

October 23, 2012

Urban Renewal Authority

A meeting of the Fort Collins Urban Renewal Authority was held on Tuesday, October 23, 2012, at 6:45 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Kottwitz, Manvel, Ohlson, Poppaw, and Weitkunat.

Councilmembers Absent: Horak, Troxell

Staff Members Present: Atteberry, Nelson, Roy, Daggett.

CONSENT CALENDAR

3. Resolution No. 042, Adopting Amendments to the Bylaws of the Fort Collins Urban Renewal Authority.

The Urban Renewal Authority (URA) Board will be asked to create formal Rules of Procedures for governing the conduct of Board meetings. By doing so, it creates a redundancy in the existing URA Bylaws because the Bylaws also contain a small section regarding meeting order. Staff recognized this redundancy and consequently reviewed the Bylaws and found other, minor inaccuracies. Therefore, several amendments to the Bylaws are proposed for consideration and are considered housekeeping in nature.

4. Resolution No. 043 Adopting Rules of Procedure for the Conduct of Meetings of the Board of Commissioners of the Fort Collins Urban Renewal Authority.

Resolution No. 043 creates formal Rules of Procedure for the Fort Collins Urban Renewal Authority Board. The purpose of the document is to provide a clear structure for meetings, and would establish the order of business, time and length of meetings, procedures for citizen comment and Commissioner question/debate, and the basic rules of order.

5. Resolution No. 044, Establishing a Board Finance Committee and Appointing Committee Members.

This Resolution establishes an Urban Renewal Authority (URA) Finance Committee. This committee of the URA Board would consist of the same members that serve on the Council Finance Committee. Having a separate committee allows the URA Finance Committee to discuss all matters related the URA, including receiving and discussing privileged and confidential URA information.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt all items on the Consent Calendar. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson and Poppaw. Nays: none.

THE MOTION CARRIED.

**Resolution No. 045
Adopting Updated Policies and Procedures for
the Fort Collins Urban Renewal Authority, Adopted**

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

The Resolution makes several changes to the Fort Collins Urban Renewal Authority's (URA) Policies and Administrative Procedures document. This document provides guidance to the Board, staff, and community stakeholders when considering whether to provide tax increment financing (TIF) assistance to a project in a URA Plan area. Revisions to the existing 2010 policies have been discussed over the past year at several Board work sessions. Only select changes are being brought forward at this time; remaining controversial changes will be postponed until additional benchmarking research is completed.

BACKGROUND / DISCUSSION

The Resolution would make several changes to the Fort Collins Urban Renewal Authority's (URA) Policies and Administrative Procedures document. This document provides guidance to the Board, staff, and community stakeholders when considering whether to provide tax increment financing (TIF) assistance to a project in a URA Plan area. The proposed changes have been discussed at previous work sessions held by the URA Board (see Attachments 1-4). There has been an increase in development activity, and there are several projects that are anticipated to request URA participation in the coming months. For this reason, staff recommends adopting a series of changes that are considered non-controversial and administrative in nature; these changes would help to clarify and improve the URA process for all parties involved.

The URA Board originally adopted policies in 2006, and subsequently revised them in 2010. In spring of 2011, staff was directed to review the policies and consider additional revisions. Several iterations of the proposed revisions have been presented and discussed with the Board and community stakeholders. While there has been agreement on some of the changes, others remain controversial. The non-controversial changes are recommended for adoption and are explained in Table 1 below; the complete Policy and Administrative Procedures document is attached as Exhibit A to Resolution No. 045. The remaining controversial changes will be postponed until they can be reevaluated based on additional benchmarking when the new Redevelopment Program Manager is hired (anticipated within the next 90 days).

Table 1: Revisions for Consideration

<i>Change</i>	<i>Rationale</i>
<i>Including the mission statement</i>	<i>The 2006 policies included the mission statement, but the existing 2010 version does not.</i>
<i>Clarifying affordable housing definition</i>	<i>The 2010 policies contained a mistake regarding the City's code definition of a qualified affordable housing project.</i>

Change	Rationale
<i>No interest will be paid on the applicant's expenses</i>	<i>Now a standard practice that is not specified in the existing policies.</i>
<i>Describing who is on the URA Team</i>	<i>The URA Team is an interdisciplinary team of staff that reviews URA applications; a Board member requested that the Departments that comprise the Team be listed.</i>
<i>An approved Redevelopment Agreement must be executed within 12 months</i>	<i>Standard practice that is not specified in the existing policies.</i>
<i>Giving extra consideration for projects that achieve LEED Silver certification</i>	<i>This is not a requirement but would put achieving LEED Silver certification among other public benefits that receive extra consideration, e.g., affordable housing.</i>
<i>If substantial costs to the URA are involved to screen, review, or negotiate a project, the other party may be asked to pay a deposit in advance; a contractual commitment to fund such work may be required in advance of, or in connection with, a formal application.</i>	<i>This is intended for cases where extraordinary work is required by the URA to process a request for tax increment assistance. In such cases, the other party may be asked to pay a deposit for substantial costs in advance of the URA incurring such expenses.</i>
<i>Staff will not bring an application to the Board for consideration if it does not meet the fundamental objectives of the URA</i>	<i>Standard practice that is not specified in the existing policies.</i>

Note that the iterative process over the past year has resulted in some significant changes in terms of the format of the document. For example, the proposed 2012 version separates policies from administrative procedures. Additional minor text changes were made throughout the document for clarification purposes.

FINANCIAL / ECONOMIC IMPACTS

The Resolution does not have a direct financial/economic impact, but clarifies how and when the URA provides financial assistance to a project.

ENVIRONMENTAL IMPACTS

The Resolution does not have a direct environmental impact. One revision to the policies may have an indirect impact; the URA would begin to give "extra consideration" for projects that achieve LEED Silver Certification or higher. While this is not a requirement, it may induce some projects to go beyond the City's Building Code and implement more sustainable building principles.

PUBLIC OUTREACH

An informational meeting on the pros and cons of the LEED certification process was held on April 5, 2012.

An open house was held on May 30, 2012 to present and discuss proposed policy changes with the general public.

Ongoing conversations have been had with members of the South Fort Collins Business Association, North Fort Collins Business Association, Chamber of Commerce Local Legislative Affairs Committee, and the Fort Collins Board of Realtors."

Josh Birks, Economic Health Director, stated three items have not been brought forward for consideration: (1) a requirement for an independent financial analysis at the applicants' cost; (2) certain building requirements and (3) the requirement that an application be in the entitlement process through the first round of PDP.

Megan Bolin, Economic Health Analyst, detailed the proposed policies and procedures revisions.

Eric Sutherland, 3520 Golden Currant, opposed the basic foundation of the Urban Renewal Authority policies.

Vice-President Ohlson asked about the phrase referencing floodplains being characterized as negative. Birks replied floodplains were listed as one of a variety of possible impediments to development. If a floodplain hinders reasonable development and can be modified in a way that works with FEMA regulations, it is an item that could be participated in subject to the individual redevelopment agreement of the particular project. President Weitkunat noted the North College Avenue redevelopment area could not have occurred without the removal of pieces of the Dry Creek floodplain.

Boardmember Manvel recommended adding the phrase "or redevelopment" in order to clarify the floodplain statement.

Boardmember Poppaw suggested the entire document should be analyzed while considering the triple bottom line. She stated she would like to see a matrix relating to AMI. Birks replied the North College Citizen Advisory Group does use a scoring matrix when it makes recommendations to the URA.

Vice-President Ohlson asked when the possibility of changing the definition of affordable housing would be coming before Council for consideration. Bruce Hendee, Chief Sustainability Officer, replied he would research the issue.

Boardmember Manvel made a motion, seconded by Boardmember Poppaw, to adopt Resolution No. 045.

President Weitkunat noted the URA is an economic tool to be used to redevelop and revitalize areas of the city which are in need.

The vote on the motion was as follows: Yeas: Weitkunat, Manvel, Ohlson, Poppaw and Kottwitz.
Nays: none.

THE MOTION CARRIED.

Resolution No. 046
Adopting a Relocation Assistance and Land Acquisition
Policy for the Fort Collins Urban Renewal Authority, Adopted

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

The Resolution for consideration would adopt a Relocation Assistance and Land Acquisition Policy to be used by the Urban Renewal Authority (URA) in cases where a URA-assisted project results in the displacement of residents and/or businesses, or the URA intends to acquire real property. The Policy is based on federal and state regulations, and provides a uniform process by which relocation services and financial assistance is offered, and/or real property is acquired.

BACKGROUND / DISCUSSION

The fundamental purpose of the Fort Collins Urban Renewal Authority (URA) is to eliminate blighted conditions in targeted redevelopment areas. In some cases, supporting a project that eliminates blight and provides a tax benefit to the area results in the displacement of businesses and/or residents. When displacement is inevitable and requires relocation, the URA can provide service and sometimes financial relief to assist with the relocation.

In the past, the URA has managed relocation on a case-by-case basis. Considering the increase in redevelopment activity within URA plan areas, it is anticipated that displacement will continue to be a potential issue. In fact, potential displacement of current tenants due to the Foothills Mall redevelopment has been made public. Rather than continuing to manage these situations individually, staff recommends that the URA Board adopt policies that can be universally applied to any displacement situation created by a URA-assisted project. This approach ensures consistency with how services and financial assistance are provided.

Additionally, there may be cases when the URA exercises its power to acquire real property to facilitate development or redevelopment. Colorado Revised Statutes provide guidance for such circumstances in terms of how the acquisition process should be managed to ensure fairness and consistency.

The Relocation Assistance and Land Acquisition Policy under consideration has been adapted from other Colorado URAs and is intended to be a living document. While it is imperative to have this policy in place as soon as possible, it will be continuously evaluated as it is implemented and improved, as needed. The Policy is based on the following federal and state regulations: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and implementing regulations including 49 CFR Part 24; US Department of Housing and Urban Development (HUD) Handbook 1378, and; Colorado Revised Statue 24-56-101 through 113. The document is divided in to two sections: Relocation Assistance and Land Acquisition, summarized in detail below. The complete Policy document is attached as Exhibit A to Resolution No. 046.

RELOCATION ASSISTANCE

This section consists of five components: Relocation Planning, Notices, Advisory Services, Relocation Assistance Payments, and Appeals.

Relocation Planning

This component acknowledges that successful relocation requires planning and considerable coordination; the earlier impacts are considered, the easier it will be to manage any challenges. Therefore, the URA will prepare a Relocation Plan that addresses relocation impacts and potential solutions as early in the development stages of a project as possible.

Notices

Certain information will be communicated to displaced persons through personal contact and a series of notices to minimize disruption and maximize the chances of successful relocation. Three primary notices are described in the Policy:

1. **General Information Notice** – *provided as soon as feasible in the early stages of a project. The purpose is to provide a general description of the URA's Relocation Assistance Policy.*
2. **Notice of Relocation Eligibility** – *provided later when it has been determined that particular persons will be displaced. The purpose is to inform the occupant that (s)he will be displaced as a result of the project and, therefore, will be eligible for relocation benefits, as applicable.*
3. **90-Day Notice** – *basic protection of the Uniform Act to be sent at least 90 days in advance of the earliest date the occupant will be required to move. In addition, a 30-day notice will be delivered no less than 30 days prior to the specific date required for the move.*

Advisory Services

Services will provide displaced persons with information, counseling, and advice as necessary. Typical basic services include, but are not limited to:

- *Explanation of relocation services and appropriate payments.*
- *Discussion of eligibility requirements for each relevant type of relocation payment.*
- *Determination of needs and preferences of the occupant to be displaced through a personal interview.*
- *Providing current listings of replacement properties.*
- *Transportation to inspect potential relocation housing if the person is unable to do so on his/her own.*
- *Assistance in obtaining and completing applications or claim forms for relocation payment or other related assistance.*

Relocation Assistance Payments

There are two main categories of payments: residential and non-residential. Within each category there are several types of payments that address expenses incurred as a result of a required move. Note that the Social Sustainability Office is currently developing city-wide relocation policies for residential displacement; the outcome of that effort will inform and could change the URA's policy towards residential relocation.

Residential moving and related expenses includes the reasonable and necessary costs for:

- *Transportation costs to the new site within a 50 mile radius.*
- *Packing, moving, and unpacking of household goods.*
- *Disconnecting and reconnecting household appliances and other personal property.*
- *Storage of household goods.*
- *Insurance for replacement value of property during the move and necessary storage.*
- *Replacement value of property lost, stolen, or damaged in the move if insurance is not reasonably available.*

Residential replacement housing payments are for the difference, if any, between the actual acquisition price or rent plus utilities of a comparable replacement dwelling and the price of the dwelling from which the occupant is being displaced. These payments are made based on eligibility requirements found in 49 CFR Part 24, and have statutory caps of \$5,250.00 for 90-day occupants and \$22,500.00 for 180-day owners. Another requirement of the Uniform Act is that the replacement housing meets certain standards, and the Policy reiterates specific criteria for complying.

Business and non-profit (non-residential) relocation payments for moving expenses not to exceed \$50,000 include, but are not limited to:

- *Transportation of personal property.*
- *Packing, crating, uncrating, and unpacking of personal property.*
- *Disconnecting, dismantling, removing, reassembling, and installing equipment/machinery.*
- *Insurance for replacement value of personal property.*
- *Re-lettering signs and replacing stationary on hand at time of displacement.*
- *Actual direct loss of tangible personal property.*

Business relocation payments for reestablishment expenses not to exceed \$10,000 are available for:

- *Repairs/improvements to replacement real property as required by law/code.*
- *Construction and installation costs for exterior signs.*
- *Provision of utilities from right-of-way to improvements on replacement site.*
- *Licenses, fees, and permits not paid as part of moving expenses.*
- *Feasibility surveys, soil testing, and market studies.*

Additionally, costs in connection with searching for a replacement location can be paid to the displaced person up to \$1,000. Certain businesses and non-profit organizations are eligible to obtain a fixed payment; if a business receives this payment, it will not receive moving/reestablishment/search expense payments.

Appeals

It is anticipated that an individual or entity may disagree with the URA's relocation assistance decisions, and the Policy outlines a process by which such decisions can be appealed.

LAND ACQUISITION

This Section provides policies to guide the URA should it intend to acquire real property, and includes the following:

- *Every reasonable effort shall be made to expeditiously acquire the property by negotiation.*
- *Prior to negotiations, the property shall be appraised. The appraisal may be waived if the case involves the acquisition by sale or donation of property with a fair market value below \$5,000.*
- *The URA shall offer an amount reasonably believed to be just compensation; in no event shall the amount offered be less than the approved appraisal of the fair market value. The offer shall be in writing and include a summary of the basis for the amount established as just compensation.*
- *The owner of the property to be acquired shall not be required to surrender possession of the property before the agreed purchase price is paid or before there is a deposit with the court for the amount awarded as a result of condemnation proceedings.*
- *If an owner or tenant is permitted to occupy the real property on a rental basis, the amount of rent shall not exceed the fair rental value of the property.*
- *If a real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted.*
- *If the acquisition of only part of the property would leave the owner with an uneconomical remnant, an offer to acquire the entire property shall be made.*

Relationship to "Redevelopment Displacement Mitigation Strategies"

On the same evening the URA Board is asked to consider this Resolution, City Council will hold a work session to discuss another project addressing displacement, Redevelopment Displacement Mitigation Strategies. This project is managed by the Social Sustainability Department and differs from the URA relocation policies in two primary ways:

- *It only addresses residential displacement, whereas the URA's policies address both residential and non-residential (business).*
- *It will be applied citywide, whereas the URA's only apply in designated Plan Areas/TIF Districts.*

URA staff is coordinating closely with the other project. The timing is such that the URA policies are needed immediately and cannot wait on the forthcoming recommendations from the other effort;

however, it is staff's intention to update the URA policies, with regard to the residential component, to be consistent with any new recommendations that emerge.

FINANCIAL / ECONOMIC IMPACTS

In the event that residential or business occupants are displaced because of a URA-assisted project, the URA will be responsible for making associated payments using tax increment revenue to that individual or entity. While the Policy provides caps for certain types of payments, the total amount provided for each displaced individual/entity will vary based on needs. Those needs will be thoroughly assessed by the URA to ensure payments are for necessary and reasonable costs that result directly from the displacement. In terms of acquiring real property, the Policy is clear that the value paid by the URA will be based upon an appraisal and an amount reasonably believed to be just compensation."

Josh Birks, Economic Health Director, stated this is an initial policy, likely to be revisited over the next several years, related to relocation and land acquisition. This policy is only applicable to URA actions and addresses both residential and commercial relocations.

Megan Bolin, Economic Health Analyst, stated this item primarily takes direction from federal regulations outlined in the Uniform Relocation Act. She detailed the relocation assistance and appeal aspects of the policy. Relocation payments are to be paid on a reimbursement basis.

Eric Sutherland, 3520 Golden Curreant, stated the regulations protecting those who are forced to be relocated should be made legally binding and discussed eminent domain.

Boardmember Kottwitz asked if there is a plan for eminent domain issues to come before the Board for a vote. Deputy City Attorney Daggett replied the Midtown Urban Renewal Plan, for example, has specific language for the use of eminent domain by the URA and discusses a decision by the Authority which has been interpreted to mean a decision by the Board to authorize the use of eminent domain.

Boardmember Kottwitz asked how eminent domain would be governed. Deputy City Attorney Daggett replied the use of eminent domain by the URA would be governed by Title 38 of the Colorado Revised Statutes, which is the same set of regulations used when the City applies eminent domain.

Boardmember Kottwitz expressed concern that eminent domain could be used too easily and items involving it could be overlooked. City Attorney Roy replied there will be an opportunity for those affected by an eminent domain to appear before the Board and eminent domain will only be used by a deliberate decision of the majority of the Board.

Boardmember Manvel asked if this issue addresses properties only where the City is the agency or if it also addresses businesses within the URA. Bolin replied these policies address any URA project.

Deputy City Attorney Daggett clarified that relocation assistance applies only to projects receiving URA funding.

Vice-President Ohlson asked about resolution versus ordinance. Deputy City Attorney Daggett replied the URA does not have a code; therefore, all adopted resolutions and these policies form the operating rules for the URA.

Vice-President Ohlson asked if staff is aware of the potential upcoming use of eminent domain in this urban renewal area. City Manager Atteberry replied in the affirmative.

Boardmember Manvel made a motion, seconded by Boardmember Poppaw, to adopt Resolution No. 046.

Boardmember Manvel questioned how much flexibility this Resolution is giving the Board to assign a particular amount for relocation assistance and asked if relocation assistance is always appropriate. Bolin replied a needs assessment of those to be displaced would occur in each instance. There is some flexibility in the amount of assistance and the appeal process would allow individuals to appeal. The relocation assistance funds will come from the developer.

Boardmember Kottwitz stated she does not believe the City has misused eminent domain, but stated she does not believe it should be part of the policies at all.

President Weitkunat stated addressing this issue makes it available for changes in the future.

The vote on the motion was as follows: Yeas: Weitkunat, Manvel, Ohlson and Poppaw. Nays: Kottwitz.

THE MOTION CARRIED.

Other Business

President Weitkunat suggested a URA manual be developed to address all of the bylaws, policies and procedures as appropriate.

Hendee clarified the affordable housing issue will be coming before Council on March 5, 2013.

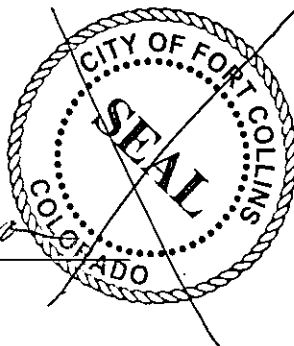
Adjournment


The meeting adjourned at 7:53 p.m.

ATTEST:



City Clerk





Mayor

