



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** February 15, 2005

**To:** Council Member Lisa Goodman, Community Development Committee

**Prepared by:** Jack Kryst, Director, Development Finance, Phone 612-673-5130

**Presenter in Committee:** Jack Kryst, Director, Development Finance

**Approved by:** Chuck Lutz, Deputy CPED Director \_\_\_\_\_

**Subject:** Establishment of Minneapolis Development Finance Committee and Approval of Guidelines

**RECOMMENDATION:**

Establish the Minneapolis Development Finance Committee and approve the attached Minneapolis Development Finance Committee Guidelines, dated February 15, 2005.

**Previous Directives:**

On February 9, 1996, the City Council approved: 1) an amendment to the MCDA ordinance establishing the Development Finance Committee (Section 422.90); and 2) Resolution 96R-010, approving Development Finance Committee Procedures.

**Financial Impact** (Check those that apply)

No financial impact - or - Action is within current department budget.

**Community Impact**

**Ward:** Citywide.

**Neighborhood Notification:** Not applicable.

**City Goals:**

The Development Finance Committee's advisory function helps the City achieve Goal 4 (Create an environment that maximizes economic development opportunities within Minneapolis by focusing on the City's physical and human assets) and Goal 5 (Foster the development and preservation of a mix of quality housing types that is available, affordable, meets current needs and promotes future growth).

## **Background/Supporting Information**

The Development Finance Committee advises City finance and development staff, the City Council and the Mayor regarding the financial structuring of proposed development projects and programs funded with certain public financial resources. The members of the Committee are appointed by the Director of Community Planning & Economic Development, and include individuals from the private sector with substantial development or finance experience, the City Finance Officer and other City finance and development staff.

The Development Finance Committee was established in its current form with the February 9, 1996 amendment to Chapter 422 of the Code of Ordinances (the "MCDA ordinance"). The City Council also approved Development Finance Committee Procedures at that time.

The August 8, 2003 amendment to the Code of Ordinances adding a new Chapter 415 (the "CPED ordinance") did not address the Development Finance Committee. There is a need to re-establish the Development Finance Committee outside of the context of the MCDA ordinance and to update the Committee guidelines to reflect current practice and organizational structure. Later this year, CPED and City Attorney staff will bring forward various housekeeping amendments to the MCDA ordinance, and the existing Development Finance Committee language will be deleted from the ordinance at that time.

The Council action requested at this time is to establish the Minneapolis Development Finance Committee and approve the attached Minneapolis Development Finance Committee Guidelines. The Guidelines may be characterized as a policy document rather than a procedural document, and therefore Council approval is appropriate.

The current members of the Committee will continue to serve on the re-established Committee. A list of members is attached to this report.

## **Proposed Guidelines**

The attached draft Minneapolis Development Finance Committee Guidelines were prepared by Finance and CPED staff and have been reviewed by the current members of the Development Finance Committee. Changes from the current guidelines include:

- a general reformatting;
- removal of specific financial parameters such as debt coverage ratios, loan-to-value ratios, pre-leasing requirements, and minimum vacancy rates;
- clarification of the types of actions to be reviewed by the Committee;
- an increase in the threshold for Committee review from \$100,000 to \$200,000;
- new conflict of interest language prepared by the City Attorney's Office; and
- updates of outdated references to MCDA.

The 1996 Procedures and Guidelines that are to be replaced by this action are also attached for comparison purposes.

## Community Planning & Economic Development

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Draft 2-15-05

### Minneapolis Development Finance Committee Guidelines

These guidelines replace the Development Finance Committee Procedures and Guidelines adopted by the Committee on October 5, 1995 and by the City Council on February 9, 1996.

#### Purpose

The Minneapolis Development Finance Committee advises City finance and development staff, the Minneapolis City Council and the Mayor regarding the financial structuring of proposed development projects and programs funded with certain public financial resources.

#### Duties

The Committee reviews requests for public financial assistance in amounts over \$200,000 from the following sources:

- Tax increment financing
- Tax abatement
- Common Project
- Leveraged Investment Fund
- Affordable Housing Trust Fund
- HOME
- Community Development Block Grants
- Chapter 595 levy funds
- Limited Equity Cooperative Pilot Program

The Committee reviews requests for the following actions involving amounts over \$200,000:

- Land sales and land leases at other than fair market value
- Loan restructurings, subordinations, write-offs or deferrals that require City Council approval

The Committee may also review new City financial programs and other activities that the Chair deems appropriate.

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The Committee does not review requests for industrial development bonds, housing revenue bonds and low income housing tax credit allocations.

The Committee's review and recommendations may include, but are not limited to:

- Levels of City financial assistance
- Sources of funds
- Repayment terms
- Project guarantees
- Other terms and conditions
- Borrower experience
- Developer return on equity
- Developer fees

The Committee's comments and recommendations are submitted to the CPED Director and Deputy Director, the City Council and the Mayor.

### Membership

The Committee shall consist of no more than 13 and no less than 11 members. At least seven members shall be from the private sector, and shall have substantial development and/or finance experience. The City Finance Officer or his or her designee shall be a member of the Committee. Up to three more members may be City finance or development staff.

Members are appointed by the Director of Community Planning & Economic Development (CPED). Appointments are not subject to the City's Open Appointments process. The Committee chair shall be a member of the Committee elected by the membership.

There is no set term length; members serve until they resign or are replaced by the Director. Regular attendance and participation are expected; the Chair will recommend to the CPED Director replacement of members as necessary to ensure substantial participation. Members are not compensated for their service on the Committee.

### Rules

Actions of the Committee will be by majority vote of the members present, at least two of whom must be private sector representatives. A quorum is one more than one-half of the existing membership, with at least two private sector representatives. Actions taken with less than a quorum will be so reported.

Regular meetings will be held on Thursdays at 8:30 a.m. two weeks before City Council meetings. Special meetings may be convened by the Chair, the CPED Director or the CPED Deputy Director. A schedule of anticipated meeting dates will be provided to

members annually. Members will be notified of meeting cancellations one week prior to the scheduled meeting date.

Reports to the Committee will be distributed electronically one week prior to the scheduled meeting date.

Committee minutes will summarize key discussion points. All Committee actions and recommendations will be recorded in the minutes. Votes of individual members will not be noted except at a member's specific request during the meeting at which the vote is taken. Abstentions due to potential conflicts of interest will be noted in the minutes and on a disclosure form to be filed with the minutes.

Committee actions and recommendations will be submitted to the CPED Director and Deputy Director, the City Council and the Mayor.

#### Conflict of Interest; Duty to Abstain

A member of the Development Finance Committee shall not participate in the review of any matter in which he or she has a conflict of interest.

- A conflict of interest is present when a committee member has a financial interest in a matter that is subject to committee review, except when that financial interest is no greater than that of another member of his or her business classification, profession or occupation. Members of the committee who are City officials or employees must also comply with the requirements in the City's Ethics Code for disclosure of conflicts of interest.
- A financial interest is any interest, including loans, which shall yield, directly or indirectly, a monetary or other material benefit to the committee member. A financial interest of a committee member's employer (other than the City of Minneapolis), his or her associated business, or his or her spouse, domestic partner, or dependent, and their employers or associated businesses shall also be considered a financial interest of the committee member. The following assets shall not be considered a financial interest for purposes of this section: (1) ownership of shares in a diversified mutual fund; (2) membership in a pension plan or employee benefit plan; (3) ownership of bonds or publicly traded securities with a market value of less than two thousand five hundred dollars (\$2,500.00); (4) ownership of a whole life insurance policy.
- Associated business means any association in connection with which the individual is compensated in excess of fifty dollars (\$50.00) in any month, except for actual and reasonable expenses, as a director, officer, owner, member, partner, employer or employee, or is a holder of securities worth two thousand five hundred dollars (\$2,500.00) or more at fair market value.

- To participate or participation means making the decision, taking action, entering into a transaction, providing advice or a recommendation, introducing, sponsoring, debating, voting on, approving, and investigating the decision, action, or transaction. Participation includes the direct and active supervision of the participation of a subordinate in the matter. Participation is more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral basis.

In addition, a member of the Development Finance Committee shall not participate in the review of any matter involving an organization or entity for which the committee member, his or her spouse, domestic partner, or dependent is an officer, director, board member or trustee, even if there is no financial interest in the organization or entity.

## DEVELOPMENT FINANCE COMMITTEE PROCEDURES

The following Development Finance Committee Procedures and Guidelines were adopted by the Development Finance Committee on October 5, 1995 and were codified by City Ordinance 96-Or-003 adopted on February 9, 1996.

### Purpose:

The Development Finance Committee reviews and comments on proposed projects and programs funded from the Common Project and some federal housing programs. Their comments will be forwarded to the Executive Director and Commissioners of the Minneapolis Community Development Agency (MCDA), City Council and Mayor. The Committee's review and recommendations shall only pertain to the specific financial structuring of a specific project or program.

1. A Development Finance Committee consisting of no more than thirteen (13) members and no less than eleven (11) members shall be appointed by the Executive Director to advise the Commission, City Council, Mayor and Executive Director.
2. The Development Finance Committee membership shall consist of no more than three (3) representatives from agency staff, City Finance Officer or other designee and at least seven (7) members from the private sector who have substantial development and/or finance experience. The Chair of the Development Finance Committee shall be a member of the Committee appointed by the membership.

The MCDA is responsible for providing staff support to the Committee, in addition to the Committee support provided by the Agency's financial analysts and Common Project analysts.

### Conflict of Interest:

All members of the Development Finance Committee are considered to be bound by Minnesota Statutes 471.87 and 462.432 regarding conflict of interest.

Attachment "A" provides further information on these statutes.

If a member has a conflict they may answer questions about the item but will leave the room upon vote and certain discussion.

### Duties:

1. The Committee shall review requests for:
  - a. Common Project Loans/Grants
  - b. Leveraged Investment Fund loans
  - c. HOME Funds
  - d. The use of tax increment funds for public/private ventures

- e. Community Development Block Grant Loans or Grants (CDBG)
- f. Land Sales and Land Leases at other than fair market value
- g. Other Financial Programs developed by the Agency
- h. Other activities that the Chair deems appropriate.

Projects reviewed will have requests which are \$100,000 or more.

Project Coordinators who are uncertain if an item should be brought to the Development Finance Committee should ask the MCDA staff assigned to the Committee. The MCDA staff assigned to the Committee will determine if the item requires Development Finance Committee review.

Certain projects or programs which are reviewed by other MCDA committees do not normally need to be brought before the Development Finance Committee unless a companion loan is involved. These projects would include, as an example, IRBs, HRBs and stabilization projects.

- 2. Review acceptable repayment programs.
- 3. Review requests for exemptions from fiscal disparities.
- 4. Provide guidance for determining project guarantees.
- 5. Analyze credit worthiness of borrower.

Rules:

- 1. Action of the Committee will be by majority vote of the members present. Votes will only be taken if there is a quorum. A quorum is one more than one-half of the existing membership with at least two private sector participants.
- 2. The Committee will hold meetings on Thursdays at 8:00 A.M. the two weeks before the City Council meeting. Extraordinary meetings may be convened by the Chair, the Executive Director, or the Acting Executive Director in the absence of the Executive Director. A schedule of dates for tentative meetings will be distributed to Committee members as appropriate.
- 3. Items for Committee consideration should be submitted to the MCDA staff assigned to the Committee by 10:00 A.M. on Thursday the week prior to the desired Committee meeting. Staff members submitting items should submit one original copy. Items should contain a staff recommendation.
- 4. It will be the responsibility of the staff member presenting an item to include the relevant Development Finance Committee action with that item's report to the MCDA Board and/or the City Council.
- 5. Committee minutes will be forwarded to the Executive Director as soon as possible after Committee meetings. Minutes will be non-verbatim but will summarize key points raised in the discussion.
- 6. All Committee actions will be recorded, however, votes of individual members will not be noted except at their specific request during the meeting at which the vote is taken.

Functions:

When a development/project that requires Development Finance Committee review is proposed the Project Coordinator will present it. The following information is required from the Project Coordinator.

1. Overview of program/project/development. Pages 11-13 provides further detail on information required.
2. Proposed financing plan.
3. Impact on City's Housing and Development Goals and consistency with Focus MCDA.
4. Key issues involved with the project.
5. Follow guidelines found in Attachment B on pages 6-10.

The Committee, at its meeting, will then give the Project Coordinator direction in the following areas:

1. Parameters for City financial assistance and sources of funds which could be used.
2. A repayment position if appropriate.
3. Guidance on project guarantees which may be required.
4. Other terms and conditions.
5. Does the deal make sense?

On complex projects, Coordinators should present an initial review of the preliminary proposal to the Committee at the beginning of negotiations. This will familiarize the members with the proposal and enable them to suggest financial parameters to use in negotiations. It may be necessary for the Project Coordinator to return to the Development Finance Committee periodically for review as changes occur which affect the parameters set up by the Committee. The Committee may request an update at specific intervals.

At the conclusion of negotiations or when a package is ready to be submitted to the Executive Director, it is first presented to the Development Finance Committee for final review.

The Development Finance Committee Chair may be called upon, at the discretion of the Executive Director, to present the Committee's recommendation(s) to the MCDA Board and/or City Council and Mayor.

Conflict of Interest

All members of the Development Finance Committee are considered to be bound by Minnesota Statutes 471.87 and 462.432 regarding conflict of interest.

## Statute 471.87:

Provides that a public officer (in this case, a member of the Development Finance Committee) who is authorized to take part in any manner in making any sale, lease, or contract in their official capacity shall not voluntarily have a personal financial interest in that sale, lease or contract or personally benefit therefrom. The statute provides that a violation is a gross misdemeanor.

## Statute 462.432:

Requires that before taking an action or making a decision which could substantially affect their financial interests or those of an organization with which they are associated a commissioner or employee of an authority shall prepare a written disclosure of the potential conflict and submit it to the Board of Commissioners. The statute states that a potential conflict of interest is present if the Commissioner knows or has reason to know that the organization with which the Commissioner or the employee is affiliated with or is reasonably likely to become a participant in a project or development which will be affected by the relevant action or decision.

Conflict of interest forms may be obtained from Development Finance Committee staff. Questions or interpretations of the statute may be referred to Surell Brady, City Attorney, 673-3272.

DEVELOPMENT FINANCE COMMITTEE  
GUIDELINES

These guidelines should attempt to be followed in presentations to the Development Finance Committee.

DEFINITIONS:

**Total Public Assistance:** The monetary value of all public assistance to be advanced to the project.

**Subsidy Grant:** The money value of the public assistance advanced to the project that is not to be recaptured under some form of a loan arrangement.

**Equity:** The amount of value in excess of the total liens or charges against the property.

**Loan:** The moneys advanced to a project with an absolute promise to repay. There are essentially two types of loans: those amortized from the project income stream; and those where the payback is either, totally or partially, deferred to be recaptured out of future project residuals. To the extent possible, all loans should be recourse.

**Unsecured Investment:** The portion of the Total Public Investment which may be wholly or partially repaid, if the development is successful financially. An investment is considered unsecured if it does not meet the criteria to be classified as a loan.

GUIDELINES:

If project does not meet guidelines, exceptions should be noted.

1. An attempt should be made to recapture all public assistance advanced to a project.
2. If Public Assistance is to be recaptured, the receiver of the Public Assistance shall recognize his or her liability for return of the principal amount with interest under some form of loan agreement.
3. Minimum Loan/Lease Terms:
  - a. Yield: The yield on any particular loan shall be set at a level that takes into consideration factors such as:
    - The relative need for assistance
    - Achievement of public objectives
    - Existing disincentives to development
    - The Agency's costs to borrow money
    - The Agency's overall risk
    - The project's ability to repay
  - b. Security: Loans shall be collateralized commensurate with Agency risk, unless City policy or non-financial goals of the project dictate a change in collateralization. To the extent possible, loans should be recourse.

## c. Letters of Credit:

## 1. The Agency accepts basically two types of Letters of Credit:

- Short Term - These are primarily for the life of construction of a facility.
- Long Term - Used for loan guarantee, performance and operating revenues. These letters of credit are for the life of the loan repayment or the bond.

## 2. Letters of Credit will be accepted from non-rated banks.

Letters of Credit from non-rated banks shall not exceed 15% of the project amount or \$1,000,000 whichever is less.

## 3. Letters of Credit will be accepted from banks rated at "A" or higher by Standard &amp; Poor's or an equivalent rating by Moody's or Keefe Bruyette.

If for some reason a bank's rating falls below "A", a review of the bank's most recent financial statement will take place by the Agency to determine the strength of its assets to back up the Letter of Credit.

## d. Debt Coverage Ratio: The Debt Coverage Ratio (DCR) for all commercial and industrial debt (private and public) to be serviced from project net operating income shall not be less than 1.2.

The Debt Coverage Ratio (DCR) for all housing debt (private and public) to be serviced from project net operating income shall not be less than 1.2 or not less than 1.1 for Project Based Section 8 Housing Projects and FHA-insured mortgages.

For all projects, evidence must be provided of long-term economic viability.

## e. Amortization Schedule: Repayment should be made as early as possible and should not exceed the useful life of the project.

4. Financial Data Requirements: Projects submitted for review must include:

- An up to date "Source and Use of Funds Statement".
- Financial or historical information for three years of the development.
- Three-year operating proforma and rates for any changes beyond 3 years.

5. Borrower Experience: The Committee should be informed of any defaults by the developer that have not been cured in a reasonable period.6. Developer Return on Equity: The Developer's return on equity, should not exceed the return a developer would receive without any subsidy for a similar project.7. Developer Fees and Overhead for Housing Projects: Overhead to be negotiated and not to exceed \$5,000 per unit for multi-family housing developments and if the overhead exceeds \$5,000 per unit, a review of the equity and source of funds will be used to determine if the amount is acceptable.

8. Market Study/Appraisal: Prior to Committee consideration, all projects should have appropriate market data and a before/after appraisal.
9. Loan-to-Value Ratio: 70% - 80% of appraised value except for FHA (Housing and Commercial) insured housing project where 90% is acceptable.
10. On commercial projects: Preleasing should exceed the following:
  - 75% Office
  - 75% Commercial
  - 50% Industrial
  - No Requirement Apartments

Retail projects should be located in close proximity to another retailer or destination site.

11. Job Retention/Job Creation: Description of whether project is being undertaken for job retention and/or job creation.

If project is undertaken for job creation or job retention, the project should create at a minimum one job for 1,000 square feet of building, with greater emphasis on projects which create 1.5 jobs or more for 1,000 square feet of building, or which create full-time living wage jobs as defined by the Agency. If project creates living wage jobs, other shortfalls in the project may be mitigated.

#### ASSUMPTIONS AND PARAMETERS USED IN REVIEW OF PROJECTS:

1. Minimum Vacancy Percentage for Housing:
  - 3% for 100% Section 8 Project Based Assistance Project.
  - 5% for projects with a minimum 5 year history of stabilized vacancies of less than 5%.
  - 5% - 10% for rehabilitated low income projects.
  - 7% for FHA insured market rate projects.
  - 7% - 10% for new construction.
  - 10% for unassisted, uninsured market rate projects.

Properties may operate beyond projections.
2. Annual Percentage Increase in Income and Expenses for Housing: There should be a 1% to 3% annual gap between income and expenses. The annual percentage increase in expenses shall be 1% - 3% higher than the annual percentage increase in income.
 

Income and expense parameters shall be appropriate to the project and shall be reviewed annually.
3. 10% or greater cash investment by borrower will generally be required.

4. With the exception of non-profit developers, to the extent possible, personal guarantees will be required with all debt being recourse debt.
5. A review of personal and commercial credit history and credit worthiness, via Dunn and Bradstreet reports or comparable source will be made.

Minneapolis Community Development Agency  
Development Finance Committee

*Review Summary and Report*

Date: \_\_\_\_\_

Project: \_\_\_\_\_

Project Coordinator: \_\_\_\_\_

The Development Finance Committee of the Minneapolis Community Development Agency has established guidelines for development financing which have been reviewed and approved by the Committee. The subject financing proposal has been prepared by MCDA staff and meets the guidelines, except in the following area(s):

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The Development Finance Committee has reviewed these proposed exceptions and has determined:

- ( ) The proposed exceptions are reasonable given the stated public purpose of the project.
- ( ) There are more financially effective methods of achieving the same ends (see attached).
- ( ) The guidelines should be adhered to as follows in order to maximize the effectiveness of city financing and/or to prudently reduce near-term or long-term financial risk to the project or the city.
- ( ) Other: (Explain; see attached)

Note: The Development Finance Committee does not review or consider the decision-making or rationale which sets the proposed public purpose or ends of any individual project. However, the Committee may from time to time address broad policy issues which affect the cities efficient and prudent use of city funds for the ends desired.

\_\_\_\_\_  
Chairperson, Development Finance Committee

# Development Finance Committee

February 2005

## Chair

Jack Kryst  
Finance, City of Minneapolis

## Members

- |  |  |
|--|--|
| 1) Sally Anaya-Boyer<br>Associated Bank                      | 7) Bob Lind<br>CPED, City of Minneapolis       |
| 2) Alan Arthur<br>Central Community Housing Trust            | 8) Arlen Nissen<br>Wells Fargo (retired)       |
| 3) Patrick Born, City Finance Officer<br>City of Minneapolis | 9) Eva Stevens<br>United Properties            |
| 4) Rich Esquivel<br>Franklin Bank                            | 10) Steve Studt<br>Project for Pride in Living |
| 5) Michele Foster<br>Opus Corporation                        | 11) Andrew Swammi<br>Western Bank              |
| 6) Ned Foster<br>Towle Financial Services                    |  |