



**OFFICE OF COUNCILMEMBER MYRTLE COLE
FOURTH COUNCIL DISTRICT**

M E M O R A N D U M

DATE: October 2, 2014

TO: Council President Todd Gloria

FROM: Councilmember Myrtle Cole, Fourth Council District *Myrtle Cole*

SUBJECT: The Housing Impact Fee and Proposed Municipal Code Updates

The City of San Diego remains in a continued state of emergency due to the severe shortage of affordable housing, despite numerous successful initiatives to preserve and produce affordable housing.

The Housing Impact Fee program (alternatively referred to as the Linkage Fee or Workforce Housing Offset Fee program) was initially established in 1990. The program levied a fee on developers of certain non-residential projects for the purpose of providing affordable housing, based on a nexus study. The 1990 fee was set at a level that amounted to approximately 1.5% of construction costs at that time. In 1996, the Council adopted an ordinance that reduced rates by 50% and after nearly two decades and numerous attempts to update the Housing Impact Fee program, those reduced fees are still in effect today.

In July of this year, the Housing Commission presented a Memorandum of Understanding (MOU) (Attachment A) which was a result of its negotiations with the Jobs Coalition. The general terms of the MOU are as follows:

- Fee: Starting January 1, 2015, raise Housing Impact Fees 100%, to the level they were before they were cut in half in 1996.
- Sunset the Housing Impact Fee increase on January 1, 2018, unless certain agreed-upon milestones, as detailed in the MOU, are met.
- Exempt manufacturing, warehouse, and nonprofit hospitals from the Housing Impact Fee for the purposes of economic development.
- Do not raise the fee levels for research and development construction, for the purpose of economic development.
- Strengthen exemption process for high-wage employers.

- Remove requirement for annual recommendation to the Council for revenue level update based on a construction cost index.

The MOU as presented raised a myriad of concerns and I believe that strong opposition was warranted regarding the inclusion of a sunset provision.

To ensure that progress is made to address San Diego's affordable housing crisis while promoting economic development, I initiated a dialogue with the Jobs Coalition. In the spirit of cooperation, I am pleased to present the following compromise proposal:

Proposed Municipal Code Updates

- **Fee: Raise the Housing Impact Fee 100%, phased-in over three years, to the 1990 level (the level they were before they were cut in half in 1996). Phase-in period takes effect on January 1, 2015.**
- **The Housing Impact Fee adjustment will not sunset.**
- **Exempt manufacturing, warehouse, and nonprofit hospitals from the Housing Impact Fee for the purposes of economic development.**
- **No adjustment to the fee levels for research and development construction, for the purpose of economic development.**
- **Remove requirement for annual recommendation to the Council for revenue level update based on a construction cost index.**

Additional Recommendations

- **My commitment to reform efforts such as streamlining permitting processes and completing long stalled updates to community plans continues. In addition to the proposed Municipal Code updates, I respectfully request that the Mayor consider the reform measures included in the proposed MOU between the Housing Commission and the Jobs Coalition and present a reform plan to the City Council.**
- **Additionally, I respectfully request that Housing Commission propose a plan to improve the City's waiver process, including strengthening the waiver process for high-wage employers, consistent with the August 2013 *Jobs-Housing Nexus Study* prepared for the City by Keyser Marston Associates, Inc.**

Based on historical data collection, my proposal is expected to generate an additional \$3 million more over a five-year period over the current fees. I strongly believe that this is a positive step toward addressing housing affordability as our city continues to grow. This compromise provides greater certainty, will help to create a supply of affordable housing, and will encourage business and development.

I ask that this proposal be considered as the City Council revisits the Housing Impact Fee program.

MC:pi

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cc:

City Councilmembers

Mayor Kevin Faulconer

City Attorney Jan Goldsmith

Andrea Tevlin, Independent Budget Analyst

Craig Benedetto, Jobs Coalition

Rick Gentry, San Diego Housing Commission

Bruce Reznik, San Diego Housing Federation

PROPOSED - Memorandum of Understanding on Workforce Housing
July 2, 2014

Introduction:

This document is intended to be a memorandum of understanding between the Housing Commission and the Jobs Coalition. The parties agree to the following outline of a compromise concerning issues affecting the Housing Impact Fee.

This memorandum of understanding identifies what the parties agree to jointly recommend as actions the San Diego City Council and other relevant entities should take. The implementation of any and all of the recommendations is subject to City Council approval in its legislative discretion.

Summary of Plan:

1. Direct Staff to Identify Additional Funding Sources
 - a. City Council to direct the Independent Budget Analyst to advise the Council on potential revenue sources for affordable homes in San Diego
2. Make ALL Homes More Affordable
 - a. Direct staff to prepare a code update to Density Bonus program
 - b. Direct staff to prepare a code update to Transit Overlay District
 - c. Direct City staff to convene a taskforce to prepare an Affordable Smart Growth plan
 - d. Direct staff to prepare a Planning Priorities Plan
3. Maximize Subsidized Housing Dollars
 - a. Direct staff to identify City land for development of affordable homes
 - b. Advocate in Sacramento for housing reform
 - c. Housing Commission to prepare Affordable Homes Report
4. Immediate Municipal Code Changes
 - a. Permanently defer collections of Facilities Benefit Assessments (FBA) until projects receive certificates of occupancy or final building inspections
 - b. Defer Housing Impact Fee collections until projects receive certificates of occupancy or final building inspections
 - c. Grandfather Housing Impact Fee levels for "pipeline projects" whose ministerial or discretionary applications have been "deemed complete"
 - d. Exempt manufacturing, warehouse, and nonprofit hospitals from the Housing Impact Fee for the purposes of economic development
 - e. Do not raise the fee levels for research and development construction, for the purpose of economic development
 - f. Strengthen exemption process for high-wage employers
 - g. Starting January 1, 2015, raise Housing Impact Fees 100%, to the level they were at before they were cut in half in 1996, and sunset the increase and return to 2014 levels beginning January 1, 2018.
 - h. The sunset provisions of the ordinance will not be reconsidered by the City Council unless certain milestones, as detailed by this agreement, are reached.

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Plan Specifics:

1. Identify Additional Funding Sources:

a. Creation of IBA Report on Revenue Options for Homes:

- i. City Council: Direct Independent Budget Analyst (IBA) to prepare a report on the feasibility and potential revenue for affordable housing from at least the below sources. Direct the City Attorney to work with IBA to advise the Council on the legality of each of these sources. The Council will review options and direct City Staff to implement feasible long-term solutions.
- ii. Independent Budget Analyst (IBA): Report to the Council on the feasibility and revenue from potential sources, including at least the below options. The IBA can also examine other revenues according to its best judgment.

1. TOT Future Revenue:

- a. Identify a baseline of current annual TOT revenues for ongoing General Fund contributions.
- b. Enact a municipal code amendment to dedicate a percentage of future TOT revenues in excess of the baseline, as it is collected, to the Affordable Housing Trust Fund. Expenditures from Trust Fund would still be approved annually according to the existing process for allocating monies from the Affordable Housing Fund.

2. City Redevelopment Property Tax Trust Fund: Dedicating 20% of new revenues to the City General Funds that will result from the dissolution of the City's Redevelopment agency.

3. County Redevelopment Property Tax Fund: Dedicating 20% of new revenues to the County of San Diego's General Funds that will result from the dissolution of the City's Redevelopment agency, so long as cities match a percentage of contributions, similar to the policy considered by Santa Clara County.

4. Local Tax Increment: Allocating a percentage of future tax increment (growth) in either specified areas or citywide, starting at a specific date with a specified percentage of new revenue funding the Housing Trust Fund.

5. Including affordable housing funding, or funding for infrastructure related to affordable housing, in an infrastructure bond submitted to a public vote in 2016.

6. Creating a stand-alone housing bond to finance affordable housing construction, submitted to a public vote in 2016.

7. Housing revenue potential from possible State actions:

- a. Infrastructure Finance Districts as proposed to be amended through bills pending in the legislature
- b. SB 391 or its successor
- c. Proposition 41 funds for veteran housing

2. Make ALL Housing More Affordable:

- a. City Council: Direct the City Attorney with input and direction from the San Diego Housing Commission, Development Services and the Planning Department to prepare for the Council's consideration, and subject to the City Council's approval in its

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legislative discretion, an update to the City's Density Bonus program. The draft ordinance should identify a "menu of incentives" that are predictable to both developers and communities, consistent with Government Code Sections 65915 through 65918, and similar to the model used by the City and County of Los Angeles.

- b. City Council: Direct the City Attorney with input and direction from the San Diego Housing Commission, Development Services and the Planning Department to prepare for the Council's consideration, and subject to the City Council's approval in its legislative discretion, a geographic update to the City's Transit Overlay District and the ways new developments can satisfy parking requirements within that district.
- c. City Council: Request Development Services and Planning Departments to convene a group of affordable housing, market-rate development, and community planning stakeholders to prepare a comprehensive and feasible plan ("Affordable Smart Growth Plan") to improve options for smart growth in San Diego.
 - i. The plan should include or examine the feasibility of at least the following:
 - 1. Streamlining permitting process
 - 2. Implementing staff development opportunities
 - 3. Increasing density in communities
 - 4. Amending FAR restrictions throughout the city
 - 5. Tools to make projects more ministerial, if consistent with newly updated community plans
 - 6. Prioritizing allocation of infrastructure improvement dollars to communities that accept density increase as a part of community plan or specific plan updates
 - 7. Implementing joint defense agreements at the application stage of the process
 - 8. Issuing permits with a standard condition that amend permits when state or federal agencies amend projects through their permitting process
 - 9. Electronic plan submissions
 - 10. Other cost reductions like the development of a parks master plan
 - ii. City Council: Direct City Attorney to evaluate feasibility of creation of joint defense agreements and other elements of Affordable Smart Growth Plan.
 - iii. City Council: Support Mayor's efforts to modernize DSD and Planning Departments based on the Affordable Smart Growth Plan.
- d. City Council: Request the Planning Department to develop a plan ("Planning Priorities Document") for review by Council to include the following:
 - i. Proposed allocation and expenditures of funds from recent increases in General Plan maintenance fees ("GPMF") to update at least two community plans per year from the prioritized list until all community plans are updated – OR – provide GPMF monies to "priority development area" plan updates, as identified and prioritized.
 - ii. Priority list of community plan updates should be based on factors to include developable or redevelopable land, infrastructure readiness, the market to support development, opportunities for infill, and other relevant factors.

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3. Maximizing Subsidized Housing Dollars:

a. City Land:

- i. City Council: Request from City Real Estate Department a list of all vacant or underutilized properties owned by the City.
- ii. City Council: Direct the Housing Commission to convene a group of affordable housing stakeholders to review list of City lands for feasibility of use for affordable housing.
- iii. Housing Commission: Develop for review by the City Council a proposal with the City of San Diego for a mechanism to allow for appropriate City land to be developed as affordable housing. Options to be considered will include transferring land to the Housing Commission for either development of affordable housing through an open request for proposal process, or as a public contribution to a blended Investment fund to develop affordable housing.

b. City Legislative Advocacy for Affordable Housing:

- i. Housing Commission: Work with Mayor's office to develop a legislative and advocacy program for the City that supports affordable housing.
 1. Revise the tax credit review and allocation process to allow for the development of more cost-efficient affordable housing, including by reexamining energy efficiency and proximity to amenity rules.
 2. Support bills in Sacramento to ease implementation of Infrastructure financing districts (IFDs), and to ensure a percentage of new IFD revenues finance affordable housing.
 3. Support SB 391 or its successor, and other bills related to affordable housing development.

c. Local Development Policies

- i. Housing Commission: Report to the City Council within 90 days with a report of cost-reduction items that could be adopted locally to reduce the cost of developing affordable and inclusionary housing ("Affordable Homes Report"). Report will examine at least the following:
 1. Updating the City's affordable housing expedite program.
 2. Amortizing impact fees over the life of an affordable project.

4. Immediate Municipal Code Changes:

- a. City Council: Direct the City Attorney with input and direction from the San Diego Housing Commission to prepare for consideration and adoption by the City Council within 60 days, amendments to the Municipal Code that reflect the following and as detailed below, subject to City Council approval, in its legislative discretion:
 - i. Permanently defer collections of Facilities Benefit Assessments (FBA) until projects receive certificates of occupancy or final building inspections.
 - ii. Defer Housing Impact Fee collections until projects receive certificates of occupancy or final building inspections.
 - iii. Grandfather Housing Impact Fee levels for "pipeline projects" whose ministerial or discretionary applications have been "deemed complete."
 - iv. Exempt manufacturing, warehouse, and nonprofit hospitals from the Housing Impact Fee for the purposes of economic development.

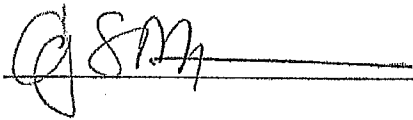
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- v. Do not raise the fee levels for research and development construction, for the purpose of economic development.
 - vi. Strengthen exemption process for high-wage employers.
 - vii. Starting January 1, 2015, raise Housing Impact Fees 100%, to the level they were at before they were cut in half in 1996, and sunset the increase and return to 2014 levels beginning January 1, 2018.
 - viii. The sunset provisions of the ordinance will not be reconsidered by the City Council unless certain milestones, as detailed by this agreement, are reached.
- b. City Council: Direct Housing Commission to wait until 2018 before making any additional recommendations related to updating the Housing Impact Fee.
- c. City Council: Agree not to remove the sunset provision from the fee update, and direct the Housing Commission not to recommend any such action, unless the City achieves the following milestones:
- i. Approval of changes that substantially improve the applicability and performance of the affordable housing, as well as the sustainable development expedite programs.
 - ii. Adoption of one or more of the meaningful (defined as having a significant impact on reducing the cost of development either by cost or time) regulatory reforms that would have a demonstrable impact on reducing or offsetting the cost of commercial development.
 - iii. Adoption of one or more of the meaningful (see aforementioned definition) regulatory reforms that would have a demonstrable impact on reducing or offsetting the cost of developing market rate and affordable homes.
 - iv. Complete two or more community plan updates (or a suitable alternative in a micro community plan area) in an area as prioritized in the Planning Priorities Document.
 - v. Complete two or more regulatory or cost reforms that require ordinance code changes or environmental review.
- d. City Council: Agree that if affordable housing revenue is generated through some of the other concepts listed above, then the City Council in its legislative discretion will hear and consider proposals to offset or reduce the various fees charged to developers.
- e. Facilities Benefit Assessments (FBA): Direct the City Attorney to prepare an immediate update to the Municipal Code to make permanent the deferral of FBA fees until projects receive certificates of occupancy or final building inspections, subject to City Council approval in its legislative discretion.
- f. Housing Impact Fee: Direct the City Attorney with input and direction from the San Diego Housing Commission to prepare for the Council's consideration, and subject to the City Council's approval in its legislative discretion, to prepare an immediate update to the Affordable Housing Impact Fee to reflect the following:
- i. Housing Impact Fee Increases: Beginning January 1, 2015, increase fee 100%, and to revert back to the 2014 levels on January 1, 2018.

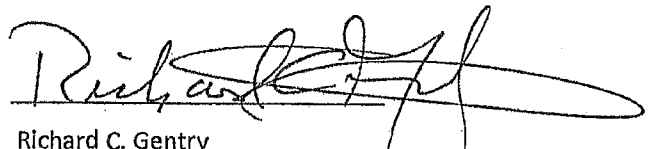
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- ii. Include provisions to allow projects deemed by Development Services to be substantially complete to pay fees at the level they are at the time of substantial completion.
- iii. Include provisions to allow deferral of Housing Impact Fees until projects receive certificates of occupancy or final building inspections.
- iv. Economic Development Exemptions:
 - 1. Exempt manufacturing, warehouse facilities, and nonprofit hospitals.
 - 2. Do not raise fee levels for construction under the research and development category.
- v. Strengthen and Clarify Exemption Process:
 - 1. Clarify that waivers and reductions are decided by a vote of the appointed Housing Commission, with appeals available within 30 days by the City Council.
 - 2. Clarify that waivers or reductions are available where developers can demonstrate that fewer low-wage jobs will be created than the 2013 nexus study justifies for the fee level charged to the development.
 - 3. Housing Commission to publish guidelines, variance log, and application form on website for applicants for waivers or reductions.
- vi. Cap the percentage of funds used for Transitional Housing:
 - 1. Amend the Municipal Code to cap the percentage of Housing Impact Fee that can be spent on transitional housing to 20% of annual revenues.
- vii. Remove requirement for annual recommendation to the Council for revenue level updates based on a construction cost index.

Dated: 7.2.14



Jobs Coalition



Richard C. Gentry
President & Chief Executive Officer
San Diego Housing Commission