

12/11/2018, 10:05 am Item U11.A 2  
From Brian Smith

## MUD BOARD MEETING 12/5/18

Clockwise at table from L to R: Mike McGowan, James Begley, Tom Dowd, David Friend, Tim Cavanaugh, Jack Frost, Gwen Howard

DAVID FRIEND SUB2 – 18 YRS; CHAIR

TIM CAVANAUGH SUB4 – 19 YRS; VICE-CHAIR

JAMES BEGLEY SUB1 – 6 YRS; COMPENSATION PARTNER

TOM DOWD SUB5 – 40 YRS; SENIOR PARTNER

JACK FROST SUB7 – 32 YRS; REAL ESTATE

GWEN HOWARD SUB3 – 4 YRS; RETIRED SENATOR & SOCIAL WORKER

MIKE MCGOWAN SUB6 – 4 YRS; RETIRED NATURAL GAS EXECUTIVE

David Friend: At this point I'll ask Mr. Mendenhall to open the discussion on the purchase proposal from Douglas County.

Mendenhall: Good morning. Thank you Mr. Chairman. As you are all aware the district has participated in meetings with representatives from Douglas County regarding Douglas County's interest in this downtown city block. On Friday I received a proposal from Douglas County to purchase the entire city block. I want to publicly share a few details of that proposal and invite members of the public that may be in our audience today to comment on the proposal and then I'll turn it over to all of you to discuss. The details I'd like to share...One: I want to make it clear this board is not taking action on this item today. This is merely for discussion purposes and to listen to comments from the public. It is only on your committee agenda item, it's...this is not an item on the regular board meeting agenda item. The proposal from Douglas County is contingent upon a public vote from the commissioners of Douglas County. That has not occurred yet. So I want to make it very clear that this is a...they're terming it...a contingent offer. The proposal is to purchase the entire block that we're sitting on today and all improvements – and for ease of discussion I'll just briefly describe what those improvements are – there's one, a customer parking lot. There is an employee parking lot. There is a parking garage. Then there is a smaller, approximately 8700 sqft building connected to the main building that we refer to as an annex and then the approximate 33K sqft building that we are all in here this morning. So the proposal would be to purchase the entire block and all of those improvements. For price, I am not going to disclose the contingently offered price here this morning. I believe that this is a potentially sensitive real-estate discussion at this point so I will not be disclosing what that price is. Next, I'd like to note that the county has asked that they receive an answer from this board by January 10<sup>th</sup>. And so that would mean that if this board would be interested in entertaining this contingent offer, this board would also have an opportunity to discuss at its committee meeting, and then if it would so desire to take action, at its January 2<sup>nd</sup> regular board meeting. And that is when our next meeting is scheduled – January 2<sup>nd</sup>. Closing on it...again, if this board would be so interested to entertain the contingent offer from the county, closing would occur in 2019. But I'd make it clear that, from the discussions with Douglas County, that we would have an opportunity to remain in this building for a period of time while we would determine what our next course of action would be. Finally I would note that in the contingent offer, that the county is committed to preserving this particular building...uh, for a period of 50 years.

And it's my understanding that they have also considered the possibility of repurposing it for use in their project. And their project, as I believe we all know, is a juvenile justice facility. That commitment to preserve the building does not – my understanding is – does not include the annex, the parking garage or the 2 surface parking lots. And so that's the items about the proposal that I wish to share with you all. I believe that there may be members of the public that are here that have an interest in commenting on this, and so what I'll do next is, I will, with Mr. Chairman's permission, walk the microphone to the end of the table next to Mr. Taylor here and then I would ask those members of the public that wish to comment to step up to the microphone. A couple rules here that I'd ask you all to abide by. One, speak into the microphone. Two, I'd ask you to speak slowly. I'd ask you to identify yourself, and if you'd be so kind to spell your last name it helps us when we are listening to the recording to write out our minutes. I'd ask you to keep your comments to the specific topic and if you recall Mr. Chairman stating that there will be 2 opportunities to speak. One on the building and then the next opportunity would be on the rates and the budget discussion. So if you're here to talk about the rates or the budget, please wait for that opportunity. At this point, this is just an opportunity to discuss the proposal from Douglas County. Um, I would ask you to keep your comments to 3 minutes or less and then finally we just ask you to please be courteous and respectful in your comments toward the board. With that, if there's any other directions, Mr. Chairman?

Yeah, you don't have to sign up pro or con. Anyone who wants to talk...there's no particular order.

Carole Zacek: Good morning everyone. I want to thank you for allowing public commentary. My name is Carol Zacek. And I've been a concerned activist, kind of getting involved in the preservation of Omaha's historic buildings. And I also work at the Orpheum theater downtown. This particular building is lovely and so I'm glad to hear that if this proposal would be considered that this particular building would be preserved for at least 50 years. When I come down to work down here I truly love the architecture of all of these historic buildings, including the annex, the little Cadillac building is what I call it - the Cadillac Building. And my thought is that when I work on things like Phantom of the Opera for 2 whole weeks, the Broadway touring people and the visitors who come to see the shows don't really, I don't think they'd be as happy to have a juvenile justice center downtown. And I'm glad to see that again there's the possibility of discussion for additional courtroom space and other very good productive things happening. But, I personally, my opinion is that putting the juvenile justice center in this building or thereabouts, around, is probably not a good way to go. So that's my opinion and thank you very much for letting me speak. Thank you.

Norma LeClerc: Good morning. I'm Norma LeClerc and I live in Bellevue, NE. And we came here in 1965 with the military. (spells name) and I don't think I'm an activist yet, but I'm very interested in saving buildings and all of a sudden I feel like I'm running all over Omaha, out of my district, trying to save the things that I have enjoyed looking at for many years. I've seen many things torn down since 1965 and I'm just here to advocate for this building and thank you so much for listening.

Kathleen Jamrozy: Good morning. (spells name) I've been your neighbor at the Flatiron café, that I have owned and operated for 23 years and so, I really welcome an opportunity to say pause, please. I have been involved in juvenile justice, having worked at boy's town in my pre-restaurant life, but

obviously, my initial concern was: what is the impact on the neighborhood of the future plans that, you know, for we...obviously we need to have more courtroom space maybe they need some of this property for that. However, being involved with a group now we have people that are concerned about taxes, we have folks that are concerned about the preservation of historic buildings in Omaha, that give us our character, and those that are very concerned about the juvenile justice piece of this. Which is: is this the best practice for the kids to be in a high-rise jail setting, which it's now, based on what I have heard from people in the field, this is not the best plan for the kids. It's probably not the best plan for the taxpayers and is definitely not the best plan for our neighborhood. So I certainly hope that we can pause and have many thoughtful discussions about what the best plan for Omaha, downtown Omaha, and the Flatiron district of which you are all a part of.

Maria Fernandez: (spells name) To tag on to what people before me have said, I am not sure we have anything longer than a 50 year plan for anything in Omaha. I've been here 42 years and seen projects go up and come down within less than a 50 year period of time. I come from a very ancient culture and when we talk about things that are old we mean 500 years, at least. Well, let's not go that far. I'd like to know if our city has an overall vision of why we build, where we build, and where we want to go with it. I've seen the town...I arrived here in 1976 and saw the entire downtown district destroyed during that time – economically. Now there seems to be a revival. We have pockets of various neighborhoods like Blackstone, the old market has been there, has been developing since the early 70s, uh, Benson. The city seems to be taking on a different kind of life other than just raising glass towers. We are developing based on the character of each neighborhood and I believe the flatiron district is poised for just that. We have a cluster of older buildings in that neighborhood that can be put to reuse and used effectively. I just found out that the ConAgra space, which took away jobbers canyon, is now rebuilding in the entire green space that's over there to the tune of 1000 apartments. Um, we seem to need a concentration of population to grow into a bigger city. I understand that. I'm not sure if building a crime and punishment district in the heart of a very, very viable district like the flat iron is where we need to go. When we consider the best practices for one thing, we need to consider the best practices for everything that informs an area. If it's juvenile justice, if it's retail, if it's housing, if it's work, if it's parks...and I am not sure we're putting all these different aspects into our decision making when we give up something that can be exceptional, just for the convenience of a few. A juvenile justice center needs, does not need to be downtown. Downtown's offer economic development – work, play, entertainment districts, they need to be viable economic centers and I'm not sure putting a juvenile justice center downtown is going to do that. So when you make your decision to sell or to keep please consider all the aspects that make a community a viable space. Thank you.

Clare Duda: I'm Clare Duda, Douglas County Commissioner. (spells name) I was not particularly planning on speaking this morning. I am not here representing the board, I am here only as a single interested commissioner. However I want to clarify a couple of things. We have a 100+ year old courthouse here, beautiful building. You do not see 100 year old courthouses in growing counties like Douglas County, because they don't meet the needs anymore. We no longer can fit in our hundred year old courthouse. We've done everything we can to preserve this building to make sure that it meets our needs as long as possible and we've hit that point. It no longer can meet our needs. This project is NOT a juvenile justice

center project, it is a courthouse addition. It is a courthouse annex. As such, there are only two locations that the county can consider. This block or the next block. It has to be next to our courthouse. This is all an effort to preserve the life of a beautiful building, and yet we have been cast as anti-old buildings. That's not the case. We're trying to extend the life of a beautiful building that is the heart of downtown. That was here first. It's the third courthouse on that site. We've been here since the county was created, since before NE was a state. We have to grow. The community has to grow its courthouse now. We view this as quite likely the opportunity to combine the juvenile justice center, the detention center, with the courthouse. But that is secondary and is not the driver of this project. And may or may not even happen at this time. It might not happen until a later date if it happens at all. The courthouse addition has to happen quickly. The legislature wanted to give us more juvenile judges last year and we begged them not to, yet. To give us time to create space for them. We don't have room. They gave us a 6<sup>th</sup> juvenile court judge who's basically in a little closet now. I mean we are cramming judges and lawyers into everywhere we can get. We have public defenders whose offices are in the hallways, and yet we're hiring more lawyers. We have county attorneys who are in the basement where the building commission has told them repeatedly this is not fit for people, don't put people down there. Every time it rains it floods, they send us pictures saying look at our people, working in the water. We say they're not supposed to be there. They have no choice. We are that crowded. We have to grow. I want to thank this board for its consideration of helping us meet this great community need. This, I mean, providing an adequate courthouse is probably the most basic part of a County Commissioners job. I've been on our board for 26 years, I recognize many of you - this is one board where people have seniority on me. I have a lot of respect for that. (room laughs) this is the most important thing I will ever take on as a County Commissioner. This is a once in a lifetime opportunity to improve our justice system in Douglas County, to enhance it, to keep it meeting our needs into the future. And that's all that we're trying to achieve here. The juvenile justice center may or may not happen. I'm sorry that it has so complicated everything that...but, It really has complicated the issue because people focus on that and not on the courthouse annex. And first, and foremost, this is a courthouse addition. That's what we're about. I came here not planning on speaking simply to be available to answer any questions you may have and I would prefer to go back into that role so thank you for your time.

Gwen Howard: Are we allowed to ask questions?

David Friend: Sure.

Gwen Howard: Oh. Thank you for coming today and sharing your expertise. I am wondering if there has been some inquiry, some research, done into federal regulations regarding moving the juvenile justice center from its current location to possibly downtown. I mean, from my previous background, you and I are acquainted with one other, and from my work in the legislature, there were a number of problems in not respecting the federal regulations. I know how important it is to do the research regarding that. Can you assure me that that has been looked into?

Clare Duda: I don't know the answer to that Director Howard. I can tell you that the state jail standards board, which is what I've always worried about is on board. I'm not aware of federal regulations impacting this and I'll get you an answer to that question.

Gwen Howard: Thank you. And I would really stress that with you, because many of our dollars that come into this state, regarding the youth, are federal dollars. And we need to be aware of that.

Clare Duda: We've had some very good national guidance on this. I would be surprised if federal regulations went against what they had recommended that we do. But I can double check that.

Gwen Howard: Governor Heniman would tell you that it's a mistake to assume that we understand the federal regulations...

Clare Duda: Right, I will be happy to look into that for you.

Gwen Howard: ...because he and I work together quite a bit. Thank you.

Clare Duda: Right. Thank you.

Nicole LeClerc: My name is Nicole LeClerc. I live in Bellevue as well. (spells name) I never planned on speaking in front of any of you but I've been coming to public meetings for the last 4 months on the topic of the building that's in question. And originally it was for the building, because I care very much about Omaha. Even though I live in Omaha I spend a lot of time in Omaha and I love its history and I mourn when buildings get destroyed and just really want to stress to all of you, even though I don't know you, that the future of Omaha is in your hands. And what Omaha looks like for those who aren't even born yet. Is it that we become a city of boxes? Let's go to Omaha and see all the beautiful boxes that are not meant to last or do we find ways to be creative and sustain the buildings we have. As far as the juvenile justice center, what Clare Duda just said, that this is the first time that I've heard it's not included because I originally came for the building but I've learned a lot about juvenile justice in the last 4 months. And it's very concerning to think about putting a juvenile justice center downtown for kids. We already have a jail and that has had a huge effect on downtown business and I really encourage you to just stop and think and I'm not against more space for the lawyers and judges – I think, absolutely. But when you blend in the kids we gotta think about the kids. So, thank you so much.

Dave Friend: Anyone else from the public that would like to weigh in on the issue of the sale – the potential sale – of this building. Anyone from the board that would like to make a comment on that topic?

Tim Cavanaugh: I would just further my concern about not tearing down this building. This is historical and if anybody really would just take a look at the building when they're outside. Take a good look at it. When was the last time you did that? This is a gorgeous building and any sale of this property in my opinion has to include something not to tear down this building or I will not support it. That's it...

Mike McGowan: And I agree with that too. I've had several rate payers come up ever since the articles in the paper and know I'm on the board they say don't tear that building down. That is such a beautiful

building. If you do sell the building or whatever, whatever you decide, keep the building. It has to stay and I fully agree with that.

Begley: I just want to again thank all the speakers who came down. Your input is incredibly important to us. Please keep communicating with us I would also encourage you to talk to others, whatever side you're on, we want to be informed when we make this decision. So that's incredibly important to us, thank you.

Tim Cavanaugh: I also want to add the importance of having a transparent and open process when we decide whether – WHETHER – to sell the property or not. It has to be open. It's the people's business. It's owned by the ratepayers. So that's why we have to include them in any decisions that we have. It's important to me as I'm sure it is to all of you.

Begley: I want to commend chairman friend and Mr. Doyle for having this public hearing I would also like to have, whenever we, obviously it sounds like January will be the date we make the decision, the meeting at which we make the decision, I would also like to have a public hearing at that meeting as well to make sure that all voices are heard. They were heard today and we need to make sure we hear them. Right in line with what Tim just said about being transparent and open as well.

Gwen Howard: And I'd like to thank our president, who has reached out to the employees. I mean the employees really should have the opportunity to weigh in. I know you're giving them that on in terms of their space and how this building is working for them and whether they would prefer to keep this building or to move to a new location. They have a lot at stake and change is something to really consider.

Tom Dowd: Thank you for everyone's comments and especially the public input. And we agree with you that this is the public's business I've looked at this building many times and especially lately. It is absolutely a beautiful building steeped in history of the Omaha community I want to specially thank Mr. Duda for coming over and talking to us today. I've been following your board meetings as well. And I don't think I heard that the justice center is not part of it I've heard that there's no question that you need a courthouse expansion. So I thank you for clarifying that. For us, it's not taking a position on the county's project. It's looking at what could be an opportunity if we air it out properly. We have facility needs that reach into 20, 30, 50 years also and if it's going to be either outside the window or here we appreciate the opportunity to vet that idea. We're open to talking we're going to keep it in the public and our mission is to provide self, reliable, cost-effective natural gas and water to this community, keep the community safe, we need these services, these life essential services to be reliable and it's all about us doing the right thing for our customers and that's what this board is elected to do so thank you and I appreciate all the feedback.

Mike McGowan: One thing that bothers me about this offer from Douglas County is that it's a contingent offer. The board hasn't even voted on it. I want to know when the board, Douglas County is going to vote and if we have a legitimate offer supported by the board. I don't know. I mean we're spending time talking about this but its contingent on the board, Douglas County board, approving it.

Tom Dowd: Both boards.

David Friend: Well I think that's...and as I understand it, I don't want to speak for the attorneys, but I think the contingent offer is because it's not an offer 'no matter what' until after they've voted on it. And so I don't think that we can take any action until the County says officially 'here's our offer' that's been approved by the majority of their board, so...

Mike McGowan: Right, but yet here we're talking about addressing this on Jan. 2<sup>nd</sup> and that doesn't...when are they gonna vote and we know it's a legitimate offer and does it give us time to sort through the issues?

David Friend: I don't know when they're going to vote on it. But because they meet weekly, I would anticipate with the time frames that they are under, that by the time we come back - and there will be some communication between now and then - is to what that offer is and if that offer materializes in something that...I can't speak for the county. I'm just saying that they meet weekly and...

Tim Cavanaugh: Are you meeting next Tuesday, Clare?

Clare Duda: The County board has two more meetings scheduled yet in December. The next two Tuesdays. However, the county board's intention was...to vote later. I mean, we are planning... There is no vote scheduled on our end until our first meeting in January, which would be after your meeting. If you would like us to vote first, I suppose we could. I mean that wasn't the plan at this point. I can assure, if you approve it, the county board is there. I can assure you of that.

Mike McGowan: Is there a 'they will approve it if we approve it,' you're saying?

Clare Duda: Yes. If you want us to go first I'll try to make that happen.

Mike McGowan: I personally would like to have that go first. Because I'd like to know that we have a legitimate offer in front of us...

Clare Duda: I can assure you that we do.

Mike McGowan: ...supported by the Douglas County board.

Clare Duda: Ok.

Tom Dowd: Well, we'll, let's talk about that through the month. That's Mike's preference and we have a whole table full, so...

Mike McGowan: I don't know what the other board members think of that but it bothers me that we're planning to meet on the 2<sup>nd</sup> and everything, and yet we...we hear that it's going to be approved, but it's not approved, and we don't have it.

James Begley: And we could put ourselves out there to approve something and the county board could vote something down and then what the hell are we left to do. No disrespect.

Gwen Howard: Right.

Mike McGowan: That's my concern.

Clare Duda: No. Quite alright, quite alright. That's an interesting process. The whole thing is an interesting process and I take no offense whatsoever. Perhaps I can get this scheduled on...I couldn't do it for next Tuesday, but the following week, perhaps I can get the county board to take action on this, to ratify, to make it a more formal ...you'd be more comfortable if this were a more formal...?

Mike McGowan: I personally would be, I'm not speaking for my other board members.

Gwen Howard: I would agree with that. I mean the county board needs to be decisive.

Clare Duda: I will see what I can do to make that happen.

David Friend: Mr. Duda, and I think just doing it, if not putting it on the agenda, looking around at the other board members, I think the level of comfort here is like anyone who has an item that they are selling until they know what the price is...

Clare Duda: Understandable.

David Friend: They're not willing to say yes or no until they know for sure because this is not a single person, as you well know, this is not just a single person decision...

Clare Duda: Right. Right.

David Friend: So once the board majority of the county board has made that decision it makes it much easier for us to say yes or no because then we've got...does that make sense?

Clare Duda: Yes.

David Friend: I know you're one of seven. Like we are each one of seven and so we are not trying to make your life difficult...

Clare Duda: Yes. I will try and get this scheduled on our December. I think it's 16<sup>th</sup>, that meeting, so that you know...

David Friend: It seems to be the majority of this board's opinion that matters and...

Clare Duda: Very good. Thank you for your consideration.

David Friend: Thank you.

Mendenhall: If I may be so bold as just to add to this discussion here. It would be my intention to continue to engage all seven of you, Mr. Dowd included obviously, and whatever direction that you would give to me and I would continue to engage the representatives of Douglas County to ensure the recommendations or the preferences from you are understood by the reps of Douglas County. So not

withstanding what Mr. Duda said, I will assure you that I will continue these discussions based on the direction you give me with the folks I'm talking to. And that's what I'm saying.

David Friend: Good enough.

James Begley: And to get back to this topic for a second, as we were just discussing that we could conceivably vote on something, the county board could vote to say 'oh, by the way that '50 year contingency plan' to do nothing with this building, since the MUD board already voted on that, we can choose to or not to follow that.' It's pretty, uh...

Tim Cavanaugh: In my opinion, the only thing we vote on is whether or not we accept an offer or not. That's how you do a real estate transaction. You make a formal offer, you either buy it, accept it or you don't. Or counter. But once we agree to something it can't be changed at the other end. It can be negotiated again but it's not, you're not bound by it. You can't change the materialing, no way.

Tom Dowd: But you're making a good point. (gesturing towards Begley)

David Friend: I think we've made our feelings known to the county board and Mr. Duda's indicated that he'll go back and talk to them. So just in the interest of time, because we still have a budget hearing that we need to get to...



Brian Smith &lt;bs.personal@gmail.com&gt;

---

**MUD board meeting transcript**

---

**Macomber, Denny** <denny.macomber@nebraska.gov>  
To: Brian Smith <bs.personal@gmail.com>

Mon, Dec 10, 2018 at 4:22 PM

Brian, Wade Goehring from HDR forwarded me the program plan earlier and he also forwarded me Karen Chinn's report which was in my mail this morning. Also, I received a letter from Chris Rodgers dated December 3rd, sent by Karen M. Cole today at 2:25, announcing the County's intent to build. I will begin reviewing the documents we have received on Friday. Thanks. Denny Macomber, Jail Standards

**From:** Brian Smith [mailto:bs.personal@gmail.com]  
**Sent:** Monday, December 10, 2018 2:32 PM  
**To:** Macomber, Denny <denny.macomber@nebraska.gov>  
**Subject:** Re: MUD board meeting transcript

Denny, will you confirm who sent you the HDR architectural plans?  
Brian Smith

On Mon, Dec 10, 2018 at 1:52 PM Brian Smith <bs.personal@gmail.com> wrote:

Denny, you might like to know that Commissioner Duda spoke to the MUD Board on December 5. He said the DJS is "on board" with the proposed youth detention center. His comments start at 43:16, and the statement in question is at 47:55. <https://livestream.com/MUD/events/8481068/videos/184407288>

Brian Smith | 402-677-8631