Tuesday, April 25, 2017, 2:30 PM

City Council Chambers

1. Call to Order/Welcome

Vice Mayor Caserta called the third of four Affordable Housing Working Group meetings to order and explained that the objective is to get some numbers down today and finalise these objectives and decisions at the fourth meeting.

Hamid Taeb, representing Habitat for Humanity, introduced himself to the group.

Mr Crabtree briefly went through the Agenda and summarised items for discussion highlighting the outcomes and goals that should be addressed, listed in the included policy considerations document in the packet.

Vice Mayor Caserta asked the group if there were any questions regarding the KMA information received. Mr Crabtree noted that this was itemized on the Agenda and he would briefly present and explain this information later on in the meeting.

2. Review of Meeting Minutes

Caserta asked if there were any questions or comments regarding the Meeting Minutes from April 11, 2017. No comments were made.

3. Public Presentation

Caserta invited the public to make comments. No public comments were made.

4. Review of KMA Additional Information

Mr Crabtree introduced the Affordable Housing Policy Considerations for discussion document and noted it was a benchmark to be used for starting the conversation of decided on specific fees and inclusionary requirements.

Mr Crabtree also introduced the additional information received from KMA and explained that the research included a breakdown of per square foot fee (psf) rate equivalents for for-sale and rental projects at 10%, 12.5% and 15% inclusionary requirements.

Mr Crabtree further noted that there had been a question from Mr Jain before the meeting regarding the fee, per square foot, equivalent for rental residential at moderate income level. He noted that by looking at the current figures, one could estimate approximately $32 psf equivalent at Moderate level for rental.

Finally, Mr Crabtree noted in response to another question raised prior to the meeting that HUD money is generally tied to low/very low income levels and not within moderate income levels.

5. Discussion

Councilmember Mahan queried if, as a possibility, the City can have a list of pipeline projects in the pipeline that would be applicable to a lower fee in the interim and then we would eventually phase to the full fee, a ramp up of the fee.

Mr Jain noted that the Planning Commission recommended site control being the measure for whether projects would be subject to the fee.

Ms Lorenzana queried how the group will reach consensus and asked if the group will be voting. Mr Crabtree confirmed that the aim was to reach consensus among the group without resulting in a vote.

Mr Edwards noted his support for a grace period as well as a ramp up of the fee. For example, there could be a $10 psf fee applicable in year one, $20 psf in year two and $30 psf in the final year. He noted that this ramp up would be important for those who have already purchased properties or have site control.

Councilmember Mahan queried site control as the mechanism. Mr Edwards confirmed that when you enter escrow for a property and gain site control, it's the no back out point and noted usually a developer has purchased the property on the basis of gaining a certain density or number of units.

Mr Leigh added that a developer could technically be waiting a year for entitlements but you would move ahead on the basis of that previous sales price.

Councilmember Mahan clarified that she would like to take into account those previous sales prices.

Mr Edwards further noted that for projects like Tasman East, developers are still waiting for the specific plan and can't carry forward until this is complete despite going through the entitlement process.

Mrs Lorenzana noted that entitlements would be a good mechanism during the grace period. She noted that ramping up the fee, though, would introduce two separate layers of grace period for developers.

Mr Edwards noted that he would want more time as a landlord to get more notice.

Mrs Lorenzana asked if there was really a scenario in this current climate, where development where developers wouldn't be interested in developing based on impact fees. Mr Edwards confirmed that with impact fees growing, some developers would likely keep property as industrial or commercial instead of converting to residential development.

Mr Caserta highlighted that he would like to incentivize smart growth.

Mr Jain noted the desperate need for affordable housing in this City and recommended establishing a fee after the grace period as opposed to a step up the fee.

Mr White noted his agreement with a grace period of six months and demonstration of site control as a reasonable mechanism for fees being applicable. He further noted that in terms of the sliding scale price point, he was thinking it should relate to the type of property as opposed to the density range. For example, fee sliding down from a single family home to a smaller single family home or town home. This would encourage building affordable homes by design.

Councilmember Mahan expressed the need for fee levels that don't slow down development but highlighted that fees could change the type of development that comes forward, for example smaller units. However, in some areas, like the Old Quad, this could lead to development that becomes incompatible with the local area. She further noted that there needs to be a grace period that can accommodate these types of changes. We want to incentivize projects that are underway to continue to add some natural affordability because we will have more supply of housing. She explained that she fears that if we introduce a $30 psf fee, for example, after six months if a developer does not have site control, it could potentially kill a project. Six months is not a long time in the development community.

Mr Martin noted a $30 psf fee does not have a good place in this discussion, and that the fee needs to be more in line with Planning Commission recommendation of $17-20 psf. He queried if the handout for considerations really contains any incentives for Developers? Other cities have been discussing incentives, especially near transit corridor, but this looks like fee penalty.

The other incentives that we have discussed include density bonuses, stacking bonuses, etc. He noted that these programs should be considered, especially where there are upcoming specific plans. Landowners would then be part of this process. Other considerations we would like to see is how these funds would be devoted, for example, through first time home buyers programs. Mr Martin reiterated that the Planning Commission recommendations are more reasonable that the options put forward today.

Mr Crabtree confirmed that overall the group wants to see the General Plan being realised. In terms of the grace period, some of these mechanisms would be running concurrently together. For example, a six-month grace period and then the ramping up would be running concurrently with the site control mechanism.

Ms McIntire noted that this compromise seemed reasonable. However, she highlighted that a blanket grace period across the whole city isn't necessary. People will scram and try to sell their land to avoid this fee. These developments will not be affordable unless there are funds within them to drop the rent levels.

Councilmember Mahan noted that she thinks Mr Crabtree captured the recommendation well. She warned that we may not know the conversations or deals that are happening without the City knowing, as we see only see them at the end. There will be deals that occur within the grace period and some that will occur outside of that grace period. Some pipeline projects should just be exempt because with the Parks fees. Often projects are delayed, not to the fault of the developer. These projects should be exempt from the fee.

Mr Rocha noted that there are a lot of unknowns, and as such, a suitable longer term blanket grace period makes sense. Once a City introduced a fee, it will be applicable forever. Cities don't usually give back a tax. Giving some a break and not others seems more complicated.

Mr Buchanan noted concern over how many projects are going to be exempt and urged the group to remind ourselves of the objectives today. He noted that many people who desperately need housing and noted the imbalance of those who need help and economic situation are changing every day and are being impacted. The longer we wait, the more people will be pushed out of the City. That will cause a host of social dilemmas.

Vice Mayor Caserta asked Mr Crabtree to bring up a topic so the group can reach consensus on that particular.

Mr Crabtree noted that the grace period is a good place to start. He stated that he had a recommendation but invited someone to put forward one.

Mr Edwards noted projects that have site control within three years should be exempt. He also suggested a year grace period, then ramp up in the second year, then the third year the fee being enacted. More specifically, there could be no fee for first twelve months, 12 months to 24 month 1/3 of fee is applicable, 24 months to 36 months 2/3 of fee would be applicable, and after 36 months the fee would go into full effect. Site control would follow this.

Mr Buchanan suggested both recommendations being voting on. Mr Crabtree warned against voting because the group was opened to the public. Mr Crabtree also warned against causing a disincentive for housing being built.

Ms Lorenzana noted layering mechanisms will exacerbate the situation. The City is over producing on market housing whereas we are way behind on Affordable Housing. She agreed that a timeline for site control is necessary. Ms Lorenzana felt that density bonuses are outside of this conversation but some of the group member did not agree.

Vice Mayor Caserta opened the discussion to the public for comments.

Mr Tersini noted that they are working on other projects that have an applicable $17 psf fee but have had to ask the City of San Jose for a reduction on park fees and construction tax to accommodate the $17 psf Affordable Housing fee. He noted that he is an advocate of the grace period being two years and that those who gain site control within this time frame being exempt from the fees. Mr Caserta asked if San Jose approved the reduction and Mr Tersini noted that they had.

Mr Head noted that a long-term shift will have a crunch time period in the interim. In terms of incentivizing a relatively easy transition, two years for example, would be easier for all parties to accommodate. There is a risk in over burdening the market.

Councilmember Mahan noted that we cannot think about this in a vacuum. We do not have tracts of land where we can build new housing within Santa Clara County, maybe only in South San Jose. We need to think about areas like Urban Villages where it fits and it can be accommodated. In Santa Clara, this will be in our industrial areas. We are looking at converting uses through General Plan Amendments, rezoning, etc. or an infill project, redevelopment. There is going to be some adjustment in the land price which affects the housing price. We need a grace period so development can adjust. We want to avoid scarcity and do not want to artificially impose a policy that will slow housing development.

Mr Medina noted that he understands the comments mentioned from the development community but explained that Local 19 represents hotel workers and noted that there are multiple housing markets and these workers cannot afford the current market housing. He explained that we are trying to come up with a housing balance and a grace period will exacerbate the housing balance.

Mr Caserta noted that this is a balance and asked for someone from the Development Community respond to this notion of balance with customers in the market. Mr Head noted that it is difficult as a builder to be limited to the range of housing that can be provided. It is only feasible to provide at the upper scale currently and make the project feasible. He noted that we are simply discussing the reasonable transition from A to B. Mr head noted the different perspective that he would have if he was a hotel worker or worked on a construction site, for example.

Mrs Cohen noted the challenges of the fiscalization of land use. She noted the opportunities encouraged by re-zoning to try to keep owners from land banking. Another tool to encourage affordable housing could be an easier process for rezoning or changing the General Plan designation.

Councilmember Mahan agreed that reasonable incentives for Developers to convert from industrial to residential are needed.

Mr Jain noted that not having an impact fee because of a potential downturn doesn't really make sense.

Councilmember Mahan suggested looking at compromising on a range. For example, no fee for six months, ramp up being anywhere from one year to three years and let staff go away and work on that. Some cities have had a specific 18 month period before implementing.

Ms Lorenzana noted that she would support a six month grace period as well as support an entitlement period and then discuss the ramp up period in an additional meeting.

Mr Caserta asked if Mr Crabtree had enough information to get a grace period provision down. Mr Crabtree noted that the six month grace period has consensus and noted that if you demonstrate site control during the entitlement grace period and then they would have three years to get the permit. Mr Crabtree queried at what point is there a partial fee?

Councilmember Mahan asked for a chart and a benchmark of what other cities have done on this particular issue of implementation.

As a point of clarification, Mr Jain queried how would a lease to a Developer be addressed? For example, the Viso family had site control and were gaining entitlements. The developer doesn't need to demonstrate site control because the land owners have site control. Mr Jain explained that this is a loophole. Mr White noted that the long-term lease is generally the life cycle of the building. Mr Crabtree noted this is a rare case, and Mr Caserta noted we won't be looking into this further.

Mr Crabtree noted affordability by design seems to have consensus within this group. Mr Martin noted he would peg it to size or density as opposed to a sales price or rental price.

Mr Medina noted that affordability by design is a good idea but most of our members have families and while affordability by design in an option for some, it is not for low income families.

Councilmember Mahan noted that there would not be a nil fee for these projects, just a lower fee so we would still be collecting some money. Mr Rocha agreed that this could be an incentive. He noted that people are competing for units that are not the right size for a particular time in their life. This leads to over competing of larger units.

Mr Buchanan noted that the fees need to be high enough that there is incentive to include units in the community. With any deed restricted affordability unit, the number of applicants that are on the waiting list far exceeds the supply. The last example was 8,500 applicants for 65 units.

Mr Taeb noted the disproportionate number of those seeking affordable units to those available mentioned could be on the rental side but not usually on a home ownership side. He explained the need to incentivize payment of fees so we can leverage them, and noted previous discussions of 6 to 1 leverage ratio. If you push the fee rates too high, Developers will walk away and we need them at the table. Sometimes Developers want to simply pay the fees and we want to collect the fees but we should incentivize developers in different ways. The City can look at subsidizing or provide additional density or mechanisms for affordable housing builders in addition to market rate developers.

Councilmember Mahan agreed that affordability by design should seriously be considered as well as Density bonuses.

Ms Lorenzana noted the commercial linkage fee, and agreed with a fee reduction based on business size (smaller fees for local retail) and agreed on $10-15 psf based on size. She also noted support for a $25 psf rental impact fee.

Mr Jain noted that the numbers discourage on site inclusionary policy. Mr Edwards agreed that the options discourage on site inclusionary but would recommend onsite being lowered to 5%. Many of the group members did not agree with lower the inclusionary policy.

Mrs Cohen added that we could be incentivizing hiring local youth and veterans on projects.

Ms McIntire suggested not allowing in-lieu fees for projects above 10 to get the inclusionary units on site.

Councilmember Mahan noted that in higher density projects, we want to include BMR units so we don't only get stand alone projects. We want to collect fees so that the City can underwrite a project and subsidize the affordable housing and be a partner in projects.

Mr Head noted that rental projects are more flexible for affordable housing because there is a long timeline whereas for-sale can only be captured at the point of sale. He further noted that the ancillary support that goes with the $1.2 million unit is more difficult than a $500,000 unit.

Mr White agrees that it is more difficult to put someone in a house at a $300,000 that would have sold for $1.2 million. He suggested a higher in lieu fee to offset this. He noted that the incentives should be reversed.

Ms Lorenzana agrees with Mr White, but commented that the 10% inclusionary is too low. She also noted that the fees need to be higher. The City of Palo Alto did this so that for sale fees were higher but rental fees were lower. She also noted considering a land dedicate policy. We need to consider land dedication.

Mr Taeb noted that he agreed with Ms Lorenzana. He suggested that the fee be due at time of sale so the developer does not have to carry that fee. Mr Edwards and Councilmember Mahan agreed that would be a good idea.

Councilmember Mahan noted that Milpitas has an inclusionary policy but not an impact fee. Mahan would like to see Milpitas on there the list of nearby jurisdictions. Mr Martin and Mr White agreed Fremont should stay on this list.

Vice Mayor Caserta suggested Wednesday May 17, 2017 at 4:30pm in the City Council Chambers for the group's last meeting. This will give staff the opportunity to get recommendations back to Council early to mid-June 2017.

5. AOB

No other business was identified.

6. Identification of topics for next Working Group Meeting

a. Staff to provide revised policy recommendations to be agreed and finalised for the last meeting.

b. Staff to provide chart of nearby jurisdiction and all requirements/impact fees.

c. Staff to provide information regarding grace period for all nearby jurisdictions