



CITY COUNCIL STAFF REPORT



October 26, 2021

ITEM TITLE

Workforce Housing Policy: Approve a “Workforce Housing Policy” to Enable the City to Consider Joint Power Authority Proposals to Provide Moderate Income Rental Projects

Report Number: 21-0180

Location: No specific geographic location.

Department: Development Services

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Adopt a resolution approving a City Council Policy entitled “Workforce Housing Policy to Serve Moderate Income Rental Households.”

SUMMARY

On September 28, 2021, City Council directed staff to develop parameters for evaluating and accepting proposals from Joint Powers Authorities (“JPAs”) to finance rental housing project(s) that provide opportunities for moderate/middle income households (81-120% AMI). This action provides the City Council with a policy for consideration entitled “Workforce Housing to serve Moderate Income Rental Households.”

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change to the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Due to time constraints, staff was unable to present this item to the Housing Advisory Commission.

DISCUSSION

Over the past several months, the Housing Division has received inquiries from various JPAs to convert existing market rate properties within Chula Vista into moderate income rentals through the issuance of tax-exempt public purpose bonds, as detailed in the staff report and presentation for Item No. 21-0152 on the September 28, 2021 Council agenda. At that meeting, City Council provided direction to staff to bring back a policy that would mitigate, to the greatest extent possible, concerns of both staff and the City Council related to this financing mechanism. The main City Council concerns as voiced at the meeting included:

- Ensuring there was no net fiscal impact to the City through foregone property taxes;
- Requiring project level analysis for any proposals;
- Providing some limitations on the number of projects to be approved in the City;
- Ensuring rent levels and maintenance for the life of the project;
- Guidance on use of program funds;
- Providing homeownership opportunities for tenants when projects are sold; and
- Providing protections/assurances for both the City and tenants of the project.

Tonight, staff is presenting the resulting “Workforce Housing Policy to Serve Moderate Income Rental Households” policy (Attachment 1) (the “Policy”) for consideration. The Policy was drafted to address, to the greatest extent possible, all of the above items, along with additional items staff believes will provide the greatest level of assurance to the City and residents on these deals moving forward. The Policy addresses minimum requirements of any JPA deal for consideration, as summarized below:

- Limitation on Conversions – Limits the maximum number of units to be converted to the moderate income need as identified in the Housing Element’s Regional Housing Needs Assessment.
- Eligible Projects – Requires compliance with the policy with the exception of City Council making findings of community benefit and identifies requirements for projects that have existing affordability covenants.
- City Requirements – Requires any project being considered has no net fiscal impact on the City, provides up front funds for due diligence, complies with certain bond policy standards and provides the City with discretion over transfers and property management.
- Application and Process Requirements - Establishes a minimum time period for staff review of an application, documentation requested, and the discretionary action required, inclusive of review by the Housing Advisory Commission.
- Project by Project Analysis – Identifies the comprehensive analysis to be conducted to determine citywide and local impacts of a project conversion.
- JPA and Public Benefit Agreements – Establishes minimum requirements of regulatory documents to provide extra protection for city surrounding maintenance and reporting.
- Revenues – Provides guidelines for the City use of any proceeds.

Staff has also continued to evaluate and monitor activity throughout California, as new JPA deals are being considered weekly by other jurisdictions. Most recently, projects were considered by the cities of Anaheim and Fullerton. In both cases, a new “Host City Charge” has been proposed to mitigate General Fund impacts of foregone property tax resulting from JPA ownership of the subject properties.

As presented in the September item, the “Host City Charge” was a new concept in the financing, first introduced to the City in a September 27th letter (one day prior to the item presented to the City Council)

from the California Statewide Communities Development Authority (“CSCDA”). As detailed in the prior City Council item, there are a number of unknowns related to bond, market, and rental assumptions in JPA “Middle Income” deals; however, this new “Host City Charge” is the most untested. As of the writing of this report, staff still has the following concerns related to the “Host City Charge”:

- Legality of “Host City Charge” – AB 1760 eliminated the ability for affordable housing projects to use a payment in-lieu of taxes (“PILOT”). There is a possibility that at some point in the future a similar ruling could be made regarding the “Host City Charge”. If such ruling is made there could be an impact to City revenues due to the foregone property tax not being subsidized.
- Assurance of Project Revenues – The “Host City Charge” is only collected if there are revenues from the project. Even with a project level analysis, unknown market performance will determine whether revenues are available on an annual basis.

In addition, several other unknowns/concerns still remain, and should be considered in moving forward with the Policy. These include, but are not limited to:

- Local Fund Control for Schools – While the State currently provides local school districts with direct allocations, the foregone tax to the State will still impact overall budget and could therefore impact available funds for education if the State determines that they will not make the local fund “whole”.
- Revenue from Forced Sale in years 15-30 – Bonds on these deals are not fully amortized and therefore will not be paid off in year 15 and likely not be paid off by year 30 either. In addition, the pro forma includes aggressive assumptions based on straight line projections of value and rental rates, which are not how the market typically operates. Therefore, it is unclear upon sale what the true “financial benefit” would be for the City after repayment of outstanding debt, addressing any maintenance issues, and repayment to taxing entities for foregone taxes.
- Fee Structure – The JPA deals include a tremendous amount of up-front fees to several entities. The high fees prevent lower rents from being provided.
- Public Perception of City Involvement – While the JPA provides legal protections from liability if issues arise during the project, the fact that the City initially approves joining a JPA will in perpetuity tie us to the project from a public perspective placing us in a challenging situation if resident or community concerns arise.

All of the above items continue to present unknown risks to City revenues and staff time, if the City Council determines that the policy should be adopted, and projects should be considered under it.

Conclusion

While the need to provide moderate income housing opportunities for the “missing middle” is an issue throughout the State of California, the impacts to the City of Chula Vista and the gap in rental market opportunities is not as large as many other cities, as presented at the September 28th meeting. Historically the City has had several points in the market where for-sale opportunities have existed for moderate income households and the average rental rate in the City has remained below the affordability level for moderate income households, providing adequate market rate rental opportunities for moderate income households. Nevertheless, increasing opportunities for “Workforce Housing” within Chula Vista is still a desired opportunity. The Policy before you and if adopted, would provide staff with the necessary guidance for consideration of future proposals.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.). Staff is not independently aware and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no current year fiscal impact as a result of hearing this report or providing direction to staff.

ONGOING FISCAL IMPACT

Should the City Council direct staff to bring one or more projects forward for consideration and possible approval, the fiscal impacts associated with each such action would be disclosed at that time.

ATTACHMENTS

1. City Council Policy “Workforce Housing to serve Moderate Income Rental Households”

*Staff Contact: Tiffany Allen, Director of Development Services
Stacey Kurz, Acting Housing Manager
Jose Dorado, Senior Management Analyst*