



Agenda Item_____ March 21, 2017

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Agency Director

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March 7, 2017

Honorable Board of Supervisors
Administration Building
Oakland, California 94612

Dear Board Members:

SUBJECT: **ALAMEDA COUNTY MOBILE HOME SPACE RENT
STABILIZATION ORDINANCE**

RECOMMENDATION:

Adopt an ordinance amending Chapter 3.32 of Title 3 of the Alameda County Ordinance Code, to modify the maximum annual standard rent increase and the procedures applicable to rent increases for mobile home park spaces in the unincorporated areas of the County.

DISCUSSION/SUMMARY:

This Ordinance being presented to your Board for adoption has been revised since the initial first reading at your Board's February 21, 2017 meeting in response to your Board's direction at that meeting and in order to resolve certain internal inconsistencies in the draft Ordinance. As a result, a first reading of the revised ordinance is presented for consideration at your Board's March 21, 2017 meeting. The revised Ordinance conforms to the substantive direction received from your Board on February 21, 2017. It is attached as Exhibit A.

On February 21, 2017, your Board was presented with three options regarding text to be included in the Ordinance regarding the level of rent control or decontrol to be applied upon certain vacancy events. Staff's recommendation in the draft ordinance presented on February 21, 2017 was modified vacancy decontrol. Your Board did not adopt staff's recommendation and instead selected the full vacancy decontrol option. At that meeting, staff read the following language for full vacancy decontrol from the staff report into the record:

A mobile home park owner shall be permitted to charge a new space rent for a mobile home space whenever a lawful space vacancy occurs. The new space rent shall become the base rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as follows:

- A. An In-place Transfer;*
- B. A vacancy occurring because of eviction or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome residence law, California Civil Code Sections 798.55 through 798.60, as amended;*

The Board approved this language as part of its motion to approve the first reading of the ordinance. Thus, staff expected that the second reading of the ordinance could occur at the March 7, 2017 Board meeting. However, subsequently, staff, working with County Counsel, determined that the insertion of the full vacancy decontrol provision necessitated some alterations to the Ordinance for consistency. Specifically, the full vacancy decontrol language included a defined term (“In-Place Transfer”), but inadvertently omitted a definition for the term. Additionally, the new full vacancy decontrol language (proposed as section 3.32.090), would have overlapped significantly with the existing section 3.32.080, “Decontrol-Evictions, Abandoned Mobile Homes or Voluntary Removal,” which also provided for vacancy decontrol for certain types of vacancies (e.g., evictions, abandonment). In order to resolve these inconsistencies, staff has inserted the definition of In-Place Transfer and consolidated the two sections governing vacancy decontrol into one section (3.32.080). Other minor and non-substantive edits were made to finalize the Ordinance. All edits made to the version presented on February 21, 2017 are included in the “markup” version, attached as Exhibit B.

This revised motion was the culmination of two years of public process, including stakeholder meetings, public meetings and discussions between District 3 and 4 staff and related parties. The Mobile Home Space Rent Stabilization Ordinance (Ordinance) was adopted in 1990 and had not been updated since.

As stated in the Ordinance, the Board’s intent is to “*protect the owners and occupiers of mobile homes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service and utility government assessments.*”

In response to concerns raised by mobile home residents in the Unincorporated County about space rents becoming increasingly unaffordable at certain parks, the Community Development Agency’s (CDA) Housing and Community Development Department (HCD) was asked to review the County’s Ordinance. Residents repeatedly expressed concerns that that 5% increases, when instituted annually and compounded year-over-year, are unreasonable and do not appear related to increases in a park’s operating costs.

Staff reviewed provisions of other mobile home space rent ordinances locally and statewide, took public testimony in an initial series of public hearings, and held a series of informal stakeholder meetings: three with mobile home park owners and three with mobile home park residents. These meetings were held between February and July 2015. In early 2015, staff also conducted surveys of park owners and residents to elicit data regarding current space rents, rates of rent increases, and other pertinent park information in the Unincorporated County. Finally, staff brought the proposed draft Ordinance to the Castro Valley Municipal Advisory Council (MAC) on February 4, 2016, the Planning Commission on March 7, 2016 and the Unincorporated Services Committee on December 7, 2016 before bringing the item to your Board on February 21, 2017. The Board letter that was on your February 21, 2017 agenda and all of the attachments to it are attached as Exhibit C for your reference and the record.

PROPOSED ORDINANCE

The proposed Ordinance is Exhibit A. The Ordinance serves to prevent displacement of current County mobile home residents, many of whom are low-income senior citizens.

The key provisions are summarized below.

1. Annual Standard Rent Increase - *Proposed Ordinance: The maximum allowable annual space rent increase is a flat rate of 4% of the space rent with no banking allowed.*
2. Vacancy Decontrol - *Proposed Ordinance: A park owner is permitted to charge a new space rent of any amount for a mobile home space whenever a lawful space vacancy occurs.*
3. Board of Supervisors Review after Three Years- *Proposed Ordinance: the Housing Director will provide a report regarding the administration of this ordinance to the Board at least once in a three year period.*
4. Non-Standard Rent Increases- *Proposed Ordinance: A non-standard rent increase above the annual standard rent increase may be allowed, if approved, through a park owner's petition and demonstration of need at a hearing. Capital improvement pass-throughs may be considered as part of this.*
5. Administration Fee- *Proposed Ordinance: The County may charge an administrative fee at the Board of Supervisors' discretion, but charging a fee is not mandated. This fee must be paid by the park owners, but the cost may be split 50/50 between park owners and residents.*

FINANCING:

Any fees to be charged under this ordinance will be brought back before the Board and include a public review. There is no increase in Net County Cost as a result of this action.

ATTACHMENTS:

- Exhibit A (clean proposed Ordinance)
- Exhibit B (redlined proposed Ordinance)
- Exhibit C (February 7, 2017 Board letter and attachments)

Very truly yours,



Chris Bazar, Director
Community Development Agency

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Steve Manning, Auditor-Controller
Melanie Atendido, County Administrator's Office
Heather M. Littlejohn, Office of the County Counsel
U.B. Singh, CDA Finance Director

ORDINANCE NO. 2017- 16

AN ORDINANCE AMENDING CHAPTER 3.32 OF THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE REGARDING MOBILE HOME RENT REVIEW PROCEDURES

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. The County of Alameda adopted a mobile home rent stabilization ordinance in 1990, codified as Chapter 3.32 of the Alameda County General Ordinance Code. This existing ordinance limited annual rent increases for spaces in mobile home parks to 5% and allowed park owners to apply for an additional increase.
2. County staff studied the existing ordinance, and its effect on both owners of mobile home parks, as landlords, and owners of mobile homes, as tenants, and recommends an amendment to the ordinance to address the concerns raised by both groups.
3. Mobile home owners, unlike apartment tenants or residents of other rental units, are in the unique position of having made a substantial investment in a residence for which space is rented or leased as distinguished from owned.
4. Alternative sites for the relocation of mobile homes are difficult to find due to the shortage of vacant mobile home spaces, the restrictions on the age, size, or style of mobile homes permitted in many mobile home parks, and requirements related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home is substantial and the risk of damage in moving is significant.
5. The state of California has recognized, by the adoption of legislation regulating tenancies of mobile home owners in mobile home parks, that there is a significant distinction between the tenants (mobile home owners) of mobile home parks and other dwelling units, and the County of Alameda likewise has recognized the unique position of mobile home owners as tenants of mobile home parks.
6. Although mobile home owners benefit from some aspects of homeownership, the benefit is more limited than in traditional homeownership, because the investment in the mobile home is subject to the rental conditions for the underlying land, which conditions are not in the control of the mobile home owner.
7. The existence of housing alternatives for mobile home owners is largely dependent on the maintenance of their equities in their mobile homes. They can relocate to other types of housing only if they can use equity in their mobile homes to transition to other types of housing.
8. The result of these conditions has been and continues to be the creation of a captive market of mobile home owners and a great imbalance in the bargaining position of the park owners and mobile home owners in favor of the park owners.

9. This market situation has contributed to or threatens to contribute to unreasonable space rent increases for mobile home spaces. This situation has resulted in serious concern and stress among significant portions of County residents living in mobile home parks, negatively impacting the health, safety and welfare of the community.
10. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, significant rent increases create heightened risks of displacement and financial insecurity for these vulnerable populations, which negatively impacts the health, safety and welfare of the community.
11. This market situation has also contributed to or threatens to contribute to other practices by park owners which this ordinance also seeks to remedy or prevent, including protections against retaliation.
12. Pursuant to existing state law, a local rent stabilization ordinance must allow mobile home park owners, as landlords, to earn a fair return on their investment.
13. Additionally, mobile home park owners are responsible for maintaining and improving the conditions of their mobile home park and rely on rental income to fund these activities, which may include significant capital improvements and costly ongoing maintenance.
14. By implementing a maximum annual standard rent increase for mobile home spaces, and by adopting revised procedures for park owners seeking a non-standard rent increase, the amended ordinance balances the goal of stabilizing rents and rental conditions for mobile home owners and the goals of allowing park owners the opportunity to earn a fair return and to efficiently manage the mobile home park.
15. This ordinance should not be interpreted or applied in a way that would deprive a park owner of the constitutionally protected right to receive a just and reasonable return on their property.

SECTION II

Chapter 3.32 of the Alameda County General Ordinance Code is hereby amended to read as follows:

Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

3.32.010 Findings and Purpose

There is presently within the unincorporated area of the County of Alameda and the surrounding areas a shortage of space for location of mobile homes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the high cost of moving mobile homes and the potential for damage resulting therefrom, the requirements relating to the installation of mobile homes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile home owners, and the substantial investment of mobile home owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobile homes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and

rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service, utilities and government assessments.

3.32.020 Definitions

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

"Hearing Officer" means the person serving or designated pursuant to Section 3.32.040.

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his or her assigned deputies and employees.

"Housing Services" means services provided by the Park Owner related to the use or occupancy of a Mobile Home space, including but not limited to insurance, repairs, replacements, maintenance, painting, lighting, heat, water, refuse removal, laundry facilities, recreation facilities, parking security, and employee services.

"Non Standard Rent Increase" means an increase in rent pursuant to Section 3.32.060.

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code § 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in California Civil Code § 799.24, a commercial coach, as defined in California Health & Safety Code § 18001.8, or factory-built housing as defined in California Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile Home dwelling units in the unincorporated area of the County of Alameda.

"Park Owner" means the owner, lessor, operator or manager of a Park.

“Rent Review Procedures” means the written procedures adopted by the Housing Director pursuant Section 3.32.160.

“Rent Review Officer” means the person serving or designated pursuant to Section 3.32.030.

“Space Rent” means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

“Standard Rent Increase” means an increase in rent pursuant to Section 3.32.050.

3.32.030 Rent Review Officer

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.

3.32.040 Hearing Officer

The Rent Review Officer may serve as or may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

3.32.050 Standard Rent Increase

The annual Space Rent shall not be increased by more than four percent (4%). Section 3.32.080 herein governs the maximum increase in Space Rent allowable upon an event of vacancy.

3.32.060 Non Standard Rent Increase

- A. If dissatisfied with the maximum Space Rents permitted by Section 3.32.050 of this chapter, a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the twelve (12) month period following the first full day the last Space Rent increase is put into effect.
- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.

- C. A hearing will be held upon receipt of a complete application and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by clear and convincing evidence.
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
 - 1. Unavoidable increases in maintenance and operating expenses;
 - 2. The costs of substantial rehabilitation or the addition of Capital Improvements;
 - 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, reductions in Housing Services, and the occupancy rate;
 - 4. The physical condition of the affected Mobile Home spaces and Park;
 - 5. Existing Space Rents for comparable Mobile Home spaces in other comparable Parks in the area;
 - 6. Current and historic net operating income;
 - 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
 - 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
 - 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Non Standard Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Non Standard Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Non Standard Rent Increase or deny the request.
- H. If a Non Standard Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not form a part of the Base Rent. In addition, that portion of the

increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

3.32.070 Notices Required

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made readily available in an on-site management office, the Park Owner shall immediately notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law may be reviewed.

3.32.080 Vacancy Decontrol

A Park Owner shall be permitted to charge a new Space Rent for a Mobile Home space whenever a lawful space vacancy occurs. The new Space Rent shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as any of the following:

- A. An in-place transfer, which is a sale, transfer or other conveyance of a Mobile Home with the Mobile Home remaining on the Mobile Home space following the sale, transfer or conveyance. A transfer of title whereby the Mobile Home Owner adds or removes one or more co-owners and continues to reside in the Mobile Home as his or her primary residence shall not constitute an in-place transfer.
- B. A vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the Mobile Home Owner who will no longer be resident of the Park. A removal of the Mobile Home from the space for the purpose of performing rehabilitation or Capital Improvements to the space or for the purpose of upgrading the Mobile Home with a newer Mobile Home shall not constitute a voluntary removal of the Mobile Home under this section.
- C. A vacancy occurring after the Park Owner obtains a judgment of unlawful detainer (an eviction), a judgment of abandonment for an "abandoned mobilehome" as defined by and pursuant to the Mobilehome Residency Law, or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended.
- D. Abandonment of the Mobile Home as determined by a judgment of abandonment pursuant to Section 798.61 of the Mobilehome Residency Law.

3.32.090 Mobile Home Park Registration

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. A list of the Park Owner's Parks and all associated Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for all Park Owners;
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all rent, charges and fees other than Space Rent charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change.

3.32.100 Conduct of Proceedings, Hearings

- A. Within ten (10) working days of the filing of a complete petition for a Non Standard Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- E. In the event that either the Park Owner applying for the Non Standard Rent Increase or the affected Mobile Home Owner(s) or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Non Standard Rent Increase.

- F. Materials received in conjunction with a petition for Non Standard Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years and shall be available for review by the public during normal working hours.

3.32.110 Decision of the Hearing Officer

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Non Standard Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Non Standard Rent Increase at an amount less than requested.

3.32.120 Mobile Home Owner's Right of Refusal

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

3.32.130 Three-Year Review

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a three (3) year period.

3.32.140 Administration Fees

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. One hundred percent of this fee shall be paid by Park Owners to the County. The costs shall be apportioned equally to all Mobile Home spaces in the unincorporated County, with each Park Owner responsible for its pro-rata share. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners, in their respective Parks. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces in the Park Owners' respective Parks.

3.32.150 Direct Cost Fees

The direct costs incurred in the processing of a request for a Non Standard Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a deposit from a Park Owner prior to processing an application for a Non Standard Rent Increase.

3.32.160 Implementing Rent Review Procedures

The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

3.32.170 Appeals

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

3.32.180 Severability

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

3.32.190 No Takings

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

3.32.200 Consistency with State and Federal Law

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on
April 11, 2017, by the following called vote:

AYES: Supervisors Carson, Haggerty, Miley & Valle
NOES: President Chan
EXCUSED: None



WILMA CHAN, President of the Board of
Supervisors, County of Alameda,
State of California

ATTEST:
Clerk of the Board of Supervisors

By: RB Bailey, Deputy

Approved as to form:
DONNA R. ZIEGLER, County Counsel

By: Heather Littlejohn
Heather Littlejohn
Deputy County Counsel



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

Chris Bazar
Agency Director

Agenda Item _____ February 21, 2017

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February 7, 2017

Honorable Board of Supervisors
Administration Building
Oakland, California 94612

Dear Board Members:

**SUBJECT: ALAMEDA COUNTY MOBILE HOME SPACE RENT
STABILIZATION ORDINANCE**

RECOMMENDATION:

Adopt an ordinance amending Chapter 3.32 of Title 3 of the Alameda County Ordinance Code, to modify the maximum annual standard rent increase and the procedures applicable to rent increases for mobile home park spaces in the unincorporated areas of the County.

DISCUSSION/SUMMARY:

The current Mobile Home Space Rent Stabilization Ordinance (Ordinance) was adopted in 1990 and has not been updated since. The Ordinance is short, without specificity or details about how to implement it and allows a 5% annual increase in rents each year. It further allows park owners to apply for higher than a 5% increase, but does not specify the factors that will be taken into account when considering such a request. The Ordinance does not require any reporting or data collection.

The Ordinance also imposes strict vacancy control. This means that space rent remains the same and does not increase more than the standard amount allowed annually, except when a mobile home has been abandoned or the owner has been evicted.

As stated in the current adopted Ordinance, the Board's original intent was to "*protect the owners and occupiers of mobile homes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service and utility government assessments.*"

In response to concerns raised by mobile home residents in the Unincorporated County about space rents becoming increasingly unaffordable at certain parks, the Community Development Agency's (CDA) Housing and Community Development Department (HCD) was asked to review the County's Ordinance. Residents repeatedly expressed concerns that that 5% increases, when instituted annually and compounded year-over-year, are unreasonable and do not appear related to increases in a park's operating costs.

Staff reviewed provisions of other mobile home space rent ordinances locally and statewide, took public testimony in an initial series of public hearings, and held a series of informal stakeholder meetings: three with mobile home park owners and three with mobile home park residents. These meetings were held between February and July 2015. In early 2015, staff also conducted surveys of park owners and residents to elicit data regarding current space rents, rates of rent increases, and other pertinent park information in the Unincorporated County.

Finally, staff brought the proposed draft Ordinance to the Castro Valley Municipal Advisory Council (MAC) on February 4, 2016, the Planning Commission on March 7, 2016 and the Unincorporated Services Committee on December 7, 2016.

PROPOSED ORDINANCE

The proposed draft Ordinance is Exhibit A.

The proposed draft Ordinance promotes rent stabilization and affordable housing through the combined impact of rent control and vacancy control. As a result, the Ordinance serves to prevent displacement of current County mobile home residents, many of whom are low-income senior citizens.

The key provisions are summarized below.

1. Annual Standard Rent Increase - *Proposed Ordinance: The maximum allowable annual space rent increase is a flat rate of 4% of the space rent with no banking allowed.*

This is a compromise between mobile home park owners' and mobile home residents' positions expressed during stakeholder meetings. This compromise is supported by the Castro Valley Municipal Advisory Committee, the Planning Commission and the Unincorporated Services Committee.

While the majority of California jurisdictions with mobile home space rent ordinances limit their space rent increases to the average annual increase of the Consumer Price Index, some mobile home residents expressed concerns that a complicated mechanism to calculate limits on space rents would be challenging to understand. Additionally, mobile home park owners felt that the Consumer Price Index ("CPI") annual average would constitute a rent increase too small to make the parks financially sustainable, even with a proposed "floor," below which a maximum increase could not go no matter how low the CPI fell.

The proposal is a compromise that allows for a lower maximum increase than the current 5%, but a high enough allowable annual increase so that the park owners feel they can sustain their parks financially. "Banking" of any annual increases not imposed on a current tenant and then imposing the 'banked' increases at a later date is not allowed so as not to create the imposition of a potentially unwieldy financial burden above 4% on a current park resident in one calendar year.

2. Vacancy Control - *Proposed Ordinance:*
 - a. *Full vacancy decontrol allowed in instances of eviction, abandonment or voluntary removal.*

b. Modified vacancy decontrol allowed for in-place transfers, of not more than three times the annual standard rent increase each calendar year.

Except in occurrences of eviction, abandonment or voluntary mobile home removal, modified vacancy decontrol allows an increase in space rent upon in-place transfer of up to three times the allowable annual rent increase, and no banking provision. This is staff's recommendation. It is presented in the proposed Ordinance attached to the Staff Report as Exhibit A and listed as Option 2-A below.

Staff recommends this form of modified vacancy control because it allows a park owner to raise space rents closer to the current market rate and keeps any possible increase relevantly related to other rents in the same park. An allowable space rent increase of three times the annual space rent also permits the rent to get closer to market rate without overly adverse impact on the mobile home sale price.

This form of modified vacancy control allows park owners additional income while ensuring that the mobile home parks remain a consistent source of affordable housing in the County for successive residents. This is especially true for low-income senior citizens who frequently have family and community ties in the County and whose source of income is frequently limited to Social Security.

At the December 7, 2016 Unincorporated Services Committee meeting, Supervisor Miley supported full vacancy decontrol in all circumstances. Supervisor Chan requested that the vacancy control provision be addressed by the full Board of Supervisors. There are many possible variations of vacancy control provisions. These are outlined in Exhibit C. Below are the three primary options in summary.

Option 1 – Full Vacancy Decontrol. Rents may be increased up to market rate whenever a vacancy occurs. This option is recommended by the Castro Valley MAC and the Planning Commission. Exhibits F and G contain the minutes from these minutes. (Castro Valley MAC Councilmember Sadoff opposed full vacancy control, stating that there was no indication that mobile home park owners would not raise rents to the maximum extent in all circumstances, and that he preferred a modified form of vacancy control to full decontrol.)

Option 2 – Modified Vacancy Decontrol. Rents may be increased above the maximum allowable annual standard increase in space rent but with a cap on the percent or amount. There are many options for what the cap could be and how it can be determined. The proposed ordinance includes this option, is discussed above.

Option 3 – Strict Vacancy Control. Rent may not be increased more than the maximum allowable annual space rent increase due to in-place transfer unless a request for a Non-Standard Rent Increase is approved. This option maintains the parks as an affordable option for low income residents. Owners have indicated it does not allow for sufficient increases to cover costs. Park residents have indicated that unless there is strong oversight it is difficult to enforce this option.

3. Board of Supervisors Review After Three Years- Proposed Ordinance: the Housing Director will provide a report regarding the administration of this ordinance to the Board at least once in a three year period.

In order to ascertain how much staff time is required to administer an updated Ordinance, as well as the effectiveness of the Ordinance, a three-year review allows time for sufficient data to accumulate. This review period is recommended by both the Unincorporated Services Committee as well as the Planning Commission and HCD staff. The Castro Valley MAC preferred a one-year review, and, although not included in the motion, Chairman Ratto and Commissioner Goff indicated support of a three-year period of review. Since the proposed ordinance language is "at least one in a three year period" more frequent reviews can be conducted should the Board direct that to occur.

4. Non-Standard Rent Increases- Proposed Ordinance: A non-standard rent increase above the annual standard rent increase may be allowed, if approved, through a park owner's petition and demonstration of need at a hearing. Capital improvement pass-throughs may be considered as part of this.

The current Ordinance allows park owners the ability to petition for a rent increase above that of the standard annual rent increase by submitting a request to the County, but does not provide guidance on factors to consider in granting a request. The proposed Ordinance maintains that ability to petition for a non-standard rent increase upon review of extenuating financial circumstances and outlines some aspects of the process for such a petition. The process and factors for a non-standard rent increase are recommended by the Planning Commission, the Castro Valley MAC and the Unincorporated Services Committee as well as by HCD staff.

5. Administration Fee- Proposed Ordinance: The County may charge an administrative fee at the Board of Supervisors' discretion, but charging a fee is not mandated. This fee must be paid by the park owners, but the cost may be split 50/50 between park owners and residents.

The Proposed Ordinance includes an administrative fee at the Board of Supervisors' discretion, as it is anticipated that staff time to administer the ordinance will increase under the proposed Ordinance to review the annual rent rolls for compliance with the ordinance, as well as reviewing and responding to possible complaints. An additional fee to the park owner would be charged to process any potential non-standard rent increase requests; no other funding stream exists within HCD currently to cover these costs. The standard fee cost would be split equally among residents and owners. The Castro Valley MAC, Planning Commission and Unincorporated Services Committee are in agreement that this administration fee should not be imposed immediately, but should be included in the Ordinance as a possible fee to be imposed in the future by the Board. Additionally, the Castro Valley MAC recommends recording and tracking of all complaints to HCD, specifically including the type of complaint. Staff is supportive of this recommendation. Tracking this additional data will increase staffing costs and will be evaluated as part of the staffing cost analysis.

Exhibit B is information on some of these key issues from other jurisdictions' mobile home rent stabilization ordinances.

FINANCING:

Any fees to be charged under this ordinance will be brought back before the Board and include a public review. There is no increase in Net County Cost as a result of this action.

ATTACHMENTS:

- Exhibit A (proposed Ordinance with a summary of changes from the current ordinance)
- Exhibit B (Common Key Issues)
- Exhibit C (Vacancy Control Options)
- Exhibit D (Background and Research Report)
- Exhibit E (Unincorporated Services Committee December 7, 2016 meeting minutes)
- Exhibit F (Planning Commission March 7, 2016 meeting minutes)
- Exhibit G (Castro Valley MAC February 4, 2016 meeting minutes)

Very truly yours,



Chris Bazar, Director
Community Development Agency

cc: Susan S. Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Steve Manning, Auditor-Controller
Melanie Atendido, County Administrator's Office
Heather M. Littlejohn, Office of the County Counsel
U.B. Singh, CDA Finance Director

Exhibit A

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING CHAPTER 3.32 OF THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE REGARDING MOBILE HOME RENT REVIEW PROCEDURES

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. The County adopted a mobile home rent stabilization ordinance in 1990, codified as Chapter 3.32 of the Alameda County General Ordinance Code. This existing ordinance limited annual rent increases for spaces in mobile home parks to 5% and allowed park owners to apply for an additional increase.
2. County staff studied the existing ordinance, and its effect on both owners of mobile home parks, as landlords, and owners of mobile homes, as tenants, and recommends an amendment to the ordinance to address the concerns raised by both groups.
3. Mobile home owners, unlike apartment tenants or residents of other rental units, are in the unique position of having made a substantial investment in a residence for which space is rented or leased as distinguished from owned.
4. Alternative sites for the relocation of mobile homes are difficult to find due to the shortage of vacant mobile home spaces, the restrictions on the age, size, or style of mobile homes permitted in many mobile home parks, and requirements related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home is substantial and the risk of damage in moving is significant.
5. The state of California has recognized, by the adoption of legislation regulating tenancies of mobile home owners in mobile home parks, that there is a significant distinction between the tenants (mobile home owners) of mobile home parks and other dwelling units, and the County of Alameda likewise has recognized the unique position of mobile home owners as tenants of mobile home parks.
6. Although mobile home owners benefit from some aspects of homeownership, the benefit is more limited than in traditional homeownership, because the investment in the mobile home is subject to the rental conditions for the underlying land, which conditions are not in the control of the mobile home owner.
7. The existence of housing alternatives for mobile home owners is largely dependent on the maintenance of their equities in their mobile homes. They can relocate to other types of housing only if they can use equity in their mobile homes to transition to other types of housing.
8. The result of these conditions has been and continues to be the creation of a captive market of mobile home owners and a great imbalance in the bargaining position of the park owners and mobile home owners in favor of the park owners.

9. This market situation has contributed or threatens to contribute to unreasonable space rent increases for mobile home spaces. This situation has resulted in serious concern and stress among significant portions of Alameda County residents living in mobile home parks, negatively impacting the health, safety and welfare of the community.
10. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, significant rent increases create heightened risks of displacement and financial insecurity for these vulnerable populations, which negatively impacts the health, safety and welfare of the community.
11. This market situation has also contributed to or threatens to contribute to other practices by park owners which this ordinance also seeks to remedy or prevent, including protections against retaliation.
12. Pursuant to existing state law, a local rent stabilization ordinance must allow mobile home park owners, as landlords, to earn a fair return on their investment.
13. Additionally, mobile home park owners are responsible for maintaining and improving the conditions of their mobile home park and rely on rental income to fund these activities, which may include significant capital improvements and costly ongoing maintenance.
14. By implementing a maximum annual standard rent increase for mobile home spaces, and by adopting revised procedures for park owners seeking a non-standard rent increase, the amended ordinance balances the goal of stabilizing rents and rental conditions for mobile home owners and the goals of allowing park owners the opportunity to earn a fair return and to efficiently manage the mobile home park.
15. This ordinance should not be interpreted or applied in a way that would deprive a park owner of the constitutionally protected right to receive a just and reasonable return on their property.

SECTION II

Chapter 3.32 of the Alameda County General Ordinance Code is hereby amended to read as follows:

Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

3.32.010 Findings and Purpose

There is presently within the unincorporated area of Alameda County and the surrounding areas a shortage of space for location of mobilehomes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the high cost of moving mobilehomes and the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile-home owners, and the substantial investment of mobilehome owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and

rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service, utilities and government assessments.

3.32.020 Definitions

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

"Hearing Officer" means the person serving or designated pursuant to Section 3.32.040.

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his or her assigned deputies and employees.

"Housing Services" means services provided by the owner related to the use or occupancy of a Mobile Home space, including but not limited to insurance, repairs, replacements, maintenance, painting, lighting, heat, water, refuse removal, laundry facilities, recreation facilities, parking security, and employee services.

"Non Standard Rent Increase" means an increase in rent pursuant to Section 3.32.060.

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code § 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in California Civil Code § 799.24, a commercial coach, as defined in California Health & Safety Code § 18001.8, or factory-built housing as defined in California Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile Home dwelling units in the unincorporated area of Alameda County.

"Park Owner" means the owner, lessor, operator or manager of a Park.

"Rent Review Procedures" means the written procedures adopted by the Housing Director pursuant Section 3.32.170.

"Rent Review Officer" means the person serving or designated pursuant to Section 3.32.030.

"Space Rent" means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

"Standard Rent Increase" means an increase in rent pursuant to Section 3.32.050.

3.32.030 Rent Review Officer

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.

3.32.040 Hearing Officer

The Rent Review Officer may serve as or may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

3.32.050 Standard Rent Increase

The annual Space Rent shall not be increased by more than four percent (4%). Section 3.32.090 herein governs the maximum increase in Space Rent allowable upon an Event of Vacancy.

3.32.060 Non Standard Rent Increase

- A. If dissatisfied with the maximum Space Rents permitted by Section 3.32.050 of this chapter, a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the twelve (12) month period following the first full day the last Space Rent increase is put into effect.
- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.

- C. A hearing will be held upon receipt of a complete application and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by clear and convincing evidence.
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
 - 1. Unavoidable increases in maintenance and operating expenses;
 - 2. The costs of substantial rehabilitation or the addition of Capital Improvements;
 - 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, reductions in Housing Services, and the occupancy rate;
 - 4. The physical condition of the affected Mobile Home spaces and Park;
 - 5. Existing Space Rents for comparable Mobile Home spaces in other comparable Parks in the area;
 - 6. Current and historic net operating income;
 - 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
 - 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
 - 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Non Standard Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Non Standard Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Non Standard Rent Increase or deny the request.
- H. If a Non Standard Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not form a part of the Base Rent. In addition, that portion of the

increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

3.32.070 Notices Required

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made readily available in an on-site management office, the Park Owner shall immediately notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law may be reviewed.

3.32.080 Vacancy Decontrol-Evictions, Abandoned Mobile Homes or Voluntary Removal

- A. A Park Owner may increase Space Rent by any amount when renting a Mobile Home space after obtaining a judgment of unlawful detainer (an eviction) or a judgment of abandonment for an "abandoned mobilehome" as defined by and pursuant to the Mobilehome Residency Law. The new Space Rent established for the Mobile Home space shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated.
- B. A Park Owner may also increase Space Rent by any amount upon a vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the owner who will no longer be a resident of the park. A removal of the Mobile Home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading or replacing the Mobile Home with a newer Mobile Home shall not constitute a voluntary removal of the Mobile Home under this section.

3.32.090 Modified Vacancy Control

After an In-place Transfer (sale, transfer or other conveyance of a Mobile Home with the Mobile Home remaining on the Mobile Home space following the sale, transfer or conveyance) the Park Owner may increase the Space Rent for the space underlying the Mobile Home up to a maximum of three times the annual Standard Rent Increase, in any given calendar year. A transfer of title whereby the Mobile Home Owner adds or removes one or more co-owners and continues to reside in the Mobile Home as his or her primary residence shall not constitute an In-place Transfer.

3.32.100 Mobile Home Park Registration

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. A list of the Park Owner's Parks and all associated Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for all Park Owners;
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all other rent, charges and fees charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change.

3.32.110 Conduct of Proceedings, Hearings

- A. Within ten (10) working days of the filing of a complete petition for a Non Standard Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- E. In the event that either the Park Owner applying for the Non Standard Rent Increase or the affected Mobile Home Owner(s) or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Non Standard Rent Increase.
- F. Materials received in conjunction with a petition for Non Standard Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years and shall be available for review by the public during normal working hours.

3.32.120 Decision of the Hearing Officer

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Non Standard Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Non Standard Rent Increase at an amount less than requested.

3.32.130 Mobile Home Owner's Right of Refusal

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

3.32.140 Three-Year Review

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a three (3) year period.

3.32.150 Administration Fees

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. One hundred percent of this fee shall be paid by Park Owners to the County. The costs shall be apportioned equally to all Mobile Home spaces in the unincorporated County, with each Park Owner responsible for its pro-rata share. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners, in their respective Parks. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces in the Park Owners' respective Parks.

3.32.160 Direct Cost Fees

The direct costs incurred in the processing of a request for a Non Standard Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a deposit from a Park Owner prior to processing an application for a Non Standard Rent Increase.

3.32.170 Implementing Rent Review Procedures

The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

3.32.180 Appeals

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

3.32.190 Severability

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

3.32.200 No Takings

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

3.32.210 Consistency with State and Federal Law

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on _____, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN, President of the Board of
Supervisors, County of Alameda,
State of California

ATTEST:
Clerk of the Board of Supervisors

By: _____

Approved as to form:
DONNA R. ZIEGLER, County Counsel

By:  _____
Heather Littlejohn
Deputy County Counsel

Exhibit B - Common Key Issues From Other Jurisdictions' Ordinances

At the December 7th Planning Commission meeting, the Commission requested additional information on common key issues from other jurisdictions' mobile home rent stabilization ordinances. The following charts lay out the policy of the current adopted Ordinance in the Unincorporated County, and compare it to ordinances in other Bay Area jurisdictions. These are presented to your Committee as possible alternatives for consideration and discussion.

Limits on Annual Rent Increases: the amount that park owners can increase space rents annually without approval or application (by right). More information on the maximum amount of rent increases by jurisdiction can be found in Exhibit C. Below is a summary of Bay Area jurisdictions' mobile home rent stabilization ordinances on this issue:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>5% of rent annually; no banking</i>
Fremont	Greater of 60% of CPI, 3% of rent or \$10/month; no banking
Union City	Lesser of 90% of CPI or 7% of rent, no banking
Hayward	60% of CPI, with a floor and a ceiling, no banking
Pleasanton	100% of CPI with a floor and a ceiling, no banking
Concord	Lesser of 80% of CPI or 5% of rent; no banking
Contra Costa County	Greater of 75% of CPI or 2% of rent; no banking
Gilroy	Lesser of 80% of CPI or 5% of rent; no banking
Milpitas	Lesser of 50% of CPI or 5% of rent; no banking
San Jose	75% of CPI with a floor and a ceiling; banking allowed for two years only within those two years
Sonoma County	Lesser of 100% of CPI or 6% of rent; no banking
<i>Proposed Alameda County Ordinance</i>	<i>4% of rent annually, no banking*</i>

* Note: Banking rent increases was introduced by staff in the version of the draft proposed Ordinance proposed to the Planning Commission on December 7th as part of a modified vacancy decontrol proposal. It was not intended to be a separate item. One of the vacancy control options presented in Exhibit B provides for banking, but banking as a separate concept is not included in the proposed draft.

Capital Improvement Pass-through: Some mobile home rent stabilization ordinances allow for the pass-through of some or all of capital improvement costs, especially when the annual increase allowed is minimal or limited. Below is a summary of Bay Area jurisdictions' mobile home rent stabilization ordinance provisions regarding capital improvement pass-through:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Not included as a separate item (may be considered under major rent increase)</i>
Fremont	Only for new improvements. Pro-rata share with residents cannot exceed 5% of space rent
Union City	Not included as a standalone provision
Hayward	Not included as a standalone provision
Pleasanton	Not included as a standalone provision
Concord	Not included as a standalone provision
Contra Costa County	Included as a separate provision, upon petition and by approval.
Gilroy	Not included as a standalone provision
Milpitas	Not included as a standalone provision
San Jose	Not included as a standalone provision, but specifically allowed as part of major rent increase
<i>Proposed Alameda County Ordinance</i>	<i>Not included as a standalone provision, but specifically allowed as part of major rent increase</i>

Non Standard Rent Increase (formerly Major Rent Increase): Some mobile home rent stabilization ordinances allow for an additional increase in rent, if approved, to address extraordinary cost increases. These are generally by petition and must demonstrate the need for the additional increase. Below is a summary of the major rent increase provisions of Bay Area jurisdictions' ordinances:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Allowed by petition</i>
Fremont	Allowed by petition
Union City	Allowed by petition
Hayward	Allowed by petition
Pleasanton	Allowed by petition
Concord	Allowed by notice. May be challenged by resident petition
Contra Costa County	Allowed by petition
Gilroy	Allowed by petition
Milpitas	Allowed by petition
San Jose	Allowed by petition
<i>Proposed Alameda County Ordinance</i>	<i>Allowed by petition, and may include capital improvement as a justification</i>

Exhibit C – Vacancy Control Options

The current adopted Ordinance includes strict vacancy control. This means that space rent remains the same and does not increase more than the standard amount allowed annually, except when a mobile home has been abandoned or the owner has been evicted. The current adopted Ordinance also does not allow for banking any ‘by right’ rent increases to be taken later, should a mobile home park owner not impose the maximum ‘by right’ rent increase each year.

As briefly described in the Staff Report, a range of options exist concerning vacancy control. For example, full vacancy decontrol would allow park owners to raise space rents above the standard annual amount without limitation. Modified vacancy decontrol allows some increases in rent at transfer, but places limits on the amounts.

Stakeholders have differing opinions regarding vacancy control. Park owners have requested full vacancy decontrol as well as the ability to bank standard annual rent increases that they choose not to levy. Mobile home owners have requested that strict vacancy control be maintained and no ability to bank annual increases be allowed.

At the December 7th Planning Commission hearing, the Commission asked for information about vacancy control sections in other ordinances as a comparison of possible options. Within Alameda County, three jurisdictions (Hayward, Union City and Pleasanton) maintain strict vacancy control. Fremont’s ordinance contains modified vacancy control, which allows a 15% space rent increase at time of transfer until 2019 and after 2019 allows for a rent increase equal to the percent of CPI change between times of transfer, not to exceed 15%.

Outside of Alameda County, Contra Costa County and the cities of Milpitas and San Jose maintain strict vacancy control, while Sonoma County and Gilroy allow full vacancy decontrol in all circumstances. The City of Concord’s ordinance contains modified vacancy control, which allows for a 10% increase at time of transfer, no more than once every 24 months.

These jurisdictions’ vacancy control provisions, as well as other provisions in their mobile home rent stabilization ordinances, are detailed in tables contained within the staff report.

Presented below are a number of possible vacancy control options for your Committee’s consideration.

Option 1: Full Vacancy Decontrol

Full vacancy decontrol would allow park owners to raise space rents above the standard annual amount without limitation. Sample ordinance language for this option is:

A mobile home park owner shall be permitted to charge a new space rent for a mobile home space whenever a lawful space vacancy occurs. The new space rent shall become the base rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as follows:

A. An In-place Transfer;

B. A vacancy occurring because of eviction or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome residency law, California Civil Code Sections 798.55 through 798.60, as amended;

Further, the mobile home sale price can be impacted by rent increases as the unique nature of a mobile home necessitates that a potential mobile home purchaser must consider both the space rent and the purchase price of the mobile home when considering whether to buy an existing home in a park. Theoretically, a lower space rent allows for the financial ability to absorb a higher purchase price; the opposite is also true.

Option 2 –B: Modified Decontrol with Average of Three Highest Space Rents in the Unincorporated County

This option allows the space rent to be increased at unit turnover by the average of the highest three space rents in mobile home parks in the Unincorporated County.

Sample ordinance language for this option is:

Upon closure of an in-place transfer of a mobile home, the park owner may increase the space rent, up to the average of the highest three space rents in the unincorporated areas of the County, based on the most recent year's annual reports to the County.

This option potentially does not impact the sale price of the coach to the extent that full decontrol may, as there is an upper limit placed on the maximum rent the owner is allowed to charge a new tenant. However, given the differences between mobile home parks in the Unincorporated County, a modified decontrol that hinges on space rents in parks other than the one in which a transfer is occurring may not be a limit that is relevant or fair to the park owner. Further, similar to Option 2, this option might be considered overly constrictive by the park owners because it limits space rent increases at time of transfer, while not allowing banking.

Option 3: Strict Vacancy Control (Current Adopted Ordinance) and Allow Banking

This option does not allow the space rent to be increased at unit turnover beyond the annual allowable standard increase, but allows the park owner to bank untaken standard space rent increases and recapture any amount of those untaken increases at the time of vacancy.

Sample ordinance language for this option is:

If a park owner has not implemented the maximum annual standard rent increases allowed for a particular mobile home space, the space rent may be increased to the level that would have been allowed had the park owner implemented annual standard rent Increases to the extent permitted by this chapter. Such rent increase may be implemented on the mobile home owner or his/her heirs or successors at any time, provided that no other rent increase has been imposed within the prior twelve (12) months. Notwithstanding the foregoing, a rent increase pursuant to this section following an in-place transfer may take place within twelve (12) months of a prior rent increase.

This option responds to park owner desire to be able to recapture any amount of annual standard rent increases that they choose voluntarily not to impose in any given year. In stakeholder meetings, park owners have maintained that at times they have foregone imposing all or some of the annual increases for various reasons and do not want to feel that they must impose the standard annual increases every year, or else they will lose the ability to recover that rent.

Option 3 allows park owners to recover those untaken space rents at the time of vacancy, while maintaining affordability for the current coach owner. However, park owners have argued that

Exhibit D - Mobile Home Rent Stabilization Ordinance - Research Report

Research

There are more mobile home parks in the Unincorporated County than in any other city in the County. County parks have fewer spaces in each park on average than those in other jurisdictions. Alameda County has 19 parks, with an average size of 33 spaces. As a comparison, Hayward has the second largest number of parks: 10 parks with an average park size of 213 spaces. The following chart provides detail regarding mobile home parks within Alameda County:

Alameda County Jurisdictions with Mobile Home Parks		Rent Stabilization Ordinance?	Number of Parks	Total Number of Spaces	Smallest Park	Largest Park	Average Size
1	Unincorporated	Yes	19	622	8	86	33
2	Hayward	Yes	10	2131	37	462	213
3	San Leandro	No	8	827	30	366	105
4	Livermore	No	7	443	14	159	63
5	Pleasanton	Yes	4	404	14	208	101
6	Fremont	Yes	3	732	165	331	244
7	Oakland	No	3	49	10	26	16
8	Union City	Yes	2	896	352	544	448

Research on mobile home rent stabilization ordinances throughout the State of California revealed that there are a total of 95 jurisdictions in the State that have rent stabilization ordinances governing their mobile home parks. Of these 95, the majority of them utilize a combination of a Consumer Price Index (CPI) and a flat rate percentage to govern rent increases. Alameda County is the only jurisdiction in California which calculates its allowable space rent increase solely as a percentage of the current space rent (flat 5% as opposed to being tied to the CPI).

Briefly, these differences can be illustrated by an example utilizing the February, 2015 CPI rate for the San Francisco – Oakland – San Jose area of 2.5% and the average reported mobile home space rent in the unincorporated county of \$624/month.¹ Under Alameda County's current Ordinance allowing up to a 5% increase, the rent could be increased by \$31.20/month, the highest in the Bay Area.

Jurisdiction	Increase Allowed Based on:	Amount of Increase
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¹ \$624/month average space rent was calculated utilizing the average space rents reported by park owners through HCD's survey, weighted by the number of spaces in each park.

Unincorporated	5% of the Space Rent	\$31.20
Fremont	60% of CPI or 3% of Space Rent or \$10/month	\$18.72
Hayward	60% of CPI or 3% of Space Rent	\$18.72
Pleasanton	100% of CPI	\$15.60
Union City	90% of CPI	\$14.04

In Alameda County, if the space rent were raised by the maximum 5% per year between the adoption of the Ordinance in 1990 through 2014, the space rent would be increased by 120% over that period. Over that same time period, other jurisdictions allowable rent increases were significantly less:

Year	Alameda County Max. Increase	Fremont Max. Increase	Hayward Max. Increase	Union City Max. Increase	Annual Average CPI
Cumulative Increase	120.0%	86.4%	74.6%	61.3%	65.6%

Staff reviewed actual mobile home space rents in neighboring jurisdictions by researching single wide mobile homes for sale in Hayward and San Leandro in Spring 2015, and determining their space rents. For context, the City of Hayward has a mobile home rent stabilization ordinance; the City of San Leandro does not. For more detail on rents at County parks and comparison of rents in other jurisdictions, please see pages 5 and 6 of this report.

From the seven owner surveys received, mobile home space rents in the Unincorporated County at the higher end of the rent spectrum are comparable to those in Hayward and San Leandro. However, the Hayward and San Leandro mobile home parks contain significantly more amenities than any mobile home park in the Unincorporated County, despite comparable space rents. It should be noted that these parks have more spaces than those in the Unincorporated County, and therefore can spread the costs of amenities over more spaces due to the economies of scale.

Standard Economic Indicators

To compare the maximum rent increase allowed under the Alameda County Mobile Home Rent Stabilization Ordinance, staff looked for other widely used economic indicators that can be tracked over time. The three most relevant include the Consumer Price Index, Contract Rent from the US Census, and the published HUD Fair Market Rents. The key information is the change over time, in comparison to the allowed change over time in allowed mobile home rent increases. The below chart shows the change in these economic indicators from 1990 through 2014.

Maximum Allowable Rent Increases Against Standard Economic Indicators

1991-2014	Alameda County Max. Increase	Consumer Price Index	Alameda County Median Rent Increases (Census Data)	Fair Market Rents
Cumulative Increases	120.0%	65.0%	75.6%	83.0%

The maximum allowable increase to mobile home space rents referenced above, do not take into account the compounding nature of year over year increases, and therefore this is the straight increase, and not the actual increase, which is higher.

Summary of Resident and Owner Issues from Stakeholder Meetings

Six stakeholder meetings, held between March 2015 and July 2015, were facilitated by HCD staff. There are 19 mobile home parks in the Unincorporated County. Residents or owners of 11 of those parks participated in the stakeholder meetings. Meetings were held separately with park residents and park owners in order to encourage candid discussion of stakeholder concerns. Both groups of stakeholders expressed general agreement that the stakeholder meetings were productive and respectful. Complete summary notes from these stakeholder meetings can be found on HCD's website at: www.acgov.org/cda/hcd/mobilehome/index.htm.

Mobile home park residents at the stakeholder meetings expressed a preference for lower limits on annual rent increases, even if that meant vacancy decontrol and capital improvement pass-through are also allowed.

It is important to note that not all Alameda County parks have the same characteristics nor are they run in the same manner. As a result, not every park resident's concerns are the same, nor were all the residents' concerns expressed in these meetings. Concerns raised by the residents included excessive rent increases, inadequate park maintenance and insufficient communication with park management. In some cases, residents also reported that park owners refused to disclose to the current coach owner what the new rent will be if the unit sells, so that the current owner can factor that information into the listing. Some residents expressed historical reticence to discuss concerns with park management for fear of retribution.

Residents want to see maximum allowable rent increases lowered, though some residents expressed concern with a maximum tied to a calculation of the CPI increase unless HCD calculates the percentage and provides that determination to both the owners and the residents annually. Generally, residents liked the idea of tying increases to improvements at the park, although they would prefer to have input into the capital improvement through a vote. Residents are supportive of regulations which provide them with additional information regularly, including tenant grievance and appeal procedure, as well as State and local mobile home regulations.

Most park owners attending the stakeholder meetings expressed that if more stringent rent increase limits are imposed, they desire the ability to pass through costs of necessary capital improvements in addition to rent increases, in order to pay for the cost of those improvements.

The owners also expressed a strong preference for partial to total vacancy decontrol. Concerns raised by park owners included the need for space rents to adequately cover the costs of park operations, as well as for capital improvements and maintenance. Overall, owners expressed a preference for completely eliminating the Ordinance and, short of that, having no change to the current annual rent increase limit. If there is a change to a CPI model, owners prefer a minimum annual increase, regardless of the CPI level. If the current maximum rent increase limit is maintained, owners do not feel a capital improvement pass-through is necessary; but if the ordinance maximum annual rent increase is lowered, the ability to have a capital improvement pass-through is desired. Owners do not want resident votes on capital improvements, but if necessary, owners believe residents should only be able to vote on new and optional improvements, rather than on capital improvements necessary for maintenance or substantial health and safety-related repairs.

Survey Results Regarding Rents and Rent Increases

The current adopted Ordinance does not require that owners report to the County actual rents charged, or that they provide any information to the County when they raise rents, therefore actual rents were difficult to establish. Lack of data from the mobile home parks has been a significant challenge in this process.

To gather data, surveys were distributed electronically and/or by hard copy to residents and owners from February to April, 2015 in order to ascertain rent data and other pertinent information from park owners and residents. Responses from park owners or their representatives from seven out of nineteen mobile home parks were received. Seventy-four residents from ten mobile home parks were represented in the resident survey.

Through the surveys, mobile home park residents or owners reported the following annual rent increases during the years 2010-2014:

Mobile Home Park	City	Yearly Rent Increase	Years
Avalon	Castro Valley	5%	All
Chetwood Crest	Castro Valley	5%	All
Fuchsia Court	San Leandro	3-5%	All
Paradise	San Leandro	5%	All
Tra Tel	Castro Valley	5%	All
Wishing Well	Castro Valley	5%	All
Wagon Wheel	Castro Valley	2-5%	2010, 2011, 2012, 2014
Vaughn's	Castro Valley	5%	2013

The mobile home park owner survey also collected information regarding average, highest and lowest space rents, and utilities for resident-owned mobile homes, as indicated in the chart below. Not all owners responded, and therefore data was not available for all parks.

Mobile Home Park	City	Average Rent	Highest Rent	Lowest Rent	Utilities Extra
Avalon	Castro Valley	\$427.00	\$490.00	\$380.00	No
Chetwood Crest	Castro Valley	\$658.00	\$848.00	\$559.00	Yes
Fuchsia Court	San Leandro	\$555.00	\$555.00	\$555.00	Yes
Paradise	San Leandro	\$698.00	\$835.34 (double space)	\$692.00	Yes
Tra Tel	Castro Valley	\$550.00	\$550.00	\$491.00	Yes
Wishing Well	Castro Valley	\$672.49	\$760.88	\$584.10	Yes
Wagon Wheel	Castro Valley	\$670.00	\$697.00	\$643.00	Yes

Of the park owners that responded to the survey (7 of 19), the majority reported increasing rents in all of the last five years, while a few did not. Residents in those same parks reported rents raised every year that the current owner owned the park.

Comparison with Other Jurisdictions' Space Rents:

Staff researched mobile homes currently for sale in nearby jurisdictions in order to compare average space rents in the Unincorporated County to those of nearby municipalities and was able to ascertain some current space rents in Hayward and San Leandro. For context, the City of Hayward has vacancy control within its Mobile Home Rent Stabilization Ordinance; the City of San Leandro does not.

Mobile Home Park	# of Spaces	City	Rent	Double Wide vs. Single Wide	Amenities
Spanish Ranch I	462	Hayward	\$720-\$722	Double	Clubhouse, pool, spa,
Spanish Ranch II	187	Hayward	\$659-\$680	Double	Clubhouse, pool
New England Village	415	Hayward	\$732-\$819	Mix, mostly Double	Clubhouse
Mission Bay	366	San Leandro	\$795-\$966	Double	Clubhouse, gym, exercise facility, pool, spa
Sandev RV Park	71	San Leandro	\$910	Double	Clubhouse, pool
<i>Chetwood Crest</i>	85	<i>Castro Valley</i>	<i>\$559-\$848</i>	<i>Single</i>	<i>Clubhouse</i>
<i>Wishing Well</i>	35	<i>Castro Valley</i>	<i>\$584-\$760</i>	<i>Single</i>	<i>None</i>
<i>Wagon Wheel</i>	53	<i>Castro Valley</i>	<i>\$643-\$697</i>	<i>Single</i>	<i>None</i>

As the chart above illustrates, mobile home parks in the Unincorporated County at the higher end of the rent spectrum have space rents comparable to those in Hayward and San Leandro. The Hayward and San Leandro mobile home parks contain significantly more amenities than any

mobile home park in the unincorporated county, despite comparable space rents. Parks in these cities also have significantly more spaces per park, and therefore when amenities are offered, the cost is spread over a larger number of spaces (economy of scale), which parks in the Unincorporated County cannot match.

**ALAMEDA COUNTY
BOARD OF SUPERVISORS'
UNINCORPORATED SERVICES COMMITTEE**

Wednesday, December 7, 2016

6:30 p.m.

Supervisor Nate Miley, Chair
Supervisor Wilma Chan

Location: San Lorenzo Library
395 Paseo Grande
San Lorenzo, CA 94580

Summary Minutes

Public Comment

Richard Hancocks asked if there is any effort underway to return full service financing to the Ashland Cherryland area. In addition, in light of the tragic Ghost Ship in Oakland he asked if the community could expect a report on the abatement of illegal housing units in the unincorporated areas.

Mark Winchel talked about the Oakland Ghost Ship Fire and the need for efficient inspectors. In addition he has issues with falling tree branches in his neighborhood and has not received a positive response from the Public Works Agency.

Supervisor Comments

Supervisor Miley stated that there will be a report on abatement of illegal housing units.

I. Mobile Home Rent Stabilization Ordinance Update

Attachment

Michelle Starratt, Assistant Housing Director, Housing & Community Development, Community Development Agency presented a PowerPoint presentation and memorandum on the Mobile Home Rent Stabilization Ordinance.

The proposed Mobile Home Rent Stabilization Ordinance addresses the following:

- Annual Stand Rent Increase – proposed maximum allowable space rent increase flat rate of 4%
- Vacancy Control – proposed full vacancy decontrol for evictions, abandonment; modified vacancy decontrol for in-place transfers not more than three times annual standard rent increase
- Board of Supervisors Review after 3 years – Ordinance to be reviewed by the Board after three years or sooner
- Non-Standard Rent Increase - Non-standard rent increased allowed through park owner's petition; Capital improvement pass-throughs may be considered
- Administrative Fee - The County may charge an administrative fee but the fee is not mandated; fee paid by park owners which can pass half of the fee on to residents

Castro Valley MAC recommendation: Full vacancy decontrol in all circumstances; administrative fee structure should go through a public process; review ordinance after one (1) year; record and track complaints related to ordinance.

Planning Commission recommendation: The Planning Commission supports the Castro Valley MAC's recommendation.

Speakers

Carol Veira stated that she is concerned about rent increases and the Wishing Well park owners increased rents in June she asked if they will be able to increase rents in January as well.

Stephanie Goosey stated that she has been at several meetings regarding this issue and expressed her dissatisfaction with mobile home park owners regarding rent increases, parking spaces, water bill concerns and has fear of retaliation.

Arra Alikian, stakeholder of Wishing Well Mobile Home Park, supports the MAC and Planning Commission recommendations.

Caleb stated that he supports full vacancy decontrol.

Tom Silva stated that he represents the rental housing association and supports full vacancy decontrol and the other recommendations by the MAC and the Planning Commission.

Shawn Alikian supports full vacancy decontrol and he manages mobile home parks and the County should incentivize owners to keep and maintain the parks and instead of selling the parks.

Hera Alikian, manager of Wishing Well Mobile Home Park, supports full vacancy decontrol.

Doug Johnson represents mobile home park owners and supports full vacancy decontrol.

Representative of Chetwood Crest Mobile Home Park supports full vacancy decontrol.

Recommendation from Unincorporated Services Committee: The Unincorporated Committee supports the Castro Valley MAC's recommendation, however the issue of full vacancy decontrol will be decided by the full Board of Supervisors. In addition the Committee supports a two or three year review period of the ordinance.

II. Formation of a Fairview Municipal Advisory Council (MAC) and update on potential Eden Area MAC Attachment

Fairview MAC

Dale Silva, Fairview MAC Planning Committee, thanked Supervisor Miley and his staff for their assistance in the creation of a Fairview Municipal Advisory Council. There are a lot of issues unique to Fairview, and it is important to have a more influential voice in the area. The proposed MAC has been properly vetted in public meetings and there was no serious opposition.

Speakers

Chris Higgins, Fairview MAC Planning Commission stated that there is support for the Fairview MAC from the Fairview Community.

Dennis Scott, resident of Fairview for 30 years and he has attended all of the meetings and the community would like to provide collective input.

Recommendation from Unincorporated Services Committee: Support. Move to the Transportation and Planning Committee and then to the full Board of Supervisors.

Eden Area MAC

Matt Turner, Constituent Liaison, presented a brief update on the formation of an Eden Area MAC for the Ashland, Cherryland area, which is in the preliminary stages at this time. There will be a survey sent to households in Ashland, Cherryland and San Lorenzo residents regarding the formation of a MAC in the coming weeks.

Speakers

Richard Hancocks, concerned about fragmenting of the community with the various MACs.

Speaker unknown: Members of the unincorporated community that are not a part of the San Lorenzo Village Homeowner's Association are disenfranchised, and community members who support the MAC would like more representation for their neighborhoods.

Randy Waage stated that Ashland, Cherryland and San Lorenzo are different communities and he would not like other communities speaking for or having input in his community.

ADJOURN

The meeting was adjourned to January 25, 2016.

Board of Supervisors' Committees agendas are available via Internet at: www.acgov.org

**MINUTES OF MEETING
ALAMEDA COUNTY PLANNING COMMISSION
MARCH 7, 2016
APPROVED March 21, 2016**

FIELD TRIP

Time: 2:00 p.m.
Place: 224 West Winton Avenue, Room 111, Hayward

REGULAR MEETING

CALL TO ORDER: *The Chair called the meeting to order at 6:00 p.m.*

MEMBERS PRESENT: Commissioners Dimitris Kastriotis; Jim Goff; Hal Gin; Jeff Moore; Richard Rhodes, Vice-Chair; and Larry Ratto, Chair.

OTHERS PRESENT: Rodrigo Orduña, Acting Deputy Director; Andy Young, Planner III; Linda Gardner, Housing Community Development Director; Brian Washington, County Counsel's Office; Maria Palmeri, Recording Secretary.

MEMBERS EXCUSED: Alane Loisel

There were 43 people in the audience.

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS BY THE CHAIR: *None*

OPEN FORUM: Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. *No one requested to be heard under open forum.*

COMMITTEE REPORT: *None*

FIELD TRIP REPORT: Commissioner Gin provided a report.

MEMBERS PRESENT: Commissioners Ratto, Gin, and Goff

MEMBERS EXCUSED: Commissioners Moore, Rhodes, Kastriotis and Loisel.

1. **ROESLER, CONDITIONAL USE PERMIT, PLN2015-00020** ~ Petition to allow for an event center, an alcohol outlet and a restaurant, in the 'SD' (Sunol Downtown) District, located at 19984 Main Street, south side, immediately south of the southern terminus of Kilcare Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0140-002-01. **Staff Planner: Damien Curry**
2. **D STREET INVESTMENTS LLC, TRACT MAPS 8296 AND 8297, PLN2015-00180** – Preliminary and Environmental Scope Review Only ~ Petition to subdivide seven parcels into thirty-one (31) single family residential lots by two separate Vesting Tentative Tract Maps (8296 and 8297), each with its own separate public street and

easements for utility and access requirements, located at 3231, 3247, 3289 and 3291 D Street, south side, approximately 560 feet east of Fairview Avenue, unincorporated area of Fairview, bearing Assessor's Parcel Numbers: 417-0240-001-00; 417-0240-006-00; 417-0250-021-00; 417-0240-004-00; 417-0240-012-04; 417-0240-005-00 and 417-0250-001-00. **Staff Planner: Andrew Young**

APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

3. **APPROVAL OF COMMISSION MINUTES** ~ November 2, 2015 and February 1, 2016 – Member Moore moved to approve the minutes of November 2, 2015 as submitted. Member Gin seconded. Motion carried 4/2. Members Kastriotis and Goff abstained. Member Loisel was absent.

Member Moore moved to approve the minutes of February 1, 2016 as submitted. Member Gin Seconded. Motion carried 4/2. Members Kastriotis and Goff abstained. Member Loisel was absent.

CONSENT CALENDAR: *There were no items*

REGULAR CALENDAR:

4. D STREET INVESTMENTS LLC, TRACT MAPS 8296 AND 8297, PLN2015-00180 – Preliminary and Environmental Scope Review Only ~ Petition to subdivide seven parcels into thirty-one (31) single family residential lots by two separate Vesting Tentative Tract Maps (8296 and 8297), each with its own separate public street and easements for utility and access requirements, located at 3231, 3247, 3289 and 3291 D Street, south side, approximately 560 feet east of Fairview Avenue, unincorporated area of Fairview, bearing Assessor's Parcel Numbers: 417-0240-001-00; 417-0240-006-00; 417-0250-021-00; 417-0240-004-00; 417-0240-012-04; 417-0240-005-00 and 417-0250-001-00. **Staff Planner: Andrew Young, No Action Required**

Andy Young presented the staff report. Jim Coniglio, consultant with Lamphier-Gregory, provided a Power Point presentation on the project. He described the project and the various studies done on the project. The technical studies will be analyzed and they will be included in the Initial Study. He explained the sequence of events prior to finalizing the Environmental Impact Report (EIR). March 28th is the deadline for comments on the EIR. Marc Crawford spoke on the project. He said he is striving to do a project that complies with the Fairview plan and is sensitive to the community.

Public testimony was called for. A total of 12 residents from the neighborhood expressed concern with the following issues:

- Disruption to neighborhood
- Busy intersections that should be included in traffic analysis
- D Street too narrow to accommodate more cars and traffic from this project
- Public Works needs to address traffic related issues that are currently present at this location and how this project will impact local traffic
- Concern with safety of walking pedestrians and students
- 31 lots is too many, less density would be desirable

- Drainage issues in the area already; this project will increase those issues
- Project will have an impact on local wildlife, loss of open space
- Project does not conform with the Fairview Specific Plan
- Cookie cutter development
- No sidewalks

After public testimony was closed, the applicant Marc Crawford, addressed some of the issues made during public comment. He said a lot of the comments expressed here tonight he heard at the last community meeting. He said the setbacks in the staff report are wrong. He said they are putting sidewalks in front of the project, 300 to 400 linear feet. He said he will speak with Public Works on addressing traffic issues in the vicinity of the project. Drainage issues are being addressed. He said the major issue is traffic and the traffic engineers will be addressing all these issues.

Commissioner Rhodes expressed his frustration at Public Works and the delayed response to some of these issues. The Chair said Public Works needs to address upper D Street traffic issues. He said he will do his best to contact his supervisor and lobby to have him push to address the traffic issues in Fairview. Commissioner Goff commended everyone for coming out and addressing the issues related with this project. The Chair commended Mark Crawford for his efforts and that the road issues should be addressed by Public Works.

5. ROESLER, CONDITIONAL USE PERMIT, PLN2015-00020 ~ Petition to allow for an event center, an alcohol outlet and a restaurant, in the 'SD' (Sunol Downtown) District, located at 19984 Main Street, south side, immediately south of the southern terminus of Kilkare Road, Sunol area of unincorporated Alameda County, bearing Assessor's Parcel Number: 096-0140-002-01. **Staff Planner: Damien Curry, *Action Item***

Rodrigo Orduña presented the staff report. Commissioner Kastriotis asked the applicant if the height of the ceiling is being raised, and about the noise from music during the events. Veena Roesler, the applicant, said the ceiling height is being increased. She explained that the glass sliding doors will be open during the events only until 10:00 p.m. complying with the noise ordinance. The doors will be closed after 10:00 p.m.

Public testimony was called for. Robert Foster said he is in support of the project but felt that he needed to bring up some of his concerns related to noise, traffic and parking issues. The applicant said that working with the Pacific Locomotive Association (PLA) on the parking issues was the best option. Unfortunately, the proposed parking lot rental fee they offered was six times as high as the school lot and also had a condition that there would be no events if PLA had an event. However, PLA is still the best option. The Chair asked about the number of people that the building can accommodate. She said according to the Fire Department's calculations, 300 people. Public testimony was closed.

Commissioner Kastriotis expressed his support for the project and said that the issue is with PLA and their requests. He stated that if there is cooperation there is room for everyone to operate. Commissioner Gin expressed his concern for safety and access to the parking lot due west of the location. Discussion ensued amongst commissioners on the parking issues. They expressed concern related to number of parking spaces, location of parking areas, safety to patrons

frequenting this business and the lack of a parking plan for the project. The applicant explained that she did have a parking plan but it was not included in the report. Commissioner Goff expressed his support for the project and the proposed parking as submitted.

Commissioner Moore moved to continue the project to the next meeting, March 21st, in order to have the applicant submit a better parking plan. Commissioner Kastriotis asked about having valet parking. The Chair asked that the item be number one on the agenda. Commissioner Moore asked that stop signs should be clearly shown on the exhibits, drop-off and pick-up areas, attendants' station and information on the shuttle, number of seats, number of parking spaces, and handicapped parking. Commissioner Gin seconded. Motion carried 5/1. Commissioner Goff opposed.

6. UNINCORPORATED COUNTY MOBILE HOME PARK RENT STABILIZATION ORDINANCE. Presented by Linda Gardner and Jennifer Pearce, Housing Community Development, Action Item

Jennifer Pearce provided a Power Point presentation.

Public testimony was called for. Residents expressed their concern with the options of allowing rent increases of up to 5% and also the vacancy de-control which could make the sale of their homes much harder since rents then will be at the market rate. Owners of the mobile home parks expressed their concern with the proposed regulations as they are already heavily regulated by the state. They said comparing the small local mobile home parks and statistics with large mobile home parks in Fremont and other cities does not make sense. The new regulations will place undue burden on the owners of these parks and make it impossible to operate and keep up with upgrades. Public testimony was closed.

Discussion ensued on various options regarding regulations and how park owners can get compensated for upgrades done at their park. Some commissioners expressed their concern with placing too many restrictions on park owners not being able to maintain and keep parks open. Consensus was that the first option, 4% rent increase and de-control is the best option.

Public testimony was called for. The following were issues expressed by the park owners:

- Mobile Home Parks are already heavily regulated by the State. Local regulation not needed.
- Renters' eviction regulated by the State. Eviction has to be specific to regulations.
- Not fair to ask park owners to subsidize rents
- Park owners can try to enforce rules, but if tenant is not able to due to financial reasons, park owners try to work with them. It is a tremendous challenge.
- Costly park upgrades, very restrictive rules make upgrades cost prohibitive
- Full vacancy de control allows park owners to keep up with upgrades
- Too many regulations will put park owners out of business and force them to sell property to developers and get rid of much needed affordable housing

Commissioner Moore moved to approve the 4% increase, full vacancy de control and administrative fee as proposed. Member Rhodes seconded the motion. The Chair said he would

not be in favor of the administrative fee. Discussion ensued on administrative fee. Linda Gardner said she does not have a fee level or percentage, if the commission agrees with the fee it simply allows the County to charge a fee. Marc Crawford approached the microphone and spoke on the CVMAC's decision to vote on the administrative fee having to go thru a public process because no one knows what the fee will be. He said these are small mobile home parks, money is not enough to keep up with upgrades. Banks look at the upward curve of rental income, under vacancy control, the park owners are stuck and have no money to pay for infrastructure. Linda Gardner said the administrative fee will depend on how much work staff will spend to review, collect data, etc. She explained that the Board of Supervisors want the ability to charge an administrative fee, they might not have to charge a fee but want the option to be available. Commissioner Rhodes questioned the size of the fee. Linda Gardner said it will depend on the cost to administer the ordinance and how the Board of Supervisors wants to recoup the cost. Right now she said they do not know what it will be. Commissioner Rhodes expressed his concern on the size of the fee and cost to residents and owners. The Chair reiterated his concern with the county being able to charge a fee. He asked how long will the ordinance be in place before it is reviewed. Linda Gardner answered three years, but this commission can recommend a shorter period of time. Commissioner Goff said one year is not enough time that it needs to be a longer cycle and three years is a good number. The Chair took a vote on the motion on the floor. Motion carried 6/0. Commissioner Loisel excused.

STAFF COMMENTS & CORRESPONDENCE: *None*

CHAIRS REPORT: *None*

COMMISSION ANNOUNCEMENT, COMMENTS AND REPORTS: Commissioner Rhodes informed the chair that he would be away for the months of June and July as he will be out of the country. Member Kastriotis informed the chair that he will be out of the country from the middle of July to September. The Chair asked that the commissioners inform staff by sending an e-mail with the detail of time off.

ADJOURNMENT: *There being no further business, Commissioner Moore moved to adjourn the meeting at 10:03 p.m. Commissioner Goff seconded the motion. The motion was carried 6/0. Member Loisel absent.*

ALBERT LOPEZ, SECRETARY
COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY



CASTRO VALLEY

MUNICIPAL

ADVISORY Advisory to Supervisor Nate Miley, 4th District

COUNCIL 224 W. Winton Avenue, Suite 111, Hayward, CA 94544 (510) 670-5400 FAX (510) 785-8793

GENERAL PURPOSE MEETING

Thursday, February 4, 2016

6:00 p.m.

Council members present: Marc Crawford-Chair, Ken Carbone, Vice-Chair, Dave Sadoff, Sheila Cunha, Chuck Moore, Janet Everson, Linda Tangren

Location: Castro Valley Library – 3600 Norbridge Avenue, Castro Valley, CA 94646

Summary Minutes

PUBLIC COMMENT

Peter Rosen stated that he respects differences of opinion however Castro Valley Matters is a grass roots organization that advocates and engages with the community on a broad spectrum of issues. The organization has participated in several local events and has directed several people to the MAC body. Constituents should be talking about the things that everyone agrees upon.

Judy Rose, manager of the ReMax Office in Castro Valley has had serious internet issues. Ms. Rose requests that the cable lines be laid for better internet service whenever street work is done in the area.

I. **Approval of Minutes** - November 16, 2015

A motion was made by Dave Sadoff and seconded by Janet Everson that the minutes of November 16, 2015, be accepted as submitted.

Motion passed 5/2: Carbone, Tangren; abstained

II. **Mobile Home Park Draft Ordinance**

Michelle Starratt, Assistant Director, Housing and Community Development Agency, presented a PowerPoint presentation on the Mobile Home Park Draft Ordinance.

The Ordinance was enacted in 1990 and has not been updated since that time. Due to residents' complaints regarding the annual rent increase, review of the Mobile Home Rent Stabilization Ordinance was requested ordinance by Supervisor Miley.

Staff conducted research, received public comment at several community meetings, conducted a survey of residents and owners, held stakeholder meetings with owners and residents and have

developed a draft of a new Rent Stabilization Ordinance. Key elements of the draft ordinance include:

- Vacancy control
 - a. Full vacancy decontrol is allowed in instances of eviction, abandonment or voluntary removal
 - b. Modified vacancy decontrol is allowed for in-place transfer of not more than three times the annual standard rent increase each calendar year
- Annual standard rent increase: the maximum allowable annual space rent increase is a flat rate of 4% of the space rent with no banking allowed.
- Capital Improvement Pass-through: A capital improvement pass-through is not separately allowed.
- Administrative Fee: The County may charge a fee at the Board of Supervisors' discretion, but the fee is not mandated. The fee must be paid by park owners but may be split evenly between owners and park residents.

The Housing and Community Development staff will take comment at this Committee meeting, return to the Planning Commission in January 2016, present the ordinance at another Board Committee meeting and move to the full Board of Supervisors.

Speakers

J.W. McCarthy stated that retired professionals do not receive a 5% increase every year and he opposes the yearly rent increase.

Doug Johnson, Mobile Home Operators Association support the 4% change in CPI increase and full vacancy de control.

Stephanie Goosey, mobile home park resident, representing several other residents supports certain provisions of the ordinance. She submitted information she felt would be helpful to the Council regarding the proposed ordinance.

Judy Rose stated that she is very familiar with all of the mobile home parks in the area. There are only a few mobile home parks comparable to other parks in Pleasanton or Hayward, which have significantly greater improvements amenities. She asked was that taken into consideration when staff made comparisons.

Hera Alikian, mobile home park owner stated that since this ordinance has been in place two (2) parks have closed and an additional 622 spaces in unincorporated are not part of the ordinance. She supports full vacancy decontrol.

Ken Williams, mobile home park owner, stated that the three (3) page ordinance was very successful.

Shon Alikian stated that his family works hard to maintain the mobile home parks.

Randall Berger, mobile home park owner, supports the 4% increase and full vacancy decontrol.

Arra Alikian, mobile home park owner, supports the 4% increase and full vacancy decontrol.

Charlie Two Eagle asked who makes the decision to increase the rent. People are low income and some people don't have anywhere to go.

Linda Haley, mobile home park resident stated that she is on a fixed income and she supports the 4% increase and full vacancy decontrol and no capital improvements. The owners and managers do a great job at the parks.

Recommendation from MAC Council:

A motion was made by Marc Crawford and seconded by Janet Everson that:

The Mobile Home Park Rent Stabilization move forward with the following:

- 1) Any fee structure would go back to the public for comment: the MAC, Planning Commission, Unincorporated Services Committee and a one year review of the ordinance;
- 2) Full vacancy decontrol and 4% annual rent increase ;
- 3) County staff to track all complaints that come into the Housing & Community Development Agency going forward.

Discussion

Janet Everson offered an amendment to the ordinance that the mobile home park issues be reviewed by a neutral third party.

Marc Crawford stated that he does not believe that provision of the ordinance will be utilized often since the 4% increase and full vacancy decontrol was agreed upon in the ordinance.

Dave Sadoff does not support the motion made by Councilmember Crawford, because he is not in favor of full vacancy decontrol. Mr. Sadoff would support a modified vacancy decontrol.

Motion passed 6/1:

Ayes: Crawford, Carbone, Cunha, Moore, Everson, Tangren

Noes: Sadoff

III. Proposed Letter of Support for the Woodroe Woods School Relocation

Marc Crawford, Chair, Castro Valley Municipal Advisory Council read a letter to the San Lorenzo Unified School District, in support of the bid submitted by Woodroe Woods School to purchase the El Portal School site.

The bid represents a fair market value and will provide the San Lorenzo Unified School District with the funds to use for facility improvements and educational programs.

A motion was made by Sheila Cunha and seconded by Ken Carbone to approve, sign and submit the letter of support for Woodroe Woods school relocation to the El Portal School site.

Motion passed 7/0:

IV. Civic and Economic Development Updates

Eileen Dalton, Director, Economic & Civic Development Department and Sue McCue, Economic & Civic Development Manager, presented a PowerPoint presentation on civic and economic developments in the unincorporated area including Castro Valley.

Key projects in 2016

- Shared parking – funded by the County General Fund – this project is a common parking area off of Wilbeam Avenue. This project is agendaized for the Castro Valley MAC on February 22, 2016.
- Daughtrey's Building – In December 2015, the Board of Supervisors approved a resolution to transfer the property to the County from the Successor Agency. This will allow the developer to get leases signed. A site plan will be developed and brought to the MAC.
- Billboard reduction program – reducing the number of billboards on the boulevard; ordinance in 2008, authorize new billboards in exchange for reduction of billboards; will come forward with proposals with new digital billboards, in exchange for reductions.

New Businesses opened in Castro Valley

- Lake Chabot Market Place – Hans Cho and the Cho Family – four tenants Tea for You, Shumi Ramen, Ice Cream Bar, Mama Cho's meat market – open floor plan
- Denica's Restaurant
- JP's Sports Bar & Lounge
- Sprout's Market – will go the MAC land use meeting
- Habit Burger – coming soon
- Meridian Dialysis Center – Spring 2017

In addition, the Economic & Civic Development department proposes an extension to the contract with the Eden Area Chamber of Commerce on activities. The contract is for \$2500 per month, to retain partnership with the chamber and work on Economic Development activities; remainder of the contract is pass through payments for banner program and events, such as Food trucks, Light Parade, Fall Festival, Barks & Brass.

Food Training Academy - First academy there were 30 food entrepreneurs; 10 class intensive course; Monday & Wednesday evening for five (5) weeks.

Speaker

Peter Rosen asked where are the possible billboard locations? (Lewelling & Mission on Langton Way (cul de sac). Has the Chamber of Commerce grown in the last 2 years? (From 267 members to 344 members) Food Truck Mafia, would be in the same location.

Hera Alikian stated that there are 85 units of Transitional Housing at Kent & Ashland which was a former mobile home park. Comcast issues: there are at least 86 residents at Chetwood Crest and 53 residents at Wagon wheel that need Comcast cable service.

Marc Crawford: Denica's parking situation – cars are being towed from Togo's parking lot. Council members have received e-mails that cars were being towed; there is a possible shared parking fix with a link to the Moose Lodge parking lot. Moose Lodge is willing to share the parking lot. Economic Development would like to help with those conversations

V. Camp Sweeney Replacement Project

Esa Ehmen-Krause, Assistant Chief, Probation Department, Ian Long, Deputy Chief Probation, Facilities Division, Rona Rothenberg, Program Manager, Technical Services, General Services Agency, and Maritza Delgadillo, Senior Project Manager, General Services Agency presented an oral overview of the Camp Wilmont Sweeney Replacement Project.

The Probation Department is proposing to relocate the Camp more adjacent to the Juvenile Justice Center. The proposed 120 bed coed facility will have enhanced program and recreational space; baseball, soccer, track & field, volleyball and flag football.

The project is still in the design phase and the Draft Environmental Impact Report was released last week. The cost for the project is \$65 million. The project will break ground, early 2017, 24-30 month project with transition to occupancy.

VI. Council/Staff Comments

Ken Carbone, commented on the Lake Chabot Market Place, he thanked Supervisor Miley for keeping the property for commercial use.

ADJOURN

Next meeting date: March 21, 2016

ORDINANCE NO. 2017-_____

AN ORDINANCE AMENDING CHAPTER 3.32 OF THE ALAMEDA COUNTY GENERAL
ORDINANCE CODE REGARDING MOBILE HOME RENT REVIEW PROCEDURES

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

The Board of Supervisors makes the following findings in support of this Ordinance:

1. The County of Alameda adopted a mobile home rent stabilization ordinance in 1990, codified as Chapter 3.32 of the Alameda County General Ordinance Code. This existing ordinance limited annual rent increases for spaces in mobile home parks to 5% and allowed park owners to apply for an additional increase.
2. County staff studied the existing ordinance, and its effect on both owners of mobile home parks, as landlords, and owners of mobile homes, as tenants, and recommends an amendment to the ordinance to address the concerns raised by both groups.
3. Mobile home owners, unlike apartment tenants or residents of other rental units, are in the unique position of having made a substantial investment in a residence for which space is rented or leased as distinguished from owned.
4. Alternative sites for the relocation of mobile homes are difficult to find due to the shortage of vacant mobile home spaces, the restrictions on the age, size, or style of mobile homes permitted in many mobile home parks, and requirements related to the installation of mobile homes, including permits, landscaping and site preparation. Additionally, the cost of moving a mobile home is substantial and the risk of damage in moving is significant.
5. The state of California has recognized, by the adoption of legislation regulating tenancies of mobile home owners in mobile home parks, that there is a significant distinction between the tenants (mobile home owners) of mobile home parks and other dwelling units, and the County of Alameda likewise has recognized the unique position of mobile home owners as tenants of mobile home parks.
6. Although mobile home owners benefit from some aspects of homeownership, the benefit is more limited than in traditional homeownership, because the investment in the mobile home is subject to the rental conditions for the underlying land, which conditions are not in the control of the mobile home owner.
7. The existence of housing alternatives for mobile home owners is largely dependent on the maintenance of their equities in their mobile homes. They can relocate to other types of housing only if they can use equity in their mobile homes to transition to other types of housing.
8. The result of these conditions has been and continues to be the creation of a captive market of mobile home owners and a great imbalance in the bargaining position of the park owners and mobile home owners in favor of the park owners.

9. This market situation has contributed to or threatens to contribute to unreasonable space rent increases for mobile home spaces. This situation has resulted in serious concern and stress among significant portions of Alameda County residents living in mobile home parks, negatively impacting the health, safety and welfare of the community.
10. Because mobile homes are often owned by senior citizens, persons on fixed incomes, and persons of low and moderate income, significant rent increases create heightened risks of displacement and financial insecurity for these vulnerable populations, which negatively impacts the health, safety and welfare of the community.
11. This market situation has also contributed to or threatens to contribute to other practices by park owners which this ordinance also seeks to remedy or prevent, including protections against retaliation.
12. Pursuant to existing state law, a local rent stabilization ordinance must allow mobile home park owners, as landlords, to earn a fair return on their investment.
13. Additionally, mobile home park owners are responsible for maintaining and improving the conditions of their mobile home park and rely on rental income to fund these activities, which may include significant capital improvements and costly ongoing maintenance.
14. By implementing a maximum annual standard rent increase for mobile home spaces, and by adopting revised procedures for park owners seeking a non-standard rent increase, the amended ordinance balances the goal of stabilizing rents and rental conditions for mobile home owners and the goals of allowing park owners the opportunity to earn a fair return and to efficiently manage the mobile home park.
15. This ordinance should not be interpreted or applied in a way that would deprive a park owner of the constitutionally protected right to receive a just and reasonable return on their property.

SECTION II

Chapter 3.32 of the Alameda County General Ordinance Code is hereby amended to read as follows:

Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

3.32.010 Findings and Purpose

There is presently within the unincorporated area of the County of Alameda ~~County~~ and the surrounding areas a shortage of space for location of ~~mobilehomes~~mobile homes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the high cost of moving ~~mobilehomes~~mobile homes and the potential for damage resulting therefrom, the requirements relating to the installation of ~~mobilehomes~~mobile homes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile-home owners, and the substantial investment of ~~mobilehome~~mobile home owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of ~~mobilehomes~~mobile homes from unreasonable rent increases, while at the same time

recognizing the need of the park owners to receive both a fair return on their property and rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service, utilities and government assessments.

3.32.020 Definitions

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

"Hearing Officer" means the person serving or designated pursuant to Section 3.32.040.

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his or her assigned deputies and employees.

"Housing Services" means services provided by the ~~owner~~Park Owner related to the use or occupancy of a Mobile Home space, including but not limited to insurance, repairs, replacements, maintenance, painting, lighting, heat, water, refuse removal, laundry facilities, recreation facilities, parking security, and employee services.

"Non Standard Rent Increase" means an increase in rent pursuant to Section 3.32.060.

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code § 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in California Civil Code § 799.24, a commercial coach, as defined in California Health & Safety Code § 18001.8, or factory-built housing as defined in California Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile Home dwelling units in the unincorporated area of the County of Alameda~~County~~.

"Park Owner" means the owner, lessor, operator or manager of a Park.

“Rent Review Procedures” means the written procedures adopted by the Housing Director pursuant Section 3.32.~~170~~160.

“Rent Review Officer” means the person serving or designated pursuant to Section 3.32.030.

“Space Rent” means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

“Standard Rent Increase” means an increase in rent pursuant to Section 3.32.050.

3.32.030 Rent Review Officer

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.

3.32.040 Hearing Officer

The Rent Review Officer may serve as or may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

3.32.050 Standard Rent Increase

The annual Space Rent shall not be increased by more than four percent (4%). Section 3.32.~~090~~080 herein governs the maximum increase in Space Rent allowable upon an ~~Event~~event of ~~Vacancy~~vacancy.

3.32.060 Non Standard Rent Increase

- A. If dissatisfied with the maximum Space Rents permitted by Section 3.32.050 of this chapter, a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the twelve (12) month period following the first full day the last Space Rent increase is put into effect.
- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.

- C. A hearing will be held upon receipt of a complete application and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by clear and convincing evidence.
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
 - 1. Unavoidable increases in maintenance and operating expenses;
 - 2. The costs of substantial rehabilitation or the addition of Capital Improvements;
 - 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, reductions in Housing Services, and the occupancy rate;
 - 4. The physical condition of the affected Mobile Home spaces and Park;
 - 5. Existing Space Rents for comparable Mobile Home spaces in other comparable Parks in the area;
 - 6. Current and historic net operating income;
 - 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
 - 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
 - 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Non Standard Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Non Standard Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Non Standard Rent Increase or deny the request.
- H. If a Non Standard Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not form a part of the Base Rent. In addition, that portion of the

increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

3.32.070 Notices Required

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made readily available in an on-site management office, the Park Owner shall immediately notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law may be reviewed.

3.32.080 Vacancy Decontrol~~Evictions, Abandoned Mobile Homes or Voluntary Removal~~

~~A. A Park Owner may increase Space Rent by any amount when rentings shall be permitted to charge a new Space Rent for a Mobile Home space after obtaining a judgment of unlawful detainer (an eviction) or whenever a judgment of abandonment for an "abandoned mobilehome" as defined by and pursuant to the Mobilehome Residency Law. lawful space vacancy occurs.~~ The new Space Rent ~~established for the Mobile Home space~~ shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as any of the following:

A. An in-place transfer, which is a sale, transfer or other conveyance of a Mobile Home with the Mobile Home remaining on the Mobile Home space following the sale, transfer or conveyance. A Park transfer of title whereby the Mobile Home Owner may also increase Space Rent by any amount upon adds or removes one or more co-owners and continues to reside in the Mobile Home as his or her primary residence shall not constitute an in-place transfer.

B. A vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the owner Mobile Home Owner who will no longer be a resident of the park. Park. A removal of the Mobile Home from the space for the purpose of performing rehabilitation or ~~capital improvements~~ Capital Improvements to the space or for the purpose of upgrading ~~or replacing~~ the Mobile Home with a newer Mobile Home shall not constitute a voluntary removal of the Mobile Home under this section.

3.32.090~~Vacancy Decontrol~~

~~A mobile home park owner shall be permitted to charge a new space rent for a mobile home space whenever a lawful space vacancy occurs. The new space rent shall become the base~~

~~rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as follows:—~~

~~A. An In-place Transfer;~~

~~B-C. A vacancy occurring because of eviction~~ A vacancy occurring after the Park Owner obtains a judgment of unlawful detainer (an eviction), a judgment of abandonment for an “abandoned mobilehome” as defined by and pursuant to the Mobilehome Residency Law, or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome ~~residency law~~ Residency Law, California Civil Code Sections 798.55 through 798.60, as amended;—

~~C. A vacancy of the mobile home space arising from the voluntary removal of a mobile home by the owner who will no longer be resident of the park. A removal of the mobile home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobile home with a newer mobile home shall not constitute a voluntary removal of the Mobile Home under this section; or—~~

D. Abandonment of the ~~mobile home~~ Mobile Home as determined by a judgment of abandonment pursuant to Section 798.61 of the Mobilehome Residency Law.

~~3.32.1003.32.090~~ 3.32.090 Mobile Home Park Registration

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. A list of the Park Owner’s Parks and all associated Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for all Park Owners;
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all ~~other~~ rent, charges and fees other than Space Rent charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change.

~~3.32.110~~3.32.100 Conduct of Proceedings, Hearings

- A. Within ten (10) working days of the filing of a complete petition for a Non Standard Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- E. In the event that either the Park Owner applying for the Non Standard Rent Increase or the affected Mobile Home Owner(s) or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Non Standard Rent Increase.
- F. Materials received in conjunction with a petition for Non Standard Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years and shall be available for review by the public during normal working hours.

~~3.32.120~~3.32.110 Decision of the Hearing Officer

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Non Standard Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Non Standard Rent Increase at an amount less than requested.

~~3.32.130~~3.32.120 Mobile Home Owner's Right of Refusal

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

~~3.32.140~~3.32.130 Three-Year Review

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a three (3) year period.

~~3.32.150~~3.32.140 Administration Fees

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. One hundred percent of this fee shall be paid by Park Owners to the County. The costs shall be apportioned equally to all Mobile Home spaces in the unincorporated County, with each Park Owner responsible for its pro-rata share. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners, in their respective Parks. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces in the Park Owners' respective Parks.

~~3.32.160~~3.32.150 Direct Cost Fees

The direct costs incurred in the processing of a request for a Non Standard Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a deposit from a Park Owner prior to processing an application for a Non Standard Rent Increase.

~~3.32.170~~3.32.160 Implementing Rent Review Procedures

The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

~~3.32.180~~3.32.170 Appeals

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

~~3.32.190~~3.32.180 Severability

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the

provisions of this chapter are declared to be severable and are intended to have independent validity.

~~3.32.200~~3.32.190 No Takings

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

~~3.32.210~~3.32.200 Consistency with State and Federal Law

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.

SECTION III

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on _____, 2017, by the following called vote:

AYES:

NOES:

EXCUSED:

WILMA CHAN, President of the Board of
Supervisors, County of Alameda,
State of California

ATTEST:

Clerk of the Board of Supervisors

By: _____

Approved as to form:

DONNA R. ZIEGLER, County Counsel

By: _____

Heather Littlejohn

Deputy County Counsel