



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: MOBILEHOME OPT-IN
STAY-IN-BUSINESS UPDATE

DATE: August 3, 2017

Approved

Date

8/3/17

INFORMATION

The purpose of this memorandum is to provide an update on the Department's Mobilehome Opt-In/Stay-In-Business workplan.

In late 2015, a group of mobilehome park owners/operators proposed the Opt-In/Stay-In-Business (Opt-In) concept to incentivize owners to preserve mobilehome parks (MHP) in San José. The concept included financial incentives for MHP owners in exchange for an agreement to "stay in business" by continuing to operate existing MHPs for a defined period. Separate from the Mobilehome Rent Control Ordinance, this proposal would allow certain limited capital improvement costs to be passed through to residents without filing a fair return petition and without a hearing process, while also allowing limited vacancy decontrol upon the sale of a mobilehome to a new owner. Put another way, the Opt-In concept would relax the mobilehome rent control ordinance in exchange for certainty against park conversion or closure for a period of time.

On August 11, 2015, the City Council directed the Housing Department to explore the Opt-In proposal to determine if the concept was a viable option. In late 2015, the Department conducted three public meetings to obtain feedback on the general concept and to identify specific modifications from MHP residents to ensure that the proposal responded to resident needs. Mobilehome park owners, however, declined to participate in the discussion in protest of the policy items that the Council was considering at that time. MHP residents raised serious concerns about the Opt-In proposal, with most participants expressing no interest in considering it further. On February 23, 2016, the Housing Department sought direction from the City Council given the positions of both stakeholder groups. At the City Council meeting, MHP owners testified they were willing to reengage on the Opt-In discussion.

The City Council directed the Housing Department to continue to work with both owners and residents and to develop a high level concept where agreement could potentially be reached. The Council recognized it would be difficult to engage MHP residents interested in the process unless they were facing the reality of a park conversion. Mayor Liccardo added an amendment asking

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the Housing Department to address concerns around capital improvement pass throughs, partial vacancy decontrol and impacts on homeowner equity, mortgages that extend beyond the program's compliance period, and resident consent for a park to participate in the program. The City Council gave the staff flexibility on how to bring the two groups together and to define the overall process going forward.

In response, the Housing Department developed a workplan to continue the Opt-In discussion. On June 9, 2016, staff presented the draft workplan to the Housing and Community Development Committee (HCDC) for public comment. The Housing Department notified stakeholders about the meeting with an email to 333 subscribers and posted the information on Department's Mobilehome Policy webpage. The workplan called for the formation of an Advisory Committee, that would hold private meetings, followed by a report out to HCDC and the City Council. That night, HCDC passed four motions in response to the proposed workplan.¹

1. On a vote of (8-0), HCDC accepted the staff report.
2. On a vote of (6-2) HCDC rejected the Opt-In concept.
3. On a vote of (5-3), HCDC recommended that the size of the Advisory Committee be increased from 7 – 12.
4. On a vote of (8-0) HCDC recommended that costs for Opt-In should be paid for by MHP owners.

HCDC discussed the workplan and the role of the Advisory Committee and voted to support the plan. The following provides an update and changes to the workplan.

Phase I: Advisory Committee Process

The stated goal of the committee was “to balance the interests of MHP stakeholders in considering the Opt-In concept...or if compromise cannot be reached, to facilitate discussion that allows input from both groups.” The Department made the Committee meetings private to facilitate in-depth discussion in a safe and neutral setting. The Committee role was changed to be purely advisory with the understanding that an HCDC hearing would follow. On August 9, 2016, the Housing Department updated the workplan to include public meetings after the Advisory Committee and before presenting a recommendation at the City Council Committee on Community and Economic Development.

On August 9, 2016, the Housing Department posted an application for the Opt-In/Stay-In-Business Advisory Committee on the Department's webpage.² The goal was to select participants who represented a range of interests from senior, small, and large MHP communities. Staff sought representatives who would be open-minded regarding the Opt-In proposal and who would be willing to engage in open, honest, and respectful dialogue with individuals holding differing viewpoints.

¹ HCDC Meeting Minutes: <http://www.sanjoseca.gov/DocumentCenter/View/57599> , June 9, 2017.

² The application can be accessed here: <http://www.sanjoseca.gov/DocumentCenter/View/59505>

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In order to avoid potential conflicts of interest, sitting members of any City Commission, Board, or Committee were not considered for selection as members of the Advisory Committee. After the application deadline, staff consulted the two HCDC Commissioners, who represent the MHP owners and MHP residents, as part of the selection process. One Commissioner was asked to recommend seven park owner representatives and the other was asked to recommend seven park resident representatives from the pool of applicants. A panel of City employees (two staff members from Housing, one from Planning, Building and Code Enforcement, and one from the Department of Transportation) considered these applications and recommendations, leading to the selection of 14 representatives. Early in the process two members dropped out bringing the total number of representatives on the Advisory Committee to six residents and six park owners.

The Advisory Committee meetings began on February 23, 2017. Housing Department staff hosted three meetings with MHP owner representatives and three meetings with MHP resident representatives to better understand their positions and concerns. These meetings were followed by four joint meetings held with both residents and owners. The joint meetings were facilitated by Joshua Abrams, a professional facilitator from Baird Driskell Community Planning. The Housing Department selected and paid for the facilitator. In practice, the meetings were less about finding a consensus, and more about clarifying concepts and discussing issues. The Housing department restructured the proposal and focused seven elements, including:

- the purpose of the Opt-In proposal;
- how parks would participate;
- pass-through options;
- rent increases;
- funding to administer
- disclosure requirements; and
- other alternatives for consideration.

Prior to the final meeting of the Advisory Committee, a public records request act was submitted for the release of all the materials and notes collected during the Advisory Committee process. The Advisory Committee notes are now circulating within the MH resident community. The notes – which were provided in response to the public records request act with no analysis or context – have raised concerns from some members of the public about the Committee, its role, and the overall process. On July 11, the Housing Department emailed an update of the workplan to all subscribers on the Department's mobilehome mailing list. The Housing Department provided an option for the public to share comments with the Advisory Committee members prior to the final meeting. Over 65 emails were received from the public and these messages were forwarded to the Advisory Committee. All of these emails opposed the workplan, the process, and specifically called for the rejection of the Opt-In concept with few comments on how the concept could be modified to address specific concerns.

The final Advisory Committee meeting took place on July 26, 2017. The process was constructive in identifying alternatives, making the proposal easier to understand, and in fostering communication between stakeholders. Staff will compile all of the data collected through the Advisory Committee and include the information as a part of its report back to Council later in the year.

Phase II: Policy Analysis

Staff is currently synthesizing the primary themes from the Advisory Committee and will continue to perform policy analysis concurrently with the community outreach process. As a part of the policy analysis, staff plans to gather information and review concepts in the following areas:

- **Case Studies** – Gather information related to specific mobilehome parks to understand the challenges facing individual mobilehome parks
- **Other Cities** – Research rent control options utilized in other jurisdictions as related to mobilehome parks.
- **Housing Market** – Review data related to the sale of mobilehomes in parks throughout San José.
- **Infrastructure Costs** – Review data related to the cost of making improvements to infrastructure in mobilehome parks.

This data review and analysis will provide additional information to the public when discussing the Opt-In concept in Phase III of the process.

Phase III: Community Outreach

The Housing Department will present a draft community engagement plan at the Housing and Community Development Commission meeting on August 10, 2017. Staff will organize public meetings between September and October with the intention of making a recommendation to the City Council's Community and Economic Development Committee in November 2017.

/s/

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For questions, please contact Rachel VanderVeen, Housing Administrator, at (408) 535-8231.