

## ITEM 10.P.

### MOORPARK CITY COUNCIL AGENDA REPORT

TO: Honorable City Council

FROM: Jessica Sandifer, Program Manager 

DATE: July 12, 2016 (CC Meeting of July 20, 2016)

SUBJECT: Consider Revisions to City Council Policy, 3.5, First Time Home Buyer Program

#### BACKGROUND

In March 2015, the City Council revised a number of items in Policy 3.5, First Time Home Buyer Program, of the City Council Policies Resolution. One of the revisions modified how long First Time Home Buyer's (FTHB) can be reimbursed for Homeowner's Association (HOA) dues. The revision provided that for all new homes purchased after July 1, 2015, the FTHB's were eligible to receive HOA dues reimbursement for 36 months from their close of escrow date. The policy goes on to state that all homes purchased prior to July 1, 2015, would have the HOA dues reimbursement end on June 30, 2016. In addition, there was a change to the policy to exclude applicants from applying in future rounds of the program if they were found to have omitted relevant information or provided false or misleading information on their application for the program.

#### DISCUSSION

- HOA Dues

When staff began implementing the cancellation of the HOA dues for those buyers who purchased their homes prior to July 1, 2015, it was discovered that there were 6 homebuyers who purchased homes in Pardee Homes' Smart Living development and 2 homebuyers who purchased in Shea Homes' Ivy Lane development that closed escrow prior to July 1, 2015. This means that under the new Section 4.D of Policy 3.5, these homeowner's HOA dues reimbursement would end June 30, 2016. The effect of the new policy is that these 8 new homeowners will only receive 18 months or less of HOA dues reimbursement, when others in the same developments will receive HOA dues for 36 months because their homes closed escrow after the July 1, 2015 cutoff. In order to provide a fair distribution of the HOA dues reimbursement and implement the

intent of Policy 3.5 to give new homebuyers 36 months of HOA dues reimbursement, staff is recommending modifying Policy 3.5 such that these 8 affected homeowners would be able to receive HOA dues reimbursement for 36 months from their close of escrow. Staff is recommending revised language to allow those home buyers to receive HOA reimbursements for the same 36 month period as others in the development.

- **Exclusion of Participants for Omission of Information or Submittal of False or Misleading Information**

At the March 2015 City Council meeting, the City Council approved the exclusion of participants from future applications to the program for omitting of information of submitting false or misleading information on their application. However, the language incorporated into the policy, does not fully address the City Council's direction. Staff is recommending revised language to fully implement City Council direction.

The Attachment to this report includes legislative format to show how Policy 3.5 would be amended to make these changes.

### **FISCAL IMPACT**

There is no fiscal impact as a result of these revisions to Policy 3.5. The HOA dues reimbursements come from a developer contribution for this purpose.

### **STAFF RECOMMENDATION**

Approve revisions to City Council Policy 3.5 as contained in this agenda report and direct staff to incorporate these changes in the next update of the City Council Policies Resolution.

Attachment – Draft Amended City Council Policy 3.5

## ATTACHMENT 1

### **Policy 3.5: First-Time Home Buyer Affordable Housing Program**

Periodically, the City will make available for sale one or more attached or detached dwelling units to very low, low, or moderate income persons/households as further defined below as part of its First-Time Home Buyer Affordable Housing Program (Program). This policy sets forth the primary criteria for eligibility for participation in said Program and determining priority for participant selection. This policy also sets forth the primary criteria and parameters for retaining the affordable units as affordable for the longest feasible period, but in no event less than forty-five (45) years; equity sharing requirement upon resale; refinancing; the ongoing responsibilities of the buyers; and establishes the requirement that upon resale the affordable dwelling unit is sold to a City approved buyer in the same income category as the original buyer at the time of the initial sale.

Other criteria to determine participant eligibility and to ensure compliance with this policy, including but not limited to purchase agreement documents, shall be established by the City Manager prior to the advertisement of the availability of one or more affordable dwelling units as part of the Program. . The City Manager is also authorized to establish requirements for any and all refinancing and resale and for enforcement of the residency provisions of this policy.

1. Home Buyer Qualification Guidelines
  - A. Low Income (less than 80 percent of Ventura County median income based on household size); Very Low Income (less than 50 percent of Ventura County median income based on household size); and when applicable Moderate income (less than 120 percent of Ventura County median income based on household size).
  - B. First time home buyers (no previous home, mobile home, or land ownership within seven years of submitting an application).
  - C. First priority for City of Moorpark residents who have lived in the City of Moorpark for no less than one year prior to Program application deadline (Category 1). City shall require documentation to verify City of Moorpark residency. Said documentation may include, but not be limited to a rental agreement, utility bill, or tax returns. Only one applicant needs to be a City of Moorpark resident during the past year.
  - D. Second priority to people who have worked within the City of Moorpark for no less than one year prior to Program application deadline (Category 2).
  - E. Third priority all others (Category 3).
  - F. Three percent (3%) minimum down payment, based on the affordable sales price. Downpayment must be seasoned into an account no less than ninety (90) days prior to application date.

- G. Applicants shall also have an additional three percent (3%) of the affordable sales prices to be used to pay closing costs and fund the impound account. This requirement can be satisfied by a gift letter, retirement funds (50% of the market value), and/or seasoned funds in the applicants bank account (a combination of these items may also be used).
- H. Non-occupant co-borrowers are not allowed and no more than two related or unrelated people can take title of an affordable unit.
- I. Applicants shall sign an acknowledgement stating that they have read and understand City Council Policy 3.5 as part of the application submittal.

## 2. Selection Process

- A. Advertisement of program and orientation meetings on City website, City government channel, and distribution of a press release and other means as determined by the City Manager.
- B. Mandatory attendance of all interested buyers at an orientation meeting. Reservations shall be made via email. A copy (hard copy or displayed on a mobile device) of the confirmed reservation and a picture identification are needed to participate in the orientation meeting.
- C. Pre-screening applications are offered at the end of the orientation meetings. A one hundred (\$100.00) non-refundable application fee is due at the time the application is submitted to the City for consideration.
- D. City-approved lenders shall be used to finance the purchase of the affordable unit(s).
- E. City-approved Home Buyer Education required prior to purchase, and City-approved post-purchase home owner workshops (foreclosure intervention, predatory lending, etc.) required after close of escrow. City will retain five hundred dollars (\$500.00) at the close of escrow from the buyer. City will release the five hundred dollars (\$500.00) to the buyer if the post-purchase home owner workshop has been completed within one year of the close of escrow.
- F. A public lottery drawing shall be conducted for residential developments with affordable units. Applicants may participate in the lottery process for more than one development or request the first available unit. Applicant shall take the first available unit, including a resale unit. Each lottery will consist of three "mini-lotteries" for the three priority categories listed in Section 1 of this policy. Categories will be exhausted before moving to the next category (Category 1 first, followed by Category 2, followed by Category 3).
- G. The income category for an applicant shall be determined when the application is reviewed, prior to the lottery. If an applicant's personal, financial or other

circumstances change and it is later determined they are no longer eligible in that income category, then they shall no longer be eligible for any units that might be available during the applicable lottery drawing period.

- H. The household size for an applicant shall be determined when the application is received, prior to the lottery. The applicant shall provide names, relationship to applicant and other requested information of each household member as part of the application. Except for birth or adoption of a minor child, no changes to household size or members shall be allowed prior to close of escrow.
  - I. Except for minor children subject to a court order for joint custody, any discrepancies of the dependents listed on the applicant's federal taxes and the household occupants listed on the application shall be cause for the application to be denied and applicants to be disqualified from further participation in the Program. The applicant shall be informed in writing of such disqualification.
3. First-Time Home Buyer Affordable Housing Program Participant Exclusion List
- A. Members of the Moorpark City Council, Moorpark Planning Commission, Moorpark Parks and Recreation Commission, Moorpark Arts Commission, and Library Board Members.
  - B. Mayor and City Council appointees including but not limited to Air Pollution Control District Advisory Committee, Area Housing Authority, Senior Center Advisory Committee, Area Agency on Aging, Citizens Transportation Advisory Committee, and Teen Council.
  - C. All City employees in non-competitive service (management positions).
  - D. Financial institutions participating as lenders for the Home Buyer Program.
  - E. Developers and Developer's General Contractor(s) for specific projects they developed or constructed that contain 1 or more affordable units.
  - F. Developer's subcontractors, subsidiaries, partnerships, and affiliates, including but not limited to title, escrow, and lending companies.
  - G. City contractors involved with City/Successor Housing Agency First-Time Home Buyer Affordable Housing Program and affiliates of these City contractors, as determined by the City Manager on a case-by-case basis, which may include title and escrow companies, contractors, subcontractors, subsidiaries, partnerships, and affiliates of these City contractors.
  - H. Family members of A – G above are excluded for all of the above-listed participant exclusions. "Family members" is defined as follows: mother, father, grandfather, grandmother, aunt, uncle, cousin, sister, brother, son, daughter,

step-son, step-daughter, son-in-law, daughter-in-law, nephew, niece, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, spouse as defined as a partner in marriage (California Civil Code Section 4100), and domestic partner as defined by California Family Code Section 297 and including the requirement for the filing of a Declaration of Domestic Partnership with the Secretary of State. In addition, "family members" shall be defined to include non-blood relatives as a result of a subsequent marriage commonly referred to as a step-relative, including but not limited to step-mother, step-father, step-sister, step-brother, step-son, step-daughter, step-grandchild, step-mother-in-law, step-father-in-law, step-brother-in-law, and step-sister-in-law.

4. Housing Pricing, Selection of Units, HOA Reimbursement, and Refinancing

- A. Units will be priced based on Affordable Housing Cost for the family size appropriate to the unit (Section 50052.5, b-c and h), regardless of size of actual household:
- (1) 3 bedroom unit priced for a household of 4
  - (2) 4 bedroom unit priced for a household of 5
- B. Resale price for affordable units will be based on Affordable Housing Cost at time of resale. Affordable Sales Price is not based on market price at initial sale, or at resale. (City will provide this information to homeowners in this Program on an ongoing basis.) A resale of the affordable unit shall be required when two unrelated people are on title and one would like to sell their interest within three (3) years after the close of escrow. If one of the owners on title would like to remain in the affordable unit and they have occupied the affordable unit for three (3) or more years, the remaining owner would need to be re-qualified at the income category (moderate, low, or very low) the unit is designated without adding another co-borrower/buyer. If the remaining owner no longer qualifies, the unit will need to be sold to another qualified, City approved buyer. In the event of a divorce, one of the owners may retain the affordable unit without re-qualifying at the designated income category upon providing court approved documentation identifying disposition of the affordable unit. In this situation, the City will allow a refinance so that the departing owner may receive their share of the equity if the owners are in compliance with all conditions and requirements of this policy to the sole satisfaction of the City. The amount of the refinance shall not exceed the current affordable sale price minus twenty thousand (\$20,000.00) dollars (a cash out refinance is only allowed in a divorce situation).
- C. Applicants will be assigned a unit in their income category based on household size, following conditional loan approval. Household size will be determined at the time of receipt of application. At its discretion, the City may assign a unit with more bedrooms than the applicant would otherwise be eligible for, if it is the last unit that is available during the applicable period of the Priority List.

D. Home Owner's Association (HOA) dues reimbursement. Program participants shall be eligible for reimbursement of monthly HOA dues for the amount over one hundred (\$100.00) per month for the maintenance of common areas in the following manner:

- (1) Homes purchased after July 1, 2015 shall be eligible for HOA dues reimbursement for a period not to exceed thirty-six (36) months from the date of purchase.
- (2) Homes purchased prior to July 1, 2015 shall remain eligible for continued HOA dues reimbursement through June 30, 2016, or 36 months from close of escrow, whichever is longer, unless available funds are exhausted prior to that date the referenced eligibility date.
- (3) Reimbursements shall be made on a quarterly basis (3 months at a time) and must be submitted for reimbursement within six (6) months of the month within which it was due (e.g. January dues must be requested by June 30th). No reimbursements for penalties or late fees.
- (4) HOA reimbursements shall terminate if reimbursements have not been submitted during a twelve (12) month period.

E. Refinances and Additional Deeds of Trust. The written consent of the City Manager shall be required prior to any refinancing of any loan secured by a deed of trust on the affordable unit. The City shall allow refinancing of the first deed of trust under certain circumstances, but will not allow any junior deeds to the City's loan. All refinances will be subject to the current rules and regulations at the time of the refinance. The City shall not have the right to exercise its option to purchase the affordable unit in such event, but any refinances (as defined below) shall be consistent with the following provisions and other requirements established by the City Manager:

- (1) The City will not unreasonably withhold approval of a refinancing if it meets the following criteria:
  - (A) If the refinancing occurs not sooner than three (3) years after the initial closing;
  - (B) If the Owner is not receiving a cash payment or payment of consumer debt from the equity in the affordable unit; and
  - (C) If the Owner has maintained a good credit history and satisfactory performance under the City's First Time Home Buyers program, in the judgment of the City Manager or his or her designee.

F. Equity Share. In the event of a re-sale of the affordable unit, as a result of an

increase in the Ventura County Median Income and there is a net amount of sale proceeds remaining after the payment of the first mortgage, credit for principal reductions of the first mortgage, and Seller's original downpayment, such net proceeds shall be distributed as follows:

- (1) Seller will receive the first \$20,000.
- (2) The remaining equity shall be split one-third to seller and two-thirds to the City provided that the City's share of appreciation will not as a percentage exceed the principal amount of the second loan amount divided by the appraised market value of the property at time of initial origination. Any appreciation that exceeds the above described percentage will go back to the buyer.

5. Primary Residence and Rental Prohibition

All buyers shall occupy the affordable unit as their primary residence at all times. No portion of the affordable unit shall be rented or leased for any period of time. This includes but is not limited to written or verbal agreements for renting or leasing a room or accepting other forms of payment to allow one or more persons other than those listed on the application to reside at the unit.

6. Title to Real Property

Applicants shall take title of the affordable unit as joint tendency. Any change to title not preapproved by City Manager in writing will result in a sale of the affordable unit.

7. City Staff Authority

A. The City Manager is authorized to interpret this policy as needed and to execute all affordable housing project deferred loan agreements and repayment documents for all affordable housing projects for which the City will own an equity share. The City clerk is authorized to accept interest in real estate secured by any Deed of Trust associated with this program.

~~A.B.~~ The City Manager is authorized to exclude First Time Home Buyer program participants from applying in future rounds of the program if they are found to have omitted or supplied false or misleading information on the initial application to participate in the program.

~~B.C.~~ Upon owner misrepresentation or the default or breach of any covenant or agreement in the Promissory Note, the Resale and Refinance Restriction Agreement and Option to Purchase Property or the City Second Mortgage Deed of Trust, including, but not limited to, the covenants to pay, when due, any sums secured by the Deed of Trust, the City, at its option, may pursue the following remedial steps and actions, in addition to any other remedies provided by the above-mentioned documents or at law. The City will send notice to the borrower specifying: (1) the breach; (2) the action required to

cure such breach; (3) a date, not less than thirty (30) days from the date the notice is effective, by which such breach is to be cured; and (4) that failure to cure such breach on or before the date specified in the notice shall, at the option of the City, result in acceleration of the outstanding sums under the Promissory Note (i.e., the entire sum owing on the Promissory Note becoming immediately due and payable.) If after those procedures, such sums are not paid, then the City may, at its option commence the process for non-judicial foreclosure of the property. The notice and opportunity to cure shall not apply to defaults that are not curable, the failure to pay the sums due upon acceleration, or to a transfer that violates restrictions on transfers (such as a sale to a person or persons who is not a purchaser preapproved by the City.)