

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** David A. Bobardt, Community Development Director  
By: David C. Moe II, Redevelopment Manager 

**DATE:** April 20, 2012 (City Council Meeting of 5/2/12)

**SUBJECT:** Consider Calling for an Article 34 Election Giving the City of Moorpark the Ability to Construct 200 Low Rent Affordable Housing Units in a 10 Year Period

**BACKGROUND**

On December 29, 2011, the California Supreme Court announced its decision in *CRA v. Matosantos* upholding ABX1 26 (the redevelopment “elimination” bill), but striking down ABX1 27, the bill that would have allowed agencies to continue, after making a payment to the state. This decision winds down and dissolves the Redevelopment Agency of the City of Moorpark (“Agency”).

As of February 1, 2012, the Agency has been dissolved and all assets, properties, contracts, leases, records, buildings, equipment, and the existing MRA Low/Mod Income Housing Fund balance of the Agency has been transferred to the control of the Successor Agency to the Redevelopment Agency of the City of Moorpark.

The City of Moorpark (“City”) elected to assume the housing functions and takeover the housing assets of the Agency, excluding amounts in the MRA Low/Mod Income Housing Fund, along with related rights, powers, liabilities, duties and obligations thereby becoming a successor housing agency of the Agency on January 4, 2012.

The City of Moorpark’s Regional Housing Needs Allocation (RHNA) for 2006-2014 indicates that during this planning period, the City must address a housing need of 1,617 housing units, of which 655 units should be affordable for very-low and low income households. The Southern California Association of Governments has released the Draft RHNA numbers for 2014-2021. If the draft allocation does not change, the City of Moorpark’s projected housing need for the next planning period would be 1,164 units, of which 486 units should be affordable by very-low and low income households.

## **DISCUSSION**

With the loss of the Agency, the City will now need to explore other methods of providing affordable housing in the community. The City can continue to require affordable housing units be constructed in new housing projects with development agreements. Under this method, the developer would be required to develop a specified number of affordable housing units on a negotiated timeline tied to the number of market rate units completed.

Another method of creating affordable housing is to partner with another organization to complete a project. This method was most recently utilized on the Charles Street Terrace project located at 396 Charles Street. This project was constructed through a partnership between the City, former Redevelopment Agency, and the Area Housing Authority of the County of Ventura ("AHA"). The City transferred land to the Agency. The Agency provided a \$350,000.00 preconstruction financing loan to the AHA to develop the construction plans and secure the needed permits to receive tax credit financing for the project, which has been repaid by the AHA. The Agency also made a \$600,000.00 construction financing loan and a \$1,175,000.00 land acquisition loan to the AHA to make the project financially feasible. The AHA secured the needed tax credits and construction loan used for the construction of the improvements.

A third method of creating affordable housing is to have the City construct and own rented units. However, Article 34 of the California Constitution ("Article 34") requires that voter approval be obtained before any state public body develops, constructs or acquires a low rent housing project. Unfortunately, the City does not have Article 34 authority and any low rent affordable housing units developed by the City would require a vote of the community; no vote is needed for low income affordable ownership units.

The only public Agency with Article 34 authority in the City is the AHA. Prior to cityhood, the voters of the area now encompassing the City held an election on June 8, 1982, which permitted the AHA to construct up to 3% of the total households for affordable housing. On April 4, 1984, the City restricted the number of affordable housing units the AHA maintained to 2%. The AHA can currently maintain 210 affordable housing units. To date, the AHA has 23 affordable housing units in Tafoya Terrace and 20 affordable units within Charles Street Terrace for a total of 43 units. The AHA can create an additional 167 affordable housing units under their Article 34 authority.

Without Article 34 authority, the City can only develop affordable housing through development agreements and partnerships. Therefore, staff is recommending the City consider Article 34 authority to provide an additional tool for the City to develop

affordable housing. Staff is proposing the City seek the authority to develop up to a maximum of 200 affordable rental housing units in a 10 year period. An additional election would be needed to develop additional low rent affordable housing units during the 10 year period or to extend the period beyond the suggested 10 year period.

In order to obtain Article 34 authority, an election of the voters would be required. The next regular scheduled election is in November 2012. In order to be considered for the November 2012 election, the City Council will need to approve a draft ordinance and a ballot question, and adopt election resolutions prior to the end of June 2012 (typically scheduled for the second regular meeting in June).

If the City Council concurs with the recommendation to seek voter approval for potential construction of City affordable rental units, then a proposed ballot measure would be presented for consideration at the May 16, 2012 City Council meeting.

#### **FISCAL IMPACT**

None.

#### **ENVIRONMENTAL DOCUMENTATION**

As this action would result in a call for an Article 34 election giving the City of Moorpark the ability to construct and maintain up to a maximum of 200 low rent affordable rental housing units in a 10 year period, it does not involve a commitment to any specific project which may result in a potentially significant physical impact on the environment. It is the Community Development Director's determination that the action is not a project subject to the California Environmental Quality Act (CEQA). If the City Council decides to place such a measure on the ballot, staff will file a Notice of Exemption with the County Clerk.

#### **STAFF RECOMMENDATION**

Direct staff to prepare a resolution to call for an Article 34 election giving the City of Moorpark the ability to construct up to a maximum of 200 affordable rental housing units in a 10 year period.

Attachment A: Article 34 of California Constitution

## Attachment A

CALIFORNIA CONSTITUTION  
ARTICLE 34 PUBLIC HOUSING PROJECT LAW

Section 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

For the purposes of this Article the term "low rent housing project" shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded from the term "low rent housing project" any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

For the purposes of this Article only "persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

For the purposes of this Article the term "state public body" shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

For the purposes of this Article the term "Federal Government" shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.

CALIFORNIA CONSTITUTION  
ARTICLE 34 PUBLIC HOUSING PROJECT LAW

Section 2. The provisions of this Article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation.

CALIFORNIA CONSTITUTION  
ARTICLE 34 PUBLIC HOUSING PROJECT LAW

Section 3. If any portion, section or clause of this article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby.

CALIFORNIA CONSTITUTION  
ARTICLE 34 PUBLIC HOUSING PROJECT LAW

Section 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.