payment assistance programs.

(g) No Recipient may refuse to lease or otherwise make unavailable any rental Assisted Units solely because an applicant for housing is a direct recipient of a federal, state or local governmental housing subsidy.

**(7) Term of Affordability.**

To ensure long term affordability, Assisted Units shall be deed restricted for at least thirty (30) years as follows:

(a) Owner-occupied Assisted Units shall be available only to households whose gross income, adjusted for family size, is at or below eighty percent (80%) of Area Median Income.

(b) Rental Assisted Units shall be available only to households whose gross income, adjusted for family size, is at or below sixty percent (60%) of Area Median Income.”

O’Callaghan said that his version incorporates all the previous changes from the various committees, including language stating that “The total



disbursements from the Trust Fund Account for any one project shall be limited to twenty-five percent (25%) of the balance of the Trust Fund Account as of January 1st of the year prior to the disbursement.”

Clingan suggested forwarding O’Callaghan’s substitute to the Housing Committee, which is the lead committee, for review and action.

Curt Brink, a member of the Housing Committee and Chair of the Housing Affordability Subcommittee, suggested holding a special meeting of the Housing Affordability Subcommittee along with members of the CDBG Committee. He said that his committee would work to get their review and action done by September 1 so that it could go to Council on September 2.

Whitesel suggested using O’Callaghan’s Substitute and incorporating all the changes made previously tonight into that substitute for discussion.

Bidar-Sielaff moved to adopt O’Callaghan’s Substitute (hereinafter called the “CDBG Substitute”) as the base or working document for the CDBG Committee. Choudhury seconded. Unanimous to this motion only.

O’Callaghan compared the CDBG Substitute ordinance point-by-point with the Affordable Housing Trust Fund Ordinance Change Summary that was handed out at the beginning of the meeting.

The Committee discussed the TIF preference in the ordinance.

Mark Olinger explained TIF and the need for the language in the ordinance to finance funding gaps.

Bidar-Sielaff asked where the percentage changes under Section (6)(b) in the CDBG Substitute came from.

O’Callaghan said that his suggestion was to include the provision of affordable housing but that he didn’t mean to change the requirements.

Bidar-Sielaff said she was more comfortable with keeping the percentages at 60 in (6)(b), which is what they were in the original ordinance (under Section (4)(d)).

The Committee discussed accessibility changes with respect to the CDBG Substitute Ordinance.

O’Callaghan said that the Committee didn’t need to include changes to the accessibility language because they were already incorporated under Section (5)(g) of the CDBG Substitute, which says, “that meet the highest accessibility standards, as defined by federal, state and local requirements . . . .”

Dean Brassler suggested deleting the word “Account” after the words “Trust Fund” throughout the CDBG Substitute Ordinance.

3. [19442](#)

SUBSTITUTE - Authorizing a loan from the Affordable Housing Trust Fund to the Community Development Authority for the Truax Park Apartments Project and authorizing the Mayor and City Clerk to execute a Loan Agreement with the CDA.

Bruer moved adoption of the resolution for the purposes of discussion. O'Callaghan seconded.

Whitesel said he was hesitant to take up this item without an amended ordinance and feels we could only act under the current ordinance. He suggested referring this item to the next meeting after the Council has considered it.

Bruer asked Olinger for an explanation of the timeline of the project. Olinger said that WHEDA's commitment letter expires September 7; but in a conversation he had with WHEDA today, they want to know what the sense of the Committee is with respect to the proposal and whether or not they would approve it if the ordinance were changed.

Whitesel said he is willing to keep an open mind but that he was disappointed with the quality of the application. He would like to see the CDA come to the next meeting with a description of the project with as much detail as possible.

Olinger said that they would get the Committee a comprehensive application and make a compelling case for approving the project.

Bidar-Sielaff said that she feels the City stands to lose a significant amount of funds unless this project is approved. She said she would like to see some other commitment of City funds from the Mayor's Office and asked that that message be taken back to the Mayor.

Ray Harmon said that he will take the message back to the Mayor.

The Chair said that although he usually doesn't vote on these matters, he views the proposal favorably.

Choudhury said she would add to what Whitesel said in that she would keep an open mind but that the application could be done much better.

O'Callaghan said we have the opportunity to be responsible for what he hopes will be a successful project.

Markofski said he is expecting to see a brilliant application and continues to support the project.

Bruer moved to refer this item to a special meeting between September 7 and 13 to be determined by the Chair. O'Callaghan seconded. Unanimous.

## ADJOURNMENT

Whitesel moved adjournment at 7:30 p.m. Markofski seconded. Unanimous.