RESOLUTION R-17-069

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING AFFORDABLE HOUSING; ESTABLISHING THE LIVABLE MANATEE INCENTIVE PROGRAM FOR QUALIFIED NEW AFFORDABLE HOUSING IN UNINCORPORATED MANATEE COUNTY; AUTHORIZING THE ESTABLISHMENT OF ADMINISTRATIVE PROCEDURES; RESCINDING AND REPLACING RESOLUTIONS R-07-37 AND R-07-58; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing Element of the Manatee County Comprehensive Plan mandates the establishment and implementation of programs to meet the County’s affordable housing needs; and

WHEREAS, Section 125.01055 and Part VII of Chapter 420, Florida Statutes, encourage the adoption of affordable housing incentive strategies; and

WHEREAS, sharp increases in the median purchase price of a home and the cost of rental housing have far outstripped the increases in median income in the state, limiting the County’s workforce from accessing affordable rental and homeownership housing opportunities; and

WHEREAS, it is in the interest of the public health, safety and welfare for the County to provide housing opportunities to qualified low and moderate-income residents of owner-occupied and multi-family rental affordable housing pursuant to Section 125.01055 and Part VII of Chapter 420, Florida Statutes; and

WHEREAS, the Board of County Commissioners finds that the support of affordable housing through the expenditure of public funds as provided in this Resolution serves a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, THAT:

SECTION 1. ESTABLISHMENT OF LIVABLE MANATEE INCENTIVE PROGRAM. The Livable Manatee Incentive Program (Program), inclusive of the Livable Manatee Homeownership Incentives and the Livable Manatee Home Rental Incentives, is hereby established to encourage the development of affordable housing units in unincorporated Manatee County, and to protect the County’s investment in affordable housing.

(a) Homeownership Incentives. The goal of the Livable Manatee Homeownership Incentives shall be to foster the construction of new affordable owner-occupied dwelling units within mixed-income developments and encourage scattered site, infill development. Dwelling units qualifying for these incentives shall meet the following criteria:
i. They shall be located in unincorporated Manatee County.

ii. If a new subdivision is under development with more than 18 units, the affordable units incentivized shall comprise no more than 33% of the total dwellings within the development in which they are being built.

(b) Rental Home Incentives. The goal of the Livable Manatee Home Rental Incentives shall be to foster the construction of new mixed-income rental communities that include in their composition affordable dwelling units. Dwelling units qualifying for these incentives shall meet the following criteria:

i. They shall be located in unincorporated Manatee County.

ii. They shall also be located in the Urban Service Area or within one-quarter (1/4) mile of a MCAT bus route.

iii. The number of affordable dwelling units shall be equal to at least 25% of the total number of dwelling units but no more than 50% of the units in the development in which they are being built will be eligible for the incentive.

(c) Additional Criteria. All dwelling units qualifying for participation in the Program shall also meet the following criteria:

i. They shall be subject to a Land Use Restriction Agreement (LURA) between the developer and the County, requiring that they remain qualified affordable dwellings under terms established by the Program. The LURA shall specify the Program incentives to be provided to the developer for qualifying affordable units pursuant to this Resolution.

ii. They shall be “affordable” within the meaning set forth in Florida Statute 420.9071.

iii. They shall comply with the requirements of the County’s Comprehensive Plan and Land Development Code (LDC), and any administrative procedures adopted pursuant to Section 2.

iv. Conversions of buildings to residential use to include affordable housing units shall be permitted under this Program. The number of affordable dwelling units shall be equal to at least 25% of the total number of dwelling units but no more than 50% of the units in the development will be eligible for the incentive.

(d) County Financial Assistance. For affordable housing units qualifying for the incentives established above, the County may pay 100% of the following fees, assessed on the qualifying affordable housing units only:
Resolution R-17-069

i. County impact fees levied pursuant to Chapter 11 of the LDC;

ii. Educational facilities impact fees levied pursuant to Article VII, Division 2, of Chapter 2-29 of the County’s Code of Ordinances; and

iii. Facility investment fees levied pursuant to Article VIII of Chapter 2-31 of the County’s Code of Ordinances.

Moneys shall be paid or transferred by the County directly to the appropriate fund or account or, in the case of school impact fees, directly to the Manatee County School District, on behalf of the developer of the qualifying affordable units.

(e) Pending Incentives. Any affordable housing unit(s) approved and under consideration for incentives pursuant to the Manatee County Affordable Housing Impact Fee Program pursuant to R-07-58 as of the date of the adoption of this Resolution may be eligible for such assistance.

(f) Source of Funds. The Manatee County Affordable Housing Subsidy Fund shall be used to fund the incentives authorized pursuant to this Resolution. The provision of incentives for any qualified affordable housing units shall be subject to availability of funds and subject to budgeting and appropriation of such funds by the Board of County Commissioners. The Board of County Commissioners may, in its sole discretion, replenish the Affordable Housing Subsidy Fund to fulfill the objectives of the Livable Manatee Incentive Program.

SECTION 2. ADMINISTRATIVE PROCEDURES. The County Administrator is authorized to establish administrative procedures for the implementation of this Resolution.

SECTION 3. REPEAL AND REPLACEMENT. This Resolution repeals and replaces Resolutions R-07-37 and R-07-58. The Manatee County Affordable Housing Impact Fee Program established pursuant to Resolution R-07-58 is hereby replaced by the Program authorized herein.

SECTION 4. SEVERABILITY. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provisions shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution. In the event of a conflict with any existing resolution, this Resolution shall prevail.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.
Resolution R-17-069

APPROVED IN OPEN SESSION WITH A QUORUM PRESENT AND VOTING THIS ___ DAY OF __________, 2017.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: ________________
Chairperson
Betsy Behac

ATTEST: ANGELINA M. COLONNESO
CLERK OF THE CIRCUIT COURT
AND COMPTROLLER
By: ________________
Deputy Clerk
Subject
Adoption of Resolution R-17-069 Establishing the Livable Manatee Incentive Program

Briefings
All

Contact and/or Presenter Information

Denise L. Thomas, Housing and Community Development Manager, Ext. 3474

Presenter: Geraldine C. Lopez, Director, Ext. 3937

Action Requested
Adoption of Resolution R-17-069 regarding affordable housing; establishing the Livable Manatee Incentive program for qualified new affordable housing in unincorporated Manatee County; authorizing the establishment of administrative procedures; rescinding and replacing Resolutions R-07-37 and R-07-58; providing for severability; and providing an effective date.

Enabling/Regulating Authority

11.1.4. Efficiency in Service Delivery (Comprehensive Plan)

6.1.3.3 Provision of Government Incentives to aid in the development of affordable housing (Comprehensive Plan - Housing Element)

Part VI - Section 545.2(C) Affordable Housing Incentives (Land Development Code)

Background Discussion

On April 18, 2017, a work session was held with the Board of County Commissioners (BCC) to discuss a reset of the All Things Housing initiative.

In review of financial barriers impacting the creation of affordable housing, staff brought forth for BCC consideration the development of an incentive program that would provide a greater level of financial incentives to developers to encourage the development of both rental and homeownership affordable housing units. Based on worksession discussion, staff was directed to move forward in the establishment of an incentive program.

Staff has developed the Livable Manatee Incentive program for BOCC consideration and approval. The program has a homeownership and rental component:
1) Livable Manatee Homeownership Incentive Program -

Goal: To encourage affordable housing units within mixed-income developments, scattered sites and infill development; establish efficient process for customer service and ease of program administration; and protect community's investment in affordable housing.

Incentive: Manatee County will pay 100% of County impact fees, educational facility impact fees, and facility investment fees (FIF) on designated affordable units only. Impact fees include libraries, public safety, law enforcement, parks and natural resources, schools, multi-modal transportation and administrative surcharge. Facility investment fees include water and sewer. Expedited review and permitting is provided per F.S. 420.9076.

Process: Through an established application process and execution and recording of Land Use Restriction Agreement (LURA) by developer to establish term of affordability, impact fees and facility investment fees will be administratively paid at time of C.O.

Program Requirements:

- Unit must be for sale and includes fee simple properties, single family and townhomes.
- Homebuyer household income must be at or below 120% Area Median Income (AMI).
- Sales price of unit must not exceed established guidelines set forth in Manatee County’s Local Housing Assistance Plan (reviewed every 3 years).
- Unit cannot exceed 1,700 square feet.
- Unit must be located in unincorporated Manatee County.
- New subdivisions over 18 units shall have no more than 33% affordable units incentivized.
- Maximum total incentives per mixed-income development is $500,000 (Exceptions based on Board approval).
- LURA term: 10 years.

2) Livable Manatee Rental Incentive Program :

Goal: To encourage at least 25% affordable units within a rental, mixed-income developments; establish an efficient process for customer service and ease of program administration; and protect the community's investment in affordable housing.

Incentive: Manatee County will pay 100% of County impact fees, educational facility impact fees, and facility investment fees (FIF) on designated affordable units only. Impact fees include libraries, public safety, law enforcement, parks and natural resources, schools, multi-modal transportation and administrative surcharge. Facility investment fees include water and sewer. Expedited review and permitting is provided per F.S. 420.9076.

Process: Through an established application process and execution and recording of Land Use Restriction Agreement (LURA) by developer to establish term of affordability prior to Final Site Plan approval, impact fees and facility investment fees will be administratively paid at time of C.O. per building. Developer's Management Company must submit tenant applications for eligibility determination at time of lease up in accordance to LURA. Once lease up is complete, County will monitor project annually for term of LURA to ensure compliance.

Program Requirements:
Rents must not exceed Florida Housing Finance Corporation (FHFC) maximums per bedroom count and income per household size.

Mix of low and moderate income units are encouraged. However, no more than 50% of the affordable set aside can serve between 81-120% AMI. Remainder of affordable units should serve 80% AMI and below.

Projects in the Urban Service Area boundary or within 1/4 mile of MCAT bus route in unincorporated Manatee County, New construction or conversions allowed. No more than 50% of the total units will be eligible for the incentive.

Maximum total incentives per mixed-income development is $500,000 (Exceptions based on Board approval).

Land Use Restriction Agreement (LURA) Term: Projects receiving an incentive up to $100,000 - 15 years; Projects receiving an incentive between $100,001 and $300,000 - 20 years; Projects receiving an incentive greater than $300,001 - 25 years.

Adoption of Resolution R-17-069 is required to establish the Livable Manatee Incentive program for qualified new affordable housing and conversions in unincorporated Manatee County and to establish administrative procedures.

The Affordable Housing Advisory Committee (AHAC) at their July 17, 2017, meeting discussed the conceptual program and recommended approval in support of the Livable Manatee Incentive Program.

**County Attorney Review**
Formal Written Review (Opinion memo must be attached)

**Explanation of Other**

**Reviewing Attorney**
Clague

Also to: D. Bassett, C/Atty Offc, & L. Stephens, Internal Audit, 8/25/17, RT

**Instructions to Board Records**
Please provide one certified copy of Resolution R-17-069 to Denise L. Thomas, Redevelopment and Economic Opportunity Department, ext. 3474 (denise.thomas@mymanatee.org).

**Cost and Funds Source Account Number and Name**
184.0020605 Redevelopment & Economic Opportunity / Affordable Hsg. Subsidy

**Amount and Frequency of Recurring Costs**
$568,037.00 Annually

Attachment: Livable Manatee Resolution R-17-069 FINAL.pdf
Attachment: CAO Memo Livable Manatee.pdf
Attachment: R07-037.pdf
Attachment: R07-058.pdf
August 22, 2017 - Regular Meeting
Agenda Item #2

Subject
10:30 A.M. - ITEM #43 - Adoption of Resolution R-17-069 Establishing the Livable Manatee Incentive Program

Briefings
None

Contact and/or Presenter Information

Action Requested

Enabling/Regulating Authority

Background Discussion
See Item 43 for supporting materials.

County Attorney Review
Not Reviewed (No apparent legal issues)

Explanation of Other

Reviewing Attorney
N/A

Instructions to Board Records

Cost and Funds Source Account Number and Name

Amount and Frequency of Recurring Costs
From: William Clague  
Sent: Friday, August 11, 2017 4:48 PM  
To: Geri Lopez  
Subject: RE: Livable Manatee Program Incentive Resolution; RLS-2017-0358

Geri:

Sorry it has taken so long to get back to you on this. Crazy couple of weeks. I am fine with your redlined changes.

Bill.

From: Geri Lopez  
Sent: Monday, July 31, 2017 4:09 PM  
To: William Clague  
Cc: Mitchell Palmer; Alex Nicodemi; Ed Hunzeker; Dan Schlandt; Juliet Shepard; Denise Thomas; Sharon McClellan; John Osborne; Dwayne Guthrie  
Subject: RE: Livable Manatee Program Incentive Resolution; RLS-2017-0358

Dear Bill:

Thanks for your time last week to review the draft resolution. Per our discussion, we’re making some clarifications after further consideration of the program implications. In the attached document, I’ve accepted all your recommended changes and have added in track changes the following:

1. I’ve added a maximum number of units for homeownership (33%) and rental (50%) eligible for the incentive.
2. I’ve added the language for the conversions of buildings to a residential use
3. I’ve limited the fees paid to county impact, education, and facility investment fees.

I would appreciate your additional review and comments. I’m scheduled for individual commissioner briefings of this program on August 7th and will place for Board review on August 22nd. Please let me know if you need additional information.

Thanks again!

Geri

From: William Clague  
Sent: Tuesday, June 27, 2017 10:03 AM  
To: Denise Thomas  
Cc: Mitchell Palmer; Alex Nicodemi; Ed Hunzeker; Dan Schlandt; Geri Lopez; Jan Brewer; Juliet Shepard  
Subject: Livable Manatee Program Incentive Resolution; RLS-2017-0358

Denise:
Pursuant to the above Request for Legal Services you have asked this office to review a draft Resolution to establish a “Livable Manatee Incentive Program” to pay impact fees and other expenses on behalf of affordable housing developments. I provide the following advice in response:

1. Attached is a redlined revision of the Resolution reflecting my suggested changes. The revisions are extensive. Some are intended for clarity and consistency, while others are substantive. I have also reorganized many of the provisions in a more logical order, distinguishing program criteria from other operative terms.

2. I have pared down the recitals to focus more closely on the statutory and constitution requirements for public assistance to affordable housing.

3. In Section 1, I have created a new subsection (c) to spell out common criteria for owned and rented units. It includes reference to the County’s Comp Plan and LDC, as well as administrative procedures. It also clarifies the intent of the reference to the statutory definition of “affordable”.

4. In subsection 1(d) I have provided more detail as to the fees that can be paid under the program. Please note that the reference to “utility fees” requires staff clarification, as I was not sure of its intent.

5. In subsection 1(d) I have also changed the payment mechanism from (a) payment and/or reimbursement to the developer to (b) direct transfer to the appropriate fund or account. The mechanisms for this can be set up in the administrative procedures authorized in Section 2. This office has serious concerns about any arrangement that involves payment or reimbursement to developers, and recommends against that approach unless the County is prepared to set up a program to evaluate their financial responsibility.

6. I have removed the language in the severability clause that attempted to give the Resolution superseding authority over conflicting codes, ordinances or regulations, as it would violate Florida law.

7. Because the Resolution may have implications for other County financial activities, I have copied Dan Schlandt and Jan Brewer on this response.

Subject to the inclusion of my suggested changes, and the resolution of the issues identified above, I have no objection to the Resolution being scheduled for consideration by the Board. Please let me know if you would like me to participate in any meetings with your department and other staff to discuss the Resolution.

This concludes my response to the RLS.

Bill Clague
Assistant County Attorney
Manatee County, Florida
ph. 941-745-3750
fx. 941-749-3089
william.clague@mymanatee.org
RESOLUTION NO. R-07-037

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING AFFORDABLE HOUSING AND IMPACT FEES; AUTHORIZING THE PREPAYMENT OF COUNTY CONTRIBUTIONS TOWARD TRANSPORTATION IMPACT FEES FOR AFFORDABLE HOUSING UNITS; AUTHORIZING THE ASSIGNMENT OF SUCH PREPAID CONTRIBUTIONS TO FUTURE AFFORDABLE HOUSING UNITS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners, on November 7, 2006, adopted Ordinance 06-75 amending Chapter 8 of the Land Development Code and imposing, effective February 17, 2007, a new schedule of impact fees for capital facilities related to countywide parks, law enforcement, public safety, and roads; and

WHEREAS, pursuant to Section 809 of the Land Development Code, the County is empowered to pay a portion of the impact fees for certain affordable housing projects; and

WHEREAS, pursuant to Resolution R-05-279, the Board established an affordable housing assistance program whereby the developer of a qualified affordable housing unit pays the impact fees at the rates imposed by the County prior to the adoption of Ordinance 04-19 and the County pays the difference between the developer’s share and the current impact fees; and

WHEREAS, the Board finds that the County is experiencing a shortage in affordable housing units and that affordable housing within the County is needed to maintain and enhance the public health, safety, and general welfare; and

WHEREAS, the Board finds that the necessary public purpose exists to support the expenditure of public moneys to address the shortage of affordable housing in the County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

SECTION 1. AUTHORITY TO PREPAY. Pursuant to Section 803.1.9 of the LDC which authorizes prepayment of impact fees, the County Administrator is hereby authorized to deposit legally available funds, prior to February 17, 2007, in an amount not to exceed three million one hundred fifty thousand dollars ($3,150,000) as a prepayment of the County’s contribution toward impact fees for affordable housing units pursuant to Resolution R-05-279. The moneys shall be segregated from other county funds and accounted for in a Prepaid Impact Fee Deposit Account where they will bear interest as described in Section 2.(a) hereof. This account shall be established and overseen in accordance with procedures developed by the Finance Department in the Office of the Clerk of the Circuit Court and Comptroller. The funds
will be distributed to appropriate Transportation Impact Fee Funds as eligible units of affordable housing are identified and as described in Section 2 hereof. By prepaying its contributions toward transportation impact fees for affordable housing units pursuant to this Resolution, the County shall satisfy the requirement to pay such contributions in the amounts required under the current transportation impact fee schedule. On the date such contributions are assigned to transportation impact fees for affordable housing units pursuant to Section 2 hereof, no payments other than those required by Section 2 shall be required in order to satisfy the requirement to pay such transportation impact fees pursuant to the Land Development Code.

SECTION 2. AUTHORITY TO ASSIGN. The County Administrator is hereby authorized and directed to assign the contributions prepaid pursuant to Section 1 hereof to transportation impact fees for affordable housing units at the time such fees are collected pursuant to the County's Land Development Code. The assignment of such contributions shall be subject to the following requirements:

(a) At the time of collection of such transportation impact fees for affordable housing units, the County or the developer of the affordable housing units shall pay into the respective transportation impact fee funds an amount equal to the interest that would have been earned using the County's average portfolio yield as stated by the Clerk's most recent report upon such transportation impact fees (assuming they had been invested in the same manner as other moneys in such funds) had they been deposited in such funds on the date of prepayment of the County contributions;

(b) The transportation impact fees collected for such affordable housing units (less the County contributions) shall be paid by the developer of such units in accordance with the requirements of the Land Development Code and Resolution R-05-279; and

(c) Such other requirements necessary to assure compliance with applicable law.

SECTION 3. SEVERABILITY. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provisions shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.
ADOPTED THIS 1st DAY OF FEBRUARY, 2007.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: [Signature]
Chairman

ATTEST:  R.B. SHORE
Clerk of the Circuit Court

By: [Signature]
Deputy Clerk
RESOLUTION R- 07-58

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA ADOPTING THE MANATEE COUNTY IMPACT FEE PROGRAM FOR AFFORDABLE HOUSING.

WHEREAS, the Board of County Commissioners of Manatee County, Florida adopted Ordinance 04-19 establishing an impact fee program for the unincorporated portion of Manatee County; and

WHEREAS, the Board of County Commissioners finds that providing affordable housing is a goal of the County; and

WHEREAS, the Board of County Commissioners takes notice that a valid impact fee program will not permit the waiving of fees but rather, requires the payment of fees by the County; and

WHEREAS, the Board of County Commissioners is desirous of providing assistance to qualified very-low, low and moderate income residents of owner occupied affordable housing; and

WHEREAS, the Board of County Commissioners previously adopted Resolution R-05-279 to establish reduced impact fees for qualified affordable housing developments; and

WHEREAS, the Board of County Commissioners is desirous of clarifying the intent of Resolution R-05-279 and expanding its commitment to affordable housing.

NOW THEREFORE BE IT RESOLVED BY THE MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

1. The Manatee County Affordable Housing Impact Fee Program established pursuant to Resolution R-05-279 is hereby continued.

2. Manatee County will provide impact fee assistance to qualified residents of owner occupied affordable housing. The County will provide assistance to make up the difference between the fees in effect prior to Ordinance 04-19 and the fees adopted pursuant to Ordinance 04-19 including any increases thereto.

3. Housing eligible for the impact fee assistance must not exceed the maximum allowable cost criteria established by the Manatee County Local
Housing Assistance Plan as approved by the Board of County Commissioners and as such criteria are changed from time to time.

4. Persons eligible for assistance must meet income standards for very-low, low and moderate incomes and such other criteria as established by the Manatee County Local Housing Assistance Plan, including the requirement that all assisted units be eligible for homestead exemption and that there be no outstanding utility debts to the County.

5. For units receiving impact fee assistance the impact fee administrative fee shall be waived.

6. The County Administrator is hereby directed to establish Administrative Procedures for the implementation of this program.

7. This resolution repeals and supersedes Resolution R-05-279.

ADOPTED, with a quorum present and voting, this the 12th day of June, 2007.

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: [Signature]
Chairman

Attest: R. B. Shore
Clerk of the Court
CITIZENS’ COMMENTS
(Agenda Items)

Item #: 43

CONSENT: □ NO □ YES

The Board of County Commissioners welcomes your comments. Your presentation must be limited to three (3) minutes per item or matter, with a total limit of ten (10) minutes. If appropriate, the matter(s) you present will be placed on a future commission agenda.

It is requested that you complete this form and return it to the receptionist prior to the beginning of the Citizens’ Comments portion of the agenda.

Name: TIM POLK
Address: 4240 TROUT RIVER XNG
Phone: (Home) 941.773.3432 (Work)

Brief description of problem or concern:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________