



HOUSING COMMISSION MINUTES

Regular Meeting

May 6, 2009

5:30 p.m.

Administrative Building Conference Room, First Floor
701 Laurel Street, Menlo Park, CA 94025-3483

CALL TO ORDER

Chair Moser called the meeting to order at 5:30 p.m. in the Administrative Building Conference Room.

ROLL CALL

Housing Commission Members Present: Patricia Boyle (Vice-Chair), Don Brawner, Elizabeth Lasensky, Carol Louchheim, Anne Moser (Chair), Clarice O'Neal, Brian Steuer.

Housing Commission Members Absent: None.

Staff Present: Douglas Frederick, Housing Manager; Megan Nee, Management Analyst.

A. PUBLIC COMMENT – None.

B. BUSINESS ITEMS

1. Consideration of request from Josh Abend

Housing Manager Frederick introduced the item, saying he wanted to give the Housing Commission an opportunity to respond to Mr. Abend's previous presentation at the April meeting, in which he addressed the Commission during the public comment portion of the meeting. Because Mr. Abend made his presentation during the public comment portion of the meeting, the Commission was unable to respond to him at that time. Now that the item is agendaized the Commission may respond, Housing Manager Frederick explained.

Mr. Abend clarified his position, saying that for seniors with special needs, the Commission should be able to consider specific cases in determining eligibility for BMR units. He said he is not proposing the Commission change the rules or make an amendment allowing all seniors to apply; rather, he requests that the Commission allow an exception to the current rules.

Chair Moser asked Housing Manager Frederick if the requested exception would violate State and Federal Housing laws. Housing Manager Frederick responded that his previous statement that Mr. Abend's request would violate fair housing laws was only in consideration of seniors getting special treatment. He said he is not sure if it would be the same for special circumstances. It would require another look by City Attorney Bill McClure, he said.

Commissioner Lasensky stated that she had had an extensive discussion with Mr. Abend regarding Pine Court. Housing Manager Frederick clarified that Mr. Abend is unable to apply for Pine Court because he is not eligible and we've already offered the opportunity to purchase to another person who has been approved to purchase it.

Commissioner Louchheim said it has bothered her a long time that the BMR Program is inequitable in that it has very few one-bedroom units, which serve smaller households on the waiting list. She said Community Development Director Heineck discussed this with the Commission some years ago and appeared to say that this is the way it is done. Commissioner Louchheim inquired, is this the law? Housing Manager Frederick responded that he doubts it is law and in fact the Housing Commission did recommend such a change to the guidelines, to be presented to the City Council for approval. He explained that this and other amendments to the BMR Guidelines are still being worked on by staff. We would have to consider how to price such units, he added. For instance, he explained, pricing for units is based on the lowest eligible household size such as two people for a two-bedroom unit. If this is changed to allow one person households to apply for two-bedroom units, how would these units be priced? Would they be based on a one-person household rather than a two-person household? If so, he said, this would lower the price of the units. Housing Commissioner Louchheim added she's not sure she's prepared to go so far as to say a two person household should be eligible for a three-bedroom unit.

Vice-Chair Boyle commented the discussion makes her think about people with disabilities who may, like seniors, need caregivers. She said such individuals may only need part-time caregivers and their needs may change. Housing Commissioner Steuer added that he agrees there are not enough one-bedroom units and it seems inequitable. He added that seniors do have special needs and this is different from a two person household needing a three-bedroom unit. He concluded that the whole point is to make the program more equitable and if we have this situation, which on the face of it seems inequitable, we should do something to make it more equitable.

At this point Commissioner Lasensky recused herself, stating that she is a one person household on the BMR waiting list. Commissioner Louchheim asked if the Commission needs to discuss pricing and how should it respond to this situation. Housing Manager Frederick replied that he wanted everyone to have the opportunity to discuss the situation and Mr. Abend's request. Vice-Chair Boyle said it might be better to say "people with special needs" rather than seniors because there are seniors that don't have special needs, and non-seniors with special needs.

The Commission discussed whether or not a two person household in need of a caregiver should be eligible for a three-bedroom unit. The Commission asked staff when the amendments to the BMR Guidelines that the Commission previously recommended will be ready to present to the City Council for approval. Management Analyst Nee apologized for the delay in completing the draft amendments and said she estimates the draft amended guidelines will be ready by July. Following discussion, the Commission expressed an interest in crafting language that makes an exception to the minimum two person household for two-bedroom units requirement specific to people with special needs, rather than seniors per se.

City Councilmember Andy Cohen was present and said he anticipates the (City) attorney will ask what is meant by special needs. Housing Manager Frederick suggested there is an added complication in that any of us is potentially disabled and in need of added care. For instance, he said, any of us could get in a car accident and become disabled and in need of in-home care.

M/S Boyle/Louchheim to present to the City Attorney the idea of an exception to the BMR Guidelines regarding minimum eligible household size for seniors and disabled persons with special needs, which exception will be added to the draft amended Guidelines following the City Attorney's approval; 6-0-1 with Commissioner Lasensky abstaining.

Following the vote, Commissioner Steuer stated he is not convinced it is more equitable that a one person household with special needs should be eligible for a two-bedroom unit, but a two person household with special needs should not be eligible for a three-bedroom unit. Chair Moser commented that she would be comfortable with a part-time caregiver but probably not with someone who comes one day a week. She said there would be a need to decide what constitutes full time, in this case. Commissioner Brawner said he would like to suggest the possibility of SRO's (Single Room Occupancies) to serve such households. He wondered why people with so many issues would want to purchase homes.

In conclusion, Chair Moser thanked Mr. Abend for his time and said that, speaking personally, she has sympathy for his situation.

2. Report on Council consideration of foreclosure programs on May 5th

Housing Manager Frederick reported that the City Council approved two of the proposed programs: the Habitat program and the City's acquisition and rehab program. He said the foreclosure prevention program, however, has changed since the Commission saw it last. Per City Attorney Bill McClure, he said, using redevelopment and BMR funds would require that affordability restrictions be placed on the homes the program invests in. The non-profit arm of the program, Northern California Urban Development (NCUD), does not want to participate if the homes become deed restricted, he explained. In addition, the Association of Realtors said no one will participate in the program if deed restrictions are imposed, he said. He noted staff did not have time to resolve this issue before the program was presented to City Council yesterday. To ensure that Council is aware, staff presented the program at the meeting yesterday, he said.

Housing Manager Frederick explained that City Attorney Bill McClure had an "epiphany" at the meeting last night and proposes three program options. Housing Manager Frederick described each option to the Commission, as follows:

- (a) The first option is to pull the homes into the City's BMR Program. Housing Manager Frederick used an example of a home that was originally purchased for \$500,000. Now, the home is nearing foreclosure and its value has dropped to \$300,000. The City would get the mortgage holder to accept \$300,000 as a pay-off on the original loan; then the City would invest \$90,000 in "equity", reducing the

mortgage amount to \$210,000. If the owners decide to sell the home in five years, he explained, they would sell it through the City for \$300,000 plus any increase in the Consumer Price Index (CPI) over the period of ownership, which is the BMR Program's formula for calculating resale values of BMR units. Then the next person on the BMR waiting list gets the home and the City gets its \$90,000 back, he said.

- (b) The second option is the EARN Group equity share model. In this model, Housing Manager Frederick said, when the home goes up in value to \$500,000 for example and the owners decide to sell, the City gets its \$90,000 investment back plus its equity share and the home sells for market value. This revenue for the City then goes back into the program. Some Commissioners expressed concern that homes assisted through this model would not remain affordable upon resale. Management Analyst Nee noted that this model of investment and payback works the same as the City's Purchase Assistance Loan (PAL) Program for first-time homebuyers. She explained that for a large part of the program's history, before homes became so expensive, loan recipients used PAL to purchase market-rate homes, not BMR units. These early loans are now almost entirely paid off and the funds reinvested in the program, she said.
- (c) The third option, Housing Manager Frederick explained, is the one in which City Attorney Bill McClure had an "epiphany." The in-lieu fees that could fund this program, he said, were collected from developers who at the time of their contributions to the fund did not know the funds could be used this way. Therefore, according to the City Attorney, these developers could potentially demand their money back if the funds are used in this manner. The solution is to approach a developer or developers and ask if they would agree to using the funds this way. If we do this, Housing Manager Frederick explained, we could proceed with the program without affordability restrictions.

Chair Moser commented that if the City adopts the first option, in which the assisted homes are brought into the BMR Program, the homes may not be in the same good condition as many of the homes in the BMR Program so this could be an issue. Housing Manager Frederick acknowledged that this could be a problem and said he's not sure yet how the City would work that out. He also said it is likely that the revenue generated from the program could go back into the general BMR fund, rather than the foreclosure prevention program specifically.

Vice-Chair Boyle asked if any of the homes assisted through this program would count towards the City's Housing Element affordable housing production requirement. Housing Manager Frederick responded no, unless the assisted homes were condemned by the City's Building Department and then considered substantially rehabbed following the City's assistance. Commissioner Louchheim inquired which option requires the most staff time and Housing Manager Frederick replied the first because the homes would be brought into the BMR Program, therefore staff would have to monitor them like all other BMR units.

Chair Moser said she would like to see all three options on paper. Housing Manager Frederick responded that he will summarize the options in writing and bring it to the

next Commission meeting. He noted he is hoping to present the options to a City Council study session on June 9th and the next Housing Commission meeting is on June 3rd. He said he will prepare his report comparing the options for the City Council study session and then, following the meeting on June 3rd, add the Housing Commission's recommendation at the last minute.

3. Clarification of public comment rules

Housing Manager Frederick said the Commission handled the public comments correctly at the last meeting. Chair Moser noted that the time limit for public comment identified on the meeting agenda should be three minutes, not fifteen. She also said the Commission will start using speaker cards because all of the other commissions do it and it is a good idea.

The Commission congratulated Housing Manager Frederick on his work on the three foreclosure related programs.

Housing Manager Frederick had to leave the meeting early to attend another meeting. He left at 6:40 p.m.

4. Approval of April 1, 2009 Minutes

M/S Boyle/O'Neal to approve the April 1, 2009 minutes as ammended; 7-0-0.

C. REPORTS AND ANNOUNCEMENTS

1. Update on Housing Activity (Report from Staff)

Management Analyst Nee provided a brief update on current housing activity. She explained that the family hoping to use a PAL loan to purchase a vacant lot in Belle Haven and put a manufactured home there, was after much deliberation denied by the underwriters for their first mortgage because the value of the lot exceeded the value of the home by too much. She said the family is hoping to try another first lender and is considering putting a different kind of home there to help with the values ratio. She also reported on the sale of the Pine Street condominium BMR unit and said that the owners of a BMR home in Vintage Oaks may also be selling their home soon, which the City will sell to another eligible household on the BMR waiting list.

2. Report from the Chair

Chair Moser announced that Affordable Housing Week is coming up and there is a whole schedule of events available on the Housing Leadership Council's website.

3. Commission Member Reports

Commissioner Lasensky reported on the recent downtown/El Camino Real public meeting. She said about 85 people attended and it was very lively. She said the next meeting will examine alternatives and trade-offs.

Vice-Chair Boyle reported on the proposed bill SB 720, which she said would allow houses rehabilitated with affordability restrictions to meet jurisdictions' affordable housing production numbers, per State Housing Element law.

D. INFORMATION ITEMS

1. Monthly Report on the Housing Rehabilitation Loan Program for March 2009

The Commissioners accepted the report.

E. ADJOURNMENT: The meeting was adjourned at 7:00 PM.

Respectfully submitted,
Megan Nee
Management Analyst

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