



# City of East Palo Alto "AMENDED" AGENDA

DATE POSTED: Wednesday, March 19, 2008 Time: 6:20p.m. By: *Minette Warren*

## SPECIAL CITY COUNCIL MEETING

**FRIDAY, MARCH 21, 2008**

**Time: 12:00 – 12:30P.M.**

**2415 UNIVERSITY AVENUE - COUNCIL CHAMBER**

12:00PM

Special City Council Meeting

Call to Order and Roll Call

**NOTE:** *Public Comments May be Taken during the Meeting. Please Keep Comments Limited to Agenda Items*

1. APPROVAL OF AGENDA
2. Public Comment
3. Special City Council Item
  - A. Introduction of Proposed Ordinance Rescinding Ordinance 308
  - B. A Resolution Complying with Writ of Mandate issued by Court requiring it to set aside Ordinance No. 308

*Recommendation:* That Council take appropriate action regarding Item 3A or 3B
4. ADJOURNMENT

**Attachments: Draft Ordinance and Resolution**

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO REPEALING ORDINANCE NO. 308 FREEZING RENTS FOR RENTAL UNITS IN THE RENT STABILIZATION PROGRAM AND ADOPTING A MORATORIUM ON RENT INCREASES THROUGH JUNE 30, 2008, WITH CERTAIN EXCEPTIONS**

**SECTION 1. Repeal.**

Ordinance No. 308 freezing rents for rental units in the Rent Stabilization Program and adopting a moratorium on rent increases through June 30, 2008 is hereby repealed. The sole reason the Council is taking this action is to comply with the March 11, 2008 Order and Writ of Mandate issued by the Court in the case *Page Mill Management v. City of East Palo Alto*, San Mateo Superior Court Case No. CIV 469315. The Council disagrees with said order and continues to believe that its action of adopting Ordinance No. 308 was legally appropriate and in the best interest and welfare of the public. The City is pursuing appellate relief from said Order, and the Council reserves the right to re-adopt Ordinance No. 308 as soon as it can.

**SECTION 2. Environmental Determination.** This ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines § 15061(b)(3) and § 15262 in that it can be seen with certainty that there is no possibility that this ordinance or its implementation would have a significant effect on the environment. The Planning Manager is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

**SECTION 3. Publication.**

The City Clerk is directed to post and publish this ordinance as required by law.

\* \* \*

The above and foregoing ordinance was introduced on \_\_\_\_\_ and adopted on \_\_\_\_\_, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

\_\_\_\_\_  
Patricia Foster, Mayor

DRAFT

*Signatures Continue On Next Page*

**Ordinance No. \_\_\_\_**  
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**ATTEST:**

\_\_\_\_\_  
Deputy City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

DRAFT

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RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EAST PALO ALTO  
COMPLYING WITH WRIT OF MANDATE ISSUED BY COURT REQUIRING IT TO SET  
ASIDE ORDINANCE NO. 308**

WHEREAS, on January 8, 2008, the City Council adopted Ordinance No. 308 freezing rents for rental units in the Rent Stabilization Program and adopting a moratorium on rent increases through June 30, 2008, with certain exceptions; and

WHEREAS, Page Mill Management, LLC, 5 Newell, LLC, and 15 Newell LLC filed a petition for writ of mandate in court challenging the City's adoption of Ordinance No. 308, in the case identified as *Page Mill Management, LLC, v. City of East Palo Alto*, San Mateo Superior Court Case No. 469315; and

WHEREAS, on March 11, 2008, the Court issued an order and writ of mandate which requires the City to "set aside City of East Palo Alto Ordinance 308 within 10 days after receipt of the Writ of Mandate and to take no action to enforce Ordinance 308 or otherwise contrary to this Court's Statement of Decision in this matter, which documents were served on the City on March 12, 2008; and

WHEREAS, the City Council disagrees with the Court's ruling and intends to appeal it; and

WHEREAS, the lawsuit still includes a claim for declaratory relief which petitioners contend has not been resolved; and

WHEREAS, the City Council likely cannot file an appeal until all claims have been resolved, including the alleged remaining claim for declaratory relief; and

WHEREAS, the City Council recognizes some need for action prior to ten days from service of the Court's order and writ of mandate, so that the City will not be found in contempt of court; and

WHEREAS, the City Council also wants to preserve its right to appeal from the decision once a final judgment is entered in this litigation.

NOW THEREFORE, the City Council hereby resolves as follows:

1. The City Council recognizes that the Court's Order and Writ prohibits the City from enforcing Ordinance No. 308, and thus directs City staff not to implement and enforce said Ordinance while said Order and Writ are in effect. To this extent, Ordinance No. 308 shall be deemed to be "set aside" in compliance with said Order and Writ, while said Order and Writ are in effect.

2. The City Council does not intend to repeal Ordinance No. 308 or to take other legislative action at this time. The present resolution is adopted solely in the Council's executive (rather than legislative) capacity. Rather, the City Council intends to resume implementation and enforcement of Ordinance No. 308 if and when, and as soon as, it is able to as a result of seeking appellate relief, including any interim appellate relief it may obtain (including any stays of the Order and Writ resulting either from operation of law or by order of the appellate court).

\* \* \*

Reso. \_\_\_\_\_

The above and foregoing resolution was introduced on adopted on \_\_\_\_\_, by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

\_\_\_\_\_  
Patricia Foster, Mayor

**ATTEST**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Deputy City Clerk

\_\_\_\_\_  
City Attorney

DRAFT