

AGENDA REPORT

TO: Mayor & City Commission
FROM: Ken Hibl, City Manager
DATE: March 9, 2010
RE: Amendment to Rental Rehab Grant Program Guidelines



For the Agenda of March 15, 2010

Background. The City received a \$200K rental rehabilitation grant from the Michigan State Housing Development Authority (MSHDA) in 2008 to provide downtown business owners an opportunity to rehabilitate existing downtown second-story residential space or convert unused or underutilized second-story space to residential use. Regrettably we've had no downtown property owners utilize the grant funds and were in jeopardy of losing the grant until Mr. Gary Todd recently applied to use this grant opportunity to rehabilitate an existing residential space at 202 North McEwan Street.

When we received the application from Mr. Todd, our grant administrator (the Gladwin Housing Commission) noted that our Program Guidelines (*copy att'd*), which were approved in May 2008, needed amendment to comply with MSHDA program revisions implemented since we received the grant. The needed revisions (a date change; an annotation listing the maximum dollar amounts of the grant; and a statement regarding property owner labor and work – see *copy of att'd pages requiring revision*) are on the first three pages of the Program Guidelines and are highlighted; the remainder of the Guidelines adopted in 2008 remain valid.

The Main Street Board reviewed and considered the needed changes at its meeting on March 5th and unanimously recommended approval. The City Commission is now asked to consider approving the amendment.

Issues & Questions Specified. Should the Clare City Commission approve a needed amendment to the Rental Rehabilitation Program Guidelines?

Alternatives.

1. Approve the needed amendment.
2. Do not approve the needed amendment.
3. Set the matter aside for consideration at a later-scheduled commission meeting.

Financial Impact. Amendment of the Program Guidelines will allow the continued utilization of the grant program funds for eligible downtown property owners.

Recommendation. I recommend that the Clare City Commission approve the proposed amendment to the Rental Rehabilitation Program Guidelines by adoption of Resolution 2010-021 (*copy att'd*).

Attachments.

1. Grant Program Guidelines.
2. Amendments to Program Guidelines
3. Resolution 2010-021.

COMMUNITY DEVELOPMENT BLOCKGRANT (CDBG)

RENTAL REHABILITATION PROGRAM
PROGRAM GUIDELINES

May 2008

To be considered and approved by
Clare City Commission
May 5, 2008

Prepared by:
City of Clare
202 West Fifth Street
Clare, MI 48617

1. GENERAL PROVISIONS

These PROGRAM GUIDELINES (Guidelines) intend to set forth the policies and identify the priorities of the City of Clare Community Development Block Grant (CDBG) Rental Rehabilitation Program (Program). These Guidelines set forth the format that will cover general policies of the Program. However, the Program Administrator (Administrator), with the approval of the City of Clare (City) and the Michigan State Housing Development Authority (MSHDA), may waive or modify the requirements in individual cases based upon unforeseen circumstances. The City may also revise any of the parameters in this document to further the intent of the Housing and Community Development Act of 1977 as amended. Federal legislation and implementation regulations have been developed and have been integrated into this program to protect the integrity of such policies.

A. GOALS

The primary emphasis of this program is to provide safe, decent, sanitary, and affordable rental housing to lower income residents of the City of Clare within the targeted Development Area (Attachment A). Financial Assistance will be provided to eligible landlords to assist in providing affordable rental units in the upper stories of downtown buildings. This will be accomplished by improving energy efficiency, repairing health and safety deficiencies, and providing, at minimum, basic livability standards.

B. SOURCES OF FUNDS

MSHDA FUNDS

MSHDA has supplied \$200,000 in funding that will help facilitate rehabilitation of rental units in the target area. These funds will be loaned to eligible landlords at 0% interest for 5 years and then forgiven if landlords comply with all MSHDA and City requirements. Maximum MSHDA funding for each dwelling unit being rehabilitated is \$35,000, includes cost of lead paint remediation, for rehabilitation of previously non-residential space.

PROPERTY OWNER

All property owners are required to provide a minimum of 25% of total project costs. The **Property Improvement Program (PIP)** is available to property owners if units meet PIP qualifications.

C. PROPERTY OWNER AND RENTAL UNIT REQUIREMENTS

1. PROPERTY OWNER QUALIFICATIONS/INFORMATION

- a. MSHDA funded this program for a downtown targeted area only. Any unit to be considered must lie in designated targeted downtown area. (Please see attachment A for designated area.)
- b. Proof of Deed or Land Contract in property owners name (if land contract, a letter from holder that they will sign the mortgage/lien agreement.
- c. Documentation showing that all property taxes on property to be rehabilitated are current and paid in full.
- d. Documentation showing that appropriate (MSHDA approved) levels of property insurance are current and paid
- e. Documentation of most recent three (3) months owner paid utilities for units to be rehabilitated (if applicable).
- f. Prior to signing mortgage, property owner must submit required matching funds to City to be utilized on approved project.

2. NUMBER OF UNITS ELIGIBLE

In order to maximize the number of participants, an individual landlord may have a maximum of four (4) residential units rehabilitated under this program. A participating landlord may re-apply following completion of his/her project. In the event there are no current project applicants for a period of thirty (30) days, a previous applicant may become eligible for an additional two (2) units.

3. LEVEL OF IMPROVEMENT

Upon completion of the rehabilitation, the dwelling unit shall meet local building codes along with Federal Housing Quality Standards (HQS) and MSHDA Moderate Rehabilitation Standards. This includes plumbing, heating, electrical and structural components, all of which must be completed by licensed and insured contractors. **There is no property owner labor or work allowed in rehabilitation process.** All materials, equipment, fixtures, and building supplies utilized in the program will be moderately priced but durable *in* quality. Rehabbed units will be re-inspected each year for the five year term of the lien to assure conditions are being maintained to previously mentioned code.

4. FINANCIAL FEASIBILITY

Following rehabilitation the dwelling unit must be able to financially support itself. In addition all debt service, property taxes, insurance, and utilities (those paid by property owner) must be current prior to the CDBG Rental Rehabilitation Program mortgage being signed and the rehabilitation commenced.

D. PROGRAM ADMINISTRATION

1. CITY OF CLARE

The City of Clare City Commission is a five (5) member board where each individual is elected by the residents of the City of Clare and is responsible to oversee the Program. Commissioner Patrick Humphrey is currently the Mayor and the City Manager, (currently Ken Hibl) acts as the liaison between the Commission and the Rental Rehabilitation Program for the City. Long term objectives include assuring City's compliance with service to economically disadvantaged populations, assisting with outreach to groups for economically disadvantaged citizens with low/moderate income levels, and advocating on behalf of these groups. The City of Clare will contract with a Third Party Administrator who will function as the Program Administrator.

2. APPROVAL AUTHORITY

Sole approval of a rehabilitation project using CDBG funds shall rest with the City of Clare. The Administrator or City may consult with MSHDA and/or City and State Building Inspectors as needed before approval is granted.

3. GRANT AGREEMENT

The Program shall comply with all requirements and conditions contained in the Grant Agreement between the City and State of Michigan. If a violation of the Agreement occurs, the Administrator shall immediately notify the Mayor of the City of Clare, and the MSHDA Office of Community Development.

E. APPLICATION PROCESS

1 PROPERTY OWNER PARTICIPATION

- a. Applicant (property owner) contacts City staff and/or Main Street Manager to review program requirements and completes pre-application
- b. Initial evaluation by City staff and Main Street Manager and Third Party administrator.
- c. Denied applicants will be notified in writing the reason for the denial decision.
- d. If qualified, applicant completes a full application and supporting documentation is provided. Supporting documentation will include the following:
 1. Asbestos survey
 2. Proof of paid taxes
 3. Proof of ownership (warranty deed)
 4. Receipt of owner paid utilities for units to be rehabilitated
 5. Disclosure of financial liabilities on the property
 6. A non-refundable application fee of \$1,000 (to be applied to project costs)
- e. Applications will be processed on a first come, first serve process. An application is considered complete when all information required is supplied to City.
- f. If unit to be rehabilitated is occupied, notice according to URA requirements is sent to tenant(s) that Federal funds have been applied for
- g. Application reviewed and approved by City
- h. Initial inspection by City that could include City inspector, and Third Party Administrator.
- i. Preparation of bid specifications and cost estimates by Third Party Administrator
- j. Meeting between City, Third Party Administrator, and property owner to finalize project

2. RESIDENT PARTICIPATION

Residents are the central aspect of this program and their participation is required in application process. Consequently, residents (18 years and older) occupying dwelling units under consideration for this program will be required to submit a confidential form and written evidence (Tax returns, payroll evidence, etc.) as part of the program application. Residents with income in excess of the MSHDA guidelines may result in disqualification of the dwelling unit from the program. Following rehabilitation resident income will be verified as low/moderate for the initial residents of the assisted units.

3. RESIDENT NOTIFICATION

Program regulations require notifications be sent to all residents in selected units regarding lead based paint hazards and displacement. It is the intent of this program that no resident be required to re-locate (displaced) to another dwelling unit during the rehabilitation of their unit, and that such event may result in the disqualification of the unit from the program. However, if all parties involved agree that displacement is necessary all associated costs shall in be in accordance with the Federal Uniform Relocation Act and shall be the sole responsibility of the property owner.

NOTE: Property owners cannot elect to not renew a lease or evict a resident due to upcoming rehabilitation work. This would constitute displacement and resident would be entitled to relocation benefits.

F. MORTGAGE REQUIREMENTS

1. LEINS ON PROPERTY

MSHDA requires a lien be placed on any property approved for rehabilitation. A 0% interest mortgage will be signed and if property owner keeps apartments affordable and complies with all other MSHDA and City requirements, the loan will be forgiven after 5 years. If property is sold during the 5 year term, the new property owner may either pay back the *entire* amount of the loan removing the rent restrictions; or, may continue the affordability requirements for the remaining period of time and not repay the assistance. No declining balance or pro-ration will be allowed during the loan term.

G. AFFORDABILITY REQUIREMENTS

1. PERIOD OF AFFORDABILITY

For a period of five (5) years following the signing of the mortgage and completion of the rehabilitation project, 51% of all units rehabilitated (1 of 1, 1 of 2, 2 of 3 etc.) must be occupied by residents whose income is at or below 80% of the area median income (AMI) and rents shall be regulated in accordance HUD's Section 8 Fair Market Rent. During this period rental rates will be certified annually.

2. RESIDENT INCOME LIMITS

The maximum household income for families residing in rental units prior to the unit being rehabilitated or upon vacancy and re-renting shall not exceed the following as determined by MSHDA (limits subject to annual review and adjustment.) for the initial resident in assisted units; See Attachment A for current income and rent limits.

3. RENTAL RATES

Property Owners may not increase the rent on units in program from the pre-rehabilitation rent for a minimum of one year after the rehabilitation has been completed. The landlord cannot economically displace the initial low/moderate tenants. Therefore, any rent increase for low/moderate tenants after their first year of occupancy cannot exceed 10% of the previous year's rent during the five year affordability period. Rents cannot be increased for one year after rehabilitation is complete and then must still remain within MSHDA guidelines. See Attachment A for current income and rent limits.

4. TERM OF LEASE

To be fair to both landlord and resident, a lease that guarantees the monthly rental charge for 1 year and only calls for eviction in cases of just cause is required. NOTE: Just causes are generally; failure to pay rent, cause excessive disturbance to other residents, damage, etc. Month to month leases are allowed if monthly rental charge is guaranteed for 1 year term and it is in the tenant's best interest to go month to month.

H. CONTRACTORS

1. CONTRACTOR REQUIREMENTS

All contractors interested in participating in the Rental Rehabilitation program must be determined eligible by City. Required items include: current State of Michigan contractor's license, active property / liability/ workman's compensation insurance and list of current references (similar jobs completed within past 12 months preferably). Proof of insurance must be submitted to City for validation. *Contractors are also responsible for obtaining all necessary permits on any project they are selected for including lead if applicable.*

2. INSURANCE

Contractors will be required to carry to following insurance coverage:

- a. **Workers Compensation** equivalent to Compensation Law of the State of Michigan.
- b. **Comprehensive General Liability Insurance** for contracts under \$35,000 a minimum of \$500,000 per occurrence Combined Single Limits (Bodily Injury/Property Damage), and for contracts over \$35,000 a minimum limit of \$1,000,000 Combined Single Limits (Bodily Injury/Property Damage).
- c. **Comprehensive Automobile Liability Insurance** for contracts under \$35,000 a minimum of \$300,000 per occurrence Combined Single Limits (Bodily Injury/Property Damage, and for contracts over \$35,000 a minimum limit of \$1,000,000 Combined Single Limits (Bodily Injury /Property Damage).
- d. Contractor shall furnish a **Certificate of Insurance** to the City prior to commencing construction. Such Certificate shall include a thirty (30) day notification of cancellation or material change to the policy.

3. CONTRACTOR LIST

The City shall solicit contractors as to their qualifications and interest in the program. The City will maintain a listing of interested contractors, which shall be available for review.

4. CONTRACTOR SELECTION

The City shall make available qualified contractor listing for property owner review. Property owners may solicit bid from contractor not on qualified listing as long as contractor will qualify with City before bid walk thru takes place. Property Owner is required to solicit a minimum of three (3) bids from qualified contractors. With City approval, two (2) bids may be allowed if unforeseen circumstances exist (lack of participation by qualified contractors, etc.).

5. BID PROCESS

Bid documents and specifications shall be prepared in accordance with a MSHDA approved, established Third Party Administrator (tentatively Gladwin City Housing Commission).

6. PAYMENTS TO CONTRACTORS

The following payment schedule shall apply to all program projects.

- 25% initial payment upon signing contract (funding provided by property owner)
- Payment equal to 50% of the total contract upon completion of 50% of the work as determined by City and the Property Owner
- Payment equal to 75% of the total contract upon completion of 75% of the work as determined by City and property Owner.
- 25% balance upon completion of work, final inspections completed and Certificate of Occupancy issued by City.
 - ✓ Property Owner must sign Final Acceptance Form
 - ✓ Contractor must provide a signed Final Invoice, Release of Liens, and Warranty for final payment.
- All work shall be guaranteed for minimum of 18 months.

7. CHANGE ORDERS

Any and all changes orders to the approved bid specifications shall be signed by the property owner, contractor, and City prior to implementation. NOTE: No work other than those specified in bid specifications shall take place in rental units being rehabilitated during term of contract between property owner and contractor.

I. OTHER TERMS AND CONDITIONS

1. CONFLICT OF INTEREST

No elected County Official or immediate family member, City Commissioner, or employee directly involved in administering the CDBG program, or immediate family member, is eligible to benefit directly from CDBG funds. Applicants who are employed by the City of Clare, the Third Party Administrator (TPA) or are related to a member of the City staff, or the Clare City Commission, or TPA shall disclose their relationship on their application, and the applications shall be submitted to MSHDA for final approval. No CDBG funds will be advanced without prior MSHDA approval of the application.

2. NON-DISCRIMINATION

No person shall be denied assistance based upon race, color, creed, religion, national origin, sex, marital status, reliance on public assistance, age, disability, or familial status.

3. CONFIDENTIALITY

The Program shall comply with MSHDA confidentiality practices in its transactions with all applicants and their residents.

4. FILES

The Administrator shall be responsible for establishing a permanent file for all approved applications and insuring that all necessary documents are included in the applicant's permanent file. A permanent file may be destroyed three (3) years after the loan closeout date. MSHDA Applications which are declined or canceled shall be destroyed after three (3) years.

5. DECLINED APPLICATION

The Administrator shall notify in writing any applicant who submits a written application for CDBG rental rehabilitation funds and is declined, and advise the applicant of the reason for the decision.

6. LEAD BASED PAINT

All area of a building being considered for funding in this program will be inspected for Lead Based Paint as required by MSHDA. At this time there is a maximum of \$35,000 available for previously non-residential units which include soft costs and lead abatement. For rehabilitation of existing rental units, a maximum of \$25,000 is available which include soft costs and lead abatement.

7. ASBESTOS

Any structure which contains friable asbestos materials shall only be eligible to receive CDBG funds after an inspection and cost estimate for abatement performed by a licensed asbestos abatement contractor is provided to the Administrator. The cost of the inspection and estimate shall not be paid from CDBG funds.

8. HISTORICAL PROPERTY

The Michigan State Historic Preservation Office (SHPO) shall be notified of all potential projects in which the structure is 50 years of age or older. This is to assure compliance with all Federal and state regulations concerning rehabilitation of historic properties.

9. CHECKLISTS

The Administrator shall be responsible for preparation of an **Environmental Checklist, Local Building Code Inspection Form, Historical Significance Response Sheet** (if necessary), **Lead Based Paint Certification Form, Noise Attenuation Checklist**, and any other checklist required by MSHDA, and shall place each document in the applicant's permanent file.

10. BID PROPOSAL

The TPA shall be responsible for preparation of the Bid Proposal and advising the property owner of contractors who have expressed an interest in bidding on the project. The property owner may solicit a licensed contractor who meets program requirements and ask them to bid once they are approved by Administrator.

11. DISABLED, FEMALE, AND MINORITY CONTRACTORS

The Program shall actively solicit participation of disabled, female, and minority contractors. The Program shall annually obtain a list of contractors in these categories doing business in the immediate area and invite them by letter to participate in the Program. Advertising will encourage their participation and give Notice that the City of Clare is an Equal Opportunity Employer.

12. CONTRACTOR PERFORMANCE

If documented complaints are filed against a contractor, the Program may use discretion in removing the contractor from the list of eligible contractors. Repeated sub-standard performance of work by a contractor which is documented by the Administrator, Building Inspector, Bureau of Occupational and Professional Regulation, or Michigan Department of Labor and Economic Growth (DLEG) may result in the contractor's ineligibility to participate in the Program. The Administrator shall notify the contractor of this action in writing after board approval.

J. COMPLAINT RESOLUTION

1. The Program shall comply with MSHDA approved methods for resolution of complaints and problems.

2. REVIEW COMMITTEE

The City shall appoint a Complaint Review Committee consisting of no less than three (3) members. One member must have building/construction expertise; one member must be a property owner within the designated area; one member must be a representative of the City. Committee members shall be appointed for a period of no less than one year and shall receive no compensation from the Program. The Administrator or a Program staff person shall not be appointed to the Committee.

3. COMPLAINT RESOLUTION PROCEDURE

The following Complaint Resolution Procedure shall be adopted to resolve all complaints by applicants or between parties participating in the Program. The Administrator shall notify the contractor and property/ owner prior to the commencement of the project of the procedure should the contractor or owner not be able to resolve a problem.

- a. Any party applying for or participating in a rehabilitation project administered by the Program may file a written complaint to the Administrator giving a detailed description of the complaint. The Administrator shall provide a copy of the complaint to the party against which the complaint is written. If the complaint is against the Administrator, the Administrator shall convene a meeting of the Complaint Review Committee at the earliest date convenient to all parties.
- b. The Administrator shall investigate the complaint and respond in writing within fifteen (15) working days to both parties of the recommended resolution of the problem.
- c. Each party shall review the recommendation and respond in writing within fifteen (15) working days to the Administrator of their decision on the resolution recommended. The Administrator will attempt to mediate any unresolved issues between the parties.

- d. If the issue cannot be resolved between the parties and Administrator, the Administrator shall convene a meeting of the Complaint Review Committee at the earliest date convenient to all parties.
- e. The Complaint Review Committee, consisting of no less than three members in attendance, shall review all written documents and hear verbal arguments by the parties. The complaint Review Committee will make a decision during the meeting on the resolution of the complaint unless it is determined that additional information is required and it is necessary to reconvene the committee for final decision at a later date. The Administrator shall advise the parties in writing of the Committee's decision.
- f. If the parties do not accept the decision of the Complaint Review Committee, the Administrator shall advise the parties in writing that they shall be required to participate in a Dispute/Resolution Program. The costs of participation in the Dispute/Resolution Program shall be at the expense of the parties in the dispute.
- g. If mediation is unsuccessful and all of the above procedures have been adhered to and properly documented, the issue may be referred to the MSHDA Office of Community Development staff for final decision.

4. DISCRIMINATION

A person claiming discrimination based upon race, color, creed, religion, national origin, sex, marital status, reliance on public assistance, age, disability, or familial status by the Program may file a complaint with the City of Clare Program Review Committee, the Michigan Civil Rights Commission, or the Equal Opportunity Office, Michigan Department of Labor and Economic Growth (DLEG).

5. MSHDA HOME/CDBG COMPLIANCE GUIDE

The Program shall comply with the procedures and requirements contained in the MSHDA-HOME/CDBG COMPLIANCE GUIDE (MSHDA Guide) and any subsequent revision received by the Program. The provisions contained in the MSHDA Guide shall be incorporated to the Program Guidelines.

6. MSHDA-OCD POLICY BULLETINS

The Program will comply with MSHDA-OCD Policy Bulletins. Also, any subsequent policies hereafter implemented by MSHDA.

7. MSHDA ENVIRONMENTAL REVIEW PROCEDURAL GUIDE

The Program shall comply with MSHDA Environmental Review Procedural Guide. Any subsequent revisions hereafter implemented by MSHDA, shall be adopted as required.

COMMUNITY DEVELOPMENT BLOCKGRANT (CDBG)

RENTAL REHABILITATION PROGRAM
PROGRAM GUIDELINES

March 2010

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202 West Fifth Street
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B. SOURCES OF FUNDS

MSHDA FUNDS

MSHDA has supplied \$200,000 in funding that will help facilitate rehabilitation of rental units in the target area. These funds will be loaned to eligible landlords at 0% interest for 5 years and then forgiven if landlords comply with all MSHDA and City requirements. Maximum MSHDA funding for each dwelling unit being rehabilitated is as follows:

Maximum Unit Dollar Limits

- Lesser of \$25,000/unit or 75% of project costs for existing units
- Lesser of \$35,000/unit or 75% of project cost for newly created units. Includes costs up to \$10,000/unit for lead paint remediation, for rehabilitation of previously non-residential space.

PROPERTY OWNER

All property owners are required to provide a minimum of 25% of total project costs. The **Property Improvement Program (PIP)** is available to property owners if units meet PIP qualifications.

C. PROPERTY OWNER AND RENTAL UNIT REQUIREMENTS

1. PROPERTY OWNER QUALIFICATIONS/INFORMATION

- a. MSHDA funded this program for a downtown targeted area only. Any unit to be considered must lie in designated targeted downtown area. (Please see attachment A for designated area.)
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Upon completion of the rehabilitation, the dwelling unit shall meet local building codes along with Federal Housing Quality Standards (HQS) and MSHDA Moderate Rehabilitation Standards. This includes plumbing, heating, electrical and structural components, all of which must be completed by licensed and insured contractors. **There is no property owner labor or work allowed in rehabilitation process unless specifically approved by MSHDA before work begins.** All materials, equipment, fixtures, and building supplies utilized in the program will be moderately priced but durable in quality. Rehabbed units will be re-inspected each year for the five year term of the lien to assure conditions are being maintained to previously mentioned code.

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Following rehabilitation the dwelling unit must be able to financially support itself. In addition all debt service, property taxes, insurance, and utilities (those paid by property owner) must be current prior to the CDBG Rental Rehabilitation Program mortgage being signed and the rehabilitation commenced.

RESOLUTION 2010-021

A RESOLUTION OF THE CLARE CITY COMMISSION APPROVING AN AMENDMENT TO ITS RENTAL REHAIBLITAION GRANT PROGRAM GUIDELINES.

WHEREAS, the City of Clare received a \$200,000 rental rehabilitation grant from the Michigan State Housing Development Authority (MSHDA) in 2008 to provide downtown business owners an opportunity to rehabilitate existing downtown second-story residential space or convert unused or underutilized second-story space to residential use; and

WHEREAS, a condition of said MSHDA grant required the City to create and adopt Program Guidelines, which were adopted by the Clare City Commission in May 2008; and

WHEREAS, said Program Guidelines require amendment to comply with MSHDA-mandated changes that have occurred since May 2008; and

WHEREAS, the City of Clare Main Street Board has reviewed and considered said needed amendment at its scheduled public meeting of March 5, 2010 and has unanimously recommended that the City Commission approve said needed amendment; and

WHEREAS, the Clare City Commission has reviewed said needed amendment and has determined that said amendment has no significant adverse affect on the overall benefits of the Rental Rehabilitation Program.

NOW THEREFORE BE IT RESOLVED THAT the Clare City Commission hereby approves needed amendment to the City of Clare Rental Rehabilitation Program Guidelines.

The Resolution was introduced by Commissioner _____ supported by Commissioner _____. The Resolution declared adopted by the following roll call vote:

YEAS:

NAYS:

ABSENT:

Resolution approved for adoption on this 15th day of March 2010.

Diane Schmidt, City Clerk