

AGENDA

SPECIAL MEETING OF THE MIDLAND CITY HOUSING COMMISSION

FRIDAY, JULY 8, 2016

9:30 A.M.

**CITY HALL - COUNCIL OVERFLOW ROOM
333 W. ELLSWORTH STREET
MIDLAND, MI 48640**

1. Roll Call
2. Public Comments (unrelated to items on the agenda)
3. New Business
 - a. PILOT Policy Review Project
4. Communications
5. Future Meeting Date
 - a. September 12, 2016 – Next regular meeting
6. Adjournment



STAFF REPORT TO THE HOUSING COMMISSION FOR THE SPECIAL MEETING OF JULY 8, 2016

SUBJECT: PILOT Policy Review – Outline of 2016 Bracken Woods Proposal

DATE: July 5, 2016

On Monday, April 25, 2016, the Midland City Council approved Ordinance Number 1783, the Payment in Lieu of Taxes (PILOT) proposal to facilitate the purchase and rehabilitation of Bracken Woods Apartments by Lockwood Development. The decision was the final result of a City review process that began in July 2015.

REVIEW PROCESS SUMMARY

During the 10-month review period, the applicant first proposed an original application which was reviewed by the City Housing Commission and City Council. After public hearings by the Housing Commission and City Council, the proposal was ultimately rejected by City Council in August 2015. The applicant then revised their proposal and resubmitted it for review in January 2016. After initial review of the second version, the City Council members drafted a list of questions to be answered and reviewed by the Housing Commission. City staff prepared the answers to the questions which were then studied and approved by the Housing Commission. Upon final review of the questions and answers, on April 4, 2016, the Housing Commission sent the questions and answers back to City Council. City Council then approved the revised proposal after conducting the second of two public hearings.

REVIEW PROCESS DETAIL – FIRST PROPOSAL

The initial proposal by Lockwood Development to facilitate the purchase and rehabilitation of the Bracken Woods Apartments was received by City staff in July 2015. The first step in the review process was the initial acceptance for review of the application by City Council on July 27, 2015. During this meeting, City Council approved a resolution to refer the proposal to the Housing Commission for study and recommendation.

The resolution specified that “Act 346 of the Michigan State Housing Development Authority (MSHDA) Act of 1966 and Article XIII, Section 2-260 of the City of Midland Code or Ordinances recognize the importance of PILOTs as a tool to facilitate affordable housing for persons of low and moderate income.” The resolution went on to indicate that “City Council has previously granted PILOT exemptions to projects that meet MSHDA requirements, and additional criteria as adopted by City Council on April 14, 2003” and, furthermore, “on November 22, 2010, City Council received and filed a report from staff that recommends that no assignment, refinancing, or sale would be permitted without submission of a new PILOT application, and said application should be submitted directly to City Council for initial acceptance and referral to the Housing Commission for study and recommendation.” As indicated in the resolution, the Housing Commission was brought on to review the contents of the application and provide recommendation on the proposal to City Council. While the City has reviewed various PILOT proposals in the past, this was the first time the Housing Commission was formally consulted in this manner on a proposal.

The Housing Commission received and reviewed the referral from City Council during a special meeting on August 6, 2015. Within the agenda packet for this meeting, City staff provided background information on the statutory authority to grant PILOT status (Act 346 of 1966), outlined the review criteria established by MSHDA, and provided some discussion on the April 14, 2003 and November 22, 2010 City Council actions on PILOTs. The April 14, 2003 and the November 22, 2010 actions by City Council established the framework by which City staff advised the Housing Commission to review the PILOT proposal for Bracken Woods.

MSHDA PILOT Review Criteria

The following criteria must be met in order for MSHDA to determine a project is eligible to participate in a financing model that utilizes PILOT status at the local level:

1. The owner of the project is a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association.
2. The project is financed with a federally-aided or authority-aided mortgage, or an advance or grant from the authority.
3. The project must serve low income persons, as defined by MSHDA.

April 14, 2003 City Council Action

The City Council accepted a City staff report concerning the relationship between PILOTs and affordable housing, and supported by resolution that the following three determinations be made prior to entering into future agreements:

1. That the proposed development will meet a demand not adequately addressed in the existing inventory of community rental housing.
2. That the proposed development will not have a negative impact on the existing rental housing market for substantially similar units.
3. That a PILOT agreement is essential to financing of the proposed development.

November 22, 2010 City Council Action

The City Council action during November 2010 followed the work of City staff and a ten-member work group to review the City's PILOT policy. At the direction of City Council, the review of the policy followed the 2009 approval of seven PILOT projects (seven total housing units) requested by Affordable Housing Alliance (AHA). On November 22, City Council received and filed the associated staff report that contained the recommendations of this work group. The recommendations provided criteria for applying for a PILOT exemption, as well as the review process for City Council, and measures for ensuring compliance and enforcement of the standards. Included in the report findings was a recommendation that the Required Application Materials include:

1. Complete City application form.
2. Must meet MSHDA eligibility and be approved as a non-profit housing corporation.
3. Must be financed with a MSDHA or other similarly financed program.
4. Provide site/project specific third party market study (completed within the past 12 months). City Council would have the discretion to waive this requirement.
5. All units within a proposed project must serve those at 50% or below median income (as defined by the U.S. Department of Housing and Urban Development (HUD) or MSHDA) and include units to serve those at 30% or below of median income.
6. Specify targeted rental rates by unit and income eligibility guidelines.

Housing Commission Action – First Proposal

At the August 6, 2015 special meeting, City staff presented to the Housing Commission that the proposal by Lockwood Development meet all of the review criteria by MSHDA and the April 14, 2003 and the November 22, 2010 criteria. Following the staff presentation, a public hearing was opened. During the public hearing, three (3) persons spoke in favor of the proposal and five (5) persons spoke in opposition of the proposal. Those that spoke in favor expressed their support for the extension of the supply of affordable housing and the need for low-income housing to be in good quality condition. Those in opposition expressed their displeasure with the low number of units being set for 30% area median income (AMI), the current property owner's allowance of the development to deteriorate, and the length of time of the proposed PILOT extension.

Following the public hearing, members of the Housing Commission discussed their concern with the low number of 30% AMI units and whether or not Lockwood Development would provide any support services to the residents upon acquisition. It was also discussed that the rental market has tightened in recent years making housing affordability much more difficult for the lowest of income residents. The proposal by

Lockwood Development ensures that affordable housing is being provided for a longer period of time, in a manner that is of improved quality, at a scale much larger than individual landlords. The Housing Commission then took the following action:

It was moved by Garchow and supported by Burgess to recommend to City Council that the Housing Commission has reviewed the Bracken Woods PILOT proposal and found that it meets the review criteria of 2003 and 2010. The motion passed unanimously (4-0).

It was further moved by Mortensen and supported by Garchow to recommend the following to City Council related to the Bracken Woods PILOT proposal:

- 1) Lockwood Development investigate whether or not additional units can be designated to the 30% AMI category.
- 2) The 2010 PILOT review policy be reviewed to include a required percentage of 30% AMI designated units.
- 3) The 2010 PILOT review policy be reviewed and compliance reporting requirements be implemented.
- 4) The 2010 PILOT review policy be reviewed to include the requirement that applicants behind PILOT proposals review the feasibility of providing support services to tenants.

The motion passed unanimously (4-0).

City Council Action – First Proposal

On August 17, 2015, following three (3) people speaking in support and five (5) in opposition during the public hearing, the City Council denied the application by a vote of 2-3. During the discussion, members of City Council indicated that they were hesitant to support the proposal given the length of time proposed for PILOT status and the small amount of units provided to the 30% AMI level.

REVIEW PROCESS DETAIL – SECOND PROPOSAL

After the first proposal was denied by City Council, Lockwood Development began working with MSHDA and City staff to try and address the concerns raised during the public input session and by members of the Housing Commission and City Council. Between August 2015 and January 2016, Lockwood Development was able to change their financial models to shorten the length of time proposed for the PILOT extension as well as increase the number of units provided to the 30% AMI level.

The review of the second proposal was initiated in the same fashion as the first. On January 25, 2016, City Council approved a resolution referring the revised application to the Housing Commission for study and recommendation. However, before the Housing Commission convened on the matter, the City Council wanted an opportunity to draft a set of questions for the Housing Commission to answer that further explored the contents of the proposal and the existing dynamics of the city's rental market. On February 15, 2016, City Council approved the *Exhibit 1* set of questions for the Housing Commission to answer and review during their public hearing process.

The *Exhibit 1* questions were as follows:

1. How many inspected apartment/rental units are there in the city of Midland (and Midland County if that is available)? And, what has that number been for each of the past 5 years?
2. What are the current rental rates for 1 and 2 bedroom units both in the city and in the county?
3. How do Midland's rental rates compare to 5 other similarly sized cities?
4. What is the PILOT rates in those 5 other similar sized cities?
5. If this were a newly constructed complex, what PILOT rates would the Housing Commission recommend?
6. Under the PILOT program, can we grant a stair stepped rate so that the 4% rate applies to the remainder of the years under the existing Bracken Woods program and then new rates apply to any extension being requested?

7. Other cities with a PILOT building seem to impose a service charge on top of the PILOT rate; has the Housing Commission considered that type of charge for a PILOT?
8. Is it correct that individuals that qualify for PILOT housing can remain in their apartments even though their income levels increase beyond the 50% of median level? If so, then is it theoretically possible that Bracken Woods would no longer be providing low-income housing and not warrant the extension of the PILOT tax relief?
9. Have PILOT programs in other cities removed this tax benefit if the complies fails to maintain a minimum percentage of qualified tenants?
10. Is the condition something that was as a city/housing commission feel is a problem?
11. What is it specifically that has led to the purported inferior (yet code compliant) condition of Bracken Woods?
12. What code changes should be implemented to correct those things that are considered a problem?
13. Can we have a higher maintenance standards for PILOT subsidized housing? Would that be imposed by ordinance?
14. What is the enforcement mechanism for failure to comply with maintenance standards?
15. What is the MSHDA maintenance standard? And is it more stringent than Midland's code?
16. As proposed by the PILOT request from Lockwood Development, of the 104 units at Bracken Woods Apartments, how many will be barrier free, and how many will be handicap accessible?
17. Interview some references from communities where Lockwood Development currently has PILOTs.
18. In Lockwood's presentation they reference that in some agreements there can be a condition that if the property is sold it would no longer have a PILOT status – is this beneficial and is that something that can be added to our agreement?

In addition to the information presented in the answers to the eighteen questions, staff, at the request of the Housing Commission, also provided additional information regarding the role of a Public Housing Authority (PHA) in a community and current numbers for Housing Choice Vouchers (formerly Section 8) within Midland County.

First Housing Commission Action – Second Proposal

The Housing Commission first met on March 2, 2016 during a special meeting to hold a public hearing on the revised PILOT proposal. During this meeting, staff was able to present the answers to the majority of the questions; however, some questions were not answered at that time as MSHDA had not yet responded. Five (5) persons spoke in favor of the petition and indicated the need for additional affordable housing for 30% AMI and their support for sustaining the remainder of the units for low-income persons. Seven (7) persons spoke in opposition of the proposal citing that PILOTs create an unfair comparative advantage in the rental market, PILOTs may not be the best solution to affordable housing needs, and that the current property owner was not held accountable for the condition of the property.

During this meeting, the Housing Commission took the following action, recognizing that not all the *Exhibit 1* questions had been answered:

It was moved by Garchow and seconded by Burgess to report to City Council that the current Bracken Woods PILOT proposal by Lockwood Development meets the PILOT standards that are in place. The motion passed unanimously (5-0).

Second Housing Commission Action – Second Proposal

Following the March 2, 2016 meeting, City staff worked to find the answers to the questions that were still outstanding. This involved numerous communications with MSHDA staff. On April 4, 2016, the Housing Commission held a special meeting to review the answers to the outstanding questions. No one spoke during the hearing in support and two (2) persons spoke in opposition to the proposal. The opposition indicated that there should be additional units allocated for the extremely low-income (30% AMI). During the meeting, it was also suggested that the developments receiving PILOT status going forward be required to requalify their tenants income-wise during the annual lease renewal process.

After the public hearing, the following action was taken by the Housing Commission:

It was moved by Garchow and seconded by Mortensen to approve the following resolution:

WHEREAS, the City Council has received and referred a PILOT request to the Midland City Housing Commission relative to Bracken Woods; and

WHEREAS, City Council has also referred a series of questions to the Midland City Housing Commission for review and response; and

WHEREAS, all questions have been reviewed and answered to the satisfaction of the Housing Commission; now therefore

RESOLVED, that the responses to all 18 questions asked by City Council, as contained in the Staff Report to the Housing Commission dated March 30, 2016, are hereby forwarded to City Council as the Midland City Housing Commission's response in full to said questions.

The resolution was approved unanimously (5-0).

City Council Action

The Housing Commission's referral was received by City Council on April 11, 2016. That same evening a public hearing was conducted during the first reading of the proposed ordinance. Ten (10) persons spoke in favor of the proposal noting the same themes heard during the Housing Commission public hearing. Six (6) people spoke in opposition to the proposal indicating the same notions of opposition heard during the Housing Commission public hearing. Following the public hearing, City Council voted 5-0 to move forward with the second hearing on the proposal.

On April 25, 2016, the City Council held the second public hearing on the proposal. During the hearing, five (5) persons spoke in opposition of the proposal and no one spoke in support. Members of the opposition noted the same concerns as voiced during the other public hearings. Following the public hearing, City Council voted 5-0 to adopt the ordinance and approve the proposal.

ISSUES RAISED DURING REVIEW PROCESS

Current Patchwork of Review Criteria

During the 10-month review spanning the two proposals, there were many issues that were raised regarding the current review process. From staff's perspective, one of the largest issues is the cobbled-nature of the existing PILOT review framework. While the Bracken Woods proposal was reviewed using the April 14, 2003 and November 22, 2010 standards, the nature of standards having not been officially adopted in unison creates some ambiguity and confusion. Ultimately, the goal of the PILOT policy review project is to draft a set of review criteria that can be adopted by the City Council in an attempt to standardize the review process.

Desire for Additional 30% AMI Units

It also became apparent during the review process that the standards contained in the November 22, 2010 report might not adequately address the desire for project proposals to contain sizeable amounts of units for the lowest of the low-income (30% AMI). The PILOT policy review process will need to revisit these concerns to develop a better solution.

Defining the Need and the Elastic Nature of the Term 'Affordable'

Another consistent theme during the Bracken Woods process was the lack of understand regarding the amount of "affordable" housing needed in the city. Some of this confusion might be the result of the elasticity of the word *affordable*. What is affordable to one household might be completely unaffordable to another as household income level and size are the true values by which this term must be measured against. By HUD and common definition, anyone paying 30% or less of their household income on housing has affordable accommodation. During the PILOT policy review process, it will be necessary to better define where the true need is, household income and size-wise. All the while, seeking to determine the number of additional housing units that will be needed at a certain rent value to meet this need.

While the group will be able to determine the current need, it will also be necessary for the group to determine how the need will be defined going forward when new proposals are submitted. In other words, it is necessary to determine how the City will know at a future date how a proposal meets the current needs of low-income residents.

Ongoing Maintenance

During the review process, it was apparent that the trend of the condition of Bracken Woods Apartments was of concern to the City. It will be necessary for the work group to determine how to best ensure that ongoing capital maintenance is ensured. If capital maintenance becomes neglected, there should also be a means to ensure compliance.

PILOTs within the Context of Other Affordable Housing Endeavors

Furthermore, setting a better context for existing affordable housing dynamics within the city appears necessary. The knowledge level regarding the numerous other affordable housing programs within the city might also play into the high amount of controversy surrounding PILOT projects. Mindfully, the affordable housing dynamics currently existing in the city of Midland are very complex. Better understanding these dynamics will help place PILOT projects within a more comprehensive context. PILOTs alone are just one tool of many that a community can use to increase the affordability of housing for the lowest of income residents. During the PILOT policy review process, it will be necessary to study more about this.

ESTABLISHING A WORK GROUP TO REVIEW PILOT POLICY

As indicated during the June 6, 2016 meeting, staff is recommending that a work group be established to undertake the work on studying and drafting new PILOT policy standards. This work group would be established as a subcommittee of the Housing Commission and would report directly to the Housing Commission. It is anticipated that this work group would hold various meetings during July – August, with the goal of establishing their findings and recommendations by the regularly scheduled Housing Commission meeting on September 12, 2016.

During the September 12 meeting, the Housing Commission would be able to review the work of the group. Once the Housing Commission is agreeable to the content of the recommendations, as revised or otherwise amended, a special meeting, likely during October 2016, would then be scheduled for the purpose of holding a public hearing on the results. The Housing Commission would then forward onto City Council their PILOT policy revision recommendations following the results of the public hearing.

Participants of the Work Group

The purpose of the work group (subcommittee) will be to study and draft a set of policy standards to best amend the current standards. The work group will not be charged with debating whether or not PILOTs should exist within the city – this is a political debate to be had at the City Council level and such discussion will not be entertained in the work group. As such, participants of the work group should be chosen having this understanding.

The work group should be a sound representation of the community and consist of individuals who are versed in housing matters, especially housing service providers. During the July 8 meeting, staff is requesting that members of the Housing Commission be prepared to suggest participants in this group. It is recommended that this group be somewhere between 8-10 individuals, as to not be too large and unmanageable but still allow for appropriate participation. If members of the Housing Commission would like to participate in the group, staff request that no more than two (2) join the group as to not create a situation where a quorum of the Housing Commission is present during the work group meetings.

The roster of the 2010 work group, whose efforts resulted in the November 22, 2010 City Council action, is as follows:

- Kristi Carlson – Affordable Housing Alliance
- Bill Garchow – Currie Kendall
- Rick Loose – City Housing Commission

- Sharon Mortensen – Shelterhouse
- Jane Pierce – Midland Board of Realtors
- Steve Rapanos – City Housing Commission
- Joe Rokosz – Former City Councilman
- Scott Strouse – PrimeLending
- Sally York – Midland Area Homes
- Steve Zimmerman – Midland Area Real Estate Investors Association (M.A.R.E.I.A)

HOUSING COMMISSION ACTION

During the meeting, the Housing Commission will need to pass a motion to establish the work group as an advisory subcommittee. Staff recommends that the work group be established with a specific set of objectives, as illustrated herein and otherwise revised as the Commission sees fit.

Staff looks forward to discussing this information in more detail during the meeting on July 8, 2016.

Respectfully Submitted,



Grant Murschel
Community Development Planner