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Staff Report

ITEM 5

To: Lemoore City Council
From: Judy Holwell, Redevelopment Project Manager
Date: February 2, 2011
Subject: Resolution 2011- 06 Regarding the Formation of
the City of Lemoore Housing Authority

Discussion:

As part of his January budget proposal for FY 2011-12, Governor Brown has proposed the elimination of redevelopment agencies and the redirection of the property tax increment currently directed to these agencies. The Governor's proposal indicates that projects already under contract with redevelopment agencies will not be effected; however, there would be no dedicated State-level funding for new redevelopment projects. The budget proposal also calls for the creation of a successor agency, that would operate for approximately 20 years, to fulfill the current debt and contract obligations of the redevelopment agencies. Information regarding the Governor's proposed budget is not yet fully articulated and there are many unanswered questions which will be dealt with in a legislative process and will unfold over time. Therefore, the following comments relative to our understanding of the proposed budget should be considered in that light.

Under the Governor's proposal to phase out redevelopment agencies, the state would receive \$1.7 billion in relief for the General Fund FY 2011-12. The remainder of the redevelopment tax increment would be provided to the successor agency to address outstanding bond obligations. Beginning in FY 2012-13 and beyond, the incremental funds would be distributed to local governments according to existing property tax allocations and would be intended to pay for additional services that are realigned to local governments as well as for other functions of local governments such as education, police and fire protection.

The Governor's proposal to end redevelopment as we know it will have a devastating effect on Lemoore in general and the Lemoore Redevelopment Agency (RDA) in particular. Every possible effort needs to be made to avoid that outcome. However, at the same time it is prudent to take any available steps to retain local control over local resources. This report is consistent with that approach.

It should be noted that the Governor's proposal primarily affects non-housing redevelopment funds. With respect to housing funds, the Governor has proposed that

Low-Moderate Income (LMI) Housing Fund responsibilities be transferred to a local housing authority. The Governor's budget assumes that the local housing authority will use the LMI Housing Funds for activities that would otherwise have been eligible for funding from redevelopment agencies.

Given the foregoing and in an effort to continue to achieve the goals established by the City's redevelopment agency and other housing policies established by the Housing Element of the General Plan, it is recommended that the City Council consider the establishment of a housing authority pursuant to the California Housing Authority Law. Exhibit "A" attached describes the purpose and governance, activation procedure, powers and duties of a housing authority. The intent of the recommendation to create a housing authority is to maintain, to the extent feasible, local control over what are now RDA housing responsibilities and the financial resources that are related thereto.

Once established, the RDA could enter into a contract with the newly activated housing authority wherein all or a portion of the RDA's LMI Housing Funds could be transferred to the housing authority to manage the RDA's existing and proposed affordable housing programs. If the RDA decides to transfer all or a portion of its LMI Housing Funds to the housing authority, then the transferred money, if any, would no longer be an asset of the RDA and instead would become an asset of the housing authority.

According to California Health and Safety Code Section 34240, a housing authority exists in each county and city. In order to activate the housing authority, the City Council needs to adopt a resolution containing findings required by the California Housing Authority Law. Resolution No. 2011-06 contains all of the necessary findings and actions required to form a housing authority and that the official name of the housing authority will be the City of Lemoore Housing Authority.

Budget Impact:

It is anticipated that in the event that a budget measure is adopted as substantially proposed by the Governor, the 20% LMI housing set-aside received from tax increment would be transferred to the housing authority. However, the recommended action stated below does not, by itself, have a fiscal impact.

Recommendation:

That the City Council approve Resolution No. 2011-06 declaring that there is a need for a housing authority to function in the City, declaring that the members of the City Council shall be the Commissioners of the housing authority, designating the first Chairman of the housing authority, and declaring that the official name be the City of Lemoore Housing Authority.

**Purpose and Governance; Activation Procedure; Powers and Duties
of a Housing Authority.**

I. Purpose and Governance

The California "Housing Authority Law" (California Health & Safety Code § 34200 *et seq.*) automatically creates a dormant Housing Authority in every city and county. In order for the City Housing Authority to transact business and exercise its powers, a city ("City") must activate its Housing Authority through certain procedures explained herein. A Housing Authority collaborates with public, private and non-profit entities agencies for the purpose of providing sanitary and safe housing for people of very low, low or moderate income within a city or county's territorial jurisdiction. The core activities of many Housing Authorities are primarily to build, acquire, own, manage and maintain residential rental units and to provide financial assistance for rentals or ownership in the private real estate market. A Housing Authority is governed by the state Housing Authority Law, and for purposes of major federal funding, if any is received, regulations of the U.S. Department of Housing and Urban Development ("HUD"). Further, a Housing Authority is not required under the Housing Authority Law to seek HUD or any other type of outside funding.

Once activated, a Housing Authority consists of at least five (5) commissioners and shares functions similar to other governmental entities: it can sue and be sued; make and execute contracts; partner with other Housing Authorities or other governmental agencies; and make, amend, and repeal by-laws and regulations to carry into effect its powers and purposes. A housing commission may also be formed to review and provide recommendations on all matters to come before the Housing Authority.

II. Activation Procedure

As mentioned above, a Housing Authority already exists in every county and city. In order to activate the City's Housing Authority, the City Council first needs to adopt a resolution containing certain findings. Second, commissioners must be appointed to serve on the Housing Authority.

A. Adoption of Resolution

In order for the City Housing Authority to beginning conducting transactions and exercising its powers, the City Council must first adopt a resolution declaring a need for the Housing Authority. The resolution must also contain at least one of the following findings:

- (1) that unsanitary or unsafe inhabited dwelling accommodations exist in the City; and/or

- (2) there is a shortage of safe or sanitary dwelling accommodations in the City available to persons of low income at rentals they can afford.

In determining whether dwelling accommodations are “unsafe or unsanitary,” the City Council may consider:

- a. the degree of overcrowding;
- b. the percentage of land coverage;
- c. the light, air, space and access available to the inhabitants of such dwelling accommodations;
- d. the size and arrangement of the rooms;
- e. the sanitary facilities; and
- f. the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

Adopting the resolution with the finding(s) is a relatively easy process which can be completed in one or two City Council meetings.

B. Appointment of a Board of Commissioners

Once the City Council adopts the resolution including the finding(s), commissioners must be chosen to serve on the City Housing Authority. This can be done in two ways, depending on the City’s preference:

(1) Mayor Appoints Commissioners

Because the Mayor in the City is independently elected, the Mayor may appoint five (5) commissioners, subject to confirmation by a majority of the City Council.

(2) City Council as Commissioners

Alternatively, the City Council may declare itself to be the commissioners of the City Housing Authority at the time the above-referenced resolution is adopted or anytime thereafter. Under this option, all rights, powers, duties, privileges and immunities of the commissioners are vested in the City Council. At any time the City Council may, by resolution, stop functioning as the commissioners and the Mayor will appoint replacement commissioners.

III. Powers and Duties

A. Powers

Housing Authority Law grants a Housing Authority several powers in carrying out its goal. Specifically, a Housing Authority has the power to:

- a. prepare, carry out, acquire, lease and operate low-income housing projects and housing developments;

- b. (provide for the construction, reconstruction, improvement, alteration or repair of any housing project;
- c. provide leased housing to persons of low income;
- d. provide financing for the acquisition, construction, rehabilitation, refinancing or development of dwelling accommodations for persons of low income;
- e. provide counseling, referral, and advisory services to low or moderate income persons and families in connection with the purchase, rental, occupancy, maintenance or repair of housing;
- f. provide security for the protection of a project and its inhabitants;
- g. provide financial assistance for housing projects pursuant to Health and Safety Code Section 34312.3 (which permits a Housing Authority to issue revenue bonds, construction loans, mortgage loans etc. for specific purposes and subject to certain requirements);
- h. acquire, plan, undertake, construct, improve, develop, maintain and operate land with mobile homes, so long as no less than twenty (20) percent of the mobile homes are designated for or are occupied by persons of low income; and
- i. lease, rent, own, improve, sell, exchange, transfer and acquire real or personal property.

The broad definition of "housing project" permits these powers to encompass many types of work in the community. For example, a Housing Authority can participate in projects to demolish, clear, or remove buildings from any slum area, which may embrace the adaptation of the area to public purposes, including parks or other recreational or community purposes. A Housing Authority's effort to provide decent, safe and sanitary living accommodations may also include work on buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes. Consequently, a City Housing Authority is empowered to engage in a variety of activities to assist in the development of affordable rental and ownership housing. Depending on the facts, a City Housing Authority may be able to use its powers to assist traditional housing projects, including mixed use projects, and to provide infrastructure improvements necessary to support housing projects.

B. Duties

Although the duties of a Housing Authority are not all necessarily prescribed by statute, on-going functions of a Housing Authority often include:

- a. assuring compliance with leases
- b. setting charges (e.g., security deposit, excess utility consumption, and damages to unit);
- c. performing periodic reexaminations of the family's income at least once every twelve (12) months;
- d. transferring families from one unit to another, in order to correct over/under crowding, repair or renovate a dwelling, or because of a resident's request to be transferred;

- e. terminating leases when necessary; and
- f. maintaining housing developments in a decent, safe, and sanitary condition.

Additionally, affirmative duties are often triggered by agreements where the Housing Authority receives loans or grants from local, state or federal agencies. However, Housing Authorities are not required to seek such funding.