

CITY OF SANTA BARBARA

SPECIAL ORDINANCE COMMITTEE WORKSHOP

MEETING AGENDA

DATE: June 28, 2023
TIME: 2:00 p.m.
PLACE: David Gebhard Room
630 Garden Street

Oscar Gutierrez, Chair
Mike Jordan
Kristen W. Sneddon

Office of the City
Administrator

Office of the City
Attorney

Nicole Grisanti
Supervisor, City Administrator's Office

Sarah J. Knecht
City Attorney

IN-PERSON PUBLIC COMMENT: Any person wishing to address the Ordinance Committee should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the Committee Member. Each speaker will be given a total of 3 minutes to address the Committee. The Ordinance Committee, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

WRITTEN PUBLIC COMMENT: Public comments may also be submitted via email to ngrisanti@santabarbaraca.gov prior to the beginning of the Ordinance Committee Meeting. All public comments submitted via email will be provided to the Ordinance Committee and will become part of the public record.

PUBLIC COMMENT LIMITED TO SPECIAL MEETING TOPICS: Public comment on matters not listed on the agenda will not occur at the beginning of the meeting because this is a special meeting.

REPORTS: Copies of the reports relating to agenda items are available for review at <http://www.SantaBarbaraCA.gov/CAP>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") online at the City's website (<http://www.SantaBarbaraCA.gov/CAP>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are posted to the City's website as soon as reasonably feasible.

AMERICANS WITH DISABILITIES ACT: If you need auxiliary aids or services or staff assistance to attend or participate in this meeting, please contact the City Administrator's Office at 564-5305 or by email at ngrisanti@santabarbaraca.gov if possible, notification at least 48 hours prior to the meeting will usually enable the City to make reasonable arrangements. For those who need accessibility accommodation in using the "raise hand" function and/or registering to participate in the Zoom session, please contact the Clerk's office by 5:00 p.m. the day before the meeting for assistance. Additionally, a speaker may email ngrisanti@santabarbaraca.gov by 5:00 p.m. the day before a meeting, stating which item they wish to speak on. Specialized services, such as sign language interpretation or documents in Braille, may require additional lead time to arrange.

ITEMS FOR CONSIDERATION

- 1. SUBJECT:** Workshop for Ordinance Discussion Draft to Create the Housing Opportunities, Preservation, and Equity (HOPE) Fund Pursuant to Charter Section 1215

RECOMMENDATION: That the Ordinance Committee review the Ordinance Discussion Draft to Create the Housing Opportunities, Preservation, and Equity (HOPE) Fund, hold a public workshop, and direct staff to return with revised Ordinance to review for Council introduction.

Public Comment for Items Listed on the Agenda



CITY OF SANTABARBARA

ORDINANCE COMMITTEE REPORT

AGENDA DATE: June 28, 2023

TO: Ordinance Committee

FROM: Housing and Human Services Division, Community Development Department

SUBJECT: Workshop for Ordinance Discussion Draft to Create the Housing Opportunities, Preservation, and Equity (HOPE) Fund Pursuant to Charter Section 1215

RECOMMENDATION:

That the Ordinance Committee review the Ordinance Discussion Draft to create the Housing Opportunities, Preservation, and Equity (HOPE) Fund, hold a public workshop, and direct staff to return with revised Ordinance to review for Council introduction.

WORKSHOP FORMAT:

The public workshop will be held at 630 Garden Street in Santa Barbara, California, in the David Gebhard Public Meeting Room. The meeting will begin at 2:00 pm. Chair Oscar Gutierrez will officiate the meeting and will announce at the start of the meeting the amount of time that each member of the public will be allotted for public comment pertaining to the draft ordinance.

After the initial public comment, the Ordinance Committee members will ask questions of the speakers and staff in order to determine how best to set up the HOPE Fund. Only members of the public who are called upon by the Committee members will be allowed to respond.

BACKGROUND:

Council Direction

At its meeting on March 7, 2023, City Council voted unanimously to have the Ordinance

Committee review the Ordinance Discussion Draft and discuss in depth the different elements of the HOPE Fund. They encouraged public and stakeholder input along with question-and-answer sessions to better understand the potential issues affecting the fund. Individual Councilmembers expressed their desire to learn more about the proposed Fund and requested staff return to the Ordinance Committee with a presentation to review a list of topics. Additionally, they asked staff to hold a public workshop to further engage with the public about different aspects of establishing the Fund.

Ordinance Committee Direction

At the Ordinance Committee meeting held on May 9, 2023, the following topics were presented and discussed as requested by Council: land banking, affordable housing, Regional Housing Needs Allocation (RHNA) requirements, loans versus leverage, for-profit developer projects and possible incentives, local worker preference, 90-year-rollover covenants, decreasing overhead, competitive processes, and residual-receipt loan term mechanisms.

The Ordinance Committee voted unanimously to have staff schedule a workshop to include all parties that should be engaged with key discussion points raised by the Committee. The Committee also requested that staff incorporate public comments made by the City of Santa Barbara Housing Authority and League of Women Voters of Santa Barbara, which have been included in a redlined version of the Ordinance Discussion Draft (Attachment).

DISCUSSION:

Proposed Ordinance

The annotated version of the proposed ordinance (Attachment) includes public comments highlighted by the Ordinance Committee and corresponding staff comments from the past two meetings.

Prioritization of Projects

In order to encourage community participation in raising funds for the HOPE Fund, the City will prioritize requests to match private donors' contributions to projects and/or programs according to funding availability.

In recognition of Santa Barbara's limited property availability and the need to optimize affordable housing whenever possible, funding priority will be given to projects that

maximize density as allowed by existing zoning, or in accordance with State Density Bonus Law.

Definitions of Key Terms

Below are definitions of terms frequently used in the development and financing of affordable housing.

Amortized Loans: A loan repayment method whereby a regular monthly payment is made on a loan according to a schedule that will fully pay off the loan by the maturity date, including all accrued interest. This method continually replenishes housing funds to allow for recycling of the funding into other affordable housing projects.

Low Income Housing Tax Credit (LIHTC) Financing: Created by the Tax Reform Act of 1986, the LIHTC is a tax incentive for rental owners and developers who provide affordable housing for lower-income households. The program gives state and local LIHTC-allocating agencies the equivalent of approximately \$9 billion in annual budget authority to issue tax credits through a competitive application process for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. The California Tax Credit Allocation Committee requires residual receipt loan terms to be competitive for the first 15 years of repayment on any publicly funded loans for LIHTC applications. LIHTC is the primary funding source for development of 100 percent Low-Income housing projects, and disallowing this type of repayment would prevent the Fund from supporting LIHTC projects. On the other hand, allowing LIHTC funding would mean a project might not receive repayments for a minimum of 15 years, thus exhausting its Fund balance unless additional funding sources were identified.

Residual Receipt Loans: A loan repayment method often used in affordable housing projects whereby loan payments are only made after the project realizes a positive net cash flow. Residual receipt loans are required for a minimum of 15 years in LIHTC projects. Typically, an affordable housing development is unable to achieve positive cash flow until after development costs have been covered, which is usually at least ten years after units are initially rented.

Land Banking: Acquisition of property to be held for future affordable housing development.

Rental Housing: As defined by the City's Affordable Housing Policies and Procedures manual, a property in which the unit(s) are occupied by tenant(s) under a lease or other

rental agreement in which “the tenants do not pay more than thirty percent (30%) of their gross monthly income on rent and utilities.”

Owner-Occupied Housing: As defined by the City’s Affordable Housing Policies and Procedures manual, a residential property in which “the owners do not pay more than forty percent (40%) of their gross monthly income on mortgage loan payment(s), private mortgage insurance premium (if applicable), homeowners’ association dues, hazard insurance premium and property taxes. The housing should remain affordable to subsequent residents or owners throughout the term of the affordability controls.”

Regional Housing Needs Allocation (RHNA): Mandated by State Housing Law as part of the periodic process of updating local housing elements of the General Plan. RHNA quantifies the need for housing within each jurisdiction during specified planning periods and is the process by which the state of California assigns each city and county their share of new housing units to build for the next eight years.

Positive Net Cash Flow: Occurs when the annual net cash flow of a project exceeds the amount of annual costs, triggering a payment to the City in an amount equal to one-twelfth (1/12) of the amount of such annual net cash flow. In no event shall the monthly payment required by the City exceed the amount necessary to amortize the City Loan in equal monthly installments of principal and interest over such number of months as are then remaining prior to the maturity of the City Loan.

BUDGET/FINANCIAL INFORMATION:

On December 6, 2022, City Council approved a budget allocation of \$2,883,548 from the City’s General Fund as initial funding for the HOPE fund and \$250,000 for the “right to counsel” pilot program. Once the fund is established, staff will transfer the previously appropriated budget allocation into the fund. Individual projects and programs will be presented to Council for approval and funding allocation once submitted applications are processed and selected according to Affordable Housing Policies and Procedures.

ATTACHMENT: HOPE Fund Ordinance Discussion Draft (redlined version)
PREPARED BY: Laura Dubbels, Housing and Human Services Manager
SUBMITTED BY: Elias Isaacson, Community Development Director
APPROVED BY: City Administrator’s Office

*Discussion Draft
(Redlined Version)*

HOUSING OPPORTUNITIES PRESERVATION & EQUITY (HOPE) FUND

A. HOPE Fund. There is hereby established a separate City Affordable Housing Opportunities Preservation & Equity Fund ("Fund") maintained by the City Finance Director. This Fund shall be comprised of a variety of sources of funding, including, but not limited to: philanthropic donations, private foundation-based funding, grants, non-profit organizational funding, charitable trusts and organizations donations, ~~for-profit entity investments,~~ private-equity funds, limited-equity housing cooperatives monies, venture capital, investment and portfolio funds, bond funds, fundraising proceeds, housing trust funds, community development banks, community housing grants, employer-sponsored funding, property developers, local business and employers donations, credit unions' funding, land banks, property donations, property equity loans, the City's General Fund, special tax measures, private wills, and may, at the discretion of the City Administrator, also receive monies from other sources. Private matching funding sources are encouraged on all programs and/or projects and are to be given directly to the HOPE Fund project or program recipients.

B. Purpose and Limitations. Monies deposited in the Fund must be used to increase, improve, or maintain the supply of housing or provide certain housing-related programs and services as set forth in Section D below. Depending on source of funds, and other legal restrictions, use of the Fund monies should benefit households that reside within the City of Santa Barbara or are employed within the South Coast region of the County of Santa Barbara. Eligible households for Capital Projects shall be limited to households with maximum household incomes up to ~~200~~160 percent of Area Median Income (AMI) and 120 percent AMI for Programs, as determined by the U.S. Department of Housing and Urban Development ("HUD") and amended from time to time, which includes ~~Upper Middle,~~ Middle, Moderate-, Low-, Very Low-, and Extremely Low-Income Households ("Eligible Households"). Fund monies may also be used to cover the City's purchase and resale of affordable housing units that are in default of the affordable control covenant recorded against that property.

C. Administration. The Fund shall be administered by the Community Development Director, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this ordinance and any adopted budget of the City.

D. Expenditures. Fund monies shall be used in accordance with the City's Housing Element, and the City's Affordable Housing Policies and Procedures ~~(only applicable to Lower Income Housing)~~, or subsequent plan adopted by the City Council to construct, rehabilitate, or subsidize affordable housing or assist other governmental entities or private organizations to do so. The Fund may be used for the benefit of both rental and owner-occupied housing.

Permissible uses shall fall within four categories: 1) Capital Expenses, 2) Programmatic Expenses, 3) Right to Counsel costs, and 4) Administrative Expenses, as follows:

- 1) Capital Expenses (limited to 90% of Fund): assistance to ~~housing development corporations, for-profit and~~ non-profit organizations, and other governmental agencies with equity participation loans, pre-home ownership co-investment, pre-development loan funds, participation leases or other public-private partnership arrangements to build, buy (including long-term leases that are

Commented [GW1]: HA suggests workforce in City limits and up to 160% AMI.

LWV suggests workforce in City limits and up to 160% AMI occasionally.

Commented [GW2]: Staff recommends workforce in larger South Coast region for Fair Housing regs and feels most initiatives are aligned with 160% AMI.

*Discussion Draft
(Redlined Version)*

at least 10 years or more), and/or rehabilitate ~~housing property to increase the supply of for affordable rental~~ or ownership ~~housing~~; or for other reasonable and necessary expenses related to the development of non-luxury housing, including site acquisition ~~(to include land banking)~~ or improvement, ~~and~~ demolition of dilapidated housing to make way for affordable housing development, ~~local impact fees, environmental reviews, planning, design and architectural fees, and unavoidable time delay costs~~ (“Capital Projects”). ~~Eligible households shall be limited to households with maximum household incomes up to 160 percent of AMI.~~

- 2) Programmatic Expenses (limited to 10% of Fund): assistance to ~~housing development corporations, for-profit and non-profit organizations and~~ other governmental agencies to provide down-payment assistance to owner-occupant buyers, tenant-based rental assistance contracts of up to 2 years ~~that can be renewed upon Community Development Director approval~~, owner-occupied home repair assistance, payment of relocation expenses in urgent or emergency situations, payment of security deposits on rental units, and payment of rents in arrears to prevent displacements. ~~Eligible households shall be limited to households with maximum household incomes up to 120 percent of AMI.~~
- 3) Right to Counsel: up to \$250,000 of the Fund balance shall be provided directly to legal-aid or other law firms offering significantly reduced rates, ~~or paid to cover costs for staff~~ to assist Lower Income Households with incomes up to 80 percent of Area Median Income (AMI) as determined by the U.S. Department of Housing and Urban Development (“HUD”) and amended from time to time, on costs associated with legal expenses to represent Eligible Households for defense of their tenant rights.
- 4) Administrative Expenses: ~~up to 10 percent of the Fund balance disbursed as of July 1 annually~~ is allowed to be used ~~in the following fiscal year~~ on reasonable ~~administrative~~ or related expenses associated with the administration of this Fund, including expenditures for program planning, project and program delivery costs, programs oversight, loan portfolio servicing, and compliance monitoring.

Commented [GW3]: HA suggests a 90/10% split between capital/programmatic expenses; addition of land-banking.

Commented [GW4]: Staff referenced an 85/15% split as an initial target in the presentation made on 5/9/23, but a 90/10% split aligns with staff’s understanding. Therefore, staff suggests removal of these programs to lessen cost burden; land-banking is included in site acquisition, but staff added calling it out now specifically.

Commented [GW5]: HA suggests workforce in City limits and up to 160% AMI. LWV suggests workforce in City limits and up to 160% AMI occasionally.

Commented [GW6]: Staff recommends workforce in larger South Coast region for Fair Housing regs and feels most initiatives are aligned with 160% AMI.

Commented [GW7]: HA suggests no staff time cost allowance but instead to charge staff’s time spent to administer this Fund in the Affordable Housing Fund.

LWV suggests no staff time cost allowance and that staff time should be handled by current housing staff.

Commented [GW8]: Staff recommends up to 10% of funds disbursed as recoverable costs to administer this Fund and monitor compliance for 90 years, as the State does not allow using the Affordable Housing Fund to pay housing staff salaries. Managing the fund is a significant workload increase that will require additional financial support.

*Discussion Draft
(Redlined Version)*

E. Funding Terms. Funds will be provided according to the following terms:

~~1)~~ **Capital Expenses:** low-interest, amortized loans with favorable repayment terms up to 30 years, or for Low Income Housing Tax Credit (LIHTC) projects, Residual Receipt payments for the first 15 years, with the remaining 15 years amortized will be provided for new development, property acquisition, and/or rehabilitation of properties to meet the purposes of Section B above.

Commented [GW9]: HA requests the fund support loans with first 15 years as Residual Receipt payments to accommodate LIHTC requirement in order to use LIHTC for Low-Income units' development.

~~2)1)~~ Depending on financial projections, this may include partial deferments, and/or balloon payments upon term expirations. Covered expenses include property acquisition costs, pre-development costs, and hard and soft construction costs, and escrow and title transfer fees. Monies may also be used to cover the City's purchase and resale of affordable housing units that are in default of the affordable control covenant recorded against that property to ensure retention of affordable housing stock within the City. Eligible households shall be limited to households with maximum household incomes up to 160 percent of AMI.

Commented [GW10]: Amortized loans will allow recycling of funding. Residual Receipt payment terms may exhaust fund with possibly no repayment during the first 15 years.

Staff can support either approach, as both provide different benefits to furthering the production of affordable housing.

~~3)2)~~ **Programmatic Expenses:** grants will be provided directly to entities providing programs that have been approved by the City's ~~Community Development Director for the following services: Council~~ for down payment assistance to owner-occupant buyers, tenant-based rental assistance contracts of up to 2 years, ~~that can be renewed upon Community Development Director approval,~~ owner-occupied home repair assistance, payment of relocation expenses in urgent or emergency situations, payment of security deposits for leases, and payment of rents in arrears to prevent tenant evictions and/or displacements. Eligible households shall be limited to households with maximum household incomes up to 120 percent of AMI.

Commented [GW11]: HA suggests workforce in City limits and up to 160% AMI.

LWV suggests workforce in City limits and up to 160% AMI occasionally.

Commented [GW12]: Staff recommends workforce in larger South Coast region for Fair Housing regs and feels most initiatives are aligned with 160% AMI.

~~4)3)~~ **Right to Counsel:** grants will be provided directly to legal-aid foundations or other law firms that provide substantially reduced rates ~~or paid to cover costs for staff~~ that offer representation to Lower Income Households (households with less than 80 percent AMI) that would otherwise not be able to afford legal defense in tenant issues that would result in eviction or forfeiture of the tenant's housing.

Commented [GW13]: HA requests limiting program expenses to 10% of the Fund to support mainly capital projects. They support funding to new programs up to 120% AMI and providing complement programs to theirs that will support incomes from 80% to 120%.

~~5)4)~~ **Administrative Expenses:** charges to the Fund for staff time spent to provide program planning, project and program delivery, program oversight, loans servicing, and compliance monitoring on capital projects with recorded restrictions shall be allowable expenses for up to 10 percent of the Fund balance disbursed annually, annually, as of July 1 of each year.

Commented [GW14]: All approvals will be made by Council and will not be delegated by Council to the Community Development Director.

*Discussion Draft
(Redlined Version)*

F. Affordability Restrictions. City policy imposes a 90-year affordability period on all City-assisted affordable housing capital projects, which shall comply with the policies set forth in the City's Affordable Housing Policies and Procedures manual. ~~In order to incentivize affordable workforce housing development for households with incomes between 120 percent (Moderate Income) and 200 percent AMI (Upper Middle Income), Capital Projects assisted with HOPE Funds will be allowed to reduce the 90-year standard affordability period based upon the funding level to the following number of years:~~

Subsidy Amount (per unit)	Minimum period of affordability in years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New Construction or acquisition of newly constructed housing	20

~~Lower Income Units (households with incomes less than 80% AMI) will remain subject to the City's 90-year affordability term requirements and shall comply with the policies set forth in the City's Affordable Housing Policy and Procedures Manual.~~

G. Community Participation. To encourage community participation in contributing to the Fund for the purposes listed in Section B above, the City will prioritize requests to match private donors' contributions to approved projects and/or programs according to funding availability. In these instances, final approval must be obtained from the Community Development Director for the City's matching portion of funding prior to final approval of projects and/or programs from the City Council. A receipt of the private funding donation will be required and verified by the City before the City's funding is disbursed. All City funding will be given directly to the project, program, or service approved. No City funding will be given to an individual and is required to be given to the entity owning the project or providing the program or service approved.

H. Community Development Director's Annual Report. The Community Development Director, with the assistance of the City Finance Director, shall report annually to the City Council on the status of activities undertaken with the Fund and the progress achieved towards the City's Regional Housing Numbers Allocation (RHNA) with the Fund. The report shall include a statement of income, expenses, disbursements, and other uses of the Fund.

Commented [GW15]: HA and LWV request incentives be removed, and 90-year affordability covenants apply to all capital projects assisted by Fund.

Commented [GW16]: Staff removed all incentive options and will require 90-year affordability covenants for all capital projects assisted by Fund.

Commented [GW17]: HA requests Semi-Annual reports be provided showing the activity of the fund, and how it has contributed to progress toward the City's RHNA requirements.

Commented [GW18]: Staff recommends Annual reporting as standard for all affordable housing funds. Staff anticipates a the fund will support only one or two projects initially. If the Fund should realize a significant increase in funds and activity to warrant Semi-Annual reporting, it can be revisited at that time.