



CITY OF SONOMA

CITY COUNCIL SPECIAL MEETING

City Council
David Cook, Mayor
Laurie Gallian, Mayor Pro Tem
Madolyn Agrimonti
Gary Edwards
Rachel Hundley

Wednesday October 7, 2015, 3:00 p.m.

Sonoma Veterans Memorial Building
126 First Street West
Sonoma CA 95476

MINUTES

1. CALL TO ORDER

Mayor Cook called the meeting to order at 3:00 p.m. and introduced members of the City Council and staff.

CITY COUNCILMEMBERS PRESENT: Edwards, Gallian, Hundley, Agrimonti and Mayor Cook
ABSENT: None

OTHERS PRESENT: City Manager Giovanatto, Assistant City Manager/City Clerk Johann, City Attorney Walter

2. STUDY SESSION

Item 2A: Study Session for Continuation of Process to Review Update to Mobilehome Rent Control Ordinance

City Attorney Walter outlined the proposed procedure and meeting structure designed by staff to allow Council sufficient time to review and provide direction on a decision matrix. He then led Council through discussion and straw votes as indicated below:

Issue	Yes	No	Yes with Modification
HOMEOWNERS' PROPOSED AMENDMENTS			
1. Disbanding the Rental Review Board as the decision maker on rent increase applications, and, instead, assigning that responsibility to the City Manager, whose decision is based solely on experts' evaluations without hearing, and is appealable to an independent hearing officer selected through the State's Office of Administrative Hearings.	5-0		
A. Applicable to fair return petition.	5-0		
B. Applicable to service reduction petition.	5-0		
C. Applicable to capital improvement pass-through petition.	5-0		Clm. Gallian requested clarifying language
2. Authorizing the city manager to retain experts to assist the city manager in making decisions on individual rent increase applications and requiring the applicant to advance funds to pay for such experts. It appears that the proposed revisions allow the applicant to recoup those costs in the form of rent increases if the applicant is successful in achieving the results sought in its application.	5-0		

Issue	Yes	No	Yes with Modification
3. Setting up a process whereby the residents, in response to the filing of a rent increase application, can make a settlement offer to the applicant-park owner agreeing to accept a certain rent increase. If that offer is not accepted by the park owner and the application is prosecuted to a final decision that is less than the settlement amount, then the park owner is not entitled to recover its expenses incurred in prosecuting its rent increase application after the offer was made by the residents and the residents' costs in defending the application incurred after the offer was made are recoverable against the park owner.	5-0		CIm. Hundley suggested establishment of a process to deal with disagreements among residents and a timeline.
4. A corresponding right on the part of the park owners to offer a settlement proposal is established. Unclear as to recovery of park owners' legal and other expenses if park owner achieves award greater (but less than petitioned for award) or less than settlement offer.	5-0		CIm. Gallian suggested establishment of a timeline.
A. Applicable to fair return petition.	5-0		
B. Applicable to service reduction petition.	5-0		
C. Applicable to temporary capital improvement pass-through petition.	5-0		
5. Requiring that each park's residents annually elect a resident as the residents' representative. This representative is vested with the authority to speak on behalf of and bind the residents to certain decisions made by the representative.	5-0		
A. What decisions should the representative be able to make on behalf of residents.			To be left to the residents.
6. Reduce vacancy control limitation of increasing rent to 10% above prior rents to no more than 5% of pre-existing rent.	5-0		
7. Expanding the definitions and provisions governing what constitutes income and expenses in the context of a petition seeking rental increases in order to MNOI.	5-0		
8. Requiring park owners to file "complete" applications for rent increases before time periods begin running and as a condition to the City's obligation to process the application.	5-0		CIm. Gallian suggested adding a definition for the word complete.
9. Except where settlement offers have been made by the homeowners or park owner, requiring that the legal and expert fees and other costs incurred by a park owner in processing a successful rent increase application be passed through to the residents, provided that they are amortized over 5 years, with interest.	5-0		
10. Amortizing park owners' legal costs and expert fees over 5 years, with interest.			Staff to do additional research and bring this issue back.

Issue	Yes	No	Yes with Modification
11. If a decision granting a rent increase petition is delayed beyond 120 days (180 days?), City required to grant retroactive rent increase covering the delay period. It is to be amortized over 5 years with interest.	5-0		
12. Adding a provision expressly authorizing residents to petition for rent reductions in those situations where the park has reduced services or amenities as defined in the proposed revisions.			Clm. Hundley requested specific guidelines.
13. Imposition of a supplemental administrative fee, chargeable to residents, but to be collected by park owners. If residents do not pay supplemental administrative fee, it appears that the City must pursue collection against the non-paying resident, not the park owner.	4	1	Clm. Hundley did not feel the fee was necessary. Clm. Gallian felt it would need clarification and questioned any real benefit to the City. She wanted to leave it as an option.
14. In response to a park owner's request for a temporary rent increase to pay for a capital improvement, residents are given 15 days to submit protests signed by 50% plus one of the affected residents and the city clerk is given the same time period to determine whether to issue her preliminary approval, disapproval or conditional approval of same. The residents are proposing to enlarge this time period to 30 days.	5-0		
PARK OWNERS' PROPOSED AMENDMENTS			
Issue	Yes	No	Yes with Modification
1. Increase annual automatic rent increase from 80% to 100% of the CPI and eliminate the 5% cap.		5-0	
2. Eliminate vacancy control, thus permitting park owners to charge market rents to new owners of in-place mobile homes.		5-0	
3. Amend the MNOI formula to increase permitted rent increases in NOI from 80% of the CPI change to 100% in the change of the CPI. See, SMC Section 9.80.050(C). [Note: It appears that the ordinance proposed by the homeowners does not include the 80% limitation.]		5-0	
4. Amend Resolution No. 57-1998 to change the amortization period for sewer systems from 50 to 15 years and for water distribution systems from 50 to 25 years.			Additional research needed, will be brought back.
5. Clarify the types of expenses that do not meet the definition of "Capital Improvements" set forth on page 2(B) of Resolution No. 57-1998.			Additional research needed, will be brought back.
6. Amend SMC Section 9.80.065(C) to eliminate the homeowners' right to protest a rent increase for necessary capital improvements (defined at SMC Section 9.80.020(B)(1)).		5-0	

Issue	Yes	No	Yes with Modification
7. Amend Resolution No. 57-1998 which excludes identified types of in-place sales of mobile homes from those types of in-place sales for which the landlord can increase the rent to the new owner by 10% such that the only exclusion from this limited form of vacancy control is a transfer to a spouse.		5-0	
8. Add a section that would allow park owners to pass through to homeowners any fees or charges that a majority of the homeowners' request or agree should be passed through.		5-0	
9. If the City amends the ordinance to permit the City to charge a park owner for the services of an expert retained by the City to analyze a park owner's rent increase application, the park owner's attorney is recommending that a section be added that would allow the park owner to "immediately" pass through such cost to the homeowners on a pro rata basis.		5-0	

Mayor Cook invited comments by the public. William Constantine, Attorney representing the park residents, reported that similar ordinances were working well in the cities of Watsonville and Marina. He disagreed with Mr. Yusum's interpretation of the outcome of a Writ of Mandate Petition challenge filed in Superior Court against the Office of Administrative Hearings' (OAH) administrative decision on a rent increase petition brought by the owner of Green Valley Manufactured Home Park in Watsonville. He claimed conversely that the Court upheld OAH's decision and strongly rejected Green Valley's claim that the OAH was unqualified and too biased to hear rent petitions.

Bradley Yusum, attorney for Moon Valley Mobilehome Park, stated the Council was heading down a very dangerous path and was opening the City up for constitutional attack and a lawsuit. He expressed disagreement with most of the straw poll decisions made by the Council.

Dean Moser, owner of Pueblo Serena Mobilehome Park, also expressed disagreement with Council's directions, adding that owners were merely trying to maintain their parks.

The following people spoke in favor of the amendments proposed by the homeowners: Gary Hermes, Lin Marie DeVincent, Carol Tait, Debra Nebaska, Gina Cuclis, Bonnie Joy Kaslan, Janie Peckham, John Kyle, Tadas Ramir, and Terry Foreman.

The following spoke on the side of the park owners: Phil Taylor, Doug Johnson.

3. ADJOURNMENT

The meeting was adjourned at 6:00 p.m.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Sonoma City Council on the 2nd day of November 2015.

 Gay Johann
 Assistant City Manager / City Clerk