

**MINUTES
CITY OF ST. CHARLES, IL
HOUSING COMMISSION
THURSDAY, AUGUST 20, 2015
COUNCIL COMMITTEE ROOM**

Members Present: David Amundson, Liz Eakins, Rita Payleitner, Tom Hansen, John Hall Jr.,
Corinne Pierog

Members Absent: Karrsten Goettel, Tim Kessler, John Glenn

Others Present: Rita Tungare, Community & Economic Development Director
Ellen Johnson, Planner

1. Call to Order

Chair Amundson called the meeting to order at 7:05 p.m.

2. Roll Call

Ms. Johnson called roll with five members present. There was a quorum. Mr. Hall arrived at approximately 7:07 p.m.

3. Approval of Agenda

A motion was made by Ms. Payleitner and seconded by Mr. Hansen to approve the Agenda. Motion carried by a unanimous voice vote.

4. Approval of Minutes from the July 22, 2015 Meeting

Ms. Payleitner noted that the following should be added to the end of the second paragraph on page 2: "...and they would also like more control" for clarification. Chair Amundson noted that the word "said" should be added after "Chair Amundson" on page 4, paragraph 5.

A motion was made by Ms. Payleitner and seconded by Ms. Eakins to approve the July 22, 2015 Housing Commission meeting minutes, as corrected. Motion carried by a unanimous voice vote, with Ms. Pierog abstaining.

5. Recommendation regarding revisions to the Inclusionary Housing Ordinance

Ms. Tungare said staff has prepared revisions to the Inclusionary Housing Ordinance (IHO) based on the conversation last month.

Ms. Johnson said the meeting memo lists the revisions the Commission has talked about before. One new revision, under the Alternative Affordable Housing Plan section, is language stating that a recommendation from the Housing Commission will be required before an alternative affordable housing plan can be approved by City Council. There are specific criteria a developer must meet to be allowed to propose an alternative affordable housing plan, which are not proposed to change. Staff will determine whether a developer meets the criteria. If they do, then the Commission will review the proposed alternative plan.

Ms. Johnson said in terms City Council having the ability to waive the requirements of the IHO, the City's legal counsel determined that the ordinance does not give Council that ability. If Council wants the ability to waive the requirements, language will have to be added.

Chair Amundson brought up the amendment to pull the IHO out of the Zoning Ordinance. Currently, an alternative affordable housing plan would be reviewed by the Plan Commission.

Chair Amundson asked if the City Code should be amended to state the developer is subject to the Zoning Ordinance requirements, building codes, and the IHO, so that it is clear developers are beholden to the IHO as part of the development process.

Ms. Tungare said the IHO will not be a standalone document; it will be a separate title within the City Code, as is the Zoning Ordinance. There are several titles in the City Code that apply to any development.

Chair Amundson asked if there is a list in the City Code stating what a developer is subject to, and whether we need to amend that to include the IHO. Ms. Tungare said such a list does not exist in the Code.

Ms. Tungare said some communities have the IHO as part of the zoning ordinance, and some are separate. The City Attorney said we can do it either way. Removing the IHO better fits the structure of our Zoning Ordinance.

Ms. Johnson said the Plan Commission public hearing for the amendment to remove the IHO from the Zoning Ordinance will be on September 22 at 7:00 p.m. Ms. Tungare encouraged at least one representative from the Commission to attend.

Ms. Johnson referenced a list of miscellaneous items listed in the memo. The first is that the IHO continues to adjust for household income when determining the affordable purchase price and rent. The majority of Commissioners had supported this at past meetings. The 2015 IHDA affordability charts have been released. Purchase prices went up about \$8,000 and rents went up about \$50. These will be the income limits and prices that will be in effect once the IHO is approved.

Ms. Johnson said that Council had suggested adding a cap to the fee in-lieu amount. The Commission did not support that at the last meeting and a cap has not been added to the IHO. Also, Council had expressed desire for flexibility in terms of how the ordinance requirements are met. That flexibility, in terms of whether fee in-lieu is provided, units, or a combination of the two, is already included in the IHO, so no change was needed.

Ms. Peyleitner mentioned the proposed fee in-lieu formula, which was suggested by Mr. Hansen at the last meeting, and that it is based on a 25% down payment on two affordable units. Putting a purpose to the number seems to be a little easier to swallow.

Ms. Johnson said, as suggested by Chair Amundson, she put together information comparing the IHO fee to the existing school and park land/cash dedication requirements, for three different size developments. For the school and park district, the requirement is for land or cash; the developer either donates land or provides cash. The requirement is based on projected student population for

the school district and projected total population for the park district.

Chair Amundson said the school and park district fee is flat. For the IHO, the unit/fee in-lieu requirement will change depending on where we are on the affordability scale. He asked for Ms. Payleitner's opinion on how Council will react to seeing the comparison of fees, since the school and park fees have long been accepted and supported.

Ms. Payleitner said she is not sure. Ms. Tungare said City Council has the final say as to whether land or cash will be accepted.

Ms. Johnson said legal counsel advised that Council also does not have the ability to waive the school/park land/cash requirements.

Chair Amundson said one part that jumped at him was that the IHO fee in-lieu for a 500 unit apartment complex would be higher than the school district fee. Ms. Johnson said the projected school population is lower for apartments than for single-family.

Ms. Tungare said the school/park requirement calculations are different based on type of housing. If the 500 unit development were single-family homes or townhomes, the fee would be much higher. She said not to focus too much on the numeric values, but that these fees exist. More goes into the consideration at the Council level than numeric values.

Chair Amundson said schools are widely supported in St. Charles, and the park district fee is also around the same amount. He wondered if City Council will be willing to impose the same financial burden for affordable housing as for the school and park districts.

Ms. Payleitner said it will help to have the formula we are proposing.

Ms. Tungare said there are several variables the Council will consider when there is a development proposal, particularly where affordable housing is concerned. Location is a huge factor, as is reaction of the constituents within the area. She said this group has come up with a good foundational basis for what the fee in-lieu should be.

Mr. Hansen said we won't know whether the fee in-lieu is too high until someone builds something and we get feedback.

Ms. Tungare said the schedule for amending the ordinance is Plan Commission on September 22 and Planning and Development Committee of the City Council on October 12. She encouraged Housing Commissioners to attend that meeting and share their viewpoints.

Ms. Pierog said she noticed an old house near Pottawatomie that has been demolished and replaced with a large house. She asked if the affordable housing requirement applies in this situation, since an affordable unit was lost.

Ms. Johnson said the IHO states that if the old house is considered affordable and is replaced with a non-affordable unit, fee in-lieu payment will be required once the IHO is reinstated.

Ms. Piergo asked if there has been any discussion about teardowns.

Mr. Hall said we talked about the fact that there would be a fee in-lieu for teardowns, but that is as far as we've taken that discussion.

Chair Amundson said the fee in-lieu for a teardown would be only 5% of one unit, so about \$3,500.

Ms. Payeietner said the downside of a teardown is that it takes out a piece of affordable inventory.

Ms. Pierog asked if the fee in-lieu will be collected at the time of sale, or permit. Ms. Johnson said at the time of building permit.

Ms. Johnson said the last item in the memo is the recommendation for tonight, for both pulling the IHO out of the Zoning Ordinance and for the revisions that have been discussed over the past few meetings.

Ms. Payeleitner noted that Section 17.18.030 says the City's affordable housing share will be determined by IHDA in the most recent report on statewide local government affordability and that is not staff's formula. Ms. Johnson said that is the percentage IHDA will be releasing every five years.

Ms. Tungare said that we decided to go with IHDA's determination and that gave us the opportunity to modify the IHO.

Chair Amundson said IHDA's number is how it is determined if we meet the 10% requirement or not, so we need to be on the same page as IHDA. Ms. Tungare said if in five years we are in default, we have not done ourselves any favors because our ordinance has been suspended.

Chair Amundson brought up Section 17.18.030.C.2, "The requirements of this chapter shall not apply in either of the following instances: 1. Moving the building to another location in the City; 2. Construction of a single dwelling unit on a lot that was of record prior to February 15, 2008 and upon which no Dwelling Unit or part thereof has existed for a period of ten years or more prior to issuance of a building permit." Ms. Tungare said that date was when the IHO was adopted.

Chair Amundson said if you own two lots, one of which is vacant and has never been built on, and you want to subdivide it, you don't have to pay a fee. Ms. Tungare said the lot has to be of record and must be vacant.

Commissioners shared examples of infill locations where double lots exist.

Mr. Hall said this section says that vacant lots in subdivisions platted more recently, like River's Edge in 2002, shouldn't be subject to the fee.

Chair Amundson asked if we are doing ourselves a disservice with this provision.

Mr. Hall said he thinks the reason for that provision was probably to grandfather in neighborhoods that were already existing. It was the middle of the recession, nothing was going on, and we didn't want to impose the burden of another fee.

Ms. Tungare said are we losing something, but it grandfathers in pre-existing conditions. People

made decisions without knowing that the fee requirement existed.

Ms. Tungare said if someone owned a large lot and wanted to subdivide it to build another home, they'd be coming before the City now to subdivide it, so then the provisions would apply.

Mr. Hansen said he wouldn't feel right hitting someone with a fee, in the situation of having an old house with a second lot. This is a new law and the lot has been theirs. He said he would make the provision effective from the date that the ordinance will be passed now, since we're passing a new law.

Ms. Tungare said the original ordinance is still in effect and we are amending it; we are not deleting it in its entirety and adopting a new one. Commissioners agreed to keep the 2008 date.

Ms. Tungare said if we are going to keep our eye on the prize, capturing the newer developments that we will have in the next 5-10 years is the priority.

Chair Amundson said "of record" may need to be clarified.

Mr. Hall said they can't divide a property and build on it without a recorded plat of subdivision. That recording date is the date "of record."

Chair Amundson noted the revised Section 17.18.050.B states towards the end, "...the fee shall remain in effect until IHDA releases an updated list of statewide local government affordability and City Council passes a new determination." He said to the language stating "and City Council passes a new determination" should be removed, so that the fee is recalculated at the staff level when IHDA releases an update.

Ms. Payleitner said before it was a cut and dry amount; now there is a calculation, so this seems reasonable.

Chair Amundson said Section 17.18.090.B.c states, "The purchaser shall execute a deferred mortgage lien in favor of the City in the amount of the difference between the purchase price paid by the purchaser for the affordable unit and its market value, at an interest rate comparable to that which is available for a fixed rate, 30-year mortgage." This means that the City gets a second note that is the difference between the market value of the house and the affordable purchase price; this makes sense. However, this second note is increasing in value at whatever interest rate, and we have no control over interest rates. Also, if the affordable purchase price goes down, you could have an affordable homeowner who is underwater because the mortgage rate was at 8% and the affordable price fell. They could be bankrupt. This should be a 0% loan with some relief that if the affordable price goes down, the City forgives the difference. If the economics go upside down again, we could bankrupt people on an affordable housing program.

Mr. Hansen said it would be that way for all homeowners in that case, like we had in the recession.

Chair Amundson said that provision may have unintended consequences. The second note is there to protect the City's equity. We're selling out the bottom portion of the equity but we hang on to the top portion. That is fair; we have to protect our interests. But if you make this note have interest on it, it will grow and at 15 years, the value of the second note could equal or exceed the value of the

underlying note, the house. Everyone who purchases these houses could go bankrupt, even if the market stays fine. All the note should be is the difference between the purchase price and the market price. We could stipulate that the note is based on a fixed point in time (for example, if at the point of sale, there is a \$70,000 difference, then it is a \$70,000 note), or that the note is always the difference between the affordable price of the house and the market value, which then denies the homeowner any of the equity that climbs due to market fluctuations and if the market price goes down, the City bears it.

Mr. Hansen said in this case, I don't care about return on the principal, I care about return of the principal.

Chair Amundson said yes, that's why 0% is fine by me, and it could either be a fixed note or always the difference between the affordable price and market value.

Ms. Tungare said the interest rate language in this section would need to be deleted.

Chair Amundson added that also, someone needs to make the policy choice of whether the value of the note is constantly in flux because it is always the difference between the affordable and market price, or is fixed so that it is the difference between the affordable and market price at the point of sale, which would make the overhead or underhead become the liability of the City, which is the beneficent thing to do for the homeowner.

Ms. Tungare said that is something we can raise as a policy question for the Council.

Chair Amundson said that ties back to the same section, 3.b., same page; those two are linked and need to be thought about carefully.

A motion was made by Mr. Hall and seconded by Mr. Hansen with a unanimous voice vote to recommend approval of removal of the Inclusionary Housing Ordinance from the Zoning Ordinance and approval of the amendments to the Inclusionary Housing Ordinance, with the condition that all questions and comments brought up by the Commission are attended to.

6. Additional Business

Mr. Hall said next we should look at what we are going to do with the Housing Trust Fund.

Mr. Hansen asked if we have access to information regarding successful affordable housing programs. Ms. Tungare said there is not much available information out there. She requested the Commission keep their eyes and ears open and forward anything to staff so we can attempt to research further.

Chair Amundson brought up an idea to set up a land trust and work with Habitat for Humanity. The land trust pulls the value of the land out from underneath. If the City owns the lot and lets Habitat build on it, Habitat has a doable model because they are basically selling the house for the cost of materials. Habitat knows what they are doing and has a good track record.

Mr. Hansen said he spent a day working on a Habitat home in Elgin. Habitat really knows what they are doing in terms of construction.

Ms. Tungare said our goal has been to focus on accomplishing one thing at a time. The IHO revisions were a priority. Once that is done, that sets the stage for looking into establishing programs. We have also prioritized implementing the recommendations from the *Homes for a Changing Region* study. The first was the employer-assisted housing event. That event is set for October 7 and all Commissioners are encouraged to attend. The next item is the community land trust. The other *Homes* study communities are willing to take part in that effort. Collectively, that is the next thing we will be able to target. We need to stay focused and get through one recommendation at a time and check them off our list.

Ms. Johnson said the *Homes* implementation team has been discussing with CMAP the possibility of doing a feasibility study for the community land trust.

7. Future Meeting Dates

Ms. Tungare advised that the next meeting, scheduled for Thursday, September 17, will be cancelled in order to give staff time to take the amendment through Plan Commission and Planning & Development Committee.

8. Adjournment

A motion was made by Ms. Payleitner and seconded by Mr. Hansen to adjourn at 8:15 p.m. Motion carried by a unanimous voice vote.