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Regular Meeting of the Community Development Board
February 6, 2018

Board Members Present: Jim Corson, Rebecca Noell, Joe Stockburger, Patt Leikam, Bret Rutherford, Katrina Kruger, Laura Gittings-Carlson, Kathleen Candelaria

Board Members Excused: Becky Bey

Staff Present: Brenda Beckett, Dina Harmon, Tam Rodier, Sandra Lopez, Wyeth Friday

Guests: Councilmember Denise Joy, Nicole Cromwell, VISTAs Jacob Cote, Claire Yang, and Ian Williams

Welcome / Introductions / Announcements: The Community Development Board met at its regular monthly meeting located in the 6th Floor Conference Room, Miller Building, 2825 3rd Avenue North, Billings, Montana. Board Vice Chair Jim Corson, called the meeting to order at 3:01pm.

Public Comment: No public comment was offered.

Meeting Minutes: Board member Katrina Kruger moved to approve the January meeting minutes and Patt Leikam seconded the motion. A vote was taken and the minutes were approved unanimously.

Urban Issues Working Group: Zoning Coordinator Nicole Cromwell presented on the Urban Issues Working Group which was developed after the City adopted its latest Growth Policy in 2016. The next working group meeting will be on February 22nd and will discuss attending the next CD Board meeting in March. *(See attached)*

Staff Reports:

- **Foreclosure Acquisition / Housing Rehabilitation Program:** Staff reported that construction on 244 Terry is complete and awaiting completion of the punch list and air-sampling results. It has been appraised and two public notices announcing the sale of the property have been published. The Plainview property is currently undergoing a structural engineering report. One housing rehabilitation project is underway with construction work and funding is available to assist up to four more homeowners. Two new Manufactured Home Repair applications were received and funding is available to assist up to two homeowners.
- **VISTA:** The Billings Metro VISTA Project held a successful statewide Pre-Service Orientation at the end January. The candidates were sworn in by the Governor with the presence of Mayor Cole. In the coming month, many VISTAs will be gathering to discuss collaboration at a statewide Fair Housing Conference.
- **First Time Home Buyer Program:** Staff reported seven houses would close in January. Home funds have been expended, but CDBG and City Council funding remains to assist approximately 16 households.

Applications Review: Staff reviewed the combined City applications for CDBG & HOME funding including: administration, First Time Home Buyer, Home Repair, foreclosure, and VISTA programs.

CD Board Member Outreach Visits: Staff discussed making a presentation to the leadership of all neighborhood Task Forces during a training in February with the possibility of further presentations in each respective neighborhood pending further interest.

Project Activity Summary, Preliminary Revenues: Staff reported on each project activity and offered preliminary revenues. *(See attached)*

Neighborhood Concerns and Happenings: No new neighborhood concerns or happenings were offered.

Next Meeting: Jim Corson adjourned the meeting and set the next for March 6th, 2018.

A Brief History of American Zoning:

The rise and repercussions of conventional zoning

In 1912 tragedy struck New York City. The headquarters of the Equitable Life Assurance Society of the United States – an insurance company – burned down on a day so cold, water from the fire trucks froze before it could dowse the flames. The entire structure was lost.

Needing a new home, the Equitable's principals made plans to construct a new, 42-story building near the burgeoning Financial District of Lower Manhattan. When completed in 1915, the new building was massive, containing more square footage of office space than any other building in the world. Its presence was unmistakable, and for the people living in adjacent buildings, it was unmistakable for all the wrong reasons.

The new Equitable Building cast a perpetual seven-acre shadow, leaving some tenants in the Singer and City Investing Buildings in permanent shade. At least three other buildings no taller than 21 stories were robbed of sunlight. Not a very equitable situation, people reasoned; and what might New York turn into if more buildings of the Equitable's height and bulk were built?

At the same time, in other parts of town, residents were dealing with another set of land use woes. Warehouses and factories were encroaching into residential areas and hemming ever closer to some of the more fashionable districts in town like the posh 5th Avenue. The impacts of these industrial establishments were noticed far beyond property boundaries as the noise, smells, sights and sounds ignored borders. Neighbors began to express concerns that the value of their homes and residences would decline because of the closeness of these noxious uses.

The City's officials realized something had to be done. And zoning was the answer.

While other American cities had experimented with separating incompatible uses, such as heavy industry from residential neighborhoods, New York became the first to adopt a comprehensive zoning ordinance in 1916.

Topping out at a whopping 12 pages, the ordinance dealt with the issue presented by the Equitable by requiring new skyscrapers to periodically step back the width and bulk of the building as it rises into the sky. As a result, light and air were better able to penetrate down to ground level. It addressed the issue of incompatible uses by establishing three districts – or zones – wherein certain uses were allowed and others prohibited.

Unknowingly, New York had effectively created the blueprint for early American zoning laws, and many municipalities throughout the States adopted zoning similar to New York's in the following years. In 1924, on the direction of then Secretary of Commerce Herbert Hoover, the first unified zoning guidelines were published, laying the basic foundation for zoning regulations. Today, Houston, Texas remains the last large American city without a comprehensive zoning ordinance.

Over time, the land use and development issues zoning ordinances address have expanded far beyond those originally recognized by New York. Many of today's zoning codes – often referred to as "conventional" zoning – share a regulatory system that essentially mandates the creation of low-density, auto-dependent suburban neighborhoods. These regulatory elements and their affects can include:

- Large lot sizes: Requiring new lots to have a minimum square footage, prohibiting creation of smaller lots that would accommodate a wider variety of building types.
- Minimum house sizes: Requiring new houses to contain a minimum square footage, prohibiting creation of smaller homes.
- Highly prescriptive use separation: Requiring that a highly defined and specific set of land uses be segregated, prohibiting even a basic mix of uses like a corner store in a residential neighborhood.
- Deep setbacks: Requiring new structures to be set back a minimum number of feet from streets or sidewalks, prohibiting new structures from framing the public space.
- Minimum parking requirements: Requiring new structures to accommodate on-site parking, challenging developers ability to effectively utilize site space.
- Building design standards: Requiring certain architectural elements to be included in new buildings. Design standards have received relatively more attention in conventional zoning codes than other elements, and in some cases are quite good. Poorly drafted design standards can result in unattractive building facades and incongruous store fronts.

While alternatives to conventional zoning rules have emerged, it remains the prevailing form of land use and development control in many modern cities. Predictably, application of conventional zoning continues the prevailing pattern of suburban development. It hinders a developer's ability to bring the variety of products to the market that an increasingly diverse market desires.

:: The market's gatekeeper ::

In a 2007 article published in the University of Pittsburgh Law Review, Eliza Hall makes one of the more concise arguments identifying the real-world impacts of conventional zoning:

> "[Conventional zoning] adversely impacts the economy in several ways: by distorting the real estate market; imposing massive infrastructure costs and associated tax increases; increasing the cost of housing and transportation; and reducing the ability of lower-income people—which includes, of course, not only those we normally think of as 'the poor' but also many artists and budding entrepreneurs—to find work or create self-employment. [Conventional] zoning distorts the real estate market in so many ways that it manages to simultaneously conflict with conservative, libertarian, and liberal values."

We agree with Hall's concerns. Given the scope of this study, however, we will shine a brighter light on just one of Hall's remarks: That conventional zoning distorts the real estate market.

Highly prescriptive conventional zoning ordinances act as a market gatekeeper. Because they forbid sensibly combining non-conflicting, and indeed, harmonious uses – similar to the much more organic way towns were built before these zoning ordinances – they have all but dictated terms to the market: "Here ye shall build your homes, here be your business, and here be your offices, and what they shall look like". Through the separation of land uses and highly prescriptive design standards, conventional zoning plays a heavy hand in shaping the market and therefore, what gets built and where.

Conventional zoning rules are increasingly misaligned with what consumers and business owners want. Today, most Americans prefer to be able to walk in their neighborhoods and communities, and to live near stores, restaurants and entertainment. People and businesses are drawn to places that have a mix of businesses and residences, much like traditional downtowns, but the ability of the private sector to create these places, or to reinvest in those that exist, is made difficult due to the highly prescriptive nature of conventional zoning. Zoning in such a way is market inflexible: It does not respond to changing demographics and consumer preferences.

Zoning codes are particularly inflexible when it comes to infill and redevelopment. They place the greatest burden on those projects that many communities are explicitly seeking to revitalize: downtowns, commercial districts and residential cores. Conventional zoning is often built around "suburban dimensions" – those that require large setbacks, minimum lot sizes, large landscaped areas – that work for suburban development on open land. But when a developer is required to work with similar standards in the smaller spaces and greater complexity associated with infill and redevelopment, they are challenged to succeed.

It makes sense, then, that developers, banks, and their financial backers often seek clear ground, outside city limits, for their investments. Opening a project in a downtown area can be like opening a can of worms, and local zoning authorities are often just as perplexed by their own zoning codes as developers are.

Understanding the significance and influence conventional zoning has on land use and the real estate development market, it is hard to claim that the way towns are being shaped is purely a reflection of consumer choice. The land use patterns emerging after WWII by many – most – U.S. cities and towns and the options they afford to developers are not the result of free-market decision making.

The outcome of all this has been noted often: The mix of uses that makes neighborhoods and communities more convenient, walkable, and efficient has been zoned out of existence in nearly every city and town in all 50 states.

To zone, or not to zone, is not the question, as there are plainly areas where zoning proves its worth. There was a time when some of these prescriptions made sense – there are certainly social, public health and economic benefits to ensuring that a new factory isn't sited right next to a residential neighborhood. There are environmental benefits to preventing development that is in highly sensitive or hazardous areas. The problem is that, somewhere along the way, we went too far: we didn't just separate incompatible uses, we separated all uses, which placed different community needs apart from one another. Over time, more rules have been added and zoning has become increasingly complex and cumbersome, and the rules have resulted in communities built for cars, not people.

From Community Builders – a non-profit organization from Bozeman, MT

Project Re:Code

City of Billings & Yellowstone County

First major overhaul of city and county zoning regulations in 45 years

Project Re:Code is our first chance in nearly a half-century to adopt modern regulations that meet the communities' stated goals and aspirations. From downtown to the rims and from the Yellowstone River to the small farms and ranches surrounding Billings, life is moving and changing. The city and County have worked hard over the last few years to update the goals and objectives of its Growth Policy. Now it's time to give those new aspirations the right tools to achieve success.

The Yellowstone County Board of Planning recently created an ad hoc steering committee to oversee Project ReCode. With assistance from Planning staff, this steering committee will guide the overhaul of the existing zoning codes. The steering committee expects the process to take 2 years and will be meeting monthly to review drafts, listen to public comment and finalize sections of the new zoning codes. The final documents will be sent to the City Council and County Commissioners for approval.

This webpage is intended to be a place where you can find out current and timely information on the work of the steering committee, locate research and resource materials, and connect with committee members and staff working on Project ReCode.

http://ci.billings.mt.us/2138/Project-Re-Code

Project Re:Code

Mission Statement – To create a zoning code that allows for efficient and intelligent growth while meeting the goals of the community today and into tomorrow. As the Steering Committee, working groups, City & County staff review, revise and draft new zoning regulations, we will adhere to the following Guiding Principles:

- **CLARIFY AND SIMPLIFY** - All new regulations will be written in Plain English to maximize readers' ability to find what they need, understand what they find, and use what they find to meet their needs.
- **REGULATE WHAT MATTERS** - The regulations will have a clear alignment with community goals today while allowing for changing goals in the future..
- **PRESERVE AND PROTECT THE RIGHTS OF OWNERS AND RESIDENTS** - The regulations will recognize and incorporate clear and well defined processes that uphold property rights and access to housing choices.
- **PREVENT CONFLICTS** - The regulations will be internally consistent and will not create direct or un-reconcilable conflicts.
- **OPTIONS AND CONTEXT** - The regulations will provide a range of site development options with clear criteria and guidelines for allowing alternatives to future development as well as changes to existing neighborhoods as the community's goals change.
- **MAINTAIN WHAT WE CARE ABOUT** - The regulations will encourage stability of existing neighborhoods while allowing for changes over time.
- **FILL THE VOID** – The regulations will consider and include land uses and combinations of land uses that have been overlooked or not considered in the current code and methods for accommodating new use options.
- **PROSPERITY –** The regulations will serve to support the community's need and desire to remain regionally competitive in the recruitment of businesses, expansion of existing business, and private investment in the economy, all to promote job creation.

City of Billings

FY 2018-2019 Community Development Proposed Activities

Community Development Division *Staff: 4 Full Time Employees (FTEs), one ½ FTE vacancy VISTA Members: ≈31 to date Current Budget: $1.4 Million (CDBG, HOME, & VISTA)*								
Project Title	***CDBG Request***	***HOME Request***	***# Households***	***Description***	***HUD Eligibility***	***Benefit***	***HUD Outcome***	***HUD Objective***
CDBG / HOME Administration	$125,000 *or maximum allowed*	$30,000 *or maximum allowed*	-	20% of new CDBG allocation and program income received is to be allocated to CDBG Administration. 10% of the new HOME allocation and eligible program income is to be allocated to HOME Administration. General grant administration expenditures and salary and benefits to implement CDBG and HOME programs. Salaries, benefits, supplies, office space, and direct services to administer federal funding and programs.	-	-	-	-
Community Housing Development Organization	-	$45,000 *or required minimum*	2 as per $ allocation 0 in IDIS needs completed sale to count	HUD requires a minimum of 15% of the HOME annual allocation to be reserved for Community Housing Development Organizations (CHDOs). CHDO funds are made available by the City of Billings through an application and approval process. Funds are used to achieve affordable housing for lower income households in Billings. Funding for a specific project would be awarded following separate approval through the Community Development Board and City Council as a separate process.	LMH	LMH	2	2
Affordable Housing Development	-	$0		An allocation to support the development of an affordable housing project to support the CHDO required set-asides (see above). Funding for a specific project would be awarded following separate approval through the Community Development Board and City Council as a separate process.	LMH	LMH	2	2
First Time Home Buyer Loan Program	$100,000	$225,000	20 as per $ allocation 20 in IDIS	HOME and CDBG funding would be awarded on close-ready basis through the First Time Home Buyer (FTHB) program to provide down payment and closing costs assistance loans to low-income households who have not owned a home in at least three years to purchase their first home within city limits. Households with incomes in the 61% to 80% of the area median income will be prioritized for CDBG funding which requires the applicant to contribute a minimum of 50% of the required down payment to the acquisition. Households with an income below 60% of the area median income will be prioritized for HOME funds which require the applicant to contribute a minimum of $1,000 to the acquisition. Funds will be spent on loans for down payment and closing costs for approved low-income first time home buyers and administrative costs to administer the program, including staff salaries. Awards in this program are based on subsidy layering and underwriting review and range up to $15,000.	LMH	LMH	2	2
Housing Rehabilitation Loan Program	$100,000	-	4 as per $ allocation 3 in IDIS	Funding would be awarded on close-ready basis through the Housing Rehabilitation Loan Program to assist low-income homeowners make necessary repairs and/or improvements to their homes. Loans up to $25,000 are available to homeowner for repair / replacement of basic systems, structural improvements, correction of code violations, improvements to increase energy efficiency, accessibility, and general improvements. The *Deferred Loan* is available to low-income homeowners up to 80% of the area median income. The funds are provided to the homeowner in the form of a 0% interest, deferred loan due at property title transfer. Funds may be used for staff costs and salaries to implement the program.	LMH	LMH	1	2

Project Title	CDBG Request	HOME Request	# Households	Description	HUD Eligibility	Benefit	HUD Outcome	HUD Objective
Manufactured Home Repair Loan Program	$0 *Remaining funds from prior year, program income allocated based on need*	-	0/1 as per $ allocation 0 in IDIS	Funding would be awarded on close-ready basis through the Manufactured Home Repair Deferred Loan Program to provide deferred, 0% interest loans to qualified low-income home owners to make essential repairs to their eligible mobile / manufactured home. Additionally, funds may be used for staff costs and salaries to implement the program. Loans of up to $10,000 based on the age and the unsecured value of the home calculated on the Total Assessed Value of the property (according to Yellowstone County Property Tax Data), are available to homeowner for repair/replacement of basic systems, correction of hazardous conditions, repairs that eliminate exterior deterioration, improvements to increase energy efficiency, and improvements that increase accessibility for disabled individuals. Homes more than 20 years old at the time of application submittal would be ineligible for the program (manufacture date appearing on the title).	LMH	LMH	1	2
Foreclosure Acquisition / Rehabilitation Loan Program	$200,000	-	1/2 as per $ allocation 1 in IDIS	Funding will be allocated on a close-ready basis and utilized to purchases vacant and foreclosed properties for the purpose of rehabilitation and direct homeownership assistance to low-income qualified homebuyers as their primary residence. The purpose of the program is to stabilize neighborhoods, curtail the decline of house values of neighboring homes due to foreclosure, and to preserve decent affordable housing. Program funds will be spent on the acquisition of foreclosed properties, rehabilitation costs, holding costs (insurance, taxes, utilities, property maintenance, etc.), project management costs (appraisal, property inspections, lead-based paint testing / management, etc.), and marketing / resale costs (marketing, broker reserve, title / closing costs, etc.). Additionally, funds may be used for staff costs and salaries to implement the program. If given a choice between acquiring housing located in lower versus higher income neighborhoods, staff will prioritize acquisition of housing in lower income neighborhoods.	LMH	LMH	2	2
Billings Metro VISTA Project	$75,000	-	500 Individuals as per $ allocation 200 in IDIS	A maximum 15% new CDBG funding can be allocated to support the Billings Metro VISTA Project to place AmeriCorps VISTA members to reduce of risk of homelessness and create the tools people in poverty need to build sustainable futures. Priority focus areas include *education, financial literacy, housing, employment, food security, access to healthcare and services benefiting Veterans and military families.* Funds would be utilized to pay for cost share for the Community Development Division to further anti-poverty and homeless initiatives. Funds may also be utilized to pay for staff time, supplies and other administration items necessary to implement the program. This allocation fulfills the City's federal requirement to implement an anti-poverty strategy. The allocation also demonstrates the City's financial commitment to bringing an additional $500,000 in federal funds to the City to support VISTA members to work on area poverty issues. Host Sites support the budget with approximately $20,000 in administrative fees per year. Additionally, VISTA members fundraise for non-profit Host Site organizations, which has resulted in $3.2 million in funds raised to support over 40 local non-profit, poverty-impact services. VISTA members reside in Billings and spend living allowances locally. Since 2007, members have locally expended over $1.26 million for rent, groceries, fuel and other necessities.	LMH	LMC	1	2

HUD ELIGIBILITY

This project meets at least one of the HUD national objectives listed below (please indicate all applicable).

- **LMH:** Benefits low / moderate income individuals / households.
- **Blight**: Addresses the prevention or elimination of slums or blight.

BENEFIT

Indicate all statements that describe how this project / activity meet one or both of the national objectives above.

- **LMA: Low / Moderate Area Benefit -** The project serves only a limited area which is proven by census data or survey to be a low-income area. Applicants choosing this category must be able to prove their project / activity primarily benefits low / moderate income households.
- **LMC: Low / Moderate Limited Clientele -** The project benefits a specific group of people (rather than all areas in a particular area), at least 51% of whom are low / moderate income persons.
- **LMH: Low / Moderate Housing -** The project adds or improves permanent residential structures that will be / are occupied by low / moderate income households upon completion.

HUD OBJECTIVE

1. **Suitable Living Environment:** Activity benefits communities, families, or individuals by addressing issues in their living environment.
2. **Decent Affordable Housing:** Housing activity that meets individual or community needs. This objective should not be used for activities where housing is an element of a larger effort.
3. **Creating Economic Opportunity:** Activity relates to economic development, commercial revitalization, and job creation.

HUD OUTCOME

1. **Availability / Accessibility:** Activity makes services, infrastructure, or shelter available and accessible. Note: accessibility does not refer only to physical barriers.
2. **Affordability:** Activity provides affordability in a variety of ways including: creation / maintenance of affordable housing; infrastructure hookups; services such as transportation / daycare.
3. **Sustainability:** Activity provides livable / viable communities / neighborhoods by providing services or by removing slums / blight.

COMMUNITY DEVELOPMENT DIVISION

ESTIMATED Revenue FY 2018-2019

	CDBG	HOME	Totals
HUD Entitlement Grant	**$550,000**	**$275,000**	$825,000
20% Cap on CDBG / 10% on HOME Admin	**$110,000**	**$27,500**	$137,500
15% CDBG Public Service Cap	**$82,500**	-	$82,500
15% HOME CHDO Allocation Minimum	-	**$41,250**	$41,250
CDBG Available for Home Repair & Buyer	$357,500	-	$357,500
HOME Available for Home Buyer	-	$206,250	$206,250

Current Balances as of January 1, 2018

Accounts	New $	Balance	Program Balances / Notes
FY16-17 CDBG Housing Rehabilitation	$0	$141	$175,836
FY17-18 CDBG Housing Rehabilitation	$0	$175,695	
FY17-18 CDBG First Time Home Buyer	$0	$283,363	$575,547
FY16-17 HOME First Time Home Buyer	$212,535	$261,863	
FY17-18 Council Funds	$0	$30,321	
FY16-17 CDBG Foreclosure	$0	$65,384	$201,933
FY17-18 CDBG Foreclosure	$148,352	$136,549	
FY17-18 CDBG VISTA	$0	$33,623	Paying $17k / quarter
FY16-17 NeighborWorks Riverfront Pointe II	$0	$75,000	Construction Starting March 2018

$110,000 Committed to Households

$65,384 Committed to Contractor - Terry

Staff Recommendations as of February 6, 2018

Budget Estimates	CDBG	HOME	Totals
CDBG Administration	**$110,000**	-	$110,000
VISTA Administration (Public Service)	$75,000	-	$75,000
HOME Administration	-	**$27,500**	$27,500
Set-Aside for CHDOs	-	**$41,250**	$41,250
Affordable Housing Development	$0	$0	$0
First Time Home Buyer Program	$115,000	$206,250	$321,250
Housing Rehabilitation Loan Program	$50,000	-	$50,000
Manufactured Home Repair	$0	-	$0
Foreclosure Acquisition Rehab	$200,000	-	$200,000
Total Allocated	$550,000	$275,000	
Estimated $ Available	$550,000	$275,000	
Difference	$0	$0	

Direct VISTA Grant	$313,909	
CNCS Member Support	$171,017	
Total CNCS $	**$484,926**	
CDBG	$550,000	42%
HOME	$275,000	21%
VISTA	$484,926	37%
Total Budget	**$1,309,926**