

TO: Jim App, City Manager

FROM: Ron Whisenand, Community Development Director

SUBJECT: SB 1087: Water and Sewer Priority to Lower Income Housing Developments

DATE: March 17, 2009

Needs: To consider a policy to give priority for water and sewer service to housing developments that are affordable to lower income households.

Facts:

1. In 2005, the State Legislature enacted SB 1087, which amended Government Code Section 65589.7 to require all public agencies or private entities that provide water or sewer services for municipal and industrial uses to:
 - a. Adopt a written policy granting a priority for the provision of public water and sewer services to include proposed developments that include housing units affordable to lower income households, and
 - b. Deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed developments that include housing units affordable to lower income households *only upon* specific written findings that the denial, condition, or reduction of service is necessary due to the existence of certain circumstances.
2. The “certain circumstances” listed in Section 65589.7 under which approval of are as follows:
 - a. The City does not have “sufficient water supply,” as defined in paragraph (2) of subdivision (a) of Government Code Section 66473.7, or is operating under a water shortage emergency as defined in Water Code Section 350, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report;
 - b. The City is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections;
 - c. The City does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works, to serve the needs of the proposed development;
 - d. The City is under an order issued by a regional water quality control board that prohibits new sewer connections;
 - e. The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the City, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed pursuant to Government Code Section 66013.

3. Subsection b of Section 65589.7 requires the City to adopt a written policy statement regarding providing priority for water and sewer connections to affordable housing development and to update it every 5 years.
4. Section 50079.5 of the Health and Safety Code defines “lower income households” as those earning 80 percent or less of the Area (County) Median Income.
5. The State Department of Housing and Community Development has informed the City that it will require evidence that such a policy has been adopted before it accepts an updated Housing Element. State Law requires that the City’s Housing Element be updated by August 31, 2009.
6. It is important to note that SB 1087 does not affect the fees for water service. Affordable housing projects would still be subject to water connection and use fees in effect for City residents.

Analysis and
Conclusion:

The proposed policy would give first priority for water and sewer connections to housing developments that are affordable to lower income households in the event that the City had to ration connections due to a shortage in water supply or wastewater treatment capacity. Such shortages do not presently exist in Paso Robles, and the City has been diligent in taking measures to ensure that they do not occur.

Presently, there is only one housing development that is affordable to lower income households being proposed in the City: the 84 unit complex to be located at 80 S. River Road, which was approved by the City Council on January 6, 2009.

Policy

Reference: Government Code Section 65589.7; Health and Safety Code Section 50079.5

Fiscal Impact: None.

Options: After consideration of any public testimony, that the City Council consider the following options:

- a. Adopt attached Resolution 09-XXX to Adopt Written Policy Concerning the Provision of Water or Sewer Services to Proposed Developments That Include Housing Units Affordable to Lower Income Households
- b. Amend, modify or reject the foregoing option.

Prepared by: Ed Gallagher, City Planner

Attachment: Resolution 09-XXX

EDI\HOUSELEM\2009\SB 1087\CCR 031709

RESOLUTION NO. 09-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
ADOPTING WRITTEN POLICY CONCERNING THE PROVISION OF WATER OR SEWER
SERVICES TO PROPOSED DEVELOPMENTS THAT INCLUDE HOUSING UNITS
AFFORDABLE TO LOWER INCOME HOUSEHOLDS

WHEREAS, in 2005 the California Legislature enacted Senate Bill 1087, which amended Government Code Section 65589.7 to require all public agencies or private entities that provide water or sewer services for municipal and industrial uses to (i) adopt a written policy granting a priority for the provision of public water and sewer services to include proposed developments that include housing units affordable to lower income households, and (ii) deny or condition the approval of an application for services to, or reduce the amount of services applied for by, a proposed developments that include housing units affordable to lower income households only upon specific written findings that the denial, condition, or reduction of service is necessary due to the existence of certain circumstances specified in Section 65589.7.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of El Paso de Robles, California, as follows:

Section 1. Pursuant to, and to the extent required by, Government Code Section 65589.7, the City of El Paso de Robles (“City”) hereby grants a priority for the provision of water or sewer services to proposed developments that include housing units affordable to lower income households as defined by Section 50079.5 of the California Health and Safety Code unless it makes specific written findings that the denial, condition, or reduction of service is necessary due to the existence of one or more of the following:

- a. The City does not have “sufficient water supply,” as defined in paragraph (2) of subdivision (a) of Government Code Section 66473.7, or is operating under a water shortage emergency as defined in Water Code Section 350, or does not have sufficient water treatment or distribution capacity, to serve the needs of the proposed development, as demonstrated by a written engineering analysis and report;
- b. The City is subject to a compliance order issued by the State Department of Health Services that prohibits new water connections;
- c. The City does not have sufficient treatment or collection capacity, as demonstrated by a written engineering analysis and report on the condition of the treatment or collection works, to serve the needs of the proposed development;
- d. The City is under an order issued by a regional water quality control board that prohibits new sewer connections;
- e. The applicant has failed to agree to reasonable terms and conditions relating to the provision of service generally applicable to development projects seeking service from the City, including, but not limited to, the requirements of local, state, or federal laws and regulations or payment of a fee or charge imposed pursuant to Government Code Section 66013.

Section 2. Pursuant to subdivision (b) of Government Code Section 65589.7, except to the extent provided otherwise in Section 1 of this Resolution, the City Council hereby adopts, as its written policies and procedures for provision of services to proposed developments that include housing units affordable to lower income households, the provisions of the Municipal Code of the City of El Paso de Robles with respect to water or wastewater services.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 16th day of March 2009 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Duane Picanco, Mayor

Cathy M. David, Deputy City Clerk