

COMMUNITY REDEVELOPMENT AGENCY BOARD

SPECIAL MEETING

July 29, 2019

MINUTES

Present:

Arlene Schwartz
Antonio V. Arserio
Joanne Simone
Anthony Caggiano, Vice Chair
Tommy Ruzzano, Chair

Also Present:

Jeffrey L. Oris, Executive Director
David Tolces, Goren, Cherof, Doody & Ezrol, P.A.
Robert Massarelli, Assistant Executive Director

The special meeting of the Margate Community Redevelopment Agency having been properly noticed was called to order at 6:04 p.m., on Monday, July 29, 2019, by Chair Tommy Ruzzano. Roll call was taken. There was a moment of silence followed by the Pledge of Allegiance.

1A. **RESOLUTION 605:** APPROVING THE AMENDED GUIDELINES FOR THE NEW BUSINESS INCENTIVE GRANT PROGRAM

After David Tolces, Board Attorney, read the item title, Mr. Caggiano made the following motion, seconded by Ms. Schwartz:

MOTION: SO MOVE TO APPROVE

Chair Ruzzano asked several questions about reimbursable eligible expenses which included whether it could be used for land acquisition, and water, sewer and drainage. Jeffrey Oris, Executive Director, responded that the grant should be reimbursement based because an approved agreement could be used to obtain financing. Attorney Tolces clarified that the grant was paid as a reimbursement but it could not be used to fund the purchase in advance. He said it was his understanding that any costs associated with water, sewer and drainage were not eligible for reimbursement.

Chair Ruzzano asked what expenses were eligible for reimbursement. Attorney Tolces said the discussion at the previous MCRA meeting was for the eligible expenses to be the value of the cost of construction and he referenced page 3 and read the paragraph titled, "Eligible Expenses." He said it excluded those costs that were identified in the paragraph underneath it. Mr. Oris advised that any agreement would be much more specific about what costs the MCRA would reimburse.

Chair Ruzzano asked that the reference to 'MCRA Staff' be removed from Page 4, item C, under Ineligible Businesses as well under bullet 5 on the next page [under Funding Guidelines]. Under section 3 Procedures, he asked that the processing time for a new application be reduced from between 60 and 90 days down to 10 and 20 days. After some back and forth discussion, Mr. Oris suggested allowing up to 30 days assuming the application was complete.

Under Eligible Businesses, item b., Mr. Arserio referenced that the business must be properly licensed at the time of grant award, and he suggested that there should be language included that required they maintain their license status during the five year grant period. Attorney Tolces said the security agreement and note would typically include such language but they could include it in the section noted as well.

Under item 2, Completing your New Business Incentive Grant Project, Chair Ruzzano asked what would happen if the business did not meet the 180 day stipulations. Mr. Oris said the business would lose the grant or it would come back to the Board to request an extension. He said it was based on what should be a reasonable amount of time to get approvals but it was difficult to know how long the approval process could take. He said the guidelines were to keep the process moving but there needed to be some flexibility on extensions as long as it was moving along; however, if the process was not moving, the Board could end it.

Under Reimbursement, item 3A, Chair Ruzzano asked what would happen if there were a change order. A short discussion ensued and Attorney Tolces explained that the concept was that if there were increased costs after the

grant agreement was approved, the application would need to be amended and it would need to come back to the Board to decide if it wanted to pay for the additional costs.

On the Application, Chair Ruzzano asked if it were normal to request a credit report and Mr. Oris said that it was a way to determine if the applicant had the wherewithal to do the project.

Chair Ruzzano questioned the reason for requiring a minimum of three bid quotes. Mr. Oris said three quotes were needed to ensure that the price was valid.

Chair Ruzzano asked if a business could apply for the grant if they had already applied for a permit. Mr. Oris said he was not sure if it was in the guidelines, but he asked why the MCRA would give a business an incentive if they had already made the decision to come to Margate.

Chair Ruzzano gave a scenario where there was a business that wanted to come to Margate and they bought the property and put up a building, and then something unforeseen came up with the City. He asked the Board whether they would be entitled to the grant. Ms. Schwartz said they would not be eligible because they had already started the project. Mr. Oris said they would not be eligible because they had already done their due diligence and made the decision to come to Margate, and the fact that they had additional expenses would not be a reason to incentivize them.

Ms. Schwartz read a section from the Funding Guidelines and commented that Culver's would be eligible since they had not done any work.

Under Section 7, Program Disclaimer Acknowledgement, paragraph 3, Chair Ruzzano asked that the words "administrative or" be removed so that the sentence would read, "I understand that any proposed improvement project as represented in this application must receive MCRA Board approval before any construction commences in order to be eligible for reimbursement."

Ms. Schwartz asked if the applicant would go through the Development Review Committee (DRC) process. Mr. Oris responded that it would and any substantial changes would need to come back to the Board. He said wording could be put in the guidelines to allow for no-cost adjustments.

Attorney Tolces clarified the wording in paragraph 4, Funding Guidelines, should read, "The Applicant shall not undertake any work intended to be reimbursed through the Program prior to the execution of the grant agreement," instead of the execution of the security agreement and promissory note.

Ms. Simone said she preferred keeping the MCRA staff references in the guidelines because the more people who reviewed the information, the better the chance of catching something and it would become a shared responsibility. Mr. Oris clarified that the MCRA staff would still review everything; it just would not have the final authority as that resided with the Board. MCRA staff could make recommendations, not give approvals. He said it would apply to eligible businesses as well. He said staff would work on a list of those businesses that the MCRA absolutely would not fund.

Attorney Tolces said he would work with MCRA staff to ensure that the changes that were discussed that evening would be incorporated into the final guidelines.

Steve Wherry, 200 E. Broward Boulevard, commented that until such time as a Certificate of Occupancy (CO) was issued and the building was ready to go, it was at the discretion of the business as to whether it was open and operating. He used Culver's as an example to explain the process that a business went through before they became a business, and how until they became a business, they were considered the potential of a business. During the process, he said the potential business looked at a variety of sources of funding, engaged contractors, and applied for a building permit, but they would still be considered a potential business. He said until the potential business received a CO, it should be considered for an incentive because there were many unforeseen things that could happen during that time. He said an incentive made a more favorable environment for the business to thrive. He said the timing of appropriate expenses should not matter; rather, the two things that should matter were whether the grant was approved by the MCRA, and whether it occurred prior to CO.

Mr. Wherry made the following comments regarding the guidelines:

- Under Eligible Businesses, section B, it was not possible for a commercial business to have all their necessary licenses at the time of grant award. He said it should be at the time of grant disbursement.

Mr. Oris clarified that the grant award was when the Board agreed to the grant. Attorney Tolces said there could be language differentiating the timing of State licenses/registrations, health department approvals, and the Local Business Tax Receipt.

Ms. Schwartz asked Mr. Wherry to clarify whether work that was in process prior to the grant award should be considered. Mr. Wherry said if the expenses were part of the application, it would be up to the Board to decide on the particulars of an application. He said the guidelines should not limit the Board's ability to consider previous expenses. Attorney Tolces said that the applicant could come in and identify the costs that they want to have reimbursed in their application and that information would come before the Board. He explained the process after the grant was approved including the security agreement. He said if there were changes after the grant agreement was approved, the applicant could come back to the Board to request an amendment to the amount of reimbursable expenses.

Mr. Oris said the language in the guidelines would be amended to indicate that the business must be properly registered as a corporation with the State, and be able to provide proof of the appropriate licenses prior to the disbursement of the grant award.

- Under Eligible Expenses, paragraph one, Mr. Wherry said requiring three bids was reasonable for small projects, but only two quotes were required under the commercial lending standard. He said it cost a contractor \$10,000-\$15,000 for a proper quote and no contractor would do it unless they had a reasonable chance of being awarded the job. He suggested adjusting the language when commercial lending was involved for a lower threshold for the number of bids, i.e., two, or on projects of a certain size.

Mr. Wherry said, as a point of information, it would be unlikely to obtain a third quote on the Culver's project. Ms. Schwartz asked the size of the project. Mr. Wherry said the budget was \$6.5 million, including legal fees. Mr. Oris recommended getting two quotes and basing the grant on the lower one.

- Under Ineligible Costs, Mr. Wherry said he recalled from the last meeting that there was a consensus to include land costs but the guidelines showed them as being excluded. He said contractor overhead should be considered eligible, but he agreed that profit should be ineligible. He said public improvement costs, i.e., water, sewer, and drainage, were major land development costs for site development that should not be excluded.

Attorney Tolces said that the discussion at the previous meeting was that the reimbursable expenses would be the value of the construction as submitted on the building permit application. Mr. Wherry said he recalled the conversation was about including land costs as well as lease expenses for non-property owners. Mr. Wherry suggested land costs, contractor overhead, and public improvement costs be included as potentially reimbursable costs, with the Board making the final decision. Chair Ruzzano said he did not have an issue with the land costs or the public improvement costs. Attorney Tolces said it was a policy decision as to whether the Board wished to reimburse the cost of the land or only for the improvements made on land. A short discussion ensued about property that was purchased and later subdivided. Mr. Wherry said funding was fully discretionary on the part of the MCRA, and if someone misrepresented their plans, they would be required to repay the MCRA via the security agreement and promissory note they had signed.

Mr. Oris said he did not advise including the land costs. He asked what the MCRA was buying. He said the land already existed; the MCRA was buying a new building that would add value to the City and the MCRA would have something to show. He said if they chose to include land, they might want to consider including language about subdivision of the land over a period of time beyond five years.

Ms. Schwartz asked Mr. Oris about public improvement costs. Mr. Oris said he would fine paying 100 percent of public improvements that were in the public right-of-way because the MCRA would still own it when the incentivized party went away. Mr. Wherry commented that not all public improvement costs such as water, sewer, and drainage were in the public right-of-way; rather, there could be costs that were tied to the site development that the owner had to bear to get their business open. He commented about differentiating hard and soft costs, noting that it was more difficult for MCRA staff to track soft costs than hard costs. Attorney Tolces said the current language could be clarified for the reimbursement of public improvements (water, sewer and drainage) that would be given to the City when completed, but that would be a policy decision. Chair Ruzzano asked the Board if they were in agreement with paying for public improvements and he, Mr. Caggiano and Ms. Schwartz agreed. Mr. Oris asked for clarification on whether it was for public improvements in the public right-of-way or public improvements on-site. Mr. Ruzzano said it should be for

those on-site. Attorney Tolces said that typically the public improvements for water and sewer were from the meter to the mainline and anything from the meter to the building were private. Mr. Oris said his view was that the public improvement was for those things the MCRA/City owned which would be from the meter to the street. He said there was a distinction between public and private ownership but it would be a policy decision for the Board whether they wanted to include it in the program. Chair Ruzzano said he was in favor of including it all, and Mr. Caggiano and Mr. Arserio also agreed.

Ms. Schwartz asked whether such improvements needed to be done after the grant approval. Attorney Tolces said all work should be done after the approval of the grant agreement. Mr. Wherry commented that he had seen grant agreements that covered some expenses that occurred prior to grant approval and it should be something for the Board to consider. Mr. Oris disagreed with allowing expenses that occurred before the grant was approved. After a short back and forth discussion, Chair Ruzzano said the restriction would stay in the guidelines and the Board could decide when an application came before them.

- Mr. Wherry referenced Funding Guidelines, paragraph 4, and the requirement that applicants not undertake any work prior to grant award. He said his current client hoped to put in a building permit application and to start the process while working through the lending, closing, permitting and approval processes. His interpretation was that his client would not be able to start site preparation work such as grubbing. He commented how this requirement really restricted them and he asked if there could be any flexibility.

Attorney Tolces said he agreed with Mr. Oris that the MCRA could not pay for work that was done prior.

Discussion ensued about expediting the application and review process for Culver's. Mr. Oris suggested the possibility of a pre-review of their permit application, and Mr. Wherry said they had already started the pre-review process, but the building permit had not been paid for.

Attorney Tolces recommended the Board amend their motion to allow for the changes they agreed to.

Chair Ruzzano asked whether a multi-tenant building would be allowed under the grant. Mr. Oris said there would be one grant for a single business but it could be divided. He said it did not cover shopping centers. He said he planned to review the guidelines further and bring back some other recommendations to them.

Mr. Caggiano amended his motion to include the changes discussed, and Ms. Schwartz seconded it:

MOTION: SO MOVE TO APPROVE WITH SUGGESTED CHANGES AS DISCUSSED

ROLL CALL: Mr. Arserio, Yes; Ms. Schwartz, Yes; Ms. Simone, Yes; Mr. Caggiano, Yes; Mr. Ruzzano, Yes. The motion passed 5-0.

5. BOARD MEMBER COMMENTS

Mr. Caggiano: Invited everyone to come out to National Night Out on August 6, 2019.

There being no additional business, the meeting adjourned at 7:31 p.m.

Respectfully submitted,

Transcribed by Rita Rodi, CRA Coordinator

Tommy Ruzzano, Chair