

**HOUSING AND REDEVELOPMENT AUTHORITY
CITY OF RAMSEY
ANOKA COUNTY
STATE OF MINNESOTA**

The Housing and Redevelopment Authority conducted a regular meeting on Tuesday, February 12, 2013, at the Ramsey Municipal Center, 7550 Sunwood Drive NW, Ramsey, Minnesota.

Members Present: Vice Chairperson John LeTourneau
Commissioner David Elvig
Commissioner Mark Kuzma
Commissioner Chris Riley
Commissioner Sarah Strommen
Commissioner Jason Tossey

Members Absent: Chairperson Randy Backous

Also Present: HRA Executive Director Kurtis G. Ulrich
Deputy Executive Director Timothy Gladhill
Assistant Planner/Environmental Coordinator Chris Anderson
Management Analyst Patrick Brama
City Attorney William Goodrich
Development Manager Darren Lazan
Interim Engineer Shane Nelson

1. CALL TO ORDER

Vice Chairperson LeTourneau called the regular meeting of the Housing and Redevelopment Authority to order at 9:38 p.m.

2. CITIZEN INPUT

There was none.

3. APPROVAL OF AGENDA

Motion by Commissioner Tossey, seconded by Commissioner Kuzma, to approve the agenda as submitted.

Motion carried. Voting Yes: Vice Chairperson LeTourneau, Commissioners Tossey, Kuzma, Elvig, Riley, and Strommen. Voting No: None. Absent: Chairperson Backous.

4. APPROVAL OF MINUTES

Motion by Commissioner Kuzma, seconded by Commissioner Tossey, to approve the following minutes:

Regular Meeting Minutes dated January 22, 2013

Motion carried. Voting Yes: Vice Chairperson LeTourneau, Commissioners Kuzma, Tossey, Elvig, Riley, and Strommen. Voting No: None. Absent: Chairperson Backous.

5. HRA BUSINESS

5.01: Landform Professional Services, LLC's Contract with Ramsey HRA

HRA Executive Director Ulrich reviewed the staff report that addressed recently raised questions of legality relating to the contract with Landform Professional Services. He recommended action be rescheduled to February 26, 2013, to allow adequate time for the HRA to review the document from the HRA Attorney that had been recently received and distributed under Attorney Client Privilege as a confidential document. HRA Executive Director Ulrich noted Development Manager Lazan may have additional comments. He stated questions have also been raised whether the HRA Attorney is too close to the issue to render an opinion so staff obtained a quote for an outside document review of \$2,000. This would provide another check since this could be costly issue. HRA Executive Director Ulrich explained that at this point, the recommendation of staff is to continue to pursue and work closely with Landform for the balance of the contract unless the Council takes additional action to direct staff to do something else or enter into negotiations to renew the contract. Otherwise, it will expire March 31, 2013, and staff would then enter into discussion with Landform to transfer documents and possibly hourly services after the contract expires to wrap up loose ends.

HRA Executive Director Ulrich read the following e-mail received from Chairperson Backous into the record:

*From: Randy Backous <randybackous@gmail.com<mailto:randybackous@gmail.com>>
Date: February 12, 2013, 8:37:13 PM CST
To: Kurt Ulrich <kulrich@ci.ramsey.mn.us<mailto:kulrich@ci.ramsey.mn.us>>,
John LeTourneau jletourneau@co2partners.com<mailto:jletourneau@co2partners.com>
Cc: david elvig <thebigd.1@hotmail.com<mailto:thebigd.1@hotmail.com>>
Subject: Landform Contract Renewal*

Would one of you please read this into the HRA minutes tonight. Thank you.

Dear Ramsey HRA Commissioners and Citizens:

I am not able to attend tonight due to illness but I wanted to weigh in on the discussion regarding the Landform contract renewal.

I applaud prior council for purchasing the former Town Center land for a fraction of its value so the city could clean up the issues, repackage it and rebrand it. I also applaud Landform for doing a fine job of cleaning up those complex issues.

However, I have never been an advocate for actively playing the role of developer. That is not the role of a city. It creates - at the very least - the perception of an unfair playing field since the city has the ability to make the rules and enforce the rules while - at the same time - essentially competing with the private sector. In my opinion, The COR will never be an attractive option for any significant private development project as long as these conditions exist. This has been proven by Landform's inability to deliver significant projects driven purely with private sector funding.

Landform has cleaned up the issues and I thank them. The contract should not be renewed and we should not be developers. It is time to move this land back into the hands of the free market and let the free market do what it does best.

*Randy Backous
Ramsey Councilmember At-Large*

Commissioner Tossey stated he would support consideration under two separate motions: one to let the Landform contract expire and not seek renegotiation; and, whether to seek outside counsel.

Vice Chairperson LeTourneau requested consensus agreement on those two issues without motions taking place.

HRA Executive Director Ulrich supported that suggestion and noted staff recommended this matter be continued to February 26, 2013, to allow time for review of documentation from the HRA Attorney.

Commissioner Tossey stated he does not support going to outside counsel because the previous HRA had entered into a contract with Landform and whether you supported the terms or not, it is a contract and the City needs to fulfill its end of the contract. He stated he is concerned with the message it would send to the market should the City not fulfill its end of the contract.

HRA Executive Director Ulrich advised these two issues can be considered under two separate motions and if no action on the contract is taken, it will expire on March 31, 2013.

Upon a poll of the Commissioners, Vice Chairperson LeTourneau recognized the unanimous consensus of the HRA to allow the Landform contract to expire on March 31, 2013, and to authorize staff to negotiate terms for finalizing open items that remain to be addressed.

Vice Chairperson LeTourneau asked for discussion on whether to seek an outside legal opinion.

Commissioner Elvig stated he does not see it in terms of fulfilling a contract but whether the contract contained anomalies.

Commissioner Tossey stated contracts should not be political based on the membership of the HRA. He stated whether you think Landform brought value to Ramsey or not is up to debate but

the HRA's word should be its word and it should stand by its contract. Commissioner Tossey stated he did not support seeking an outside opinion.

Commissioner Riley agreed with the comments of Chairperson Backous that had been read into the record that the HRA should not be in the land development business. He also agreed the City needed to perform on its contracts and the issue of politics should be taken out; however, in this case the issue is a potentially illegal contract.

Commissioner Strommen stated she thinks it is worth seeking an outside opinion and it is her intent to honor the contract unless it contains a fatal flaw. She suggested the HRA proceed carefully, seek any and all legal advice available, and take that information under advisement. Commissioner Strommen agreed it should not be a political issue and the HRA should proceed based on facts.

Commissioner Tossey stated an attorney wrote something anonymously but did not put his/her name on it so he does not know who wrote it. He wants the era of the HRA being a master developer to be at an end and for people to know that Ramsey will abide by its word.

Commissioner Kuzma stated questions were raised about the legality of the contract so he supports obtaining another opinion.

Rob Shainess, Capstone Law, counsel for Landform, asked that his letter dated January 31, 2013, be entered into the record. He stated he understands this issue will be continued but he wanted to make some points. He indicated Landform does not object to the HRA obtaining outside counsel but he has reservations in how the contract will be examined because the law at issue is one that says you cannot be compensated if you do not have a license for certain conduct so the attorney would need to know the precise tasks Landform performed. Mr. Shainess noted the contract does not provide that information so he questions whether for \$2,000, it is a review of the contract that has already been reviewed by HRA counsel, who also drafted the contract. He explained that in the lifecycle, this review usually occurs at the front end and that was the case because the contract contained rigorous language indicating Landform is not a broker and will not be compensated for any services that require such a license. That issue was vetted. Mr. Shainess stated he is confident an objective attorney will come to the same conclusions he reached in his January 31, 2013, letter. He asked the HRA whether an outside opinion would cause them to make a different decision, questioning the prudent course when the contract ends in March.

Mr. Shainess noted the incentive compensation portion of the contract is at issue and the focus. He stated Landform had been more than happy to charge for services on a monthly rate but the alternate option allowed the HRA to finance Landform's work over time. The incentive compensation was put off until the HRA received revenue through development. That was the financing mechanism used and if the HRA said it was not now allowed, then it could no longer offer incentive pay. The only option would then be flat fees or monthly payment. Mr. Shainess questioned whether the HRA wants to take that option off the table.

Mr. Shainess opined the other thing that will happen, as Commissioner Tossey mentioned, is a chilling effect with HRA contracts. He was challenged by the notion that getting an anonymous opinion results in then finding there is an issue of legality, especially when the HRA Attorney prepared the contract. He noted those types of concerns usually do not come to your awareness through an anonymous memorandum. Mr. Shainess felt, however, there was no great consequence for going down this road since the HRA counsel drafted the contract, indicated it is legal, and it had been extensively negotiated over several months.

Vice Chairperson LeTourneau thanked Mr. Shainess for his comments.

Commissioner Strommen asked for clarification whether the original professional contract was drafted with the assistance of the City Attorney, and not the HRA Attorney.

Mr. Shainess corrected his earlier comment and agreed the City Attorney had been involved.

City Attorney Goodrich advised that with the original contract in 2010, he had participated with the first 15-20 articles of contract language. Exhibit A was originally presented by Landform and then negotiated by the Development Team (HRA Executive Director Ulrich and HRA Assistant Executive Director Nelson). In 2011, there was an amendment to Exhibit A language relating to incentive payments. City Attorney Goodrich stated he was not sure about HRA Attorney Bray's involvement, thinking it may have been minimal.

Vice Chairperson LeTourneau stated the charge of the HRA tonight was to come to consensus whether to seek outside counsel.

Motion by Commissioner Kuzma, seconded by Commissioner Strommen, to direct staff to obtain an outside legal review of the current issue in an amount not to exceed \$2,000.

Further discussion: Commissioner Riley stated the HRA needs to be sure the right questions are asked of outside counsel. Commissioner Tossey stated due diligence was already done with the contract so he will not vote to waste this money and will support fulfilling the contract. He asked how this expenditure will be funded. HRA Executive Director Ulrich stated it will be paid from HRA Professional Services. Commissioner Riley stated there is need to review the behavior and not just the contract. Commissioner Strommen agreed the intent of an outside opinion is to "review the current issue," which would be beyond the contract. She asked that staff return if additional funding is needed for that level of review. Commissioner Elvig stated the issue is whether the HRA stepped into something that is illegal, not an issue of whether the HRA will honor its contract. Commissioner Tossey pointed out that previously, Commissioner Elvig supported increasing the incentive fee compensation and had not voted to support the 2011 contract. Commissioner Elvig stated he had not supported either Landform contract. Vice Chairperson LeTourneau limited discussion and called the question.

Motion carried. Voting Yes: Vice Chairperson LeTourneau, Commissioners Kuzma, Strommen, Elvig, and Riley. Voting No: Commissioner Tossey. Absent: Chairperson Backous.

6. DEVELOPMENT TEAM REPORT

HRA Executive Director Ulrich announced upcoming meetings and a potential project that was presented during tonight's Work Session.

Development Manager Lazan reported on development activity.

7. COMMISSIONER INPUT

None.

8. ADJOURNMENT

Motion by Commissioner Tossey, seconded by Commissioner Riley, to adjourn the regular meeting of the Housing and Redevelopment Authority.

Motion carried.

The regular meeting of the Housing and Redevelopment Authority adjourned at 10:15 p.m.

Respectfully submitted,

Kurtis G. Ulrich
HRA Executive Director

ATTEST:

Jo Ann M. Thieling
City Clerk

Drafted by Carla Wirth
TimeSaver Off Site Secretarial, Inc.