



**SPECIAL MINUTES OF THE CITY COUNCIL
CITYWIDE INCLUSIONARY HOUSING POLICY**

SAN JOSÉ, CALIFORNIA

MONDAY, NOVEMBER 10, 2008

The Council of the City of San José convened in special session at 1:05 p.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle; Reed.

Absent: Council Members - Williams. (Excused)

1. Citywide Inclusionary Housing Policy

Council determination of the following issues:

- (a) Whether the City Council wants to keep the current schedule, which now envisions action at the December 9th City Council meeting; and**
- (b) Whether additional information is needed for the Council to make an informed decision, including, but not limited to, Recommendations 1-4 included in the October 24, 2008 Joint Memorandum signed by Council members Constant and Oliverio.**

[Rules Committee referral 10/29/08 – Item G(5)]

Documents Filed: (1) Memorandum from Vice Mayor Cortese, dated November 10, 2008, recommending direction to Staff regarding the Inclusionary Housing Draft Policy, as described in “Action”. (2) Memorandum from Council Member Liccardo, dated November 10, 2008, providing background on the Inclusionary Zoning Process and Policy. (3) Memorandum from City Clerk Lee Price, dated November 6, 2008, transmitting the recommendations of the Rules and Open Government Committee. (4) Memorandum from Director of Housing Leslye Krutko, dated November 6, 2008, providing an update on Staff work related to the formulation of a potential Citywide Inclusionary Housing Ordinance. (5) Staff presentation of the Inclusionary Housing Study Update dated November 10, 2008. (6) Seven correspondence/emails from the public, all dated November 10, 2008, regarding the Draft Citywide Inclusionary Housing Ordinance.

Mayor Reed and City Manager Debra Figone provided opening comments.

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Director of Housing Leslye Krutko summarized the Inclusionary Housing Study Update.

Mayor Reed invited several outside associations to speak on the Draft Inclusionary Housing Policy.

Paul Campos, Senior Vice President/General Counsel (Homeowners Association), requested that Council defer the decision on the Draft Inclusionary Housing Policy and obtain additional outreach. He noted his objection to extending inclusionary housing beyond Redevelopment Agency policy. He also suggested that the City work with other entities to make it more successful, effective and sustainable in the long run.

Shiloh Ballard (Silicon Valley Leadership Group), expressed concern with the inadequate community outreach and the lack of using a facilitator to aid in the process. She added that there has been little or no dialogue about using other housing solutions.

Pat Dando (San José Silicon Valley Chamber of Commerce), pointed out that San José is building more affordable housing, but added that more outreach is needed in order to encourage the various neighborhoods to participate. Matthew J. Holian, Assistant Professor (San José State University, Department of Economics), expressed agreement with most of Council Member Liccardo's memorandum.

James Zahradka (Public Interest Law Firm of Silicon Valley), noted that there is still the issue of current market conditions, the difficulty to buy or rent within the City of San José and the urgent need to address affordable housing.

Public Comments: Pat Sausedo (NAIOP), objected to the advance of the inclusionary housing policy; Bonnie Mace (Housing Commission), suggested moving forward with the existing progress that Staff has proposed; and Saul Wachter (Affordable Housing Network), stated that approximately 59,000 households need affordable housing but recommended continuing this item to December 9, 2008.

Larry Stone, County Assessor, suggested an ordinance that distributes affordable housing throughout the Districts; Terri Balandra, expressed concern about inclusionary housing and added that most of the in fill housing will be built in established neighborhoods; and Chet Lockwood (Fiesta Lanes Action Group), suggested that Council move slowly on developing an inclusionary housing policy.

Michael Van Every (Republic Urban Properties) and Anil Babbar (Santa Clara County Association of Realtors), expressed opposition to inclusionary housing and Mr. Babbar added that the best way to increase housing is to encourage a greener environment; Joshua Howard (California Apartment Association), encouraged the City Council to look at the broader implications of the Draft Inclusionary Housing Policy; David Tucker, Susan Gonsalves Marsland and David Marsland spoke in support of inclusionary housing and urged Council to move forward quickly; and Sharon Sweeney suggested moving forward with the Citywide policy.

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Mark Lazzarini (DAL Properties), Joseph Head (Summerhill Homes), Phaedra Ellis-Lamkins (South Bay Labor Council) and Ed Rast expressed support to the direction included in the memorandum from Vice Mayor Cortese; Carol Stephen (Trinity Cathedral PACT) spoke in opposition; and Judy Purrington noted more public outreach is needed.

Also expressing support to the Inclusionary Housing Policy were Charles McKeag (Citation Homes), Bob Brownstein, Ray Panek (KB Homes), Bob Leininger, Stanley Taylor (St. Julie Billiard Parish Catholic Community), Sandy Perry (Community Homeless Alliance Ministry), Kerri Hamilton (CEEJ), Marie Arnold and Reverend Sal Alvarez (La Raza Roundtable).

Director of Housing Leslye Krutko and City Attorney Richard Doyle responded to Council questions.

Motion: Vice Mayor Cortese moved approval of his memorandum dated November 10, 2008, with slight modifications, as described in "Action". Council Member Nguyen seconded the motion.

Council Member Chu requested that the Housing Staff work with his office for outreach.

Council Member Constant requested to amend the motion to include direction to Staff to return on December 9, 2008 with the additional information requested by Council Member Oliverio and himself, Items 1-4, referred to on Page 5 and 6 of the Staff report; with Staff to use their best efforts to bring back an analysis of each item including the reasons why or why not the items are applicable/not applicable or valid/not valid. Vice Mayor Cortese and Council Member Nguyen accepted the amendment.

Council Member Liccardo requested to amend the motion to include that the Housing Staff hold the community meetings at 7:00 p.m. in lieu of 6:00 pm. The amendment was accepted by Vice Mayor Cortese and Council Member Nguyen.

Council Member Oliverio expressed concern about the timeline and offered a substitute motion to continue this item to January 27, 2009 or February 3, 2009. Council Member Constant seconded the motion. The motion failed. (8-2-1. Noes: Constant, Oliverio. Absent: Williams.)

Action: On a call for the question, the original motion with amendments carried, the memorandum from Vice Mayor Cortese, dated November 10, 2008, was approved, as amended: (1) Staff directed to draft an expansion of the City's current Inclusionary Zoning Ordinance for San José that considers the following options when a proposal is brought forward on the December 9, 2008 Council Agenda. (NOTE: There was no agreement/direction that Staff would include all of this in the proposal, but that Staff include it in the alternatives. Staff is only including a few of the suggested items, but have included all in the analysis.) (1) (a) Coverage: The new policy will cover all

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single family and multi family residential construction in San José outside of Redevelopment Project Areas with the following exceptions: (1) Construction in designated low income neighborhoods. (2) Projects of 25 units of less. (b) Percentage of Inclusionary Units: 20% of units in covered projects must be affordable. The affordability range will be the same as in Redevelopment Project Areas: (1) Rental housing: 12% - Low Income and 8% - Very Low Income (2) For sale housing 20% Moderate Income (c) In Lieu Fees will be established at the following levels: (1) Rental Units: \$ 75,000; (2) Condos: \$ 90,000; (3) Townhomes \$100,000; (4) Single Family Detached: \$200,000; (5) High Rise (not downtown) \$200,000. (d) Implementation date of the Inclusionary Housing Policy shall not take effect until a calendar year in which building permits for unsubsidized housing in San José is at least equal to 50% of the number of permits for unsubsidized housing issued in a rolling average of the past 10 years. Staff directed to return to Council and respond to the impacts. (e) Pipeline Projects: (1) A project will be in the pipeline if the developer has purchased land within one year prior to the adoption date and has submitted a preliminary review application to the City or has negotiated a purchase agreement within one year prior to the adoption date involving the payment of a substantial consideration to either the landowner of the City and has submitted a preliminary review application to the City, as a minimum, or if someone skipping preliminary review and went directly to an entitlement action, that would trigger the same timeline. (2) A project will be in the pipeline if the landowner: (a) Has owned the land for at least one year prior to the adoption date. (b) Has submitted a preliminary review application to the City. (c) Submits an additional entitlement application within one year following the submittal of the preliminary application. The requirement for an additional entitlement application will be waived if the City prohibits submittal of such applications. (1) (f) Inclusionary Zoning Credits: (1) Developers and/or property owners who acquire and rehabilitate existing housing units and market the improved units with deeded affordability restrictions shall receive a credit towards one future inclusionary requirement equal for every four units rehabilitated. (2) Owners of multi family projects under a HUD contract which is about to expire after the date of adoption of the Inclusionary Zoning Ordinance shall receive a credit for one future inclusionary unit for every five HUD contract units that the owner maintains at affordable rent levels for five years past the expiration date. (3) Inclusionary Zoning credits may be traded between developers who earn the credit and developers who want the credit for an upcoming project. (2) Staff directed to work with the RDA Staff to prepare a draft policy for the allocation and use of additional Redevelopment revenues for affordable housing beyond the 20% required by State law. The supplemental RDA funds shall be made available for the following three purposes: (a) A revolving fund that provides security deposits for low income renters. (b) A first time buyers fund to make down payments for low income households otherwise financially qualified for home ownership. (c) Cost offsets or financing multi family rental until local, State and Federal Dollars are available to assist with BMR units. The amount of funds designated for these uses shall be determined through the RDA budget process. (3) That immediately upon circulating a draft

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memorandum with a draft policy for the public, that Staff meet with the San José/Silicon Valley Chamber of Commerce, the California Apartment Association (the old Tricounty Apartment Group), local Home Builders Association, Silicon Valley Leadership Group and the South Bay Labor Council, separately or as one group per their choice, for additional input and to add to the framework that Staff will put forward. (4) Community Outreach meeting shall be held at 7:00 p.m. in lieu of 6:00 p.m. to allow more participation of the community. (5) Staff directed to return on December 9, 2008 with the additional information requested by Council Members Constant and Oliverio, Items 1-4, referred to on Page 5 and 6 of the Staff report; with Staff to use their best efforts to bring back an analysis of each item including the reasons why or why not the items are applicable/not applicable or valid/not valid. (8-2-1. Noes: Constant, Oliverio. Absent: Williams.)

ADJOURNMENT

The Council of the City of San José was adjourned at 4:01 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/11-10-08 SPEC MIN

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