



APPROVED MINUTES

SUNNYVALE HOUSING AND HUMAN SERVICES COMMISSION

May 23, 2012

The Housing and Human Services Commission met in regular session in the City Hall West Conference Room, 456 W. Olive Avenue at 7:00 p.m. with Chair Dietrich presiding.

The meeting was called to order at 7:05 p.m.

ROLL CALL

Board/Commission Members Present:

Eric Anderson, Hannalore Dietrich, Younil Jeong, and Mathieu Pham.

Board/Commission Members Absent: Patti Evans (unexcused)

Council Liaison: Councilmember Patrick Meyering (present).

Staff Present: Community Development Director Hanson Hom, Assistant City Attorney Kathryn Berry, Housing Officer Suzanne Isé and Housing Programs Technician Edith Alanis.

Others: Councilmembers Jim Griffith and Tara Martin-Milius, MidPen Housing Project Manager Abigail Goldware, MidPen Housing Project Manager Robert Baca, Bill Hawkes, resident, other members of the public.

SCHEDULED PRESENTATION

Service Recognition

Councilmember Jim Griffith presented Commissioners Younil Jeong and Mathieu Pham with a certificate and thanked them for their service during their term that is to expire on June 30, 2012. He also announced the Commissioner Jeong would be continuing with the Housing and Human Services Commission for another term starting in July and thanked her for continuing her service.

PUBLIC ANNOUNCEMENTS

None.

CONSENT CALENDAR

Chair Dietrich asked for a motion to approve the consent calendar.

Commissioner Anderson moved and Commissioner Pham seconded to approve the Consent Calendar.

Motion passed unanimously 4-0-0.

PUBLIC COMMENTS

Councilmember Tara Martin-Milius also thanked all the Commissioners for their service.

PUBLIC HEARINGS/GENERAL BUSINESS

Chair Dietrich asked if there were any objections to moving agenda item 4 - Continuation of Item 3 from April 25 meeting: Public Hearing: Proposed Housing Mitigation Fund Affordable Housing Project Awards, to the top of the Public Hearings/General Business section. There were no objections.

2. Continuation of Item 3 from April 25 meeting: Public Hearing: Proposed Housing Mitigation Fund Affordable Housing Project Awards.

Officer Isé gave a recap. In January the City issued a Request for Proposals for Affordable Housing Capital projects. The City received two proposals. MidPen requested the full amount of \$5 million dollars in Housing Mitigation funds for a comprehensive interior and exterior rehabilitation of Homestead Park Apartments. St. Anton requested \$3.75 million for construction of a new rental housing project, known as Pastoria Central.

This item was continued from the last meeting because the Commissioners only allocated half of the available funds and hoped to be able to partially fund both projects; however, St. Anton was unable to produce a viable project for \$2.5 million in housing funds, and withdrew their proposal.

Officer Isé noted that the Commissioners could now reconsider MidPen's original request and could opt to fully fund it if desired.

Chair Dietrich opened the public hearing at 7:13 p.m.

Project Manager Robert Baca asked the Commission to recommend awarding the \$5 million to fully fund the proposed rehabilitation project.

He reviewed the scope of work for the project and highlighted the benefits of rehabilitating the interiors of Homestead Park now rather than in phases or in the future when the cost of labor and materials will increase. The residents would only be inconvenienced once by the construction work, rather than several times, and the bidding will be more competitive with the full scope of work.

Chair Dietrich closed the public hearing at 7:18 p.m.

Commissioner Jeong asked why St. Anton couldn't move forward with the Pastoria Central Project.

Director Hom explained that it had to do with the density of the project not being compatible with the surroundings and also with its design. He also noted that St. Anton has decided to move forward with a reduced project that will not include affordable housing units.

Officer Isé asked Project Manager Robert Baca to comment on the additional matching funds that MidPen has secured. Robert mentioned that MidPen is receiving \$500,000 from the California Solar Initiative and has expanded the scope of work to include solar thermal for water heating for up to 9 buildings. The funding for the rest of the 25% match will come from the property reserves and a loan from MidPen.

There was some discussion and more questions about the scope of work.

Chair Dietrich asked for a motion.

Commissioner Anderson moved and Commissioner Pham seconded to recommend approval of a conditional loan commitment of \$5 million for the rehabilitation of Homestead Park.

Motion passed unanimously 4-0-0.

3. Public Hearing: B/C Draft RTC: Consider Adding Criminal Background Checks to Below Market Rate (BMR) Program Qualification Process (Study Issue CDD 12-11).

Officer Isé gave an overview of the draft Report to Council scheduled for hearing on July 17th. She noted that this was one of the study issues approved to be studied this year and that it was initiated at the request of a member of the public regarding a neighbor in a BMR home who was arrested and charged with committing a crime. That case is still awaiting trial.

Officer Isé also gave a quick overview of the BMR Program and its requirements. She explained that the City administers the BMR ownership program and determines whether the applicants are eligible to apply to purchase the homes, but it does not own or sell the homes, the developers do.

The City doesn't screen rental applicants for eligibility for the BMR rental program, as that was delegated by Council to the property owners/managers, but it does conduct annual audits to ensure compliance with the program.

Staff consulted with the Office of the City Attorney to determine whether a criminal background check could be added to the process for eligibility screening of home buyer applicants. The Office of the City Attorney has indicated a variety of reasons why it would be highly risky for the City to attempt to do criminal background checks.

The process that would be most reasonable and preferable is prohibited by the California penal code, because the City cannot access the criminal background database that is administered by the Department of Justice for this purpose. The alternative of using private third-party providers is risky as their data is highly error-prone.

Officer Isé noted that the City is not a party to the BMR sales transactions, which are between the seller and the buyer, just like any market rate home sales, which also do not generally involve any type of background check. The City's role is to determine that the buyers are income-eligible and that they live or work in Sunnyvale, or in some instances in the County of Santa Clara.

Officer Isé also noted that the circumstances that initiated this study issue are quite unique and an anomaly, as it is the first time such a case has come up in 30 years of the BMR program. As unfortunate as this situation is, in practical terms there is little that can be done to either prevent or predict when and where alleged crimes like this domestic violence case may happen, as they are crimes of passion.

Chair Dietrich opened the public hearing at 7:39 p.m.

Mr. Bill Hawkes explained that he is the member of the public that initiated this study issue. He passed out a hand out that outlined his rationale for his request.

He noted that the City of Sunnyvale uses background checks for other issues such as in hiring new employees and doesn't understand why it cannot be incorporated in the BMR eligibility process.

He mentioned that he doesn't think that the City is enforcing the BMR guidelines that can force the owner to sell the property if it's not occupied by the home owner, and characterized the BMR program as public housing.

An unidentified member of the public agreed with Mr. Hawkes' point of view and supported background checks.

Chair Dietrich closed the public hearing at 7:53.

Commissioner Anderson asked for clarification of the intent of this study. Director Hom explained that it is to explore the possibility of including criminal background checks as part of the BMR eligibility screening process. Commissioner Jeong pointed out that this study issue explored the requirement, but did not address what would be done with the data that would be obtained.

After some discussion and questions, the Commissioners determined that they didn't feel comfortable taking any formal action on this item, but opted to state their individual opinions to the City Council.

Commissioner Jeong expressed that the BMR program expands the social and economic diversity of the community and she does not recommend adding a criminal background check to the BMR process.

Commissioner Mathieu Pham recommended not adding the criminal background check on this type of program. He feels the City would be exposed to lawsuits and allegations.

Commissioner Eric Anderson felt that there is a valid concern, and he would like to be able to do something that would provide, if not a perfect system, some type of diligence. He understands the staff's recommendation that the City is not able to do a specific background check, however, he think that there should be some time spent on finding some form of enforcement and also to adopt any specific guidelines being used by the Housing Authority or other parties that are using background information in a way that is safe and supportable for the City.

Chair Dietrich expressed that after initially learning about the specific situation that brought about this study issue, she felt that background checks were appropriate. However, she acknowledges that this situation is an anomaly. She also expressed that background checks are not always reliable; she suggested exploring other options to handle such situations when they present themselves to provide some relief or peace of mind to the neighbors.

4. Public Hearing: B/C Draft RTC: Modifications to the Zoning Code Related to Chapter 19.66: Affordable Housing and Single Room Occupancies (Study Issue CDD 09-12C and Non-Routine HO-01).

Officer Isé noted that tonight's slide presentation was the same as the one used during the public outreach meetings on this matter.

Officer Isé noted that this Report to Council consolidates all the suggestions that have been received through multiple channels over the last few years. The majority of the recommendations focus on the BMR ownership program. The goal is to make the BMR ordinance easier to read, easier to implement, provide more options for compliance, and improve provisions for enforcement applicable to both the potential buyers and the developers, and to make the current municipal code compliant and consistent with existing state and federal laws and regulations related to density bonus issues. She then presented the slides with an outline of the proposed amendments.

Chair Dietrich opened the public hearing at 9:41 p.m.

There were no comments from any member of the public.

Chair Dietrich closed the public hearing at 9:42 p.m.

After some discussion, Chair Dietrich asked for a motion.

Commissioner Anderson moved and Commissioner Jeong seconded to recommend Alternative 1: Adopt the Ordinance provided in Attachment B to: modify the zoning code related to Below Market Rate Housing Requirements; update the density bonus provisions; and move the density bonus and single room occupancy subsections from Chapter 19.66 to Chapters 19.18 and 19.68, respectively.

Motion passed unanimously 4-0-0.

5. Budget Review

Officer Isé briefly reviewed the materials that were included in the commissioner's packet, and noted that City Council asks that the Boards and Commissions take a look at the proposed budget each year and provide comments before its adoption. She also explained that they could choose to make a formal motion to recommend approval or modification of the budget, provide comments or not take any action at all.

She pointed out that the housing mitigation line item will be replaced with the Commission's recommendation to allocate those funds to MidPen for the Homestead Park Rehabilitation.

Commissioner Anderson moved and Commissioner Pham seconded to recommend approval of the Budget as presented by staff and ask that Council maintain the \$100,000 in General Fund support for CDBG related activities.

Motion passed unanimously 4-0-0.

6. Creation of a Citizen Advisory Committee (CAC) for the Lawrence Station Area Plan

Director Hom explained that the Lawrence Station Area Planning project was awarded a grant by the Metropolitan Transportation Commission to help finance the planning efforts to establish a transit-oriented type of development around the Caltrain Station. The program guidelines for this grant require the City to establish a Citizen Advisory Committee (CAC) to provide community input. During Phase I, three development options were already identified for the plan area. One emphasizes mostly residential uses, the second option focuses on office and employment uses, and the third one is a mix of both. The CAC's goal is to help further refine the options for Council. This committee is expected to meet once a month for a twelve-month period.

Commissioner Jeong expressed interest in participating.

Commissioner Anderson moved and Chair Dietrich seconded to nominate Commissioner Jeong to be part of the Lawrence Station Area CAC

Motion passed unanimously 4-0-0.

NON-AGENDA ITEMS AND COMMENTS

B/C Members Oral Comments

STAFF Oral Comments

INFORMATION ONLY ITEMS

None.

ADJOURNMENT

The meeting adjourned at 9:53 p.m.

Respectfully submitted,

Suzanne Isé
Housing Officer