

HOUSING, NEIGHBORHOOD SERVICES & REDEVELOPMENT POLICY COMMITTEE

July 1, 2020

Members Present: *Council Member, Chair Crystal Murillo*
Council Member, Vice-Chair Francoise Bergan
Council Member, Alison Coombs

Others Present: Council Member Juan Marcano, George Adams, Andrea Amonick, Brandon Cammarata, Bob Gaiser, Ryan LeCompte, Dan Money, Tim Joyce, Dan Krzyzanowski, Shelley McKittrick, Karen Hancock, Mindy Parnes, Jessica Prosser, Nancy Sheffield, Sharyn Vellenga, and Cecilia Zapata

WELCOME AND INTRODUCTIONS

Council Member Murillo welcomed everyone to the meeting.

MINUTES

A request was made by Council Member Bergan to include questions asked and answers given during meetings in the minutes. She stated she reviews minutes later to help her remember what happened. The minutes for the June 3, 2020 meeting will be revised to include all questions and answers.

ANNOUNCEMENTS

There were no announcements.

NEW ITEMS**HOMELESSNESS SERVICES RFP AND AFFORDABLE HOUSING GAP FINANCING APPLICATION UPDATES****Summary of Issue and Discussion**

City staff gave an update regarding the number of applicants and types of programs that have been received through the request for proposal process. Jessica Prosser, manager of Community Development, stated the application process has closed for both programs. A total of thirteen (13) applications for the Homelessness Services RFP and nine (9) applications for the Affordable Housing Gap Financing were received. The review committees have reviewed the applications, and all applicants met the initial eligibility review. Both review committees will meet the following week to score the applications using evaluation criteria. Once scored, the recommendations will be shared with the CHD committee, followed by the Housing, Neighborhood Services and Redevelopment Policy Committee in August, and to study session thereafter.

CM Murillo asked if all who applied qualified, or if it was just the people who were filtered out. Jessica stated the review committees completed general eligibility checks which were met by all applicants. CM Coombs requested the list of applicants, and CM Murillo asked if the Committee would be receiving the full list of applicants after the recommendations go through CHD, or an amended list based on CHD's recommendation. Jessica stated they could provide both the full list of applicants and the recommended list with the funding amounts and scores.

CM Bergen asked if it was a two-year term. Jessica stated the Homelessness Services RFP terms are based on operation needs, are a two-year term, and start in 2021. The Housing Gap Financing program is dependent on the project, to include if they're going to CHFA for tax credits, when they are going to begin, and if they are either a construction or rehab project. CM Bergen stated she received feedback stating that if it's a two-year term, it's difficult sometimes to continually apply and to plan within that window. Jessica stated they received that feedback as well, so they are working on aligning their program timelines and create consistency. CM Coombs asked if it was possible to do performance-based renewal contracts requiring reports or presentations for those who do get approved versus having them reapply fully. Jessica stated they could consider that option and said performance measures would be used in the application. She added that some of it is dependent on the funding sources and the

amount. She stated they have two years to spend ESG funds, which matches up well with the program, and marijuana money is projected out a year in advance. Pros and cons will have to be weighed and performance-based renewals is something to consider, especially after seeing how everything works out the first time.

Outcome – The Committee looks forward to the August meeting to review updates.

HOUSING OCCUPANCY

Summary of Issue and Discussion

On June 22, 2020, after the Governor's Executive order, CM Marcano asked for the current code around housing occupancy to be examined and a staff proposal for amending it be brought to Council. The item was referred to the Housing, Neighborhood Services and Redevelopment Policy Committee for further discussion.

City staff gave a presentation with topics to include why the change to household size for unrelated individuals was being proposed, the definition of family, possible combinations of what constitutes unrelated living situations, data from past complaints and enforcement practices, responses to Council questions, and clarity around the process and options to make a change to household size for unrelated individuals. The Governor's order came out on June 13 to help create housing security. The Order requested that cities suspend regulating the limit on the number of individuals in a household, lifted the eviction moratorium, and instated a 30-day eviction notice rather than a 10-day notice. Staff reviewed the Order specifically around unrelated persons, along with impacts of employment and people being able to pay their mortgages and rents, potential eviction of individuals from multi-family setting who may be looking to rent a room in a home, and mortgage impacts expected in early 2021. Staff is also looking into integrating this change with the UDO amendments proposed as part of the housing strategy.

George Adams, director of Planning, described the definition of family and family group and went over occupancy examples. He explained that in five of the six definitions, the city would not be changing the way we enforce or interpret the definitions. The change would only impact the definition of unrelated individuals, and all definitions are standalone. Staff would identify which definition applies to the situation that they are concerned with, and not combine multiple definitions. CM Bergan asked if a home has four family members that live together, then unrelated people may not be added to that family. George explained there are variations and offered the example of a family of four plus a nanny or someone who was caring for one of the family members. He gave a second example where currently a family of 4-5 individuals could not rent out a bedroom to an unrelated individual.

CM Bergan asked how the city would verify that everyone is related in the same house. Sharyn Vellenga, Code Enforcement supervisor, stated the officers do not do proactive enforcement, and only respond to complaints. They use a standardized questionnaire for occupants to self-report when trying to establish how many occupants live in the home, if they meet the requirements of a single-family unit and 150 square feet, and if it's not a single-family unit, are there more than 4 unrelated individuals living in the home. Staff refers to the county assessor to determine the square footage of the home, to include finished basement area that may be utilized for living. When staff encounters violations, a notice of violation is issued with 30-60 days for compliance. The individual is not given advice on how to come into compliance.

Sharyn gave an occupancy report history, to include the number of complaints and notices issued in 2018, 2019 and YTD. CM Bergen wanted to confirm staff does not do proactive enforcement and is only complaint driven, and individuals don't have to answer truthfully on the questionnaire if they don't want to. She asked for clarification on the single-family to duplex. She asked if someone could have 4 unrelated people in a house, why would that person be out of compliance when they're just renting out their basement. Sharyn stated if an individual has converted the basement space into a separate living unit, where there is a single entrance into the basement and a full kitchen, and the person didn't pull proper permits to do so, and based on county records it's still listed as a single-family home, the individual technically converted a single-family home into a duplex where two people can reside separately.

CM Bergen asked if out of the violations issued, has staff followed up and resolved them. Sharyn stated that once the notice is issued with the 30 to 60-day period for compliance, staff follows up with the owner. Staff also works

with property owners and the occupants to help them work through the process and help them understand how the code reads, without giving legal advice. CM Bergan asked what happens if the person does not comply. Sharyn stated that worst case scenario, if staff can establish the violation, ultimate grounds would be to take the person to court. She could not think of a time where this measure was taken and expressed again that staff prefers to work with the individuals involved to help them get into compliance. CM Bergan asked how long it has taken to get into compliance. Sharyn stated 30 to 60 days are given for compliance, but staff understands there are cases where more time is needed if the individual is beginning the eviction process or when contract work needs to be completed on the home. Staff will not interfere with these processes. They want to give individuals time to find a new place to stay or for life safety work to be completed; however, they need to see progress.

CM Bergan asked if an individual has four, or the now being proposed six, unrelated people living in a home, are there any requirements on the number of bathrooms. Sharyn stated there was not. CM Bergan asked if staff would be able to prove that one of the six unrelated people doesn't have a wife or husband, girlfriend or boyfriend also living in the home. She stated people are not going to self-report and she doesn't know that staff would get a complaint on that. Sharyn stated staff can only utilize the tools they have been given; i.e. the questionnaire. Staff must respect the individual's right to privacy and can only hope the answers were given truthfully. CM Bergan asked about animals and what if everyone had a dog or cat. Sharyn stated that would fall to Animal Services and they do have regulations on the number of animals that can be in a home.

CM Marcano stated he's received several emails from the 80016-area talking about six unrelated families living in a home, and wanted clarification that it was not possible under the changes proposed. Sharyn confirmed that was not possible.

Jessica went over responses to Council's previous questions. Regarding tax implications, she stated property tax would not be impacted. Regarding the impacts to renters, she stated that is something to consider, as the changes may create a price gouging situation that landlords take advantage of, which is something that could be happening today. Regarding the neighborhood impacts, Jessica stated that is something that is currently monitored. Staff would continue to monitor complaints. She said they researched HOAs and their ability to regulate. She said there are some areas around HOAs, but they are typically linked to short term rentals and not specifically around the number of people in a home. Regarding the question of why six unrelated people in the proposed change, Jessica stated the Governor's Order did not prescribe a number of people and rather stated to simply suspend regulating what is currently in place. She said Denver recently went through this process and created a spreadsheet of different cities and how many are allowed in each city, which ranged from two individuals to an unlimited number of people in a home. Six was the middle range. It felt comfortable and placed a parameter, rather than putting a moratorium and leaving it unlimited.

Jessica outlined the options for UDO change. One option is to make no change. The second option is passing a resolution referencing the disaster declaration to increase occupancy to six unrelated persons. When the disaster declaration expires, so would the resolution. The third option is to begin the ordinance amendment process to include community outreach, going to different citizen and council committees, holding public hearings at Planning Commission and City Council, and complete other steps in the robust process to make an amendment in the UDO. The fourth option is to pass the resolution as described in the second option, and concurrently start the process of changing the ordinance.

Jessica stated staff recommends passing the disaster resolution in the very near term, understanding the need for this would be more immediate. Staff would monitor the impacts from a code compliance standpoint, initiate public engagement and include other changes that are thought to be needed in the UDO as part of the housing strategy. Staff would then come back to Council in early 2021 as impacts start to be seen on evictions and mortgages coming to fruition in the fall. At this point in early 2021, staff would present revisions to the ordinance for Council to consider. If Council wished to move forward with the ordinance amendment process, staff would move with the formal change to the ordinance.

CM Bergan stated she was thankful for the clarification and answering all the questions, but she doesn't believe everybody is going to self-report and there will be situations where there will be more than six unrelated persons in a home, should it be changed to six unrelated persons. She stated she was concerned with this being under the COVID-19 disaster resolution. She understands that people may have possibly lost their job and may have to find other living arrangements, but to put it under the auspice of COVID, the city is overlooking another issue of COVID which is to practice social distancing and the virus spreads more widely in places of crowded households. She stated the problem is more acute in the minority and poor communities in terms of contracting COVID, so she's concerned the city is not being responsible by putting this under an emergency declaration, exposing more people to COVID, increasing hospitalizations, and so forth. She stated that as the city starts reopening business, we want to stop transmission of the virus, and doing that means we must be cognizant of how many people are in a household. If we add more people to a home, we could be adding to a second wave of COVID. She stated she did not like the idea of a COVID emergency response and that looking at making an ordinance change and getting public input is a different story.

Shelley McKittrick, Homelessness Program director, stated that one of the reasons for the Governor's Order is because we have people in congregate shelter, sleeping very close to each other, who could probably end their homelessness if they could rent a room. Another would be getting folks out of encampments and into homes. She stated she appreciated CM Bergan's concerns with COVID. She said most of the overcrowding is among poor families and they are all related. Shelley also stated this is an opportunity for individuals to open their homes to those who don't have one, and to do so legally during this COVID time. CM Bergan stated 150 square feet times six people is a 900 square foot home, and now there are more unrelated people, possibly essential workers who may be even more exposed to COVID, bringing it back into the home where there are more people; adding to a second wave.

CM Marcano expressed there are some points that CM Bergan brought up, but they are not necessarily dependent on COVID. Rather it is an issue of class and employment status and it being a bigger contributor to the spread of the disease. He stated unemployment benefits are going to be reduced heavily at the end of the month. For those who are essential workers, the payroll protection program funding has already lapsed. While businesses are reopening, they are not able to 1) bring everyone back, and 2) bring them back at full hours. Part of the idea of opening this restriction is to allow folks to have other options for shelter. The reality is that individuals will be living in homes with more people, or living on the streets. CM Marcano stated he personally would rather have people housed than unhoused, and mentioned it was a harm prevention method. He stated that an individual is a higher risk in this situation, especially if the housemates are all essential workers. But any individual going to the grocery store, for example, is at risk. This doesn't address the housing status problem, where the Governor is coming from.

CM Murillo wanted to echo the comment about opportunity costs; folks having a home and access to a home, potential for the homeowner to recoup lost income via renting a room, as opposed to folks in mass becoming homeless. She stated data has shown it is less expensive when proactively addressing housing as opposed to reactively trying to support folks. She stated she supported this and knows there is such a high rate of unemployment at this time, and money is not available to support housing projects. CM Murillo stated it concerned her deeply to know what kind of living situations people are going to be in and this could be a small part of alleviating that pressure so folks can pay other bills, not forgo feeding their children, or going to the hospital when they need to.

CM Coombs stated she wanted to draw out what reactive housing solutions might look like if they were available to us; such as standing up more COVID hotels which have been very expensive, putting dramatically more funding into emergency shelters, and further proliferation of encampments where the risk is increased for COVID. We either create denser and less safe living situations, or spend dramatic amounts of money to avoid that. She said we were already in a housing crisis before COVID.

CM Bergan stated that having to spend more money on COVID hotels and emergency shelters is not a city responsibility and is something counties should take care of with health and human services. She stated she doesn't know if she will accept that it is the City's responsibility as it is not part of the city charter. She stated we want to

have emergency funding to house and do the great things we have done, but going down that road when it's a county responsibility is not the right answer either.

CM Coombs asked if the counties are unable or unwilling to provide those services, at some point it is our moral responsibility to the people in our city, and not just say that's not in charter so we're not going to do it. She stated there is a lot we do as a matter of our moral responsibility to the people in our city. CM Bergan stated we don't ever go to the counties to advocate or push the issue because it's a foregone conclusion that the city will take care of it. She said efforts have never been there to partner and come up with solutions, leading to years and years of more problems.

CM Coombs said counties have provided funding during COVID. She said TIF funding has been used for building affordable housing projects, which is also the counties contributing due to the property tax they are not collecting, and the City is signing off on them not collecting. She stated it's unfair to say they never do anything. She stated we should be asking for more and building regional partnerships to include the counties, but as a city we still have that responsibility to be a part of the solution. CM Marcano stated he served on the Arapahoe County Budget Committee, and they face the same issues that we do as a city. He stated we are not preempted by our charter to supplement where needed. He said our charter specifically says that we are responsible for good governance, general welfare, security of the city, so on and so forth. He stated we should think about becoming a city and county as well because we are doing a lot of things that counties are responsible for.

Dan Money, senior assistant city attorney, stated he needed direction from the Committee. There is an option to do a disaster declaration which would be temporary, or do something more permanent to expand the number of persons in a single-family unit. An ordinance is a longer process, but is permanent, unless changed by another ordinance. For the immediacy, they may pass on the resolution to be voted on and it takes effect immediately and ends when the disaster ends. He asked if the Committee was comfortable with six, and if they wanted a sunset period.

CM Marcano stated he was surprised how fast this moved along and said he was leaning toward option number four due to the immediacy of the situation with the pandemic, and to avoid evictions further down the road by reverting down to four after the pandemic. He stated evictions are a terrible, dramatic and fairly violent process in a lot of ways, and he wants to make sure we can avoid that as much as possible. He wishes to make this part of the city code as a permanent change.

Shelley gave an example of two single parents, each with their kids being able to live together in a single-family home and stated there are school children and infants involved. CM Bergan asked if she could get clarification on what Shelly said. If there are two single parents with two children, under all definitions they are not supposed to mix with other unrelated persons. Dan clarified that it still wouldn't allow the city to mix families unless it was written in that way. He said two unrelated families don't fit the definition even if changed to six or more, because single-family homes are meant for a single family, unless you fit it the definition of what a single family is. CM Murillo asked under which scenario would Shelley's example be able to happen. Dan stated it would not be allowed but it could be put in the ordinance as well. CM Murillo stated she'd be interested in incorporating that. CM Marcano stated regarding the situation that it's a distinction without a difference and asked if we could find a way to make it permissible, but keeping the limit of six in mind.

Dan asked if the sunset period should be removed. CM Marcano stated he would like to instate the change using the disaster declaration and then work through the ordinance amendment process to make the ordinance permanent. CM Coombs stated it was important that we make it possible. She said the story that Shelley told was her family's story. Because her mother and her best friend could live together with their kids and help each other out, her mother was able to leave an abusive relationship, and all were able to thrive more in that situation. CM Bergan stated she didn't have an issue with that scenario, but was more interested in keeping it to four unrelated persons. She stated she felt we were creating a solution with no enforcement for an unknown problem because we don't know if people are even utilizing the rule of four unrelated persons.

CM Bergan stated a lot of people in her community bought a home in a single-family zone and are up in arms about not choosing to live in an urban area or a multi-family apartment and bought their house with specific parameters in mind. She asked if we were now changing the rules in the middle of the game, and after they made a huge investment, when individuals bought under a single-family zoned area. Dan stated that in a sense we are, but we created the number in the first place, and changing the rules is always the risk when someone moves to an area. He said in a zoning perspective, the group tried to determine when the number became four and presented cases where zoning was challenged. Families move into areas expecting to live in single-family zoning, but we have the legislative power as a Council to change it.

CM Murillo asked if this was the same kind of argument one could make if an area was rezoned. Dan stated no one is ever guaranteed zoning for life. CM Murillo stated we have a dispute process to help overcome disputes in neighborhoods. Dan stated yes, and that they could be handled in different ways. Nancy Sheffield, interim director of Housing and Community Services, stated we have a mediation services agreement, and both the neighborhood liaisons and the code enforcement officers have mediated disputes along the way.

Jessica reminded the group that we would still go through the process of community engagement ahead of the ordinance to help inform what is going into the ordinance. CM Murillo agreed, stating any opportunity to get input and avoid rushing through an ordinance makes sense. She stated she supports the short-term pursuit in the form of a resolution as well as a longer-term ordinance that has to be more robust with process where we are educating and letting people share their frustrations or support. CM Murillo thanked CM Marcano and staff for their input on the matter. CM Marcano also thanked staff for their work.

Outcome – CM Murillo and CM Coombs voted in favor of moving option four to Council, a resolution referencing the disaster declaration with a concurrent start to an ordinance process. If the resolution passes, staff is to monitor the impact, should there be any, and regularly report back to the Committee during public engagement.

MISCELLANEOUS MATTERS FOR CONSIDERATION

CM Coombs asked for a brief update on the dangerous animal and breed specific legislation public outreach. Nancy Sheffield stated the virtual townhall was done on June 18th to respond to the questions we solicited from the public in advance to that meeting. There were 13 questions total, which were augmented with questions heard throughout the years. Constituents expressed they wanted the ability to comment, not just ask questions; however, we are not equipped to take live comments at this point. Nancy said the idea was to have a dedicated email so the public may respond to the survey to retain or repeal the restricted ordinance, and if they want to repeal it, should it be done by ballot or by ordinance. She gave an update on the online survey, stating that to date, staff has received over 1500 responses, with the majority indicating they would like to repeal the ban, and do so by ordinance. The survey was mentioned in the recent distribution of News Aurora, so staff will see if they get more responses and if that changes the majority. Nancy said the survey will be online through July 24th and that there's a time restriction if this goes on the ballot.

Nancy asked the Committee if they would like to see a dedicated email, in addition to social media, giving the public the ability to comment. CM Coombs stated it was a good idea and asked for another meeting with representation on both sides, where pros and cons could be discussed. The Committee unanimously agreed to move forward with the dedicated email for public comments and an additional public meeting.

Next meeting: Wednesday, August 5, 2020 3:00 p.m.
Meeting adjourned at 4:31 p.m.

APPROVED:

Committee Chair, Crystal Murillo