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CALL TO ORDER

[Time: 00:00:03]

Mayor Lane: Good morning. I would like to call to order the November 1st, 2013 City Council Special Meeting. We'll start with a roll call.

ROLL CALL

[Time: 00:00:07]

City Clerk Carolyn Jagger: Thank You, Your Honor. Mayor Jim Lane.

Mayor Lane: Present.

Carolyn Jagger: Vice Mayor Virginia Korte.

Vice Mayor Korte: Here.

Carolyn Jagger: Councilmembers Suzanne Klapp.

Councilmember Klapp: Here.

Carolyn Jagger: Bob Littlefield.

Councilman Littlefield: Here.

Carolyn Jagger: Linda Milhaven.

Councilwoman Milhaven: Here.

Carolyn Jagger: Guy Phillips.

Councilman Phillips: Here.

Carolyn Jagger: Dennis Robbins.

Councilman Robbins: Here.

Carolyn Jagger: Acting City Manager Brad Hartig.

Brad Hartig: Here.

Carolyn Jagger: City Attorney Bruce Washburn.

Bruce Washburn: Here.

Carolyn Jagger: City Treasurer Jeff Nichols.

Jeff Nichols: Here.

Carolyn Jagger: City Auditor Sharron Walker.

Sharron Walker: Here.

Carolyn Jagger: And the Clerk is present.

Mayor Lane: Thank you. We don't have any other items of business other than the one item on the agenda.

ITEM 1 – BELLEVIEW PROPERTIES CONSTRUCTION CONTRACTS

[Time: 00:00:43]

Mayor Lane: It is a request for presentation, discussion and possible action and/or discretion, direction to staff regarding options for meeting the corrective action delineated by the Department of Housing and Urban Development and the findings of non-compliance of the properties located at 7220 and 7224 East Belleview. As part of that discussion, the Council may consider whether to adopt a Resolution, 9578 rescinding the city's previous actions approving Resolution numbers 9539 and 9540 and direct staff to implement the termination of the convenience provisions of construction manager at risk preconstruction contract 2013-154-COS and construction manager at risk contract 2013-155-COS for Habitat for Humanity of Central Arizona.

Just in order to cover some, I guess, basic notes of explanation on this, of course, this meeting was brought to provide the Council with information that was not heretofore presented to Council for decision and for further funding to build, own a Scottsdale housing project at 7220 and 7224 Belleview. It is a matter of magnitude of a decision that we have here that I believe requires, and I think it is incumbent upon us to have consideration for any and all alternatives that might be available for us in order to make an educated and informed decision and for the public to know what we are basing our decisions on. The decision as it now stands puts the city on a path toward city-owned and operating a public housing property directly for the first time ever a path, reverse of a path that many cities have been taking in the past few years.

And that's divesting of those types of properties in favor of the kinds of arrangements we have heretofore had with not-for-profit organizations. Now, there's no incriminations intended with this request and I want to thank the staff for gathering the alternative paths available to us for the possible reallocating of CDBG funds. It is not really dissimilar from instances we've had in the past where we've arranged to reallocate CDBG funds from CDBG discontinued projects. Now, I believe Mr. Murphy will be presenting some of the additional information and some other options that may be available to us. And the options are presented, or to be based upon the potential, on our potential consideration of new information.

[Time: 00:03:33]

Therefore, actually four options that have been indicated and he will be speaking toward that. Number one option truly is just, is not necessarily based upon new information but this Council always has the opportunity to consider it as well. The two and three are reallocation considerations. And four is, frankly, just not to consider this resolution and just consider, be considered no action. With that being said, as an explanation for what I saw is an importance in bringing this matter forward and making sure that we had finalized the decision on something like this, I believe is a very important decision for us to make one way or the other and to make sure we have all available information and alternatives on that. So with that, I would ask if Mr. Murphy, if you are going to make that presentation, if you would please come to the podium.

[Time: 00:04:34]

Community Services Executive Director Bill Murphy: Good morning, mayor. Good morning, Council. Start with a little bit of history, and I don't need, I'm not trying to, just trying to start things off. The Community Services of Arizona received a Community Block Grant, CDBG funding, from the city in 2006 in the amount of \$825,000 to acquire these two properties at 7220 and 7224 East Belleview for the purpose of affordable housing. The completion of the affordable housing would meet our CDBG national objectives and eligibility activities. With the turn of the economic markets, CSA was unable to obtain financing, and the planned project was not viable. And on June 29th, the CSA informed the city in 2010 that the organization was exploring financial restructuring. Does this advance, Brian? Thank you. So on this map here, just to kind of, this again takes you back to that particular street at that time.

So, seven of the properties on Belleview that are highlighted in lavender were owned by CSA at that time. 7220 as we've talked about has four units in there. 7224 has four units funded with CDBG funds.

7224 was funded for \$351,000. The city is in first position on the deed on that property. CSA also had building 7218, the very first building on the street, and 7232, 7238 and 7240 for a total of 16 more units. The last one I wanted to note here, 7228 and 7230 is owned by Arizona Behavioral Health and there's eight units there. So this was the plan at the time the CSA came in to do some work on that. They were really hoping to kind of come down the street and do a whole remodel of that. This is the map that we've presented to Council before. In the recent history, as of today, 7220 and 7224 the city actually owns those at this point. 7228 and 7230 are still the ABC Behavioral Group. 7232 has been sold by CSA and 7234, again, that's the other parcel on the street that we are still in first position on.

Some H.U.D. guidance we received, we began consulting with H.U.D. in this process in November 2011 because the city wanted to, CSA had informed the city it wanted to divest itself of all the properties they had in Scottsdale at that time. That included eight multi-funded properties in the HOME program as well as three multi-families in the CDBG funding on Belleview. In this past January, this City Council approved the sale of those eight multi-family home properties to Holiday Partners who has those now. The city then began our focus on how to address the three properties on Belleview with CSA.

[Time: 00:08:10]

We met with H.U.D. in February of 2013 and specifically requested some guidance from H.U.D. on the obligations of the CDBG funds that were provided to CSA for the acquisition of those Belleview properties. We never received a response from H.U.D. from those questions. We did receive a finding letter from H.U.D. on February 22nd. That letter outlined for us that we needed to take corrective measures stating that in 60 days we needed to reimburse the program account or line of credit for these activities which totaled a grand total of \$1,176,588. And, again, of that large number, \$825,000 was responsible to 7220 and 7224. On March 14th, our city staff requested an extension for these properties and into compliance to avoid paying H.U.D. \$825,000. And on March 25th, the city received a letter from H.U.D. giving us authorization for a one-year extension to March 25th of 2014 to meet the national objective on the Belleview properties. This is just a reiteration for you of Council actions that have come forward to you.

On the 26th this was for us to go out to the two properties because we were in a less superior position on those two properties at that time. And in April we actually purchased those from that owner. July 1st, the design. September 10th, we came to you for construction dollars. And on the 8th of October, you awarded the \$10,000 CMR award to Habitat. On the 22nd the award and that's where we are today. So, we got our heads together amongst ourselves and we decided how are we going to accomplish this to meet this deadline. So staff put together a plan to provide affordable housing on Belleview which was our major objective, and we wanted to make sure we were compliant by March 25th, 2014. Now, the properties as we've outlined before are pretty dilapidated. They are uninhabitable and they needed to be reconstructed from the dirt up. We decided that had we also were going to do an RFP from a management company which we could obtain through a RFP to manage these properties once they were reconstructed. And we hoped that our plan to have the reconstruction of the property completed by January 2014, again, so we could have occupancy in these units by March 25th of 2014. And the management company that we would utilize, we would set fees, we would have a set fee with them is the idea in this RFP. They would actually be paid a percentage of some sort, collect the rent. Any of those additional funds that we would collect out of that would come back to our CDBG line of credit and could be reprogrammed in future CDBG allocations.

Mayor Lane: Excuse me one second, Mr. Murphy. At what point, I realize we're talking in this meeting about new information that may be considered as far as how we might be able to reallocate this for city purposes or otherwise.

Bill Murphy: Right.

Mayor Lane: I understand and appreciate this history and this background on it. But at any point during this thought process, bringing these thoughts together as to how this was going to be facilitated with a number one option of how to get it done, was there any consideration for some of the things we're about to discuss as far as whether there is an avenue to get these monies into some other use and whether or not there was some other way to approach these properties given that we had a year extension on this?

Bill Murphy: Mayor, that's a good question. I will get into some of those as we get to the options. But at that time, as I mentioned, when we met with H.U.D., as we were talking to them about the HOME program, their indications to us was you had an option of either, A, pay the government back or do something with those properties. That was the gist of the conversations, of most of the conversations we had with H.U.D. Really at that time, some of these other options that we are going to talk about have just come to light recently.

Mayor Lane: Okay.

[Time: 00:12:52]

Bill Murphy: So based on discussion from your October 22nd meeting, we sought clarification from H.U.D. regarding the reimbursed funds. And we had a discussion with H.U.D. this past Monday, on the 28th, to suggest some other options. And the option that they gave to us was that we could repay the funds to the city's local CDBG account and reprogram those funds for additional CDBG eligibility activity, so we could, in other words, instead of paying back the government, we could actually put that into our program line. We also had a discussion just yesterday with H.U.D. and we received further information from them and clarification, both email and by communication, that with regards to the restrictions on the local CDBG account, and so I will go through some of those as we proceed with these options.

So in front of you now, the next few slides will give you four options that we are taking a look at and what some implications would be for that. So the first option, we could return these non-federal funds in the amount of 825,000 back to the U.S. Treasury which is called the line of credit. This line of credit is held by the city's allocation with H.U.D. in a system that is called IDIS is the abbreviation. It is the Integrated Disbursement Information System and that is how things are tracked for any of the funds that we expend. So the option of returning the money was obviously something that we've kind of all talked about. But if it goes to the federal government, straight to the Treasury, it would be swept meaning that the funds cannot be returned back to the city for any kind of CDBG eligibility. They would be gone. So if we were to pay the money out of the general fund to pay that back, it would be done and we wouldn't have anything to be able to do. So that was part of what we got from H.U.D. the other day that presents an action for us meeting the disposition of those properties is what the final thing would be. We would own two pieces of property and how would we get rid of those.

Mayor Lane: Mr. Murphy, this, of course, option one, is not new information. This is something that was always available to us. Any time we take a piece of property and we decide that we're going to remove it from qualifying activities from CDBG, we can return that money to the federal government for their reallocation or wherever they want to send it.

Bill Murphy: Mayor and Council, that is true. That is our interpretation of what we would have had. Prior to action earlier in the year to actually own those properties, the intangible we had at the time of CSA. Their lender had a superior position on us. So it was essential that we got the properties first. So there was a few steps that we needed to complete that.

Mayor Lane: Obviously we're in an environment that is unique given the economic environment that we were dealing with CSA and the entire process. I certainly appreciate the fact that even within the contracts that we had with CSA that there were things that sort of caught us a little bit by surprise and put us into this position and on this path. And so I appreciate that and I know that we've got that corrected. But just to the point, though, option one is simply something that's always been available to us and is a clear-cut path to remove any kind of stipulations on these properties, is simply to return the money to CDBG, the CDBG funds and it becomes market-priced property with no restrictions.

[Time: 00:16:31]

Bill Murphy: Yes, mayor, that's correct. So, option two that we had was to return the original acquisition cost of the \$825,000 from non-federal sources back to the city's local account to be reprogrammed for other CDBG eligibility activities. This was discussed with H.U.D. yesterday. H.U.D. further clarified that these funds needed to be returned to the local account that could not be held into an account. So that was a little different terminology than what they had told us before. They said you could reprogram for CDBG eligibility activities but they said you couldn't have that large amount of money in there for a period of time. And they gave us an example of a property that they had on a previous case where they, the money went in and then came back out. So that was new to us and the time frame was shorter in that discussion.

Mayor Lane: Is this the 150% over the period of what we have in the account or can't have any more than 150% of what the allocation is annually?

Bill Murphy: Yes, Mayor. I will go that through here just to kind of outline that. If we chose to go this route, the funds need to be reprogrammed. They mentioned to us it needs to be completed in 15 days. We don't have any projects out there that could be completed in 15 days. So the time frame would be a little bit warped. H.U.D. reviewed the timelines, but the expenditure right now, what currently the city has in our account, is \$908,000. We can't exceed carrying 1.5% of that which comes to 1, well it is \$1,362,000. It would have to be executed and below that number by April of 2014. How H.U.D. works is they notify the city 60 days prior to the end of the fiscal year to tell you what you have in there and what your action plan to complete that so you don't carry over that kind of money. So April is the date that usually they come to do that. That's the reason we come to the Council each year with our allocation and plan to you prior to that date so we can submit it to H.U.D. with direction on the work we're going to do.

Mayor Lane: Mr. Murphy, how is this different than the occasion we sold the property to Scottsdale Healthcare and moved the CDBG funding in that transaction? We banked it presumably and then we ended up within some period of time, didn't seem to me it was 15 days or otherwise, we ended up arranging to buy that school over by Paiute and did accomplish that. It seems to me it was certainly months, if not longer, that we did that. How does this situation differ from that? Or was there just a different opinion this time?

Bill Murphy: Mayor, Council, I think the opinion was different than what we received before. The example you brought up about the Civic Center Senior Center which we sold to Scottsdale Healthcare, at the time that this kind of happened simultaneously, Scottsdale Healthcare had interests in purchasing that building. The tenants at Paiute had interest in selling their property. We had to, first off, work with H.U.D. knowing we had a school that wanted to relocate. We had someone interested in the building that we had. So we had enough time to complete all that. And as you might recall, that was the year that those surplus dollars that we had from after we completed the sale to Scottsdale Healthcare, we purchased for roughly \$850,000 the school property at Paiute. We had some additional funds which we took back through our allocation process, through the Human Services Commission, we brought forward to the Council. That particular year we had an exceptional amount of dollars for CDBG that we could disburse to the non-profits. So it really helped to meet that goal for us. This information we got yesterday is, yes, contrary to how we were doing some of those, that transaction in particular.

[Time: 00:20:50]

Mayor Lane: Bill, if we had looked at this some time ago and considered a possibility of reallocation, would we potentially have put ourselves on a different track? I'm talking about when we got the one-year extension, is there a way that we, because undoubtedly there are other worthy projects out there, capital and otherwise, that might fill the bill. What I hear you saying, though, is you got a different opinion this time from last.

Bill Murphy: Yes.

Mayor Lane: So that's the big variable. So I'm not sure if it is based upon regulation or if it is based upon the whim of whoever you are speaking to.

Bill Murphy: Mayor and Council, to answer your question, if we had time to try an alternative path, certainly that could have been an option. The stumbling blocks we had when we were notified that we were in a finding, which was February, we still had the uncertainty that these two properties that we had we didn't have a superior position on those notes. So we needed to attain that first so we could actually work towards a plan. Part of what I wanted to outline for you here was that the time frame for us to do some of these things, as we go forward and change what we bring to you as the Council as our action plan each year in which we submit to H.U.D., if we change that or deviate that at all, we have to go back through that process again so we need to amend the plan which takes a period of time to do that. We need to have public notification which usually is around 30 days. We can cover some of those notices by having a Council meeting that's open to the public but as well we can deal with our human service position. We can get approval from H.U.D. if they do nothing in 30 days. We figure we've gotten their approval. It is the part when you have a project that has an environmental evaluation that needs to be completed which is outlined in the Council action, that could take some time. And we can't do any

of those things until all those are completed to commence with any kind of a project. So your window becomes really narrow. It's almost like if, as we plan our budget each year to be looking out 18 months, it is almost, you know, that we would need a substantial amount of time to be able to achieve that to accomplish some of those goals. So ...

Mayor Lane: If I were to just add one final thing on this line of thought, that is, number one, the circumstances that arose when we sold that property and then recovered those CDBG funds to bank them locally and the timing and the alignment of another project was certainly maybe by happenstance or otherwise sort of fell into our lap. Otherwise, we would have been faced with a similar situation of losing those funds.

Bill Murphy: Mayor and Council, you are correct. The one thing I can tell you, when we did that transaction, the closing we did with Villa de Marie which was in April, we push it had right up to that point and then we were able to meet that deadline prior to the audit that those funds were spent. Really things did work very well that year for us to meet that but we did have a plan and really was set in motion months ago, months before that and was able to get that accomplished.

Mayor Lane: The other is apparently a difference of interpretation or of opinion that's been given to you this time.

[Time: 00:24:19]

Bill Murphy: Yes, Mayor.

Mayor Lane: Okay, thank you.

Bill Murphy: We go to the third option. The third option is we could, again, return the original acquisition cost of \$825,000 of non-federal funds to the city's local account to be reprogrammed in the city's Housing Rehabilitation Program revolving loan fund. It is separate from the CDBG funds that are reviewed. It is a separate fund. It is specifically set for the purpose of carrying out planned housing rehabilitation activities that are, again, identified in our annual action plan. And the Housing Rehabilitation Program generates program income from the repayment of the rehab loans. And the program income generated is returned to the revolving loan for additional rehabilitation projects. So we asked H.U.D. on this particular one. Now, this third option to reimburse our local account of funds would be transferred to our CDBG revolving loan fund. And the funds can be used again, as I mentioned, for housing rehabilitation projects but they're real specific to the regulatory concerns in administering the revolving loan. And based on our conversation with H.U.D. on October 31st, it mentioned to us funds could not be parked into a fund in a revolving loan fund. They needed to be spent immediately. Again, the urgency of their explanation to us was you could move money over if you had a project that demanded \$100,000 and you knew you could complete that right away but it had to be completed in fairly short order. You couldn't just sit with a lump of money in there. The other part that's cited here in the PowerPoint for you, this is federal regulation 24 CFR 570.513(a), the funds deposited into a rehabilitation fund shall not exceed the grant amount that the recipient reasonably expects to expend. This past year the housing group about \$447,000 with 13 projects. So that's a substantial amount. So we would nearly be doubling that if this was to go in there. We currently have one person who handles our program so it would be a challenge to be able to allocate those funds in an

adequate amount of time.

Mayor Lane: Excuse me one second, Mr. Murphy. Councilman Littlefield has a comment or question.

Councilman Littlefield: Of the \$400,000 that we expended last year of that fund, what kind of things did it go to? What were some examples that it was spent on?

Bill Murphy: I will have Justin answer since that's his area.

Housing Coordinator Justin Boyd: Mayor and Councilmembers, those funds are specifically used for the Rehabilitation Program which facilitates up to \$35,000 worth of assistance offered in the form of a deferred loan.

Councilman Littlefield: To who?

Justin Boyd: Low income families who meet the H.U.D. income guidelines.

Councilman Littlefield: How many of those do we have in Scottsdale? Do you have any idea? Any sense of thousands, hundreds, tens of thousands, millions?

[Time: 00:27:53]

Justin Boyd: On a fiscal year basis, we provide assistance to approximately 12 to 14 households in that program that meet that criteria. Furthermore, we have a wait list of approximately 12 families waiting to receive assistance for that program which is approximately a nine-month wait time.

Councilman Littlefield: And the 12 people that are in the cue that have applications in, what's the amount of money that they're looking for? All told, hundred thousand? Half a million? Million?

Justin Boyd: Councilman Littlefield, to clarify that, the maximum amount you could receive through that program is \$35,000.

Councilman Littlefield: Okay, so \$35,000 times 14 would be the maximum?

Justin Boyd: Correct.

Councilman Littlefield: The actual amount would be something less than that. Okay, thank you.

Mayor Lane: Thank you, Councilman.

Bill Murphy: Councilman Littlefield, part of the program is also for rehabbing for emergency projects, so roof repairs and things like that. So that particular staff person not only did this program but they also are responsible for that. And in the last year, we had 55 emergency repairs that they were able to do which totaled about \$260,000 as well. So that's the workload of the one individual we have on that.

Councilman Littlefield: And these are loans. We don't give them the money? These are loans, right?

Bill Murphy: You want to go ahead, Justin?

Justin Boyd: Mayor, members of the Council, just to clarify, the Housing Rehabilitation Program is offered in the form of a deferred loan which after three years is 50% forgivable if the resident remains in their household. The programs that Mr. Murphy referenced pertaining to the emergency repair program and roof repair program are actually grants.

Councilman Littlefield: Okay. And so the expectation is that these, nobody is going to repay these because the hope is they fix up their house and stay in it? At least 50% they're not going to repay.

Justin Boyd: Councilman Littlefield, I would say that's the correct answer for the emergency program and the roof program. However, as Bill mentioned earlier, the Housing Rehabilitation Program does generate program income so in the scenario of unfortunately somebody passes away, we do take a lien position on those properties. When we get the amount that we took the lien for, it is returned to our CDBG program line of credit and called program income and then it is reallocated to the Housing Rehabilitation Program to assist future households that are on your wait list.

Councilman Littlefield: So with the exception of the money that goes to the roof rehabilitation, which is a flat grant, most of the money is in the form of deferred loan or loans which may be deferred and if they're not deferred, if they're paid back, that money recycles back into the program?

Justin Boyd: That is correct. So it would be 100% if it's prior to the three years and half at the loan amount after three years for the Housing Rehabilitation Program.

[Time: 00:31:01]

Councilman Littlefield: Okay, thank you.

Justin Boyd: You're welcome.

Mayor Lane: Thank you, Councilman. Mr. Murphy?

Bill Murphy: Mayor, on this particular option, once again, we would have to do similar to the second option. We'd have to, if those dollars went in there, we would have to do an amended plan. It wouldn't take as long as option two but we still would have to have a public notice that that's what we intend to do with some of the funds, public hearings through our Human Services Commission, again, bringing that back for the Council's consideration and then we would need H.U.D.'s approval as well of the that action planned amendment before we could process the sums to be distributed at that point. It is a little shorter but there is still an amount of days in there that again causes us a little bit of a problem. Really what's looming out there for us is still this March 25th deadline we have that's been, we've recorded that in our finding.

The final option for your consideration is to continue with the contract you currently have with Habitat for Humanity in restructuring the 7220 and 7224 East Bellevue. We would continue again to work towards the compliance of the construction schedule while meeting our CDBG eligibility to meet our

March 25th deadline on there. I wanted to kind of, it has come up a couple of times in some questions you've had. Just to go through a few things, the completion, the proceeding of the auction would mitigate the risk for us again as H.U.D. reviews our dollars, what we actually have in that fund times 1.5% which would be elevated and taken care of prior to April 2014. If we completed this project, that would be taken care of. So we wouldn't have to worry about that audit. The portions of rent that we might get from these, paying the property management would be considered program income. So if we get these running and up and running, any of those extra dollars that we generate from that would go back into program income which the Council would have the opportunity, as we bring those action plans back to you each spring, to allocate those for funding for the following year for CDBG-eligible activities. So there is that.

There is a five-year, with the CDBG there is a five-year limit on that particular program so we would have five years that we had the asset for five years. At that period of time, the city could make its decision if we want to sell the property at that point. If we were to sell the property at that point, all the money that we put in, so the particular contract we have with Habitat, the \$636,000, whatever the price was, would come back to the city. The \$150,000 in which the city paid to have some of the mitigation done, environmental information, that would come back to the city as well. So what I'm telling you is, if we sell the property in the future, in five years, some of these funds will come back, directly back to the city before we would have to reallocate any of those as program income to the CDBG program.

[Time: 00:34:15]

Mayor Lane: Mr. Murphy, I'm sorry, Vice Mayor Korte has a question or comment.

Vice Mayor Korte: Thank you, Bill, before I launch into questions, are you essentially complete with your presentation?

Bill Murphy: Yes.

Vice Mayor Korte: Super. I don't want to interrupt. Can you go through the history for us a little bit? I know some of the history was in our packet. But so history in the last couple years regarding this area, Scottsdale, Belleview, the intention or strategy that the city had laid out historically, last couple years.

Bill Murphy: Okay. As long as I have been in this position, this has been a street I know well. We have tried, again, CSA came in with the understanding back in 2006, 2007 that they were going to raze each of these buildings that were down there. They were going to make new properties affordable housing really to kind of put a stamp on regenerating and reinvesting back into that particular street. Unfortunately, the market at that time really just kind of soured it. Across the street from there is Family Promise. To the east of that, Family Promise, is Chrysalis. These are funds that have come through our CDBG programs and have great support and great missions. We have ABC Behavioral homes that were there. That's another area in the first place. The real gist of Belleview Street itself was to provide a goal in the city to actual offer affordable housing to low, moderate-income families. And if CSA had been successful with what they were doing, they were a large company and they had a good plan, it is just they were unable to get financing with their partners at that particular time pretty much due to the economy, I would think.

Vice Mayor Korte: Okay. So in short, our option four, in other words, continue with contract, is consistent with the long-term goal of this neighborhood?

Bill Murphy: It has been the goal that we have presented to the Council in our actions.

Vice Mayor Korte: Could we go back to one of the street maps. It doesn't matter if it is the first or second. It is a ways back there, I know. Perfect. So could you point out the other amenities along this street. You mentioned Family Promise, Chrysalis. Where are those, exactly?

Bill Murphy: Not very good on this. But okay. Directly across the street from us, from 7228, excuse me, 7220 and 7224 directly across the street from this is Family Promise. 7228 and 7230 is ABC Behavioral Health. And down to your far right, at the east end there, there's some apartments that are in there that are well, really well taken care of. Chrysalis is directly across, kind of caddy corner from the apartments that are there. I'm probably not doing it justice here. I don't know if I write on this, just circle it? New technology. Here's the ones we own. Right across the street here, this is Family Promise. This is ABC Behavioral. This is the other piece of property that we own right now in first position. These are the apartments I'm talking at the east end that are really well-maintained. The gentleman we've been dealing with there is very active in that neighborhood. And Chrysalis would be kind of here down here further to the east.

[Time: 00:38:30]

Vice Mayor Korte: Okay, okay. Thank you. Another question I have, I need some clarification on that option two. We talked about that if we reprogram those dollars, that it was restricted to a very short time in an account like 15 days. And then we started talking about the 908,000 plus what we have in there which would be 5%. Can you go through that again for me? And is this 908 or 1.062 million, are those restricted to the 15 days, too? I was confused.

Bill Murphy: Okay. So if we take option two and we take some of these funds and put them into this line, our local bank account, then the process at that point, currently the allocation which we received from H.U.D. this year, our annual grant, is \$908,000. We cannot exceed that by 1.5%. So if you took that and added that up, it would, the total amount that we could carry in there is \$1,362,192. Our current amount in that account total the allocation we have been given this year, contracts that have not been expended from the previous year, we have \$1,796,595 in that account right today. So we definitely have \$434,000 of just the funds we're speaking of right now without including the 825 that we need to expend or be below that number by April 30th roughly of 2014. And that will happen because this particular count, how it works is, there's draws as they keep coming. One of the carryovers of this last year is one that was approved by the Council a year ago, was to do renovation work at Chaparral Park. We just now have gotten bids back and Derek and Dan's staff will be organizing those. They will be coming to Council for approval. So the construction of that particular building will finally happen this year. So that would come into this grand total of \$1,796,000. That's part of those dollars. So we'll be spending some of those down. So the problem would be for us if we add the \$825,000 into that, that would take us up to \$2,621,000, and we would need to be expended by roughly April 30th. If we had planned for some of those projects in advance, we could have probably been able to accomplish some of those things. But we would have needed at least a year, I would think, so really kind of get all those things accomplished, meaning amended plans and outreach and just getting H.U.D.'s approval.

Vice Mayor Korte: Thank you, Bill. So where does the short-term restriction come, play into this of placing it in a bank account?

Bill Murphy: The conversation we had with H.U.D. yesterday was that this was an example that he had given to us and said that there was a project that they had done and moved money into it and he said, you know, not more than 15 days. We said, is that 15 days what we should be using? He said we don't want to keep it in there for a longer period of time. That was the conversation we had. If we go back to what the Mayor had asked earlier, our interpretation of that before was those dollars could come back into that program as long as we felt comfortable that we could expend those before they were re-audited in April and because the number that we currently have in that account is large enough as it is. This would just add to that. So that was, that was the path that we chose, because we knew we couldn't spend all that kind of money that quickly.

Vice Mayor Korte: Thank you.

Mayor Lane: Thank you, Vice Mayor. Councilman Phillips?

Councilmember Phillips: Thank you, Mayor. Mr. Murphy, do you know this contract that we just approved, has it already been awarded?

[Time: 00:43:25]

Bill Murphy: The contract was awarded, I believe, by the Council and has been signed but I don't believe that there's been a notice to proceed at this point.

Councilmember Phillips: So it's been awarded and assigned to a contractor?

Bill Murphy: Dan, do you want to speak to that?

Dan Worth: Mayor, Councilmember Phillips, the Council awarded the contract on October 22nd. The contract was signed. The contractor is Habitat for Humanity, Central Arizona. They have expended a very small amount of money against that contract satisfying some of their preconstruction requirements. However, we've given them notice to hold off on any further work as of last Friday pending the outcome of this meeting this morning.

Councilmember Phillips: Is there any ramifications then if we decide to pull this contract?

Dan Worth: Ramifications as far as that construction award, we would be required to pay them for expenses they've made. We are estimating somewhere in the neighborhood of \$3,000 to \$4,000 in furtherance of that contract aware.

Councilmember Phillips: It is not like they are going to sue us for breach of contract.

Dan Worth: We believe they will not sue us for breach of contract.

Councilmember Phillips: Okay, thank you. And this contract, these had to have been done by January. Is that the end of January?

Bill Murphy: Mayor, Councilman Phillips, the date we had when we discussed the outcome, we need to have them done by them so we can at least have people get them occupied because again our due date is March 25th and we need to be able to enter into the IDIS what our actions are going to be. So this was to give us a little bit of time to have a management company be able to get that all set up.

Councilmember Phillips: This is holding off Habitat for Humanity's being able to get this done by January.

Bill Murphy: Right now, it is.

Councilmember Phillips: They can't proceed while we're doing this. What happens if we exceed the H.U.D. deadline then? If it doesn't happen by the end of January?

Bill Murphy: Mayor Lane and Councilman Phillips, if we go past that date, there would probably be another finding. There is a sequence of how the findings are rated in the code and again that would be a discussion that we would probably have with H.U.D. as far as what those would be.

[Time: 00:46:03]

Councilmember Phillips: So the findings could be they will give us an extension or it could be they will give us a penalty or something along those lines?

Bill Murphy: I'm not guessing they would give us an extension from the conversations we've had with them. But there certainly could be, again, we haven't approached them with that. Our action that they think we're moving forward with is what was approved by the Council in October. That's really what, the latest information they have from us.

Councilmember Phillips: So the guess would be then it would probably be a fine or some penalty if we didn't get it done by then?

Bill Murphy: There's various courses in their code that they could do. Financial is one. But there are different avenues that can be assessed, the penalties. And so, again, we would have to kind of deal with them directly about those.

Councilmember Phillips: So we don't know. Okay. And then in light of this new option, since I wasn't privy to this conversation with H.U.D., and it is kind of late info from them, seems like, couldn't H.U.D. allow us another extension now that we have basically a new option that we should have had before?

Bill Murphy: I think, Mayor Lane and Councilman Phillips, what we asked H.U.D. simply was the clarification of those funds and how quickly could they be expended. I think these are things we kind of had an understanding from what was sent to us in the finding letter, how we move forward. As far as anything else with that, it's really kind of, I think we got what we needed from them because we wanted to find out is there something that we missed or some interpretation that we missed. From the

conversation we've had with them, we've had varying answers to some of those questions.

Councilmember Phillips: Sounds like there is something we missed, and it seems like maybe the vote would have went differently had we known about this then. So, you know, I kind of feel like we're stuck between a rock a hard place now of should we change our mind, should we change horse in midstream here or what's going on. I will listen to what the rest of the Council has to say and then we'll make a decision. Thank you.

Mayor Lane: Thank you, Councilman. I have an indication, Mr. Washburn, did you have a comment on any of that?

Bruce Washburn: I wanted to clarify in response to Councilmember Phillips' question about whether we be sued for breach of contract. All of the two contracts at issue here both have termination for convenience provisions in them. So if the Council were to direct staff to terminate the contracts, we could do so in conformance with the contracts. There is no breach of contract being suggested.

Mayor Lane: Thank you, Mr. Washburn. I do have an indication from other staff there was a comment on this. If not ...

[Time: 00:48:55]

Community Assistance Manager Michelle Albanese: Thank you, Mayor Lane, members of the Council. I just wanted to provide a little further explanation regarding Councilwoman Korte's question and Mayor Lane's question regarding the Civic Center Neighborhood Center and that money that came back versus this situation. The Civic Center Neighborhood Center was operated as a senior center for several years and so it met a national objective and an eligible project. And the regs require when you dispose of property that is for the purpose of CDBG-eligible activities that that money comes back as program income. And program income is treated differently than a recapture of funds. This particular project on Belleview is a finding of non-compliance. So we have not met a national objective or an eligible activity. And, therefore, those funds are not program income and they are recaptured funds and they have different restrictions on them. So the program income can sit longer because it was an eligible activity and it's money that's generated from that activity. Whereas, this being recaptured funds, you either have to return it because it wasn't spent for the national objective or you need to spend it quickly on planned activities.

Mayor Lane: Very good. Thank you very much for that because that does really clarify the distinction between the two different processes, that there was some reliance on to say that, hey, if this has occurred with the sale of a property and not very different from what we're having here as far as the sale of the property, but you're talking about non-compliance versus program income coming back after a term. So thank you very much. I appreciate that.

Michelle Albanese: Thank you.

Mayor Lane: Councilman Littlefield.

Councilman Littlefield: We have an interesting problem, we have too much money and not enough time

to spend it. That's a little bit different than the norm around here. Just to make sure I understand, you've got four options here, the new options in that they're new since our last vote are options two and three. Is that correct?

Bill Murphy: Councilman, that's correct.

Councilman Littlefield: What I just heard her say was that option three would produce the funds that had the least restrictions on their use. Is that correct?

Bill Murphy: Yes.

Councilman Littlefield: Okay. All right. Thank you.

Mayor Lane: Thank you, Councilman. I think there has been good clarification between the instance of the Civic Center Senior Center and what we are talking about here, other instances in which the funds have been redirected or reallocated. I agree that we really are only talking about two other potential options other than proceeding and that is with two or three. And as I understand it here today, if there is a 15-day limit with anything with regard to option two, and if I have got that right, that really leaves us nowhere with option two. Is that correct assessment as far as option two is concerned?

[Time: 00:52:03]

Bill Murphy: Mayor, Council, the conversation we had with H.U.D. yesterday confirmed that. But also I think it's important to know that here we are November 1st. For us to be able to meet all the criteria of amending the plan, having public outreach would roughly take, we estimate, about 160 days which would put us past that March 25th date.

Mayor Lane: Did I understand correctly, Mr. Murphy, that in the past, we may have even been banking on the idea that we had until the audit date actually to sort of accomplish these reallocations, if you will? And that's not the case as it's been, at least as it has been represented by H.U.D. right now?

Bill Murphy: Mayor, Council, the date of April 30th is if we'd had regular reprogram. These were already identified in their letter of finding to us of how we were to move forward. So those dollars were, kind of had a deadline of March versus if we had not been indicated with that, the April date would have been a little bit, give us a little bit more flexibility.

Mayor Lane: All right. I'd just, at one point in time I was thinking whether or not there was a hybrid available between two and three. And I think we discussed that a little bit last time, maybe prior to the time we received that information on option two in that option three does seem to provide a certain amount of latitude, even though it is restricted to that, what would be anticipated to be needed in an allocation to that program, reasonably expected to expend. I want to, okay. Councilman Littlefield, once again.

Councilman Littlefield: Rule Number one, when you find yourself in a hole is to stop digging. And I think looking at these options and especially with the two new options, I think option three gives us the, I don't know if it's the most flexibility or the least of pain in terms of financially and not digging the hole

deeper into this program. I will make a motion that we adopt option three.

Councilmember Phillips: I'll second.

Mayor Lane: Would the second like to speak to it?

Councilmember Phillips: I have a question to Mr. Murphy. If we do option three, what happens to the two H.U.D. properties we are talking about?

Bill Murphy: Mayor Lane and Councilman Phillips, if this was the tract you would take, then those two properties, we'd still have to sell them at some point.

Councilmember Phillips: Okay. Thank you.

Mayor Lane: Thank you, Councilman. That brings up, I guess, another point and that is the fact these are all taxpayer dollars on all ends, whether they be federal or CDBG funds or whether they be the City of Scottsdale's. We do have a huge amount of money within these two parcels. And so I'm in favor of option three and the motion that's on the table only because I'm very, very concerned about the path that we would be beyond this. I'm not kidding anybody that I have opposed this course of action from the beginning. And it doesn't have anything to do with the idea that we needed additional information. And I'm glad, and I certainly appreciate Council's accommodation of listening and hearing this additional information. I hope it has been persuasive enough to say, hey, we might want to rethink this. The other cities that I have talked to with regard to this are going a very different path. They are going exactly the option direction with the path we are taking right now and that's getting involved in city-owned housing projects as this would be by another name. And they're going the path that we've chosen and, in fact, they've actually eliminated some that have existed in the past in the City of Phoenix in favor of another course of action because of the impact on neighborhoods, the impact on the marketplace and the impact on the social condition as well. And, of course, there are cities across the country that have followed this path on a much larger scale. It starts somewhere. I'm concerned about going down this path.

[Time: 00:56:31]

And anything we can do either to reallocate those funds to the city's other obligations or other programs that I think are probably on a -- number one, they are on a line and policy that we have followed through the years would be better than where we're going with this. So I'm in favor of this, of the motion that's on the table. I'd hope there would be some real consideration for it by the parties here at the table. With that, we do have a comment or question from Councilman Robbins.

Councilman Robbins: Thank you, Mayor. Appreciate all the extra work, Bill, from you and your staff on this. And it's interesting how these things are so fluid sometimes and you kind of pull back the curtain and see what's really going on in the federal government, a little scary. But as to this particular case on these two properties, I'm not convinced that we need to change our course on these two properties. Now that I understand more about how the dollars work and what's required of the city and all the strings that are attached, I would certainly be open to a new policy on what put us in this position to begin with because I think we've been going down this path now for seven years. I mean, once we were

a guarantor to CSA on these monies, we were kind of stuck on this. And we've obviously, as you've shown, had six different votes this year alone, six Council actions, where we could have changed our course and we haven't. And I don't want to be back in this position again so I'm interested in how we extricate or keep ourselves out of this in the future. But as far as this particular case goes, I think we're committed and we need to move forward. And I think not only from a perspective of, like I said, the horse is out of the barn. But I think this neighborhood is also one of those which needs some assistance from the city. So I think we not only from a process standpoint, I think we're obligated to continue but also just from a helping our neighbors, we're looking to continue. And I think some of these new options that you brought up also have more questions than answers when we have to put the money back into a fund and we have to spend it very quickly and we don't have anything to spend it on or we have to go through a whole process, a public process again, that's not a bad thing. But the timing doesn't allow us to do that. I'm not convinced we need to change course on this. As I said, I don't want to be back here again. I don't necessarily want to be in the public housing business either, but when we act as a guarantor, that's a possibility. And we put ourselves in that position from approving this seven years ago when CSA got that money. If we don't want to be in that business, we shouldn't be a guarantor. We should be passing it on to other agencies that are doing this type of work. If we are, then I think we owe it to this neighborhood in particular to continue doing what we're doing. So I would be in favor of not wasting any more time and making sure we make this happen. Thank you.

[Time: 00:59:46]

Mayor Lane: Thank you, Councilman. Councilman Littlefield?

Councilman Littlefield: I would just say in response to what Councilman Robbins has said that, in fact, he was correct, we just didn't take it far enough. If we want to get out of the business of being in the public housing business, here's our opportunity to do so right now. Take option three. Sell these things off, and put that money to other needs that don't obligation us the same way as the original deal with CSA did. We need to learn from experience. That didn't work. It was a bad deal that turned out badly for the city. So we need to learn from that experience and, you know, it is just like beating your head against the wall. It feels so good when you stop, so let's stop. Continuing to do what we're doing, option four, would be continuing to beat our head against the wall because now we're going to continue to be in the housing business. And five years from now, you know, we'll be sitting here or whoever is sitting here, I won't be sitting here, whoever will be sitting here will face the same problem of what to do with this problem. And I guarantee you, we will be talking about how, you know, we have to stay in this business. The thing is, cut your losses now. Get out of the business of being in the housing business. And here's our opportunity to do that right this moment, is to put that to bed, get out of this business, and that's what option three is.

Mayor Lane: Thank you, Councilman. Mr. Washburn?

Bruce Washburn: Mayor, I don't want to interrupt the flow of the discussion. But I do want to clarify the motion before it's voted on. So if you could call on me before it's voted on, I would appreciate it.

Mayor Lane: Okay. Okay. Thank you, Mr. Washburn. We will do that. I would just, I want to just say in final comment on this as someone that's supportive of the motion, and that is the fact that we have over \$2 million of taxpayers' funds from various sources if we fund this with the \$950,000 that's taken

from the taxpayer reserves at this time. We will be into that extent and taking on the risk and the liability of this property ongoing. We have another property lining up to do the same thing. It really behooves us to reconsider the idea that we want to be in this business at all and whether or not. Mr. Murphy, just to be talking about the kind of recovery that you might see on this if we sold this property, there isn't any way in the world this property is worth that kind of money, number one, and it probably isn't worth the kind of money we will reinvest in it in resale, just in the building of this. If we were to turn around to sell it, and if we did it for \$650,000 or if it ends up being the whole \$950,000, with the \$150,000 that we've already expended or about to in the, just recovery of the property, there isn't any way in the world the city's even going to get the taxpayers' monies recovered on this. The only way is if there is enough, people feel that it's worth \$2 million for us to put this property together and put it to this use. And I think that's a misuse of taxpayers' funds. Councilwoman Klapp.

Councilwoman Klapp: I appreciate the time and effort you put into this, Bill, and the rest of your staff. I won't be supporting this motion because I do believe as Councilman Robbins said, we should continue on the path that we set by allowing Habitat for Humanity to go ahead and build the properties. It is an objective that was established by the city some years ago for affordable housing. And I think the path we should continue on. I have some real questions about option three that we may be talking about more of the revolving loan fund in the future. It sounds like we could be talking about some sort of policy in the future. But my concerns are, you've got one employee that's able to administer this for \$400,000, it's being distributed. As we would expand this fund, how many more people would be needed to administer those funds. I'm concerned about us being in the loan business. So some of us may be concerned with the housing business. I'm concerned about the loan business. I don't want to necessarily expand our loan department any more than it is established at this point. So my feeling is, is that I would much prefer to continue on with the path we're taking on these two properties.

[Time: 01:04:32]

Mayor Lane: Thank you, Councilwoman.

Councilwoman Milhaven: I would just like to add we have a worthy project that meets the requirements and I'm not sure why we would go looking for others. Also, this course of action has an opportunity for program income an opportunity for the city to get repaid, whereas option three there's no opportunity to get repaid. So I will be, I will not be supporting the motion. But I also, Mr. Murphy, want to thank you for all of your great work. What a tangled mess you describe. I think Councilman Robbins say it is, when we see the federal government at work. With the lender, with the feds, I want to thank you with all of your good work and your persistence to try to identify what the opportunities are for this city. I think you do a wonderful job. Thank you.

Mayor Lane: Thank you, Councilwoman. Councilman Littlefield.

Councilman Littlefield: Well, in response to what Councilmember Milhaven just said it is a tangled mess and that's why it is smart to get out of it. Looking at this year's budget and next year's budget, we don't have money hanging around. We don't have a lot of money. We are having trouble funding the things we need to fund. So it's time to get out of these kind of things. This is just going to be if we continue the way we're going, we're going to continue putting more good money after bad. It is time to get out of that, and that's why I'm going to do it. I understand the real motion should have been to adopt

Resolution Number 9578 and direct staff to pursue option three. Is that correct?

Bruce Washburn: Yes, thank you.

Councilman Littlefield: All right. That's what I meant all along.

Mayor Lane: And Mr. Phillips, that's what you meant to second? Thank you. Number one, I do want to thank staff for investigating and looking into these things. It is something we need to be educated on completely as possible when we are faced with this. The Council needs to have all the information at hand in order to make the kinds of decision we have to make. They are not easy ones and certainly they do get to be a tangled mess. We certainly understand there is a lot of work involved in trying to put together opinions where somebody is not willing to commit it to writing but they're willing to talk about it and then to change it. Of course, that scenario, I have only been exposed to a little bit, Bill, of what you have had to deal with on a lot of this and certainly the contracts that were written years ago didn't ever anticipate the kind of economic condition that we've gone through here on the long haul. While I think we have made some corrective actions on a lot of those things, I would hope that in the future we do make sure that we have everything on the table so that our deliberations and our discussions, you know, are meaningful for us on the overall. Again, there is no incriminations on this. This is just sometimes the way this thing pans out. I also want to thank the Council for enduring this as well. I do understand that it has taken some additional time out of their day and certainly on a special basis. But the timeliness was very critical if we were to proceed or otherwise or to consider other options. So I thank them for that. With that, we do have the motion and a second on the table. And I think that we're ready to vote since there is no other indicated comments. All in favor of the motion please indicate by aye.

Mayor Lane: Motion fails. Final tally of 4-3 with myself, Councilman Littlefield and Councilman Phillips on the positive side of that motion. So I would presumably, without a motion to accept that, we are in the position of exactly where we're at. I don't know that there's a required motion to be made to affirm that. It's simply for reconsideration that's not had.

Bruce Washburn: No further action is required, Your Honor. The contract will continue to be implemented.

Mayor Lane: Okay. Well, thank you very much, everyone, for their participation and for the work in this. But I do, I'm sorry, Councilwoman Klapp, do you have questions?

Councilwoman Klapp: I was going to ask if we needed a motion. You answered it.

Adjournment

[Time: 01:09:01]

Mayor Lane: With that, I will accept a motion to adjourn. All right. We are adjourned. Everyone was anxious on that. Thank you very much.