

Memorandum

Date: January 18, 2011

To: NRP Policy Board Members and Alternates

From: Robert D. Miller, Director

Subject: Options for Action

On December 13, as part of the approval process for the 2011 Budget, the Minneapolis City Council, with the active support of the Mayor, discussed and approved a Staff Direction impacting NRP and the neighborhoods and taxpayers of the City. The Staff Direction passed by the Council is as follows:

p) Neighborhood Programs

1. The Council does not intend to renew the Joint Powers Agreement when it expires on December 31, 2011. As a result, IGR staff is directed to report to the Intergovernmental Relations Subcommittee/Committee of the Whole on January 13, 2011, with passage on either January 14 or 28 on an amendment to the City's state legislative agenda which would incorporate a proposed strategy to seek legislation consolidating neighborhood programs and eliminating the need for the Joints Powers Board.
2. Direct the Finance and NCR departments to allow neighborhoods to contract up to 50% of the un-contracted balance of their Phase II allocation (excluding Phase II allocated but not Contracted Reserve funds), as of City Council adoption of the 2011 budget, but not to exceed a total contracted amount of 50% of their Phase II allocation.
3. Direct NCR to work with the NCEC and report back to City Council by March 1, 2011, on how programs, including the Neighborhood Investment Fund and the Community Innovation Fund, will be implemented moving forward with an emphasis on mitigating equity issues among neighborhoods related to the suspension of new contracts."
4. Direct the Finance department to report to the Ways & Mean/Budget Committee no later than February 1, 2011, with a plan to provide property tax relief in 2012 and 2013 by capturing on 50% of the value of the properties in the consolidated TIF district in these two years. This report should also include impacts on Target Center funding and neighborhood funding. In addition, Finance staff, working with the NCR department, the NCEC, the IGR department and the City Attorney's Office, is further directed to identify options for property tax relief for the years 2012 and 2013 should legislative authority to consolidate neighborhood programs not be achieved, and report these options to Ways and Means/ Budget by February 15, 2011. This report should also include the impacts of limiting revenue generated by the TIF district funding neighborhood programs and Target Center debt relief to \$10 million annually, with any increment over and above \$10 million used to fund Phase II plans.

This action was taken without any prior notice to NRP, the members of the Policy Board, the Minneapolis legislative delegation or the residents, taxpayers and neighborhood organizations that are most affected by this action. As a result, the Policy Board directed NRP staff to examine the options that may be available to the Policy Board.

First, let's look at the facts:

1. The City Council acted on December 7, 2007 to "assure that sufficient Phase II funds are received to fund Phase II Neighborhood Action Plans at no less than 70 percent of their approved April 19, 2004 allocations".
2. The NRP Policy Board (May 24, 2010) and the Minneapolis City Council (June 18, 2010) approved funding neighborhoods at 100% of their approved April 19, 2004 allocations after the payments from the Common Project and Brookfield loans required under Council Resolution 2003R-404 occurred at the end of 2009. Council members widely publicized this action in their newsletters and public comments as showing their commitment to neighborhoods.
3. The Council action of December 13, 2010 and the Mayor's statement during the discussion of the Staff Directive that he would veto any budget presented to him that did not contain this Staff Directive and language clearly indicates that the City has no intention of participating in any joint powers agreement after the present agreement expires on December 31, 2011.
4. The Council action of December 13 and the Mayor's statement during the discussion of the Staff Directive clearly indicates that the City intends to go to the legislature this session to terminate NRP, gain control of the remaining funds that have not yet been spent by neighborhoods and force a hostile takeover instead of the reasonable and cooperative plan for consolidation that had been previously developed. Prior to this time, the Council and the Mayor showed no dissatisfaction with the consolidation plan that had been developed cooperatively by NRP and NCR and approved by the NRP Policy Board.
5. The Staff Direction adopted by the Council December 13 as part of the adoption process for the 2011 Budget had no impact whatsoever, as the Council's Ways and Means Chair reluctantly admitted during the Committee's discussion of the Staff Direction that she had helped author, on the tax levy or property tax assessments for 2011.
6. The City has limited contracting for Phase II to 50% of the uncontracted balance of a neighborhood's Phase II allocation with a not-to exceed limit on the total contracted amount of 50% of their Phase II allocation. This action was taken without any thought or research on the implications for residents throughout the City or the inequities that it created. This action means that 39 neighborhoods now have no further ability to contract their Phase II funds and only 30 neighborhoods will have some funds available. The amounts available range from \$10,840 for East Harriet to \$810,424 for Nokomis East.

- a. Nine (9) of the remaining amounts are for \$100,000 or less
 - b. Eight (8) are for \$100,001 to \$150,000
 - c. Three (3) are for \$150,001 to \$200,000
 - d. Six (6) are for \$200,001 to \$400,000 and
 - e. Four (4) are for \$400,001 or more.
7. The impact of the Staff Direction is to put on hold the planned expenditure of \$13.3 million of previously approved neighborhood allocations. The City has committed, at least at this time, to spending at least \$3 million through the Neighborhood and Community Relations Department (NCR) and the Neighborhood and Community Engagement Commission (NCEC) from the recertified TIF districts to support neighborhood organization activities. It will take more than four years for this commitment, if it continues, to make up for the losses created by this action. The net effect, however, is that the \$3 million from NCR is no longer the additional resource for neighborhoods that the City has been stating that it is, but rather an inadequate partial replacement for the NRP funds to be taken from them.

On December 7, 2007 the City Council and Mayor adopted seven Core Principles of Community Engagement. The Core Principles, from the City of Minneapolis website, are as follows:

1. Right to be involved – Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.

2. Contribution will be thoughtfully considered - Public participation includes the promise that the public's contribution will be thoughtfully considered.

3. Recognize the needs of all - Public participation promotes sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision-makers.

4. Seek out involvement - Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.

5. Participants design participation - Public participation seeks input from participants in designing how they participate.

6. Adequate information - Public participation provides participants with the information they need to participate in a meaningful way.

7. Known effect of participation - Public participation communicates to participants how their input affected the decision.

They violated every one of their “principles” in the process used to develop the adopted Staff Direction.

The body of evidence and the actions that have occurred over the past seven years indicate that the City leadership does not want to support the continued revitalization of its neighborhoods or the empowerment of its taxpayers. They are now focused on using those resources that they have previously and repeatedly committed to initiatives that improve the quality of life for City residents to reduce property taxes for a limited few, for a limited time and at a limited amount. They are using NRP's conscientious management of resources since 1990 as an opportunity to provide a limited and short term fix for City financial management issues that require much different and longer-term solutions.

This redistribution of resources will benefit the wealthier areas of the City and dramatically harm taxpayers and residents that need the most help and can benefit the most from continued public investment in improving the quality of life in their neighborhoods.

At the December 20 Policy Board meeting, the Board passed a resolution that, among other things, directed that I "pursue options for the benefit of NRP and provide a report to the Policy Board at its January 24, 2011 meeting." These are my findings.

The Policy Board can take any of three courses of action, and you may do so in combination or uniquely.

1. **The Board may do nothing at this time.** It can wait until the City Council and Mayor develop a legislative proposal and then react to that action. It could assume that the action taken by the Council is the right thing to do, the "beginning of the end" and that there is no reason to fight it. It could assess the potential costs of action as too great in terms of effort and time. You may believe that there is really no harm in letting the City take over control of the remaining funds that were reserved for neighborhoods. After all, improvement of City neighborhoods should be one of the Mayor and Council's highest priorities.

Some Pros

- Requires minimal effort by Board members, residents and neighborhood organizations
- Has the lowest cost of any of the options
- Reinforces the rhetoric of the City (e.g. NRP is no longer needed, NRP has outlived its usefulness, residents are tired of all the requirements of the program, the money is going away anyway, NCEC and NCR are better equipped to serve the neighborhoods, there is too much overlap between NRP and NCR/NCEC, neighborhoods have been unable to spend their NRP funds in a timely manner)
- Minimizes unexpected consequences that may occur if there is a dispute at the legislature
- Allows NRP staff and neighborhood groups to focus on terminating the program and embracing the new community engagement structure and philosophy

Some Cons

- The Board has a fiduciary responsibility to carry out the NRP program and ensure that the funds it was appropriated are used for the purposes of the NRP statute
- Eliminates the potential for creative programs by neighborhoods and may reduce volunteer involvement throughout the City (When NRP began 42 neighborhoods had neighborhood associations and few residents knew that they lived in a neighborhood. Every neighborhood is now organized and participating in NRP and more than 1,000 taxpayers serve on neighborhood boards).
- The program will not meet its statutory housing goal
NRP was an investment program; not an expenditure program (Neighborhood leveraging and investment in future improvement efforts will be minimal and this will be a big loss for the city)
- Citizens may be engaged in the future, but they will not be empowered (The only impact they will have will be the impact that they are *allowed*)
- Allows the City to avoid more fiscally responsible and difficult long term solutions to their financial problems

2. **Legal action could be initiated to at least temporarily stop the City from taking the reserved funds.**

The Board could explore of the basis for a suit, the potential costs and possible attorneys that could be used. It could work with any neighborhood interested in pursuing a legal action to help with needed research, provide testimony, etc. The Board probably cannot pursue a suit, since its monies come directly from the City. A neighborhood (or neighborhoods) with an interest in pursuing this option, however, could use non-NRP funds to initiate an action. The purpose would be to obtain a Temporary Restraining Order (TRO) against the city to stop the taking of the reserved funds and initiate a public hearing before a judge.

Some Pros

- Proactively responds to the actions taken by the City leadership
- Provides a legal and media forum for raising questions about the City's breached promises and ability and willingness to provide an effective alternate to NRP, to date and in the future
- Puts neighborhoods in the front of the action with NRP and the Board in a support role
- Unmasks the City's false implication that this action provides 2011 tax relief
- Highlights the City's predatory action in freezing, with the intent of taking, one-time funds in a method against their very own adopted principles of community engagement
- Creates a forum for discussing how the City's action to take these one-time funds allows them to avoid reviewing all of their revenues and expenditures in a fiscally responsible manner

- Emphasizes that not all taxpayers and residents believe that the Council action is the best way to address the City's financial issues or pursue community engagement

Some Cons

- Requires at least one neighborhood to take on the responsibility of initiating action
- Will cost money, and probably quite a bit, up front
- Will need to find good, experienced legal counsel willing to proceed with the case
- Will take time to research the issue, determine if there is adequate cause to initiate an action, structure the complaint, identify the requested action and prepare the documentation and argument
- The case may be dismissed and never heard
- The case may be heard but lost

3. The Board could initiate legislation to protect the funds allocated for neighborhoods.

The Board could draft legislation of its own, with the neighborhoods, to protect the future use of the existing NRP resources. The drafting of such legislation would be a proactive response to the City's already stated intention of pursuing legislation to end the program and take control of the remaining NRP funds. Neighborhoods were very active at the legislature two years ago and created a sound act that the City used for its own purposes after it was changed in the privacy of a conference committee.

Some Pros

- Proactively reinforces the Board's position as the fiduciary agent for the NRP program
- Recognizes that the City has already announced its legislative intentions and that any past agreements regarding collaboration or at a minimum information exchange on potential legislative actions has been violated without warning by the Council and Mayor
- Provides the leadership from the Board that the neighborhoods are looking for
- Allows the Board to examine and possibly correct deficiencies in the existing statute
- Reinforces the Board's intent to meet the obligations included in the original law without any additional revenues (i.e. the Board wants to complete the mission it was given in 1990 with the resources that it was provided)
- May activate and energize neighborhood volunteers and organizations

Some Cons

- Will require time and energy to initiate, organize and pursue

- Legislature has changed hands since 2008 and may not be receptive to the proposed changes
- Will need to find respected authors in the House and Senate
- Clearly indicates that the Policy Board does not agree with the course of action being pursued by the City
- Legislation may not pass, may be changed adversely (as in 2008) and may not even be introduced
- May further deteriorate the relationship with the City

These are the courses of action that I believe are available and should be considered by the Board. I have not attempted to address all of the Pros and Cons, just those that illustrate the complexity associated with each response. Will this be an easy decision or unanimous? I sincerely doubt it.

The City Council and Mayor have declared their intentions with regard to NRP. It is especially disappointing for me because of the work and effort that was committed to drafting what the members of the Policy Board and I thought was a reasonable and workable plan for consolidation. Even though the Policy Board acted on the Plan on September 27, 2010, and it was then passed on to the City, the City Council to this date has never received, discussed, or voted on it. The action on December 13 was their response to the effort to collaborate and cooperate and was certainly a major disappointment.

I have presented the possibilities that I see now, as you have asked me to. A negotiated compromise is not one of those options because the Council's aggressive actions have clearly indicated how they want this discussion to proceed. The approach being pursued by the City is clear and their goals are clearly evident.

If you have any questions, please let me know. This item will, as you directed, be on the agenda on Monday.